

**COOPERATION ARRANGEMENT BETWEEN THE COMMISSIONER OF  
COMPETITION (CANADA) AND HER MAJESTY'S SECRETARY OF STATE FOR  
TRADE AND INDUSTRY AND THE OFFICE OF FAIR TRADING IN THE UNITED  
KINGDOM REGARDING THE APPLICATION OF THEIR COMPETITION AND  
CONSUMER LAWS**

The Commissioner of Competition, of the Government of Canada, Her Majesty's Secretary of State for Trade and Industry and the Office of Fair Trading in the United Kingdom (hereinafter referred to as the "Participants");

Recognizing that cooperation in, and the coordination of enforcement activities may, in appropriate cases, result in a more effective resolution of the Participants' respective competition and consumer law issues than would be attained through independent action;

Understand as follows:

**I. PURPOSE AND DEFINITIONS**

1. The purpose of this Arrangement is to promote cooperation and coordination among the Participants;
2. In this Arrangement, these terms will have the following definitions:
  - a. "competition and consumer law(s)" means
    - (i) for the Commissioner of Competition, the *Competition Act*, R.S.C. 1985, c. C-34, the *Consumer Packaging and Labelling Act*, R.S. 1985, c.C-38, the *Precious Metals Marking Act*, R.S. 1985, c.P-19 and the *Textile Labelling Act*, R.S. 1985, c.T-10, and any regulations made under those Acts;
    - (ii) for Her Majesty's Secretary of State for Trade and Industry and the Office of Fair Trading, the *Competition Act 1998*, the *Fair Trading Act 1973*, the *Enterprise Act 2002*, Parts IV and V of the *Weights and Measures Act 1985*, the *Hallmarking Act 1973*, Sections 9A to 9E of the *Company Directors Disqualification Act 1986*, secondary legislation made under those Acts, and the *Textile Products (Indications of Fibre Content) Regulations 1986*; and, insofar as it addresses misleading or deceptive representations, the legislation listed in Annex 1 to this Arrangement;

as well as any re-enactment or amendment thereto, and such other laws or regulations as the Participants may from time to time agree in writing to be a "competition and consumer law" for the purposes of this Arrangement; and

- b. "Enforcement activity(ies)" means any investigation or proceeding conducted by a Participant in relation to the competition and consumer law it administers and enforces; and
  - c. "Territory" means the territory in which a Participant has jurisdiction.
3. Each Participant will promptly notify the other of any amendments to its competition and consumer laws. In the case of the United Kingdom, Her Majesty's Secretary of State for Trade and Industry is responsible for giving this notification.

## **II NOTIFICATION**

1. Subject to Section VI, a Participant will notify another Participant with respect to its enforcement activities which may affect the other Participant's interests in the application of its competition and consumer laws, including those that:
- a. are relevant to the enforcement activities of the other Participant;
  - b. involve any conduct or transaction that may be subject to penalties or other relief under the competition and consumer laws administered and enforced by the Participants, other than mergers or acquisitions, carried out in whole or in part in the other Participant's territory, except where those activities are insubstantial;
  - c. involve mergers or acquisitions in which one or more of the parties to the transaction carries on a business activity in the other Participant's territory, or is under the control of a body which is incorporated or organized under the laws of the other Participant's territory;
  - d. involve remedies that expressly require or prohibit conduct in the other Participant's territory or are otherwise directed at conduct in that territory;
  - e. involve the seeking of information located in the other Participant's territory, whether by personal visit by officials of a Participant or otherwise, except with respect to telephone contacts with a person in the other Participant's territory where that person is not the subject of investigation and the contact seeks only an oral response on a voluntary basis.

2. Notification will ordinarily be given as soon as it becomes evident that notifiable circumstances are present.
3. Once a particular matter has been notified, subsequent notifications on that matter need not be made unless the notifying Participant becomes aware of new issues bearing on the interests of the other Participant in the application of its competition and consumer laws, or unless the notified Participant requests otherwise.
4. Notifications will include the nature of the activities under investigation and the competition and consumer law provisions concerned and will be sufficiently detailed to enable the notified Participant to make an initial evaluation of the effect of the activities on its interests in the application of its competition and consumer laws.
5. Enforcement activities notified pursuant to the *Agreement Between the Government of Canada and the European Communities Regarding the Application of Their Competition Laws* are not required to be notified pursuant to this Arrangement.

