

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended; and

IN THE MATTER OF an application for orders pursuant to section 74.1 of the *Competition Act* for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the *Competition Act*;

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

COMPETITION TRIBUNAL
TRIBUNAL DE LA CONCURRENCE

FILED / PRODUIT
Date: February 27, 2019
CT-2017-008

Bianca Zamor for / pour
REGISTRAR / REGISTRAIRE

– and –

HUDSON'S BAY COMPANY

OTTAWA, ONT.

#155

Respondents

**MOTION RECORD
OF THE COMMISSIONER OF COMPETITION**

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Gatineau QC K1A 0C9
Fax: (819) 953-9267

Alexander Gay
Tel: (613) 670-8497
Alexander.gay@justice.gc.ca

Derek Leschinsky
Tel: (819) 956-2842
derek.leschinsky@canada.ca

Katherine Rydel
Tel: (819) 997-2837
katherine.rydel@canada.ca

Counsel to the Commissioner of Competition

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended; and

IN THE MATTER OF an application for orders pursuant to section 74.1 of the *Competition Act* for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the *Competition Act*;

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

– and –

HUDSON'S BAY COMPANY

Respondents

TABLE OF CONTENTS

Tab

1. Witness Statement of Adam Zimmerman, dated December 19, 2018 referred to in Annex D of the Commissioner's Memorandum of Fact and Law
2. Supplemental Witness Statement of Adam Zimmerman, dated February 6, 2019
3. Expert Report of Theodore L. Banks, dated December 18, 2018 referred to in Annex B of the Commissioner's Memorandum of Fact and Law
4. Expert Report of Dr. Joel Urbany, dated December 19, 2018 referred to in Annex C of the Commissioner's Memorandum of Fact and Law
5. Amended Scheduling Order, dated March 28, 2018
6. Amended Confidentiality Order, dated May 8, 2018

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended; and

IN THE MATTER OF an application for orders pursuant to section 74.1 of the *Competition Act* for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

-and -

HUDSON'S BAY COMPANY

Respondent

NOTICE OF MOTION OF THE COMMISSIONER OF COMPETITION

(Motion for leave to file Supplemental Witness Statement and

Motion to lift HBC Confidentiality Claims)

TAKE NOTICE that the Commissioner of Competition (the “**Commissioner**”) will make a motion to the Competition Tribunal (the “**Tribunal**”) on March 12, 2019, at 10:00 a.m., or as soon thereafter as the motion can be heard in Ottawa, Ontario.

THE MOTION IS FOR:

1. An Order allowing the Commissioner to serve on Hudson’s Bay Company (“**HBC**”) the Supplemental Witness Statement of Adam Zimmerman (the “**Supplemental Witness Statement**”) outside of the time period provided for in the Amended Scheduling Order, and allowing such materials to be filed with the Tribunal;
2. An Order removing certain confidentiality claims made by HBC and identified by the Commissioner in Annex A attached hereto on documents and statements contained in the Witness Statement of Adam Zimmerman dated December 19, 2018 (the “**Zimmerman Witness Statement**”), the Theodore Banks Expert Report (the “**Banks Report**”) and the Dr. Joel Urbany Expert Report (the “**Urbany Report**”) including the exhibits and transcripts referenced in these statements (collectively the “**Commissioner’s Materials**”), and allowing such documents and statements to form part of the public record in proceedings before the Tribunal;
3. An Order requiring HBC to review the balance of the confidentiality claims made to date on the Zimmerman Witness Statement, the Supplemental Witness Statement, the Banks Report and the Urbany Report, including any confidentiality claims made on the exhibits and transcripts attached thereto, within a period of seven (7) days following the issuance of an Order of the Tribunal, and requiring HBC to remove any such confidentiality claims that do not fall within the confines of the Amended Confidentiality Order;
4. An Order requiring HBC to review the balance of the confidentiality claims made to date on all records produced by HBC beyond those referred to in paragraph 3, within a period of thirty (30) days following the issuance of an Order of the Tribunal, and requiring HBC to remove any such confidentiality claims that do not fall within the confines of the Amended Confidentiality Order;

5. An Order requiring HBC to report to the Tribunal and the Commissioner on the review performed under paragraphs 3 and 4, and granting leave to the Commissioner to bring a motion before the Tribunal, on a date to be determined, to challenge the confidentiality claims made by HBC;
6. Costs of this motion; and,
7. Such further and other relief as counsel may request and the Tribunal deems just.

THE GROUNDS FOR THE MOTION ARE:

Leave to File the Supplemental Witness Statement

8. The Commissioner must be given leave to file the Supplemental Witness Statement. The Supplemental Witness Statement contains information on prior criminal convictions of HBC and its affiliates for deceptive marketing and misleading advertising under the *Competition Act* (the “**Act**”) and under the *Combines Investigation Act*. This information is relevant as it would be of assistance to the Tribunal in fashioning a remedy under the Act. There would also be no resulting prejudice to HBC with the filing of the Supplemental Witness Statement. HBC is presumably acutely aware of all previous convictions for deceptive marketing and misleading advertising;
9. The Amended Scheduling Order required the Commissioner serve witness statements and expert reports on HBC by no later than December 19, 2018. Consistent with this, the Commissioner served the Zimmerman Witness Statement, the Banks Report and the Urbany Report on HBC on that date;
10. On February 7, 2019, the Commissioner served the Supplemental Witness Statement on HBC. The content in the Supplemental Witness Statement relates to previous criminal convictions of HBC and its affiliates for misleading advertising and deceptive marketing

practices. The Supplemental Witness Statement is no more than a few paragraphs in length and attaches a number of public documents, including court filings and annual reports, bulletins and news releases;

11. HBC takes issue with the late delivery of the Supplemental Witness Statement in so far as it falls outside the time period provided for by the Amended Scheduling Order. Furthermore, HBC maintains that the Supplemental Witness Statement contains irrelevant and inadmissible hearsay evidence;

12. The information in the Supplemental Witness Statement is relevant to the Tribunal in assessing the quantum of the administrative monetary penalty that may be levied against HBC. Subsection 74.1(5) of the Act calls on the Tribunal to consider the likelihood of self-correction and the history of compliance with the Act by the person against whom the order is made. The information concerning HBC's criminal convictions would be of assistance to the Tribunal in fashioning a remedy;

13. The information in the Supplemental Witness Statement is relevant to the Tribunal in assessing whether or not HBC exercised due diligence. In particular, HBC has asserted in its Amended Response at paragraphs 46, 51, 91 that, contrary to the Commissioner's allegations, it had "...a clear, **continuous** and unequivocal commitment to compliance" (emphasis added). A lengthy number of prior convictions is entirely relevant in assessing that claim;

14. Although the Supplemental Witness Statement was served outside the time period provided for under the Amended Scheduling Order, it was served within the time provided for under the *Tribunal Rules*. Service of a witness statement within the time period provided for under the *Tribunal Rules* cannot constitute procedural unfairness;

15. There are a number of exceptions to the hearsay rule which allow the Supplemental Witness Statement to be put before the Tribunal;

16. There would be no prejudice to HBC in allowing the Commissioner to file the Supplemental Witness Statement;

HBC's Confidentiality Claims are Excessive and Improper

17. HBC has made confidentiality claims that cannot be sustained under common law principles or under the Amended Confidentiality Order. The open court principle dictates that certain confidentiality claims made by HBC be removed from the Commissioner's Materials;

18. The Zimmerman Witness Statement, the Banks Report and the Urbany Report all contain information and documents that were obtained from HBC. However, not all of this is confidential business information. In the case of the Zimmerman Witness Statement, to date, HBC has failed to provide any guidance on what aspects of the witness statement contains confidential business information. In the case of the Banks Report and the Urbany Report, HBC has made confidentiality claims that are excessive and inconsistent with the open court principle;

19. Private commercial interests should not be protected unless they can be expressed in terms of a broader public interest in confidentiality, which HBC has failed to do in this case. HBC has failed to demonstrate that it needs confidentiality in order to protect values of super-ordinate importance, and that simply being embarrassed by what the documents reveal about HBC does not meet the test articulated in *Sierra Club Club of Canada v. Canada (Minister of Finance)*¹;

20. The public should not be unreasonably denied access to the Tribunal record.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this motion:

1. Witness Statement of Adam Zimmerman, dated December 19, 2018;
2. Supplemental Witness Statement of Adam Zimmerman, dated February 6, 2019;
3. Expert Report of Theodore L. Banks, dated December 18, 2018;

¹ *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, Commissioner's Book of Authorities, at Tab 19.

4. Expert Report of Dr. Joel Urbany, dated December 19, 2018;
5. The pleadings and prior proceedings herein; and
6. Such further and other material as counsel may advise and this Tribunal may permit.

