

## **U.S.-Canadian Task Force on Cross-Border Deceptive Marketing Practices**

### **Whereas:**

1. On August 3, 1995, the Government of the United States of America and the Government of Canada entered into an agreement (the "Agreement") which, among other things, calls for establishing "a framework for cooperation and coordination with respect to enforcement of deceptive marketing practices laws" [Art. I(1)];

2. Article VII of the Agreement notes that "the [Canadian] Director of Investigation and Research and the [U.S.] Federal Trade Commission have in the past cooperated with each other and coordinated their activities with respect to deceptive marketing practices matters on an informal basis," and that the two countries "wish to establish a more formal framework for continuing and broadening such cooperation and coordination" [Art. VII(2)];

3. Article VII of the Agreement further provides:

The Director of Investigation and Research and the Federal Trade Commission shall, to the extent compatible with their laws, enforcement policies and other important interests:

- (a) use their best efforts to cooperate in the detection of deceptive marketing practices;
- (b) inform each other as soon as practicable of investigations and proceedings involving deceptive marketing practices occurring or originating in the territory of the other Party, or that affect consumers or markets in the territory of the other Party;
- (c) share information relating to the enforcement of their deceptive marketing practices laws; and
- (d) in appropriate cases, coordinate their enforcement against deceptive marketing practices with a transborder dimension.

[Art. VII(3)];

4. Article VII of the Agreement further provides that "the Director of Investigation and Research and the Federal Trade Commission shall jointly study further

measures to enhance the scope and effectiveness of information sharing, cooperation and coordination in the enforcement of deceptive marketing practices laws" [Art. VII(4)];

5. The Director of the Bureau of Consumer Protection, Federal Trade Commission, and the Deputy Director of Investigation and Research, Marketing Practices Branch, Competition Bureau, believe that the establishment of a joint task force would help to advance implementation of the goals of the Agreement relating to deceptive marketing practices, as set forth above;

**The undersigned hereby agree as follows:**

6. There is hereby established a U.S.-Canadian Task Force on Cross-Border Deceptive Marketing Practices.

7. The U.S. Federal Trade Commission ("FTC") and the Canadian Competition Bureau ("CB") shall each name one or more representatives to the Task Force. Chairmanship of the Task Force shall alternate between a Canadian member and a U.S. member on an annual basis.

8. The members of the Task Force shall meet to conduct business at such intervals as they shall determine to be appropriate. Meetings shall be held alternately in Canada and the United States.

9. The primary purpose of the Task Force is to provide a framework for implementing Article VII of the Agreement, in order to promote cooperation between law enforcement agencies in the U.S. and Canada with respect to deceptive marketing practices with a transborder component, to the extent compatible with their laws, policies, and practices including those dealing with confidentiality. In addition to promoting cooperation between the FTC and CB, the Task Force will seek, as appropriate, to promote cooperation among other federal law enforcement agencies of both countries, as well as among state, provincial, and local law enforcement agencies.

10. The initial efforts of the Task Force shall be directed as follows:

a. One technique favored by perpetrators of fraud is to set up their base of operations in one country, but to direct their solicitations only to residents of some other country. Their goal is to evade the attentions of law enforcement agencies in both countries: they hope that law enforcement agencies in their own country will not find it worthwhile to take action against them, since residents of

their own country are not targeted by the solicitations, and that law enforcement agencies in the country whose residents are solicited will find it impractical to take cross-border enforcement action. The Task Force will identify suspected deceptive operations that are based either in Canada or in the United States but target the residents of the other country, and will encourage cooperative and reciprocal efforts among law enforcement agencies of the two countries in order to combat this type of deception more effectively.

b. Crucial to the success of the cooperative efforts envisioned in the Agreement is the ability of law enforcement agencies in one country to share information derived from their investigations with their sister agencies in the other country. This ability is at present significantly constrained by privacy and confidentiality laws in both countries. The Task Force will explore avenues for bringing about more effective cross-border information sharing.

c. To be effective, coordination of law enforcement agencies in the two countries must not be limited to the FTC and CB: it must also include other federal, state, provincial, and local enforcement agencies, such as the Royal Canadian Mounted Police, provincial and local police departments, the Federal Bureau of Investigation, the U.S. Postal Inspection Service, state attorneys general, United States Attorneys, and District Attorneys. As appropriate, the Task Force will seek to involve such other agencies in the cooperative efforts that it develops.

11. The further initiatives to be undertaken by the Task Force shall be as determined by its members, within their reasonably available resources.

12. The establishment and functioning of the Task Force is not intended to displace any other U.S.-Canadian cooperative efforts.

SO AGREED:

*September 10, 1996*

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