### **III. ENFORCEMENT COOPERATION AND COORDINATION**

1. It is in the Participants' common interest to cooperate and share information where appropriate and practicable.
2. Where Participants are pursuing enforcement activities with regard to the same or related matters, they will endeavour to coordinate their enforcement activities where appropriate and practicable.

### **IV. AVOIDANCE OF CONFLICTS**

1. It is in the Participants' common interest to minimize any potentially adverse effects of one Participant's enforcement activities on the other Participants' interests in the application of their competition and consumer laws.
2. Where one Participant informs another Participant that specific enforcement activity by the second Participant may affect the first Participant's interests in the application of its competition and consumer laws, the second Participant will endeavour to provide timely notice of significant developments relating to those interests and an opportunity to provide input regarding any proposed penalty or remedy.

3. Any questions arising out of this Arrangement will be addressed in as timely and practicable a manner as circumstances permit.

## **V. MEETINGS**

Officials of the Participants will meet periodically, as necessary, to:

- a. exchange information on their enforcement efforts and priorities in relation to their competition and consumer laws;
- b. exchange information on economic sectors of common interest;
- c. discuss competition and consumer law changes under consideration;
- d. discuss other matters of mutual interest relating to the application of their competition and consumer laws or the operation of this Arrangement;
- e. discuss visits of staff, as appropriate; and
- f. consider the possibility of expanding the scope of or participation in this Arrangement.

## **VI. EXISTING LAWS AND CONFIDENTIALITY OF INFORMATION**

1. Nothing in this Arrangement will require a Participant to take any action, or to refrain from acting, in a manner inconsistent with existing law, or will require any change in the laws of Canada or the United Kingdom.
2. Notwithstanding any other provision in this Arrangement, no Participant is required to communicate information to any other Participant if such communication would be incompatible with its interests in the application of its competition and consumer laws. No information will be exchanged pursuant to this Arrangement which could not have been exchanged in the absence of this Arrangement.
3. The degree to which one Participant communicates information to another pursuant to this Arrangement may be subject to, and dependent upon, the acceptability of the assurances given by the other Participant with respect to confidentiality and with respect to the purposes for which the information will be used.

4. Unless otherwise agreed by the Participants, each Participant will, to the fullest extent possible, maintain the confidentiality of any information communicated to it in confidence by another Participant. Each Participant will oppose, to the fullest extent possible, any request by a third party for communication of such confidential information, unless the Participant providing the confidential information consents in writing to its communication.
5. Where a sectoral or local regulator listed in Annex 2 has power to enforce legislation covered by this Arrangement, the Office of Fair Trading may, at the request of that regulator, forward to the Commissioner of Competition any communication that the regulator wishes to make for the purposes of this Arrangement.
6. Where the Commissioner of Competition concludes, as a result of consultations with the Office of Fair Trading, or otherwise, that information in the Commissioner's possession may be relevant to the enforcement activities of a sectoral or local regulator listed in Annex 2, the Commissioner of Competition may consider communicating that information directly to, and otherwise cooperating directly with, that sectoral or local regulator subject to, and dependent upon, the acceptability of assurances given by the sectoral or local regulator to the Commissioner with respect to confidentiality and with respect to the purposes for which the information may be used.

## **VII. COMMUNICATIONS UNDER THIS ARRANGEMENT**

Communications under this Arrangement will be carried out by direct communication among the Participants. Each Participant may designate a communications authority, as notified in writing to the other Participants.

## **VIII. FINAL PROVISIONS**

1. This Arrangement will come into operation on the date of signature by all Participants.
2. On entry into operation, this Arrangement will be open to the participation of other competition or consumer protection authorities, in addition to the Participants. Such participation shall be based on agreement between the Participants and the new participant.
3. This Arrangement will remain in operation in respect of all Participants until 60 days after the date on which any Participant notifies the others in writing that it wishes to terminate.