DATED AT GATINEAU, QUÉBEC, this 27th day of February, 2019.

SIGNED BY:

"Original Signed by Counsel to the Commissioner"

Alexander Gay
Derek Leschinsky
Katherine Rydel

Counsel to the Commissioner of Competition

ATTORNEY GENERAL OF CANADA

Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase 1
50 Victoria Street, 22nd Floor
Gatineau, QC
K1A 0C9
Fax: (819) 953-9267

Alexander Gay (LSUC: 37590R)
Tel: (613) 670-8497
Alexander.Gay@justice.gc.ca

Derek Leschinsky (LSUC: 48095T)
Tel: (819) 956-2842
Derek.Leschinsky@canada.ca

Katherine Rydel (LSUC: 58143I)

Tel: (819) 997-2837

Katherine.Rydel@canada.ca

Counsel to the Commissioner of Competition

AND COPIES

TO: STIKEMAN ELLIOT LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON
M5L 1B9
Fax: (416) 947-0866

Eliot N. Kolers
Tel: (416) 869-5637
ekolers@stikeman.com

Mark E. Walli
Tel: (416) 869-5577
mwalli@stikeman.com

Patricia Joseph
Tel: (416) 869-5642
pjoseph@stikeman.com

Counsel for the Respondent

AND TO: The Registrar
Competition Tribunal
Thomas D'Arcy McGee Building
90 Sparks Street, Suite 600
Ottawa, ON
K1P 5B4

Tab 1

Witness Statement of Adam Zimmerman

Please refer to ANNEX D of the Commissioner's Memorandum of Fact and
Law

Tab 2

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended; and

IN THE MATTER OF an application for orders pursuant to section 74.1 of the *Competition Act* for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the *Competition Act*.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

– and –

HUDSON'S BAY COMPANY

Respondent

Supplemental Witness Statement of Adam Zimmerman

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase 1
50 Victoria Street, 22nd Floor
Gatineau, QC K1A 0C9
Fax: (819) 953-9267

Alexander Gay (LSUC: 37590R)
Tel: (613) 670-8497
Alexander.Gay@justice.gc.ca

Derek Leschinsky (LSUC: 48095T)
Tel: (819) 956-2842
Derek.Leschinsky@canada.ca

Katherine Rydel (LSUC: 58143I)
Tel: (819) 997-2837
Katherine.Rydel@canada.ca
Counsel to the Commissioner of Competition

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended; and

IN THE MATTER OF an application for orders pursuant to section 74.1 of the *Competition Act* for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the *Competition Act*.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

– and –

HUDSON'S BAY COMPANY

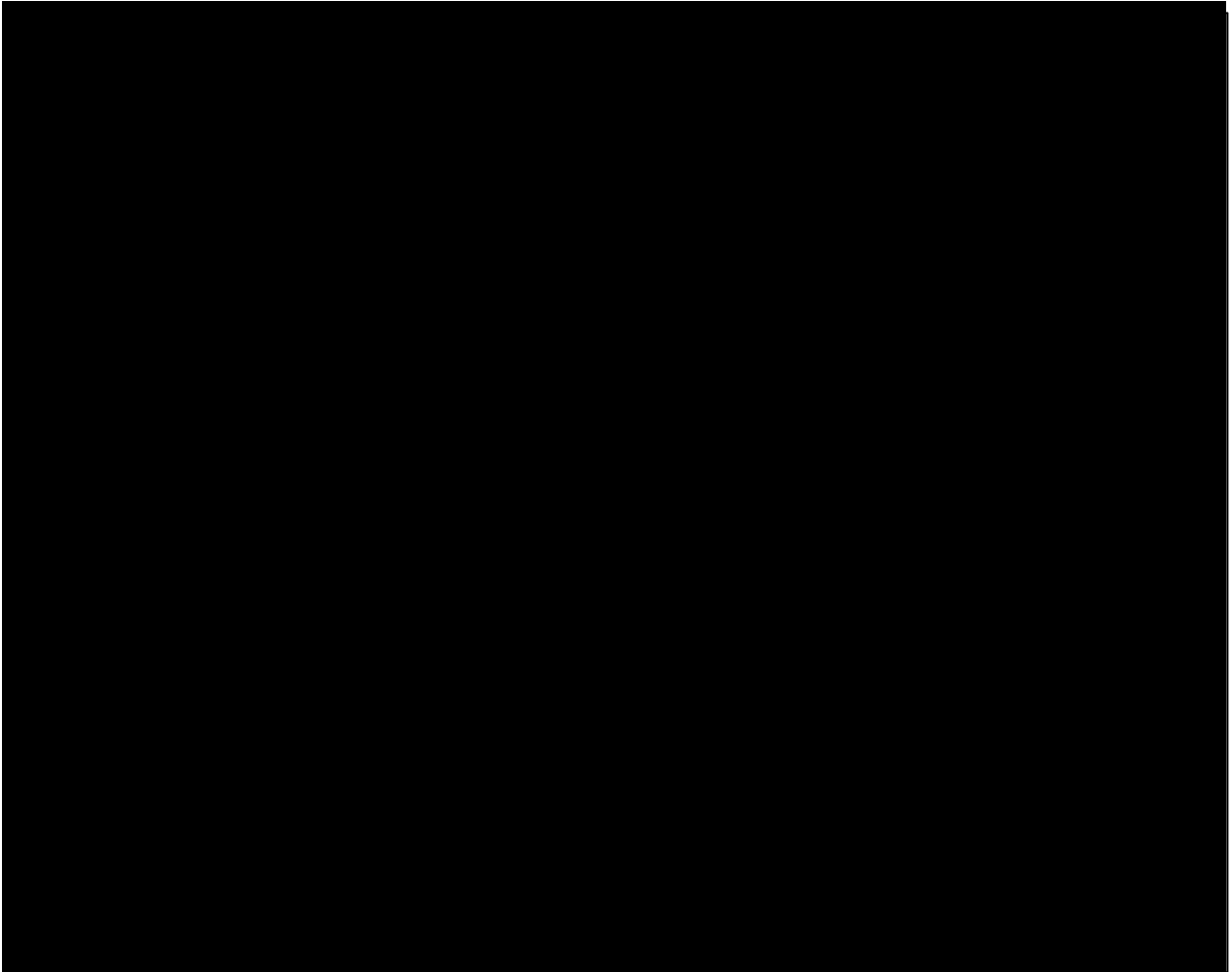
Respondent

Supplemental Witness Statement of Adam Zimmerman

I, Adam Zimmerman, a Senior Competition Law Officer with the Competition Bureau (the "**Bureau**"), of the City of Ottawa in the Province of Ontario, AFFIRM AS FOLLOWS:

1. The description of HBC's misleading advertising convictions set out in my Witness Statement dated December 19, 2018 is incomplete. Since 1971 HBC and affiliates controlled by it have been convicted of 40 criminal offences under the *Competition Act* and the *Combines Investigation Act*, for offences relating to deceptive savings claims in respect of more than 11 different products.
2. The convictions of HBC relating to deceptive savings are as follows:

- a. On May 4, 1998 HBC pled guilty to one charge under paragraph 52(1) (a) of the *Competition Act* regarding the promotion of bicycles, was convicted and subsequently fined \$600,000.¹ An internal memorandum the Bureau obtained from HBC during the course of the investigation dated March 13, 1989 stated:



2

- b. On January 15, 1991 HBC pled guilty to one charge under paragraph 52(1)(a) of the *Competition Act* regarding the

¹ Exhibit 1 - Transcript of Guilty Plea Proceeding in R. v. Hudson's Bay Company, Ontario Court of Justice (General Division), Court File No. TO-185698, May 4, 1998; Agreed Statement of Facts in R. v. Hudson's Bay Company, Ontario Court (General Division), Court File No. TO-185698, May 4, 1998; News Release of Competition Bureau, May 4, 1998, "Hudson's Bay Company Fined \$600,000 under Misleading Advertising Provisions of the *Competition Act*".



promotion of Chinese carpets, was convicted and subsequently fined \$70,000.³

- c. On February 15, 1985 HBC pled guilty to one charge under paragraph 36(1)(d) of the *Combines Investigation Act* regarding the promotion of Indian rugs, was convicted and fined \$5,000.⁴
- d. On November 21, 1983 HBC pled guilty to one charge under section 37 of the *Combines Investigation Act* regarding the promotion of a drill, was convicted and subsequently fined \$1,000.⁵
- e. On April 27, 1982 HBC pled guilty to one charge under paragraph 36(1)(a) of the *Combines Investigation Act* regarding the promotion of car seats, was convicted and subsequently fined \$1,000.⁶
- f. On March 27, 1981 HBC was convicted of two charges under subsection 36(1)(a) of the *Combines Investigation Act* regarding its “Casino of Discounts” sale, pled guilty and was subsequently fined \$1,500 on each count for a total of \$3,000.⁷

³ Exhibit 3 - Reasons for Judgement in R. v. Hudson's Bay Company/Compagnie de la Baie D'Hudson and Simpsons Limited/Simpsons Limitee, Ontario Court of Justice, January 15, 1991; Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31,1989; Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31,1990; Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31,1991; Misleading Advertising Bulletin, January – March, 1991.

