
International developments

Consumer protection arrangement with EC

Consumers will be better protected under a consumer protection arrangement signed by Australia and the European Commission. The agreement covers issues such as e-commerce and product safety.

The arrangement was signed in Brussels on 21 March 2002 with Australian Ambassador, Joanna Hewitt, and EC Director General, Ronald Coleman, acting as signatory agents and was announced by the Minister for Foreign Affairs, The Hon. Alexander Downer MP and the Parliamentary Secretary to the Treasurer, The Hon. Senator Ian Campbell on 22 March 2002. Minister Downer commented that Australia was the first foreign government to sign a consumer protection arrangement with the EC.

The arrangement was first proposed in 1998 and negotiated in consultation with Commonwealth state and territory consumer protection agencies. It aims to improve information sharing on important cross-border issues such as e-commerce and product safety. It also allows for joint activities in areas of mutual interest. Senator Campbell said:

Due to the global nature of modern consumer protection activities, Australia has a growing need to receive up-to-date information on consumer awareness and enforcement activities being undertaken by the European Commission. Under this arrangement, both countries will be able to learn from each other on effective ways to address the important consumer issues facing both Australian and European citizens.

From the UK

The following items come from the Office of Fair Trading's website <<http://www.offt.gov.uk>> and its magazine, *Fairtrading*.

Major credit card companies agree to change adverts

Twenty-eight UK credit card companies recently agreed to change the way they advertise introductory rates of interest. They include the major card issuers such as high street banks and finance houses.

The companies have agreed not to describe introductory interest rates as APRs (annual percentage rate) after the OFT expressed concern that this practice breached consumer law and could mislead consumers. Examples of such adverts for introductory rates included phrases such as: '0% APR on balance transfers for six months' or '3% APR fixed until 1 July 2002'.

Consumer credit law says that the APR should measure the overall charge for credit, including interest and other charges over the lifetime of an agreement. A temporary interest rate therefore cannot be called an APR.

OFT accepts new film deal

Film-goers will benefit from freer competition between cinemas after changes to the terms on which film distributors make their films available to cinemas.

The Film Distributors' Association has amended its standard conditions for commercial licences to show films in the UK, after the OFT expressed its view that specific terms of the agreement infringed competition law. While the standard conditions were not compulsory for FDA members, in practice almost all films were licensed in accordance with them.

The following conditions were identified by the OFT as anti-competitive:

- restrictions on the ability of cinemas and other film exhibitors to set their own admission prices

- controls on the number of times and specific screens on which individual films can be shown
- restrictions on exhibitors' use of complimentary tickets to promote films.

The FDA's members account for around 90 per cent of UK cinema box office receipts, which totalled £621m in 2000, and two thirds of all films distributed in the UK.

From the US

Unless otherwise stated, the following items come from the Federal Trade Commission's press releases on its website <<http://www.ftc.gov>> and from *Antitrust & Trade Regulation*, published by the Bureau of National Affairs, Inc.

National 'Do not call' registry

The FTC has proposed that a centralised national 'Do not call' registry be created to allow consumers to eliminate most telemarketing calls by making one call to the FTC. It would make it illegal for telemarketers to call consumers who place their phone number on the national registry.

FTC opposes collective bargaining by Alaskan doctors

A bill before the Alaska legislature to allow physicians to engage in collective bargaining with health plans over fees and other terms would significantly increase health care costs and harm consumers, according to the FTC. The FTC has opposed similar legislation at the federal level and expressed concerns about similar bills before other state legislatures.

The FTC believes consumers and employers would face increased prices for health insurance coverage and reduced access to care. State Medicaid programs using managed care strategies would be forced to increase their budgets, cut optional benefits, or reduce the number of covered beneficiaries.

Microsoft loses first round of Lindows.com battle

Lindows.com Inc. has won the first round in what could be another significant courtroom battle involving Microsoft. Lindows, which is preparing to release an operating system that can run both Linux and Windows programs, can proceed without

changing its name after a federal judge denied Microsoft's request for an injunction.

