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# International developments

## From the USA

*The following items are based on news releases from the Federal Trade Commission.*

### **Joint venture project**

On 23 January 1997 the Federal Trade Commission announced the Joint Venture Project to clarify and update antitrust policies regarding joint ventures and other forms of competitor collaborations. The project grew out of public hearings on global and innovation-based competition held by the FTC last year.

Robert Pitofsky, FTC Chairman, said the hearings had shown that global and innovation-based competition was driving firms toward increasingly complex collaborative agreements, which sometimes raised new competition issues.

The FTC staff report on the hearings concluded that it had been difficult for antitrust policy to take into account the complexity of the business reasons for joint ventures and at the same time provide clear guidance on which joint ventures raise competitive concerns.

It found that business rivals may collaborate for a number of different reasons, such as to combine existing research or production facilities, to jointly invest in the US or abroad, or to jointly buy supplies they need for production. Joint ventures with foreign firms could provide access to markets that otherwise may be difficult to enter, while joint ventures with rivals in the US could defray high research and development costs, spread risk, or exploit complementary expertise and technological capabilities. However, the report also found

that some joint ventures raised concerns about the degree to which competition among rivals was curtailed.

One of the project's outcomes could be the development of additional guidelines to describe the antitrust analysis of joint ventures and other competitive collaborations. Two sets of guidelines already exist in relation to joint ventures, in the areas of health care and intellectual property.

The Joint Venture Project will be undertaken by the FTC's Policy Planning staff, with input from the Department of Justice's Antitrust Division. It is estimated that the project will take approximately one year.

### **Revision of Franchise Rule**

The FTC is proposing to revise its Franchise Rule to reduce inconsistencies in federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet.

The Franchise Rule was promulgated in 1978 to give consumers more information when considering investing in a franchise business. Under the rule, franchise sellers are required to provide to all potential franchisees a document disclosing 20 categories of information about the franchise, its officials and other franchisees. If the franchisor chooses to make earnings claims, the franchisor must have a reasonable basis for those claims and also provide a document to franchisees containing that substantiation.

The FTC is seeking public comments on whether it should amend the rule to:

- revise the rule's disclosure requirements, in line with those in the Uniform Franchise Offering Circular guidelines;
- distinguish between disclosures required for business opportunities and franchises;
- change the applicability of the rule to trade show promoters;
- modify earnings disclosure requirements; and
- address changes in the marketing of franchises, such as international franchise sales and sales through the Internet.

Comments must be received by 30 April 1997. Further information is available from the FTC's Internet site at <http://www.ftc.gov>.

## From Canada

*The following items are based on news releases from the Competition Bureau of Canada.*

### **New Director of Investigation and Research**

Konrad von Finckenstein, QC, has been appointed new Director of Investigation and Research under the Competition Act, from 4 February 1997.

Mr von Finckenstein has served as Assistant Deputy Minister, Free Trade Policy and Operations, at the Department of Foreign Affairs and Trade, and as Assistant Deputy Attorney General, Tax Law, and Coordinator for the Implementation of NAFTA, for the Department of Justice. Most recently he was Assistant Deputy Minister, Business Law, at Industry Canada and Justice Canada.

### **\$550 000 fine for conspiracy**

On 29 January 1997 the Acting Director of Investigation and Research under the Competition Act, Francine Matte, QC, announced that Mr Pierre Paré, a former senior official with Gestion des Rebutis DMP Inc., had pleaded guilty to one count of conspiracy to unduly lessen competition. Mr Paré must also

pay a record fine of \$550 000 under the Competition Act.

The offence involved an agreement between competitors to share the market for the hauling and disposal of commercial waste in the Mauricie region of Québec between 1989 and 1992. Businesses such as restaurants, corner stores, garages and shopping centres, which lease commercial waste containers, were affected by the conspiracy.

The Court also imposed a one-year jail sentence to be served in the community on Mr Serge Brière and Mr Robert Caron, both formerly with Gestion des Rebutis DMP Inc. Mr Justice Lévesque of the Québec Superior Court also sentenced Mr Paré to perform 100 hours of community service. In addition a prohibition order was imposed on the three individuals which requires them to comply with the Act for 10 years.

## From the United Kingdom

*The following is based on a news release from the Office of Fair Trading dated 6 January 1997.*

### **Codes of practice**

The Office of Fair Trading has produced a consultation paper on codes of practice. The paper outlines options for improving voluntary codes of practice operated by trade associations.

Director General of Fair Trading, John Bridgeman, said that evidence over the last 20 years suggested that the OFT's support for industry codes had worked well in some areas but had had a limited effect in others. He said he was keen to hear the views of individuals and industry on the present system of self-regulation of codes and how best the OFT's resources could be used in this area to provide the necessary protection for consumers.

The paper is available from: Room 502, Office of Fair Trading, Field House, 15-25 Breems Buildings, London EC4A 1PR, England, UK.