⁴ Exhibit 4 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1985; Misleading Advertising Bulletin, January - March 1985.

⁵ Exhibit 5 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1983; Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1984; Misleading Advertising Bulletin, October – December 1983.

⁶ Exhibit 6 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1983; Misleading Advertising Bulletin, April – June 1982.

⁷ Exhibit 7 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1981; Misleading Advertising Bulletin, January – March 1981.

- g. On January 30, 1978 HBC was convicted of one charge under subsection 36(1)(a) of the *Combines Investigation Act* and was subsequently fined \$300.⁸
- h. On October 12, 1976 HBC was convicted of one charge under subsection 37(1) of the *Combines Investigation Act* regarding the promotion of 100 ounce silver bars and subsequently fined \$750. On March 14, 1977 the Ontario Court of Appeal upheld the conviction and increased the fine to \$5,000.⁹
- i. On February 23, 1976 HBC was convicted of one charge under paragraph 37(1)(a) of the *Combines Investigation Act* regarding the promotion of 100 ounce silver bars and subsequently fined \$2,000.¹⁰
- j. On May 8, 1974 HBC pled guilty to two charges under subsection 36(1) of the *Combines Investigation Act* regarding the promotion of books and was subsequently fined \$100 for each count, for a total fine of \$200.¹¹
- k. On March 4, 1971 HBC pled guilty to one charge under subsection 33C(1) of the *Combines Investigations Act*,

⁸ Exhibit 8 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31, 1978; Misleading Advertising Bulletin, January – March 1978.

⁹ Exhibit 9 - R. v. The Governor and Company of Adventurers of England Trading Into Hudson's Bay also known as Hudson's Bay Company, Supreme Court of Ontario Court of Appeal, Court File No. 257-1, March 14, 1977; Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31, 1977; Misleading Advertising Bulletin, May 1977.

¹⁰ Exhibit 10 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31, 1977; Misleading Advertising Bulletin, February 1977.

¹¹ Exhibit 11 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31, 1975; *Combines Investigation Act* R.S.C. 1972, c. C-23, s. 36.

regarding the promotion of television sets and was subsequently fined \$200.¹²

3. HBC acquired Simpsons Limited (“**Simpsons**”) in 1979.¹³ The convictions of Simpsons relating to deceptive savings claims while under HBC’s control are as follows:

- a. On January 29, 1991 Simpsons pled guilty to one charge under paragraph 52(1)(a) of the *Competition Act* regarding the promotion of Chinese carpets, was convicted and subsequently fined \$120,000.¹⁴
- b. On October 18, 1988 Simpsons was convicted of one charge under paragraph 52(1)(a) of the *Competition Act* regarding “Mini casino” cards and was subsequently fined \$100,000.¹⁵
- c. On July 30, 1981 Simpsons was convicted of 11 charges under paragraph 36(1)(a) of the *Combines Investigation Act* regarding the promotion of jewellery and was subsequently fined \$7,000 on each count for a total of \$77,000.¹⁶

4. HBC acquired Zellers Inc. (“**Zellers**”) in 1978.¹⁷ The convictions of Zellers relating to deceptive savings claims while under HBC’s control are as follows:

¹² Exhibit 12 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31, 1971; *Combines Investigation Act* R.S.C 1952, c.314, s.33C.

¹³ Exhibit 13 - Compagnie de la Baie d’Hudson, Rapport Annuel 1996.

¹⁴ Exhibit 14 - Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31, 1989; Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31, 1990; Misleading Advertising Bulletin, January – March, 1991.

¹⁵ Exhibit 15 - Misleading Advertising Bulletin, January – March, 1989.

¹⁶ Exhibit 16 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31, 1982; Misleading Advertising Bulletin, July – September, 1981.

¹⁷ Exhibit 13 - Compagnie de la Baie d’Hudson, Rapport Annuel 1996.

- a. On October 18, 1989, Zellers Inc. was convicted of ten charges under section 58 of the *Competition Act* regarding the promotion of various products and subsequently fined \$35,000.¹⁸
 - b. On July 4, 1988, Zellers Inc. was convicted of one charge under paragraph 36(1)(a) of the *Competition Act* regarding the promotion of sewing machines and subsequently fined \$5,000.¹⁹
 - c. On April 18, 1988, Zellers Inc. was convicted of one charge under paragraph 36(1)(a) of the *Competition Act* regarding the promotion of school supplies and subsequently fined \$10,000.²⁰
 - d. On April 18, 1988 Zellers Inc. was convicted of one charge under paragraph 36(1)(d) of the *Competition Act* regarding the promotion of pens and subsequently fined \$5,000.²¹
 - e. On May 16, 1983 Zellers Inc. was convicted of one charge under section 37 of the *Combines Investigation Act* regarding the promotion of camping equipment and subsequently fined \$1,000.²²
5. HBC has also been convicted of two other misleading advertising offences not relating to savings claims within this period:
- a. On April 13, 1982 HBC was convicted of one charge under paragraph 36(1)(b) of the *Combines Investigation Act* regarding

¹⁸ Exhibit 17 - Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31, 1990; Misleading Advertising Bulletin, October – December, 1989.

¹⁹ Exhibit 18 - Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31, 1989; Misleading Advertising Bulletin, July – September, 1988.

²⁰ Exhibit 19 - Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31, 1989; Misleading Advertising Bulletin, April – June, 1988.

²¹ Exhibit 20 - Annual Report of Director of Investigation and Research, *Competition Act*, for the year ended March 31, 1989; Misleading Advertising Bulletin, April – June, 1988.

²² Exhibit 21 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31, 1984; Misleading Advertising Bulletin, April – June, 1983.

the promotion of an electric speed control device and subsequently fined \$10,000;²³ and

- b. On December 9, 1976 HBC pled guilty to one charge under subsection 37(1) of the *Combines Investigation Act* regarding the promotion of sweaters and was subsequently fined \$1,500.²⁴

Affirmed before me at the City of Gatineau, Quebec on February 6, 2018.



Commissioner for Taking
Affidavits
"David Dunbar"
LSO#: 33612D



Adam Zimmerman



²³ Exhibit 22 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1983; Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1984; Misleading Advertising Bulletin, April – June 1982.

²⁴ Exhibit 23 - Annual Report of Director of Investigation and Research, *Combines Investigation Act*, for the year ended March 31,1977; Misleading Advertising Bulletin, February 1977.

Exhibit 1

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

B E T W E E N:

5

HER MAJESTY THE QUEEN

- and -

10

HUDSON'S BAY COMPANY

Accused

15

--- Before THE HONOURABLE MADAM JUSTICE MOLLOY,
without a jury at the Metropolitan Toronto
Courthouse, on May 4, 1998.

20

GUILTY PLEA PROCEEDINGS

25

A P P E A R A N C E S:

MR. R. HUBBARD	counsel for the Crown
MS. G. SCARCELLA	counsel for the Crown
MR. E. GREENSPAN	counsel for the accused
MR. P. SCHABAS	counsel for the accused
MR. T. WONG	counsel for the accused

30

2
Guilty Plea Proceedings
R. v. Hudson's Bay Company

5
--- UPON COMMENCING AT APPROXIMATELY 10:03 A.M.

--- OTHER MATTER SPOKEN TO

10
MR. HUBBARD: Morning, your Honour. For the record my name is Hubbard, initial R. I am here on behalf of the Department of Justice, and with me is my colleague, Gina Scarcella.

MS. SCARCELLA: Good morning your Honour.

15
MR. GREENSPAN: Your Honour, my name is Greenspan, initial E. I am here on behalf of the Hudson's Bay Company and with me is Mr. Paul Schabas and Mr. Tony Wong.

20
THE COURT: Thank you.

MR. HUBBARD: This is going to be a guilty plea to count three on the indictment. I would ask that the accused company be arraigned on count three. There are three counts, just the last one.

25
THE COURT: What is going to happen to the other two counts?

30
MR. HUBBARD: I am going to be directing a stay.

Mr. Greenspan would like them dismissed and that's fine with me.

THE COURT: Okay. Arraign the accused on all three counts.

