



Issue: 1-10 January 1, 2010



FTCNewsLine is an on-line quarterly newsletter of the **FAIR TRADING COMMISSION** that contains information on competition matters dealt with by other competition agencies from around the world. The aim is to provide insights into some of the matters that are prosecuted in other jurisdictions; and to assist persons in better identifying issues that may pose competition concerns.

Competition legislations are specific to each jurisdiction and activities that are prohibited in one jurisdiction are not necessarily prohibited in other jurisdictions. For information on the prohibitions under the Jamaica's competition legislation, the **FAIR COMPETITION ACT**, please visit our website at www.jftc.gov.jm.

AUSTRALIA

Telcos warned about mobile, wireless internet speed advertising

The Australian Competition and Consumer Commission (ACCC) issued an Information Paper to assist companies in complying with the *Trade Practices Act 1974* when advertising mobile and wireless internet. The Information Paper cautioned companies against advertising 'maximum' or 'up to' speeds if those speeds are not universally attainable. The ACCC warned that companies that act in contravention of the law risk legal action.

The Information Paper pointed out that internet speed claims made by companies should be corroborated by appropriate tests of network performance. Further, companies should prominently state the factors that would affect mobile and wireless internet speeds such as congestion and location.

Source: Australian Competition and Consumer Commission News Release, 09-09-30

Snooze admits two-price advertising likely to mislead

Snooze, a bedding retailer in Australia has admitted that its two price advertising in the form of 'was/now' pricing was likely to mislead consumers. This acknowledgement came after a proactive audit of 'two price' advertising in bedding retail stores was carried out by the ACCC.

The ACCC discovered that a number of bedding products had been offered for sale or sold by Snooze for a cheaper price than their stated 'was' price. Snooze later admitted that its 'was' price was based on its own internally-set recommended retail prices rather than the price at which the product was offered for sale or sold before the campaign. The ACCC pointed out that, in using 'was/now' pricing, companies should ensure that the 'was' price was genuine and had applied prior to the sale for a reasonable period of time.

Having recognized that its practice was likely to have misled consumers, Snooze stopped the conduct and will: issue an apology letters to customers; offer a \$50 gift voucher to affected customers; display corrective notices in Snooze stores; publish an information notice in FB Magazine; and establish a trade practice compliance program.

Source: Australian Competition and Consumer Commission News Release, 09-10-19

CANADA

British Airways pleads guilty in air cargo price-fixing conspiracy

A Federal Court in Canada fined British Airways \$4.5 million for participating in an air cargo cartel affecting Canada. Following investigations by the Competition Bureau, British Airways admitted that it fixed surcharges on the sale and supply of international air cargo exported on certain routes from Canada between April 2002 and February 2006. Prior to this, four other carriers: Air France, KLM, Martinair and Qantas were indicted for their participation in the cartel. British Airways' penalty brings the total fines in the Bureau's air cargo inquiry to more than \$14.6 million.

Source: Competition Bureau News Release, 09-09-30

Cogeco clarifies advertising regarding the speed of its internet services

Cogeco Cable Inc, an internet service provider clarified certain advertising claims about the speed of its internet service after concerns were raised by the Bureau. The Bureau was of the view that Cogeco's advertising of its service as "the fastest" raised concerns under the misleading representations provision of the *Competition Act*. The Bureau pointed out that the claims being made by Cogeco did not allow consumers to make comparison with Cogeco's competitors to verify whether Cogeco's service was indeed "the fastest."

Deputy Commissioner of Competition, Andrea Rosen pointed out that speed and price are key factors that influenced purchasing decision in the internet services field and as such, it is imperative that representations in this regard are truthful.

Source: Competition Bureau News Release, 09-12-15

UNITED STATES

MoneyGram to pay \$18 million to settle FTC charges that it allowed its Money Transfer System to be used for fraud

MoneyGram, Inc. will have to pay \$18 million in consumer redress to settle the Federal Trade Commission (FTC) charges that it allowed its money transfer system to be used by fraudulent telemarketers to swindle U.S. consumers out of millions of dollars. The FTC alleged that between 2004 and 2008, MoneyGram agents helped fraudulent telemarketers and other con artists to trick consumers into wiring more than \$84 million within the United States and Canada. Specifically, MoneyGram knew that its system was being used to defraud people but did very little about it and in some cases, its agents in Canada participated in the schemes. The FTC charged that consumers were falsely told that they had won a lottery, were hired as mystery

shoppers or were guaranteed loans and were required to pay a fee for taxes, customs, insurance, paperwork and/or processing.

In addition to providing consumer redress, MoneyGram is: barred from knowingly providing help or support to telemarketers that are violating the Telemarketing Sales Rule, required to implement a comprehensive anti-fraud program and develop and maintain a consumer complaint database.

Source: Federal Trade Commission Press Release, 09-10-20

FTC upholds judge's ruling against marketers of bogus cancer cures

The FTC issued its opinion and an order preventing Daniel Chapter One, an herbal products company from advertising that its four dietary supplements (Bio Shark, 7 Herb Formula, GDU and BioMixx) can prevent, treat and cure cancer and lessen the effects of chemotherapy and radiation. The FTC found that these claims were deceptive as they were unsubstantiated. The order also prevented Daniel Chapter One from making health claims about any dietary supplement, food or drug or other health-related product or service unless the claims are substantiated by scientific evidence.

Additionally, the order required Daniel Chapter One to notify purchasers of the FTC's findings and inform consumers of the importance of consulting with health care providers before embarking on herbal products treatment.

Source: Federal Trade Commission Press Release, 09-12-24

NEW ZEALAND

Flight Centre warned over advertising and promotion

The Commerce Commission issued a warning to Flight Centre, a travel agency in New Zealand with regards to its advertising between May and September 2009. The Commission alleged that Flight Centre offered a 'Fly for free' promotion where it claimed that it "will beat any airline, web or competitor's airfare quote or fly you for free." However investigation by the Commission revealed that there were small print and online terms that significantly modified Flight Centre's offer.

In addition, the Commission warned Flight Center about advertising airfares at prices that were not subsequently available and failing to disclose hidden costs. The Commission pointed out that it will continue to monitor Flight Center's behaviour for compliance with the Fair Trading Act.

Source: Commerce Commission of New Zealand Press Release, 09-12-22

SOUTH AFRICA

PPC confesses to being part of a cement cartel and gets conditional leniency

The Competition Commission granted conditional leniency to Pretoria Portland Cement Company Ltd (PPC) from prosecution under the Competition Act in exchange for PPC's disclosure of cartel activities between it and its competitors. In mid 2009, the Commission

carried out raids at the premises of PPC's and three of its competitors pursuant to an investigation of possible collusion in the cement industry.

In its application for leniency, PPC confirmed the existence of a cartel and provided information on the division of the cement market among the cartel members, whereby they agreed to maintain the status quo where a lawful cement cartel existed prior to 1996. The cartel agreement was facilitated through the Cement and Concrete Institute of South Africa (C & CI) of which the four competitors are members.

In exchange for immunity, PPC must: cooperate with the Commission until the investigation is finalized, stop its involvement in cartel activity and refrain from submitting competition sensitive information to C & CI.

Source: Competition Commission of South Africa Press Release, 09-11-11