
International developments

From New Zealand

New Zealand's Commerce Commission enforces both the Commerce Act 1986, which contains restrictive trade practices provisions, and the Fair Trading Act 1986, which deals with consumer protection matters.

The following items were extracted from the November 1997 issue of the Commerce Commission's newsletter Fair's Fair.

Toyota to pay \$260 000 for resale price maintenance

On 9 September 1997 the Commerce Commission reached a settlement of court proceedings issued against Toyota in April 1995. Toyota agreed to pay a penalty of \$250 000 plus \$10 000 costs.

During 1992 and 1993 Toyota operated a scheme whereby it assisted its franchised dealers with discounts given to them on sales of new Toyotas to fleet owners.

The operation of the scheme had acted to limit discounts Toyota dealers might offer when fleet owners were buying new vehicles, in contravention of the resale price maintenance provisions of the Commerce Act.

Toyota had ceased the practice before the Commission's investigation and had cooperated with the Commission.

Midwives and doctors warned about price fixing

In two unrelated cases the Commerce Commission has warned Tauranga midwives and several Lower Hutt doctors involved in

maternity care that they were at risk of breaching the Commerce Act by price fixing.

They had attempted to form collective agreements covering payments for maternity care. The Commerce Act prohibits collusion among individuals and groups to fix prices. Fees paid should be decided by the people involved, based on whatever factors they consider appropriate to the circumstances.

The Act applies to medical businesses, including midwifery and general practices, in the same way as it does to other businesses.

Health is one of the special focus areas identified in the Commerce Commission's annual plan for this financial year.

Possible dominance in NZ sugar markets investigated

The Commerce Commission is investigating a business acquisition that would effectively result in there being only one sugar refiner and distributor in New Zealand.

The Commission has finalised a deed that prevents the two companies, Chelsea Investments and Mackay Refined Sugars New Zealand (MRSNZ), intermingling the assets of MRSNZ in such a way that a court could not effectively order divestiture.

The deed will remain in force until the Commission concludes its investigation either with a decision to take no further action or after any possible court action it might take is resolved.

The Commission has not yet decided whether, in its view, the acquisition would result in dominance.

The New Zealand acquisition is the result of a complex series of transactions involving the Australian parent companies.

Chelsea Investments owns New Zealand's only sugar refinery and distributes industrial sugar and the Chelsea brand of retail sugar. MRSNZ distributes sugar imported from Australia to industrial users and Kerry (New Zealand) Ltd which supplies retailers.

Visit the Commerce Commission's web site

The following information can be found on the Commerce Commission's new web site:

- media releases
- public register
- publications list (publications can be ordered on-line)
- guides to the Commerce Act and Fair Trading Act
- speeches
- numbered decisions
- *Fair's Fair* newsletter
- *Compliance* newsletter
- submissions made by the Commission
- clearance and authorisation application forms.

The address is <http://www.comcom.govt.nz>.

From the USA

The following item is based on a media release from the US Federal Trade Commission, dated 5 November 1997.

Internet Surf Day for health claims

The Federal Trade Commission recently joined with public health and consumer protection and information agencies from the United States, Canada and Mexico to 'surf' the Internet for potentially false or deceptive advertising claims about treatments or cures for heart disease,

cancer, AIDS, diabetes, arthritis and multiple sclerosis.

In just a few hours during the North American Health Claim Surf Day, participants identified more than 400 World Wide Web sites and numerous Usenet newsgroups containing promotions for products or services purporting to help cure, treat or prevent these six diseases. Upon identifying web sites and newsgroups where material was posted, Surf Day participants saved them and forwarded them to FTC staff. FTC staff then evaluated the ads and sent messages to those containing claims for which the advertisers would be required to have competent and reliable scientific support. FTC staff will follow up by revisiting the sites to determine whether changes have been made.

Health and safety issues are a priority of the FTC. In June 1997, for example, the FTC launched a project to prevent health fraud directed at Spanish-speaking consumers. This project encompassed numerous federal and state law enforcement actions and investigations targeting ads for hair loss treatments, cosmetic and weight loss products, as well as products that claim to cure a variety of diseases and health conditions such as arthritis, cancer and asthma.

In addition to these efforts to prevent health fraud, the FTC has recently conducted several other Internet Surf Days focusing on different types of fraud, including pyramid schemes and deceptive business opportunity offers.

Jodie Bernstein, Director of the FTC's Bureau of Consumer Protection, said that the FTC used email messages to make clear that laws against deceptive advertising applied not only to traditional media but to the Internet as well. 'Surf Days let us use the Internet to help ensure that unscrupulous marketers do not destroy the credibility and viability of this medium', she said.