3
Guilty Plea Proceedings
R. v. Hudson's Bay Company

5
10
15
20
25
30

THE REGISTRAR: Representatives from the Hudson's Bay Company please stand. The Hudson's Bay Company stands charged that the Hudson's Bay Company carrying on business as The Bay unlawfully did, at the Municipality of Metropolitan Toronto, in the Province of Ontario, and elsewhere in Canada, between January 1, 1989 to May 31, 1990, both dates inclusive, for purpose of promoting directly or indirectly the supply or use of product, to wit: Beaumark sleep sets (mattresses and box springs) under fourteen different styles: Ambiance, Calais, Hotel Supreme, Mayfair, Medallion, Orthopedic, Renaissance, Serenity, Serenity Plus, Supreme, Tranquility, Ultrafoam, Ultrafoam Firm Plus, Ultrafoam Royale, make representations to the public by means of flyers, newspaper advertisements, and in-store representations including sales signs, double price tags and verbal communications which representations were false or misleading in a material respect contrary to paragraph 52(1)(a) of the Competition Act, R.S.C. 1985, c. C-34 and did thereby commit an offence contrary to subsection 52(5) of the said Act.

Count two. And further that Hudson's Bay Company, carrying on business as The Bay unlawfully did, at the Municipality of Metropolitan Toronto, in the Province of Ontario, and elsewhere in Canada, between February 1, 1989 and January 31, 1991, both dates

4
Guilty Plea Proceedings
R. v. Hudson's Bay Company

5
inclusive, for the purpose of promoting directly or
indirectly the supply or use of a product to wit: Quattro
pillows, make representations to the public by means of
flyers, newspaper advertisements, and in-store
representations including sale signs, double price tags
and/or split tickets and verbal communications which
10
representations were false or misleading in a material
respect contrary to paragraph 52(1)(a) of the Competition
Act R.S.C. 1985, c. C-34 and did thereby commit an offence
contrary to subsection 52(5) of the said Act.

15
Count three. And further that Hudson's Bay
Company carrying on business at The Bay unlawfully did, at
the Municipality of Metropolitan Toronto, in the Province
of Ontario, and elsewhere in Canada, between February 1,
20
1989 and March 31, 1991, both dates inclusive, for the
purpose of promoting directly or indirectly the supply or
use of a product, to wit: Touring Bicycles, Children's
Bicycles, and Racing Style Bicycles, make representations
25
to the public by means of flyers, newspaper
advertisements, and in-store representations including
sales signs, double price tags and verbal communications
which representations were false or misleading in a
30
material respect contrary to paragraph 52(1)(a) of the
Competition Act, R.S.C. 1985, c. C-34 and did thereby
commit an offence contrary to subsection 52(5) of the said
Act.

5
Guilty Plea Proceedings
R. v. Hudson's Bay Company

5
Upon this indictment, how does the Hudson's Bay Company plead to count one?

MR. GREENSPAN: To count one, I am authorized, on behalf of the Corporation, to plead not guilty.

10
THE REGISTRAR: To count two?

MR. GREENSPAN: Count two, I am authorized, by the Corporation, to plead not guilty.

THE REGISTRAR: To count three?

15
MR. GREENSPAN: Count three, I am authorized, on behalf of the Corporation, to plead guilty.

THE REGISTRAR: Thank you. You may be seated.

20
MR. HUBBARD: Yes, your Honour. We have an agreed statement of facts that both counsel for the Bay, Mr. Greenspan, and myself, on behalf of the Crown, have signed. If I could make that exhibit 1 on the plea?

25
THE COURT: Yes.

30
--- EXHIBIT NO. 1: Agreed Statement of Facts

MR. HUBBARD: And I will just, suppose, read it into the record.

Your Honour, the facts are that the accused, the Hudson's Bay Company -- I might truncate some

6
Guilty Plea Proceedings
R. v. Hudson's Bay Company

of these in terms of the allegations.

5
The accused, Hudson's Bay Company, The Bay, is Canada's largest department store retailer. The Bay was incorporated under the laws of Canada on December 13, 1978. Its registered office is located at 401 Bay Street, Fifth Floor, Toronto, Ontario.

10
As of January 31st, 1997, there are 101 Bay stores in seven different provinces in Canada.

15
The Bay's fiscal year is from February the 1st to January the 31st. For the year ended January 31st, 1997, sales and revenues generated by The Bay amounted to \$2.333 billion with an operating profit, before taxes, of approximately \$131.1 million.

20
Paragraph four. During fiscal years 1989 and 1990 sales and revenue generated by The Bay amounted to \$2.296 billion and \$2.322 billion respectively. In those same years, operating profits, before taxes, were approximately \$129 million and \$122 million respectively. In 1989, The Bay's ratio of advertising expenses to sales was 4.5%, based on total advertising expenses of \$84,557,800 and retail sales of 1 million -- sorry, I am not used to these large numbers -- \$1,859,096,000.

25
30
During fiscal years 1989 and 1990, total national sales of bicycles and bicycle related accessories and products amounted to \$7.09 million and \$7.071 million respectively.

7
Guilty Plea Proceedings
R. v. Hudson's Bay Company

5
10
During the charge period, February the 1st, '89 to March 31, 1991, for the purpose of promoting the sale of bicycles, The Bay represented to the public across Canada through its flyers, newspaper advertisements and in-store displays, that its bicycles would be offered at a sale price for a certain limited period of time.

15
All flyers and newspaper advertisements promoting the bicycles indicated clearly that the sales were in effect for a limited time only. Examples of such ads are as follows and then three examples representing the sale for the period across the country are given.

20
25
Paragraph eight. During the charge period, investigations across Canada by members of the Marketing Practices Branch of the Department of Consumer, and then we added, we corrected that Department of Consumer -- sorry, Department of Consumer and Corporate Affairs including some 91 in-store visits, disclosed that The Bay continued to promote its sale prices on bicycles after the last day of the sale as specified in its flyers newspaper advertisements.

30
Paragraph nine. The representations of The Bay's flyers and newspaper advertisements were therefore false or misleading in a material respect because they led consumers to believe that they had to purchase bicycles during the stated limited-time period in order to take

8
Guilty Plea Proceedings
R. v. Hudson's Bay Company

5
advantage of the sale price when the sale in fact
continued for much longer periods of time. .In addition,
in these circumstances, the sale promotions created a
general impression of urgency which was misleading.

10
The last paragraph, paragraph ten. Having
regard to the size of the corporation, its prior record of
convictions, most recently in 1991 when a fine of \$70,000
was imposed, the nature of the offence, recent fines
15 imposed against other large operations, and also having
regard to the lengthy trial which is avoided because of
this plea and the fact that The Bay has, since the time of
the offence, implemented a rigorous compliance program to
ensure compliance with the law, it is agreed by both
20 sides, both parties, that an appropriate penalty be a fine
in the amount of \$600,000, payable to the Receiver General
of Canada pursuant to the mentioned section.

Those are the facts.

25 THE COURT: Thank you.

MR. GREENSPAN: Those facts are agreed to
and signed and filed.

THE COURT: Thank you.

30 MR. GREENSPAN: I would add one thing. My
friend shouldn't be over-awed by large numbers, as I was
once told by someone that large numbers are no different
than little numbers, they just have more zeros.

THE COURT: Anything to add with respect to

9
Guilty Plea Proceedings
R. v. Hudson's Bay Company

29

the appropriateness of the sentence?

5
10
15
20
MR. GREENSPAN: All I would add is this is that this matter, as you can see, has been going on since 1991 when the original search was conducted and they relate to charges that were brought before the courts in 1991, and they relate to events of 1989 and 1990, almost a decade ago. This was to have been a test case back then. It raised significant issues for the retail industry and it was felt that this case would resolve those issues. Parliament has now clarified the law in a bill that will be passed shortly, and the need for a costly, protracted battle has been overtaken by the effect of the last eight years and this is why, without a doubt, this is the most sensible way to put historical events behind us.

25
The proposed joint submission, in my respectful submission, has to be the right result, both sides are equally unhappy.

30
MR. HUBBARD: Just following on that, Mr. Greenspan's quite correct that this case was going to resolve, well, hopefully resolve, the issue of what was meant by regular price in the retail industry. As my friend has alluded, there's now a bill before Parliament that tries to define the appropriate test. It wouldn't apply to this case, but it would have ramifications, obviously, in terms of how the defence conducted his case.

10
Guilty Plea Proceedings
R. v. Hudson's Bay Company

5
10
Mr. Greenspan is on record in this court that this trial might have been lasted from four to six months. So in all of the circumstances, this is a, shall we say, an unhappy or happy consequence. Happy for the court. And we have avoided the test case issue, in light of the bill before Parliament, and both sides are content that the disposition is as indicated.

15
THE COURT: In view of those submissions, I am satisfied that the sentence is appropriate. There will be a conviction on the third count with a sentence of \$600,000 fine and the first two counts should be dismissed.

