

**THE COMPETITION TRIBUNAL**

**IN THE MATTER OF THE *COMPETITION ACT***, R.S., 1985, c. C-34, as amended;

**AND IN THE MATTER OF** an inquiry pursuant to subsection 10(1)(b)(ii) of the *Competition Act* relating to the marketing practices of Universal Payphone Systems Inc.;

**AND IN THE MATTER OF** an Application by the Commissioner of Competition for an interim order pursuant to section 74.11 of the *Competition Act*.

**B E T W E E N:**

**THE COMMISSIONER OF COMPETITION**

**Applicant**

**-and-**

**UNIVERSAL PAYPHONE SYSTEMS INC.**

**Respondent**

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**NOTICE OF APPLICATION**

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TAKE NOTICE that the Commissioner of Competition (the "Commissioner") will make an application on Friday, the 17th day of September, 1999, at the Competition Tribunal, Royal Bank Building, 6<sup>th</sup> Floor, 90 Sparks Street, Ottawa, Ontario, at 2:00 p.m.

The Application is for:

- (a) an Order pursuant to section 74.11 of the *Competition Act* directing that the Respondent and its Directors, Officers, employees, or any person acting on behalf of the Respondent, cease to engage in certain reviewable conduct, as set out herein, and not to engage in substantially similar reviewable conduct for a period of fourteen days from the date the Order is made.
  
- (b) in particular, an Order pursuant to section 74.11 of the *Competition Act* directing the Respondent, its Directors, Officers, employees, or any person acting on behalf of the Respondent, to cease:
  - (i) making representations to the public which give the general impression that the pay telephones available for sale by the Respondent are different than the pay telephones that the Respondent actually supplies; and specifically, to cease to display pictures or images of the pay telephones commonly utilized by Bell Canada at its pay telephone locations throughout Canada (i.e. Nortel Inc.'s "Millennium" pay telephone) in all promotional materials distributed or made available, either directly or indirectly, for a period of 14 days from the date of this Order;
  
  - (ii) prohibiting the Respondent from representing itself to be a Member of any consumer protection agency or bureau that is not a recognized and fully independent consumer protection agency; and to cease distributing, directly or indirectly any materials which create the general impression that the Respondent is a member of the Canadian Business Bureau, the American Business Bureau or the North American Business Opportunities Services for a period of 14 days from the date of the Order;

- (iii) prohibiting the Respondent from making representations about the profitability of its pay telephone business opportunity that are not based on truthful, accurate, relevant, and verifiable data, for a period of 14 days from the date of the Order; and
  - (iv) prohibiting the Respondent from making representations which create the impression that the pay telephone business opportunity being marketed by the Respondent is a “turnkey” opportunity requiring persons who decide to invest in that opportunity to do little or no preparatory or preliminary work in order to commence the operation of their business and begin generating revenue from that business.
- (b) such further Order as this Tribunal deems just.

The grounds for the Application are:

- (a) that an inquiry has been commenced pursuant to section 10 of the *Competition Act* relating to an examination under Part VII.1 of the *Competition Act* of the Respondent’s marketing practices, and, in particular, in respect of certain representations which the Respondent has made and continues to make to the public;
- (b) the Commissioner is of the view that the representations at issue are false or misleading in a material respect;
- (c) the Commissioner is of the view that if the Respondent continues to make the representations at issue, serious harm will likely result in to those who are misled by the representations;

The Applicant relies on sections 10 and 74 of the *Competition Act*.

The following documentary evidence will be presented:

- (a) the affidavit of Larry W. Bryenton, sworn the 15<sup>th</sup> day of September, 1999;
- (b) the Applicant's Memorandum of Argument; and
- (c) such further and other material as counsel may advise.

The address for service on the respondent is:

Universal Payphone Systems Inc.  
1585 Britannia Road East  
Unit C1  
Mississauga, ON  
L4W 2M4

Telephone: (905)-565-1681  
Facsimile: (905)-565-1691

The Commissioner requests that this Application be held in the English language.

Dated at Hull, Quebec, this 15<sup>th</sup> day of September, 1999.

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Konrad von Finckenstein  
Commissioner of Competition  
Place du Portage, Phase 1  
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