US District Court Judge John C. Coughenour stated that Microsoft had raised 'serious questions' about the merits of its own case. The wording of the ruling indicates that Microsoft may actually emerge from a trial with reduced trademark muscle because of its decision to originally name its Windows product line after a generic computing term. The judge said that:

Although Lindows certainly made a conscious decision to play with fire by choosing a product and company name that differs by only one letter from the world's leading computer software program, one could just as easily conclude that in 1983 Microsoft made an equally risky decision.

This information was summarised from a report at <<http://www.informationweek.com/news/IWK20020318S0011>>.

US\$54 million penalty for bid-rigging construction company

The European subsidiary of a US construction company has pleaded guilty to rigging bids on US-funded construction projects in Egypt and agreed to pay US\$54 million (A\$104 million) for its role in the bid-rigging conspiracy.

The trial, before a US federal jury in Alabama, has also found the former president of the company guilty of bid-rigging and of conspiring to defraud the United States Agency for International Development of more than US\$250 million (A\$484 million) worth of construction contracts.

Specific acts carried out by Bilhar International included:

- participating in meetings and conversations to discuss rigging the bids on several US-funded contracts in Egypt
- agreeing to not bid, to bid at certain levels, or to increase the price levels of bids to suppress or eliminate competition on those contracts
- agreeing to pay or receive millions of dollars in return for commitments by certain members of the conspiracy not to compete for the contracts.

Identity theft tops consumer fraud complaints for 2001

Identity theft was shown by FTC statistics to be the most common consumer fraud complaint in the US during 2001.

The top 10 consumer fraud complaints for 2001 were as follows.

1. Identity theft (42 per cent)
2. Internet auctions (10 per cent)
3. Internet services and computer complaints (7 per cent)
4. Shop-at-home and catalogue offers (6 per cent)
5. Advance fee loans and credit protection (5 per cent)
6. Prizes/sweepstakes/gifts (4 per cent)
7. Business opportunities and work at home plans (4 per cent)
8. Foreign money offers (4 per cent)
9. Magazines and buyers clubs (3 per cent)
10. Telephone pay-per-call/information services (2 per cent)

From New Zealand

The following items came from the NZ Commerce Commission's media releases listed on its website at <<http://www.comcom.govt.nz>>.

Toyota fined NZ\$150 000 for price fixing

The New Zealand High Court has ordered an Auckland Toyota dealer to pay a penalty of NZ\$150 000 (A\$123 000) for price fixing in breach of the Commerce Act.

Giltrap City Toyota entered into a price fixing agreement with other Auckland Toyota dealers in June 1993. In December 1996, seven of those dealers admitted breaching the Act and were fined NZ\$50 000 (A\$41 000) each. Giltrap City Toyota did not admit any breach and chose to defend the Commerce Commission's prosecution.

In her judgment, Glazebrook J highlighted the importance of the objective of deterrence when fixing penalties under the Act, and accepted that it was appropriate to give credit for cooperation and settlement. As Giltrap City Toyota did not cooperate with the Commission, and was of greater size and standing than the other Toyota dealers, a larger penalty was given.

From Europe

The following item is from the European Commission's website at <<http://europa.eu.int/rapid/start/egi/guesten.ksh?qry>>.

Product safety directive increases consumer protection

European manufacturers are now subject to tougher product safety rules prescribed in the European Commission's new General Product Safety Directive.

The directive, revised in the light of several recent food crises in Europe, extends the product recall powers of authorities and clarifies the notification obligations on manufacturers who believe a product may be unsafe. It also bans the export of dangerous products that have been the subject of an emergency decision taken by the EC.

The revised directive requires producers and distributors to notify authorities as soon as a risk is identified. Although the directive states that product recall is a last resort, regulatory authorities can require producers to carry out a recall. Authorities are to be guided by the precautionary principle, and so will be justified in acting even if there is scientific uncertainty as to the presence of a risk.

Breaches of the product safety rules can result in prosecution and the imposition of significant fines. The exact details of the enforcement and sanction procedures will be decided by individual member states. The General Product Safety Directive is available at <http://europa.eu.int/eur-lex/en/dat/2002/l_011/l_01120020115en00040017.pdf>.