20
MR. GREENSPAN: On this count, it's not that we require time to pay, but if we could have 24 hours just to mechanically prepare. We need the approval of the court.

25
MR. HUBBARD: I'm content for seven days. I'm in that kind of mood today.

MR. GREENSPAN: Seven days.

THE COURT: Seven days to pay.

30
MR. GREENSPAN: We'll take seven days. Is my friend in the mood for seven years? How good a mood is he in?

THE COURT: Seven days to pay. On the first two counts?

MR. HUBBARD: I would ask that there be an

11
Guilty Plea Proceedings
R. v. Hudson's Bay Company

acquittal entered on those two counts.

5

THE COURT: All right. Thank you,
gentlemen.

MR. HUBBARD: Thank you, your Honour.

MR. GREENSPAN: Thank you, your Honour.

10

--- UPON ADJOURNING AT APPROXIMATELY 10:20 A.M.

15

I hereby certify that the foregoing
is a true and accurate verbatim
transcription of the proceedings
to the best of my skill and ability.

20

25

M. McPherson

Marcy McPherson

Official Court Reporter

30

**ONTARIO COURT (GENERAL DIVISION)
DANS LA COUR DE L'ONTARIO (DIVISION GÉNÉRALE)**

B E T W E E N:

**HER MAJESTY THE QUEEN
SA MAJESTÉ LA REINE**

-and-

**HUDSON'S BAY COMPANY
COMPAGNIE DE LA BAIE D'HUDSON
carrying on business as THE BAY**

AGREED STATEMENT OF FACTS

1. The accused, Hudson's Bay Company/Compagnie de la Baie d'Hudson ("The Bay"), is Canada's largest department store retailer. The Bay was incorporated under the laws of Canada on December 13, 1978. Its registered office is located at 401 Bay Street, Fifth Floor, Toronto, Ontario.
2. As of January 31, 1997, there are 101 Bay stores in seven different provinces in Canada.

3. The Bay's fiscal year is from February 1 to January 31. For the year ended January 31, 1997, sales and revenues generated by The Bay amounted to \$2.333 billion with an operating profit, before taxes, of approximately \$131.1 million.

4. During fiscal years 1989 and 1990 sales and revenue generated by The Bay amounted to \$2.296 billion and \$2.322 billion respectively. In those same years, operating profits, before taxes, were approximately \$129 million and \$122 million respectively. In 1989, The Bay's ratio of advertising expenses to sales was 4.5%, based on total advertising expenses of \$84,557,800 and retail sales of \$1,859,096,000.

5. During fiscal years 1989 and 1990, total national sales of bicycles and bicycle related accessories and products amounted to \$7.09 million and \$7.071 million respectively.

6. During the charge period, February 1, 1989 to March 31, 1991, for the purpose of promoting the sale of bicycles, The Bay represented to the public across Canada through its flyers, newspaper advertisements and in-store displays, that its bicycles would be offered at a sale price for a certain limited period of time.

7. All flyers and newspaper advertisements promoting bicycles indicated clearly that sales were in effect for a limited time only. Examples of such ads are as follows:

20% OFF ALL OUR BIKES FOR THE WHOLE FAMILY...
Our reg. 79.99 to 369.99. Sale 63.99 to 295.99 each...

(Prices in effect from April 28 to May 6, 1989)

WHEELS OF FORTUNE! \$10 TO \$60 OFF...
 \$30 OFF MEN'S AND LADIES' PATHFINDER 2000 MOUNTAIN BIKE...
 Our Reg. 189.99
 Sale 159.99 Each...
 \$30 OFF LADIES' CITY BIKE
 Our Reg. 179.99
 Sale 149.99 Each...

(Prices in effect from July 5 to 29, 1989)

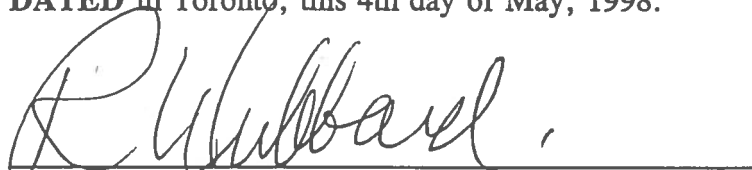
\$30 OFF
 PATHFINDER 2000 12-SPEED MOUNTAIN BIKES
 Men's or ladies' styles...
 Reg 189.99. Sale 159.99 Each...

(Prices in effect from March 25 to April 1, 1989)

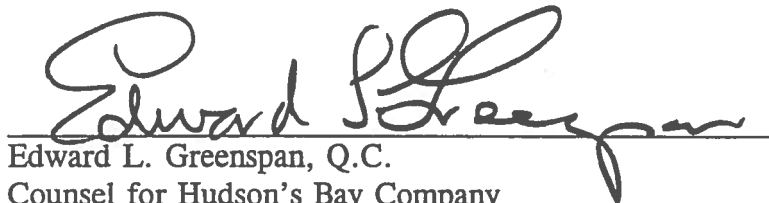
8. During the charge period, investigations across Canada by members of the Marketing Practices Branch of the Department of Consumer and ~~Commercial Relations~~ ^{Corporate Affairs}, including some 91 in-store visits, disclosed that The Bay continued to promote its sale prices on bicycles after the last day of the sale as specified in its flyers and newspaper advertisements. *PA*
SRS
9. The representations in The Bay's flyers and newspaper advertisements were therefore false or misleading in a material respect because they led consumers to believe that they had to purchase bicycles during the stated limited-time period in order to take advantage of the sale price when the sale in fact continued for much longer periods of time. In addition, in these circumstances, the sale promotions created a general impression of urgency which was misleading.

10. Having regard to the size of the corporation, its prior record of convictions (most recently in 1991 when a fine of \$70,000 was imposed), the nature of the offence, recent fines imposed against other large corporations, and also having regard to the lengthy trial which is avoided because of this plea and the fact that The Bay has, since the time of the offence, implemented a rigorous compliance program to ensure compliance with the law, it is agreed that an appropriate penalty be a fine in the amount of \$600,000, payable to the Receiver General of Canada pursuant to section 734.4(2)(a)(iii) of the *Criminal Code*.

DATED in Toronto, this 4th day of May, 1998.



Robert W. Hubbard
Counsel for the Attorney General of Canada



Edward L. Greenspan, Q.C.
Counsel for Hudson's Bay Company

News Release

38

HUDSON'S BAY COMPANY FINED \$600,000 UNDER MISLEADING ADVERTISING PROVISIONS OF THE *COMPETITION ACT*

Ottawa, May 4, 1998 -The Competition Bureau announced today that Hudson's Bay Company (HBC), carrying on business as *The Bay*, pleaded guilty to one offence contrary to the misleading advertising provisions of the *Competition Act*.

A fine of \$600,000 was imposed by the Ontario Court (General Division). The fine is the second highest ever imposed for a conviction of a misleading advertising offence under the *Competition Act*.

The charges relate to The Bay's marketing practices regarding a variety of brands and sizes of bicycles during the period February 1, 1989 to March 31, 1991. During this time, The Bay misled Canadians by representing that its bicycles would be offered at a sale price for a certain limited period of time when in fact the sale continued for a much longer period of time. The misrepresentations were in the form of flyers, newspaper advertisements and in-store displays.

"Consumers can be easily misled by sales promotions that create a general impression of urgency, especially when these relate to items as commonly purchased as bicycles," said Konrad von Finckenstein, Director of Investigation and Research. "The Competition Bureau will use every opportunity to ensure that big or small companies provide consumers with accurate information."

HBC, which operates department stores under the banners 'The Bay', 'Zellers', 'Kmart', and 'Fields', is Canada's largest department store retailer.

- 30 -

For more information, please contact:

Cécile Suchal
(819) 953-5303

Release 7932-e

Exhibit 2

Exhibit 3

ONTARIO COURT OF JUSTICE

B E T W E E N:

HER MAJESTY THE QUEEN

and

HUDSON'S BAY COMPANY/COMPAGNIE DE LA BAIE D'HUDSON
and SIMPSONS LIMITED/SIMPSONS LIMITEE

REASONS FOR JUDGMENT

--- Before THE HONOURABLE MR. JUSTICE BORINS without a jury
at the Metropolitan Toronto court house; commencing
on January 15, 1991.

APPEARANCES:

J. W. LEISING

for the Crown

P. SCHABAS

for the Accused

5 ORAL REASONS OF BORINS, J. GIVEN: JANUARY 15, 1991

10 In this two related cases, Simpsons Limited, which carries on business as Simpsons and the Hudson's Bay Company, which carries on business as The Bay, each has pleaded guilty to an offence contrary to section 52 (1)(a) of the Competition Act.