Signed at London this fourteenth day of October 2003, in triplicate, in the English and French languages, each text being equally valid.

For the Commissioner of Competition, of the Government of Canada	For Her Majesty's Secretary of State for Trade and Industry	For the Director General of Fair Trading in the United Kingdom
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## ANNEX 1

### Primary Legislation

- i. *Misrepresentation Act 1967*
- ii. *Trade Descriptions Act 1968*
- iii. *Supply of Goods (Implied Terms) Act 1973*
- iv. *Consumer Credit Act 1974*
- v. *Unsolicited Goods and Services Acts 1971 and 1975*
- vi. *Unfair Contract Terms Act 1977*
- vii. *Estate Agents Act 1979*
- viii. *Sale of Goods Act 1979*
- ix. *Supply of Goods and Services Act 1982*
- x. *Part III of the Consumer Protection Act 1987*
- xi. *Property Misdescriptions Act 1991*
- xii. *Timeshare Act 1992*
- xiii. *Trading Schemes Act 1996*

### Secondary Legislation

- i. *Consumer Transactions (Restrictions on Statements) Order 1976*
- ii. *Business Advertisements (Disclosure Order) 1977*
- iii. *Control of Misleading Advertisements Regulations 1988*
- iv. *Package Travel, Package Holidays and Package Tours Regulations 1992*
- v. *Unfair Terms in Consumer Contracts Regulations 1994*
- vi. *Trading Schemes Regulations 1997*
- vii. *Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998*
- viii. *Consumer Protection (Distance Selling) Regulations 2000*
- ix. *Electronic Commerce (EC Directive) Regulations 2002*

and any secondary legislation made under the primary legislation listed above.

## ANNEX 2

UK sectoral or local regulators with concurrent powers to apply the *Fair Trading Act 1973*, the *Competition Act 1998* and the *Enterprise Act 2002*.

Director General of Telecommunications  
Office of Telecommunications (OFTEL)<sup>1</sup>  
50 Ludgate Hill  
London  
EC4M 7JJ

Tel: +44 20 7634 8700  
Fax: +44 20 7634 8845

Gas and Electricity Markets Authority (OFGEM)  
9 Millbank  
London  
SW1P 3GE

Tel: +44 20 7901 7000  
Fax: +44 20 7901 7066

Director General of Water Services  
Office of Water Services (OFWAT)  
Centre City Tower  
7 Hill Street  
Birmingham  
B5 4UA

Tel: +44 121 625 1300  
Fax: +44 121 625 1400

Office of the Rail Regulator (ORR)  
1 Waterhouse Square  
138-142 Holborn  
London  
EC1N 2TQ

Tel: +44 20 7282 2000  
Fax: + 44 20 7282 2045

Director General of Electricity Supply for Northern Ireland and Director of Gas for Northern Ireland  
Office for the Regulation of Electricity and Gas (OFREG)  
Brookmount Buildings  
42 Fountain Street  
Belfast

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<sup>1</sup> From the commencement of the *Communications Act 2003* (expected December 2003), OFTEL's functions will be transferred to the Office of Communications (OFCOM), Riverside House, 2A Southwark Bridge Road, London SE1 9HA



BT1 5EE

Tel: +44 28 9031 1575

Fax: +44 28 9031 1740

Civil Aviation Authority (CAA)

CAA House

45-49 Kingsway

London

WC2B 6TE

Tel: +44 20 7379 7311

As well as the above, the following regulators have powers to apply Part 8 of the *Enterprise Act 2002*.

The Information Commissioner

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Fax: +44 16 2552 4510

Every weights and measures authority in Great Britain

Local Authorities Coordinators of Regulatory Services

10 Albert Embankment

London

SE1 7SP

Tel: +44 (0)20 7840 7200

Fax: +44 (0)20 7735 9977

The Department of Enterprise, Trade and Investment in Northern Ireland

Netherleigh

Massey Avenue

Belfast

BT4 2JP

Tel: +44 28 9052 9900