15 In very simple language, the offence, which each of these two nationally known companies committed was false advertising.

20 The agreed statement of facts indicates that during the period of time covered by the indictment; in the case of Simpsons from November 1977 to July 1988 and in the case of The Bay between January 1988 and July 1988, each company advertised for sale Super Chinese carpets at a price of 40% to 50% off the regular price, which in fact was false. The regular price of these items was in fact the price which the public was led to believe was a special price.

30 Counsel on behalf of the defendants and counsel of behalf of the Attorney General of Canada have submitted that the appropriate penalty in this

5 case would be a fine of \$120,000.00 to be imposed on
Simpsons and a fine of \$70,000.00 to be imposed on The
Bay.

10 Considering all the circumstances,
I am prepared to accept the recommendation and to
impose the fines accordingly.

15 There are a number of factors of
importance, however, that I feel I should deal with.
These indeed are the points made by Mr. Leising on
behalf of the Attorney General.

20 The defendants did enjoy an advantage,
an unfair competitive advantage over other smaller re-
tailers in the community, who were selling similar
products for a price that approached their true value
without advertising they were selling them at an
alleged discount.

25 The second factor and it is one of the
important factors to be taken into consideration when
dealing with legislation of this nature is that the
stores used false advertising to draw customers into
the stores. Discounts are always attractive to members
of the public and when offered by large retailers on a
small number of products bring customers into the store
30 in the hope that the customers will buy other items

5 in addition to those which are allegedly being offered at a bargain rate. Of course, when such large institutions as The Bay and Simpsons have to resort to this type of fraudulent conduct, it becomes a serious matter and appropriate penalties must be imposed.

10 It would seem from the material placed before the court, that Simpsons has had difficulty over the years in appreciating the honesty that is required when merchandising.

15 Although the fine imposed by my colleague, Mr. Justice Sheard two years ago dealt with conduct which predated the conduct under consideration, the amount of the fine which he imposed is significant; it was \$100,000.00 and it represents just another step in the increase in fines that have been imposed on the Simpson Company over the years in an attempt to deter it from engaging in false advertising.

25 That is why, in my view, a fine of \$120,000.00 is particularly appropriate in the case of Simpsons and no doubt those responsible for the management of the company will now appreciate that should it engage in this type of conduct in the future, a fine of the most exemplary nature will certainly be requested
30 by the Crown.

5
10
Similar comments can be made with respect to The Bay, although the material indicates that is record of offences, while somewhat lengthier than that of Simpsons has not engaged particularly heavy fines in the past. The heaviest fine imposed on The Bay before today having been \$5,000.00.

15
20
I think the same principle can apply to corporate crime as applies to individual criminals. When a court has dealt with an offender leniently in the past and the offender has not responded in an appropriate way, when the time comes for the court to get really tough, I don't think that the offender can complain. That's what happened to Simpsons and that's what happened to The Bay and I hope this will be a message as far as the future is concerned.

25
Therefore the fine upon Simpsons is \$120,000.00 and the fine upon The Bay \$70,000.00.

THE CROWN: May I ask that the remaining counts on the indictment be marked off, Your Honour?

30
THE COURT: Very well, the remaining counts will be withdrawn.

5

Certified correct
to the best
of my ability
from tape recording

10

J. Parkinson

J. Parkinson
Court Monitor

15

20

25

30

Product, Names of Accused and Location of Offence	Action Taken and Results
Business Awards – Amiram Peleg and Peleg Consumer Polls Incorporated (Winnipeg, Manitoba)	Eight charges were laid on December 22, 1988.
Furs – Peter Gaye Furs Limited c.o.b. as Peter Gaye Furs (Winnipeg, Manitoba)	Three charges were laid on December 22, 1988.
Furniture – Barney's Antiques Limited c.o.b. as World-Wide Antiques, and Arthur Aello (Toronto, Ontario)	Fifteen charges were laid on December 23, 1988.
Vacuum cleaners – 632018 Ontario Ltd. c.o.b. as Tri-Star, and Carter Brisebois (Barrie, Ontario)	Three charges were laid on December 23, 1988.
Carpets – Carpita Corporation c.o.b. as Factory Carpet (Ottawa and elsewhere, Ontario)	Five charges were laid on January 11, 1989
Employment opportunities – Pacific West Coast Cobra Wholesale Inc. c.o.b. as Mular Wholesale and Teddy Jacobson (Vancouver, British Columbia)	Two charges were laid on January 20, 1989.
Automobiles – Kern Chevrolet Oldsmobile Ltd. c.o.b. as Kern Chevrolet- Oldsmobile, and Bryan Douglas Kern (Vancouver, British Columbia)	Four charges were laid on January 20, 1989.
Photocopy supplies – 139834 Canada Inc. c.o.b. as Distribution Copie Centrale/ Distribution Copy Central (Montréal, Quebec)	Sixty-one charges were laid on January 25, 1989.
Blinds – Barry Laughren and Designer Blinds of Saskatoon Inc. c.o.b. as Designer Blinds by Stephen (Saskatoon, Saskatchewan)	Four charges were laid on February 3, 1989.
Blinds – Décoration Mont-Bruno Inc. and Michel Hébert (St-Bruno, Quebec)	Four charges were laid on February 6, 1989.
Meat – C & D Beef Enterprises Inc. c.o.b. as Alberta Beef Centre, and Douglas Wright (Edmonton, Alberta)	Six charges were laid on February 15, 1989.
Chinese carpets – Simpsons Limited/Simpsons Limitée c.o.b. as Simpsons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – T. Eaton Holdings Limited c.o.b. as Eatons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – Hudson's Bay Company c.o.b. as The Bay (Toronto, Ontario)	One charge was laid on February 21, 1989.

Product, Names of Accused and Location of Offence	Action Taken and Results
---	--------------------------

Paragraph 52(1)(d): Misleading Price Representation

Fur coats – Wendelyn Textiles & Properties Limited c.o.b. as Alan Cherry, Alan Cherry Enterprises Limited, Alan Cherry and Steven LeVine (Toronto, Ontario)	One charge was laid on January 3, 1986.
Blinds – Boutique Évolution Décor Inc. (Rimouski, Quebec)	Two charges were laid on May 14, 1986. On March 17, 1988, the accused was acquitted. The Crown has filed an appeal.
Televisions – Roy's Television & Radio Company Limited (Sudbury, Ontario)	One charge was laid on September 2, 1987.
Blinds – Keenan Frederick Ginn and 67767 (Manitoba) Limited c.o.b. as Elegant Blinds & Draperies (Winnipeg, Manitoba)	Twelve charges were laid on May 3, 1988.
Kitchenware – 566230 Ontario Limited c.o.b. as C.M.I. and Dynamics Unlimited, and Eric Bresler (Ottawa, Ontario)	One charge was laid on October 26, 1988.
Blinds – Despin Holdings Inc. and Verti Store Inc. (Québec, Quebec)	Six charges were laid on December 1, 1989.
Automobiles – Craig Stewart Esplen, Charles Elliott and Humberview Motors Inc. (Toronto, Ontario)	Two charges were laid on December 16, 1988.
Furs – Peter Gaye Furs Limited c.o.b. as Peter Gaye Furs (Winnipeg, Manitoba)	One charge was laid on December 22, 1988.
Carpets – Carpita Corporation c.o.b. as Factory Carpet (Ottawa and elsewhere, Ontario)	Eight charges were laid on January 11, 1989.
Blinds – Décoration Mont-Bruno Inc. and Michel Hébert (St-Bruno, Quebec)	Four charges were laid on February 6, 1989.
Chinese carpets – Simpsons Limited/Simpson's Limitée, c.o.b. as Simpsons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – T. Eaton Holdings Limited c.o.b. as Eatons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – Hudson's Bay Company c.o.b. as The Bay (Toronto, Ontario)	One charge was laid on February 21, 1989.
Michelin tires – Custom Muffler Service Ltd. (Ottawa, Ontario)	Four charges were laid on February 23, 1989.

Product, Names of Accused and Location of Offence	Action Taken and Results
Weight Loss - Les Laboratoires Produits Français Inc., Les Laboratoires Parolan Inc. and Guy Pothier (Montréal, Quebec)	Twenty-five charges were laid on May 12, 1988. On January 17, 1989, the companies pleaded guilty to one charge and were convicted and fined \$5 000 each. The remaining charges against them were withdrawn. The charges against Guy Pothier remain outstanding.
Weight Loss - 146474 Canada Inc., Louis Luc Roy, c.o.b. as Raisinase RR, Shirley Thérout and Taisinase R.R. Inc. (Montréal, Quebec)	Forty-nine charges were laid on May 18, 1988.
Audio & Video Equipment - Multitech Warehouse Direct (Ontario) Inc. (Toronto, Ontario)	Two charges were laid on September 2, 1988.
Various Products - Amway of Canada Ltd. (Edmonton, Alberta)	Six charges were laid on September 28, 1988. On September 18, 1989, two of the charges were stayed. On December 6, 1989, two charges were dismissed. The Crown has appealed this decision. The stayed charges were withdrawn on March 19, 1990. Two other charges remain outstanding.
Rugs - Stephano Cervone and Tapis Orientaux Amir Ltée, c.o.b. as Maison d'Encan Internationale (Lachine, Quebec)	Twelve charges were laid on October 26, 1988.
Diet Drink - Steward Sherwood and 603022 Ontario Inc., c.o.b. as House of Sherwood (Hamilton, Ontario)	Twenty-one charges were laid on November 3, 1988.
Furs - Peter Gaye Furs Limited, c.o.b. as Peter Gaye Furs (Winnipeg, Manitoba)	Three charges were laid on December 22, 1988.
Vacuum Cleaners- 632018 Ontario Ltd., c.o.b. as Tri-Star, and Carter Brisebois (Barrie, Ontario)	Three charges were laid on December 23, 1988.
Employment Opportunity - Pacific West Coast Cobra Wholesale Inc., c.o.b. as Mular Wholesale, and Teddy Jacobson (Vancouver, British Columbia)	Two charges were laid on January 20, 1989.
Photocopy Supplies - 139834 Canada Inc., c.o.b. as Distribution Copie Centrale/ Distribution Copy Central (Montréal, Quebec)	Sixty-one charges were laid on January 25, 1989.
Chinese Carpets - Simpson's Limited/Simpson's Limitée, c.o.b. as Simpsons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese Carpets - Hudson's Bay Company, c.o.b. as The Bay (Toronto, Ontario)	One charge was laid on February 21, 1989.
Travel Savings Card - Groupmark Canada Limited, c.o.b. as Encore, and Elwin D. Cathcart (Toronto, Ontario and elsewhere in Canada)	Eight charges were laid on February 21, 1989.

ANNUAL REPORT

Director of Investigation
and Research

Competition Act

For the year ended March 31, 1991
to the Hon. Pierre Blais, Minister

Canada

APPENDIX VI MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS: PROCEEDINGS

CONVICTIONS

3 Suisses Canada Inc.	Limited, Foremost Advertising Limited, Mutual Marketing of Ottawa Limited and JAJU (Ashton) Advertising Corp.
2168-5391 Quebec Inc., c.o.b. as Rolland Lecompte Meuble C.D.L.	Fabricville Distributors Limited, c.o.b. as Fabricville Co.
155812 Canada Inc., c.o.b. as Société Internationale D.M.D. and Centre E.D.P.M., and Patrice Runner	Gordon Venson Hughes, c.o.b. as Hughes Enterprises and H & H Enterprises
155812 Canada Inc., c.o.b. as Société Internationale D.M.D. and Centre E.D.P.M., and Patrice Runner	Groupmark Canada Limited, c.o.b. as Encore, and Elwin D. Cathcart
351582 Ontario Limited, c.o.b. as Wellington Car Radio, and Gary Earl Mascarin	Hudson's Bay Company, Compagnie de la Baie d'Hudson, c.o.b. as The Bay
632018 Ontario Limited, c.o.b. as Tri-Star, and Carter Brisebois	J.B. Laliberté Limitée
690489 Ontario Limited and 733784 Ontario Inc., both c.o.b. as The Muscle Factory	James D. Hatcher and Howard Jay
A. Giguère Québec Ltée and Les Fourrures Prémont Inc.	K Mart Canada Limited /K Mart Canada Limitée, c.o.b. as S. S. Kresge Company
Abu Garcia Ltd.	K Mart Canada Limited /K Mart Canada Limitée
Barry Laughren and Designer Blinds of Saskatoon Inc., c.o.b. as Designer Blinds by Stephen (conviction affirmed on appeal)	L'Univers des Stores Verticaux de Montreal Inc.
Beam of Canada Inc. (conviction affirmed on appeal)	Leon's Furniture Limited
Claude Hénaire, c.o.b. as Monsieur Tapis, and Claude Hénaire Inc.	Les Ateliers de L'Electromenager R. Vallée Inc. and Rejean Vallée
Cogi Holdings Limited	Les Fourrures Oslo Inc.
Consoltex Inc., c.o.b. as Comptoir manufacturier de textile	M. Caplan Furs (1987) Ltd., c.o.b. as G.O.B. Liquidation-Liquidation G.O.B.
D.W.S. Automotive Group Inc., c.o.b. as Hyundai South	Michael Guluk and Super Shade Ltd.
Direct Motor Company Ltd., c.o.b. as Bank Street Mazda	National Auto League Inc., c.o.b. as Ontario Automobile Association (O.A.A.), Michael J. McGrath and David C. Allison
Donald Hoyt Smith, c.o.b. as Canadian Police News Independent, and Hoyt Smith Publishing Inc.	Oakwell-Morgan Inc., c.o.b. as OMI Electrolysis
Enrique Avila	Patrice Runner and Fabrice Choquet, both c.o.b. as Centre E.D.P.M.
Estrol Marketing Corporation, Prudential Marketing	Peter Gaye Furs Limited, c.o.b. as Peter Gaye Furs
	Recouvrement de Fenêtres Despins Inc. and Verti Store



Consumer and
Corporate Affairs Canada

Consommation et
Corporations Canada

MISLEADING ADVERTISING BULLETIN

Director of Investigation
and Research

Competition Act

1 / 1991

Canada



Accused, Location of
Offence and Date
of Sentence

Details of Offence

Disposition

Section 52(1)(a): False or misleading representation in a material respect, cont'd

**Hudson's Bay
Company/Compagnie
de la Baie d'Hudson,**
carrying on business as
The Bay (Toronto and
elsewhere in Ontario)

January 29, 1991

In promoting the sale of Chinese carpets, the accused represented by means of displays, verbal statements and circulars that they could be purchased for 40% to 50% off the "regular ticketed price." Investigation revealed that the accused made the representations in connection with a travelling oriental carpet event sale which moved from store to store over a seven-month period. Although the carpets would be offered for sale at the "regular ticketed price" when the sales were not in effect, sales were seldom made at that price. Moreover, if the rugs were available in a store when the travelling event was elsewhere, they could be purchased for up to 40% to 50% off the "regular ticketed price" anyway. Consequently, the "regular ticketed price" was misleading. It also did not represent the regular price in the relevant market.

The accused pleaded guilty to one charge under section 52(1)(a) and was fined \$70 000.

Exhibit 4

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1985
to the Hon. Michel Côté, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Sale above advertised price (Drug store items)	Gilles Raymond, carrying on business as Pharmacie Jean Coutu (G. Raymond) Enr. and Pharmacie Jean Coutu (Dorion) Enr. (Dorion, Valleyfield, Québec)	Seventeen charges were laid on November 27, 1981, under section 37.1. On January 22, 1985, the accused pleaded guilty and was convicted and fined \$9 850.
Misleading price representation (Sports equipment)	Collegiate/Arlington Sports Incorporated, carrying on business as Collegiate Sportsworld (London, Ontario)	One charge was laid on September 4, 1984, under paragraph 36(1)(d). On January 23, 1985, the accused pleaded guilty and was convicted and fined \$1 500.
Non-availability (Sports equipment)	Collegiate/Arlington Sports Incorporated, carrying on business as Collegiate Sportsworld (London, Ontario)	One charge was laid on September 4, 1984, under subsection 37(2). On January 23, 1985, the charge was dismissed.
Misleading price representation (Clocks)	Daniel Kuranji, carrying on business as The Clock Place (Kitchener, Ontario)	One charge was laid on August 20, 1984, under paragraph 36(1)(d). The accused pleaded not guilty but on January 23, 1985, was convicted and fined \$500.
False or misleading representation in a material respect (Clocks)	John Rauser and Westminster Clock Co. Ltd., both carrying on business as Salem Clock Co. (Toronto, Ottawa, Ontario)	Two charges under paragraph 36(1)(a) were laid against J. Rauser on May 28, 1984. Two charges under the same provision were laid against Westminster Clock Co. Ltd. on January 25, 1985. Westminster Clock Co. Ltd. pleaded guilty on January 25, 1985, and was convicted and fined \$4 000 on each charge, for a total fine of \$8 000. The charges against J. Rauser were withdrawn.
Misleading price representation (Clocks)	John Rauser and Westminster Clock Co. Ltd., both carrying on business as Salem Clock Co. (Toronto, Ottawa, Ontario)	Three charges were laid against J. Rauser on May 28, 1984, under paragraph 36(1)(d). Three charges were laid against Westminster Clock Co. Ltd. on January 25, 1985, under the same provision. On January 25, 1985, Westminster Clock Co. Ltd. pleaded guilty and was convicted and fined \$4 000 on each charge, for a total fine of \$12 000. The charges against J. Rauser were withdrawn.
False or misleading representation in a material respect (Jewellery)	Ani Jewellery Limited (Toronto, Ontario)	Nine charges were laid on July 6, 1984, under paragraph 36(1)(a). On February 6, 1985, the accused pleaded guilty to one charge and was convicted and fined \$3 000. The remaining charges were withdrawn.
Misleading price representation (Jewellery)	Ani Jewellery Limited (Toronto, Ontario)	Nine charges were laid on July 6, 1984, under paragraph 36(1)(d). On February 6, 1985, the charges were withdrawn.
Sale above advertised price (Drug store items)	Magasins Heriot Inc., carrying on business as Pharm-Escomptes Jean Coutu (Drummondville, Québec)	Nineteen charges were laid on May 6, 1981, under section 37.1. The accused pleaded guilty and on February 8, 1985, was convicted and fined \$400 on each charge, for a total fine of \$7 600.
Misleading price representation (Carpets)	Compagnie de la Baie D'Hudson — Hudson's Bay Company (Montréal, Québec)	Two charges were laid on November 28, 1984, under paragraph 36(1)(d). The accused pleaded guilty to one charge and on February 15, 1985, was convicted and fined \$5 000. The remaining charge was withdrawn.

APPENDIX II — (Continued)

67

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Misleading price representation (Electronic games)	Compagnie de la Baie D'Hudson — Hudson's Bay Company (Montréal, Québec)	Four charges were laid on November 28, 1984, under paragraph 36(1)(d). The accused pleaded guilty to two charges and on February 15, 1985, was convicted and fined \$2 500 on each charge for a total fine of \$5 000. A stay of proceedings was entered with respect to the remaining charges.
False or misleading representation in a material respect (Insulation)	Burrton Lumber Ltd. (Winnipeg, Manitoba)	One charge was laid on May 1, 1984, under paragraph 36(1)(a). The accused pleaded guilty and on February 18, 1985, was convicted and fined \$500.
False or misleading representation in a material respect (Waterbeds)	Burrton Lumber Ltd. (Winnipeg, Manitoba)	Two charges were laid on January 22, 1985, under paragraph 36(1)(a). On February 18, 1985, the accused pleaded guilty to one charge and was convicted and fined \$1 000. A stay of proceedings was entered with respect to the remaining charge.
Misleading price representation (Sailboards)	Surf-Import SDN Inc. (Ottawa, Ontario)	Three charges were laid on January 21, 1985, under paragraph 36(1)(d). On February 19, 1985, a stay of proceedings was entered.
False or misleading representation in a material respect (Kitchen cabinets)	Hawthorne Distributors Kitchen and Bath Cabinets Limited, carrying on business as Hawthorne Kitchen Designs (Ottawa, Ontario)	Two charges were laid on March 16, 1984, under paragraph 36(1)(a). On February 20, 1985, the accused pleaded guilty to one charge and was convicted and fined \$1 000. The remaining charge was withdrawn.
Misleading price representation (Kitchen cabinets)	Hawthorne Distributors Kitchen and Bath Cabinets Limited, carrying on business as Hawthorne Kitchen Designs (Ottawa, Ontario)	Two charges were laid on March 16, 1984, under paragraph 36(1)(d). On February 20, 1985, the accused pleaded guilty to one charge and was convicted and fined \$1 000. The remaining charge was withdrawn.
False or misleading representation in a material respect (Groceries)	Easy Save Foods Limited, carrying on business as Foodex (Gander, Newfoundland)	One charge was laid on June 29, 1984, under paragraph 36(1)(a). On February 25, 1985, the charge was withdrawn.
False or misleading representation in a material respect (Automobiles)	Jaguar Rover Triumph Canada Inc. (Montréal, Québec)	Two charges were laid on February 27, 1984, under paragraph 36(1)(a). On February 25, 1985, the accused pleaded guilty to one charge and was convicted and fined \$1 000. The remaining charge was withdrawn.
Double ticketing (Grocery store items)	Les Supermarchés Dominion Ltée (Verdun, St. Léonard, Québec)	Eleven charges were laid on January 30, 1981, under section 36.2. The accused pleaded not guilty but on February 22, 1985, was convicted on nine charges and fined \$2 500 on each charge, for a total fine of \$22 500. The remaining charges were withdrawn.
Sale above advertised price (Grocery store items)	Les Supermarchés Dominion Ltée (Verdun, St. Léonard, Québec)	Thirty one charges were laid on January 30, 1981, under section 37.1. The accused pleaded not guilty but on February 22, 1985, was convicted on 30 charges and fined \$1 500 on each charge, for a total fine of \$45 000. The remaining charge was withdrawn.

Misleading Advertising Bulletin

1985

2

January/March 1985

Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy



Name of Accused and Location of Offence	Details of Offence	Disposition
Hudson's Bay Company Montréal, Québec	Accused, in promoting the sale of Indian rugs, represented by means of a flyer that rugs were available at 25% off and indicated the regular prices and the sale prices. Investigation revealed that the quoted regular prices were not the ordinary selling prices in the market area.	The accused pleaded guilty to one charge under section 36(1)(d) and on 15/2/85 was convicted and fined \$5,000.
Hudson's Bay Company Montréal, Québec	Accused, in promoting the sale of electronic games, represented by means of newspaper ads that games were on sale at 30%-50% off and indicated the regular price and the sale price. Investigation revealed that the accused had never sold the games in sufficient quantities at the quoted regular price.	The accused pleaded guilty to two charges under section 36(1)(d) and on 15/2/85 was convicted and fined \$2,500 on each charge, for a total fine of \$5,000.
Hawthorne Distributors Kitchen and Bath Cabinets Limited, carrying on business as Hawthorne Kitchen Designs Ottawa, Ontario	Accused, in promoting the sale of kitchen cabinets, compared the regular price and the sale price of items in its newspaper ads and showed the savings. Investigation revealed that the quoted regular prices were inflated.	The accused pleaded guilty to one charge under section 36(1)(d) and on 20/2/85 was convicted and fined \$1,000. ⁵

5. See also offences under section 36(1)(a).

Exhibit 5

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1983
to the Hon. Judy Erola, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Car seats)	Hudson's Bay Company (Sydney, Nova Scotia)	One charge was laid on December 17, 1981 under paragraph 36(1)(a). On April 27, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Business opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982 under paragraph 36(1)(a). On May 3, 1982, the accused pleaded guilty and was convicted and fined \$200.
Misleading price representation (Shower massagers)	Clermont Rousseau Entrepreneur Plombier Inc. (Québec, Québec)	One charge was laid on January 26, 1982 under paragraph 36(1)(d). On May 7, 1982, the accused was acquitted.
False or misleading representation in a material respect (Beef)	Julien Desgagné and André Lebrun carrying on business as Boucherie Auclair Enregistré (Ste-Julie, Québec)	One charge was laid on March 18, 1982 under paragraph 36(1)(a). On May 10, 1982, both accused pleaded guilty and were convicted and fined \$200 each for a total fine of \$400.
False or misleading representation in a material respect (Jeans)	Bill Miller carrying on business as The Price is Rite (Harrow, Ontario)	One charge was laid on July 10, 1981 under paragraph 36(1)(a). On May 11, 1982, the accused pleaded not guilty but was convicted and fined \$100.
False or misleading representation in a material respect (Insulation)	Media Mail Order Inc. (Moncton, New Brunswick)	One charge was laid on February 28, 1982 under paragraph 36(1)(a). On May 12, 1982, the accused pleaded guilty and was convicted and fined \$5,000.
False or misleading representation in a material respect (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Three charges were laid on December 16, 1981 under paragraph 36(1)(a). On May 12, 1982, a stay of proceedings was entered.
Misleading price representation (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Two charges were laid on December 16, 1981 under paragraph 36(1)(d). On May 12, 1982, a stay of proceedings was entered.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain & Placement des Cantons de l'est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981 under paragraph 36(1)(a). On May 12, 1982, the accused was acquitted.
False or misleading representation in a material respect (Vending machines)	Dominion Lighter Sales Inc., 338598 Ontario Limited carrying on business as Dominion Lighter Sales and Terence Francis Alte (Edmonton, Alberta)	One charge was laid on June 7, 1981 under paragraph 36(1)(a). On May 17, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Jewellery)	Centennial Jewellers Limited carrying on business as The Gold Centre (London, Ontario)	One charge was laid on November 30, 1981 under paragraph 36(1)(a). On May 20, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981 under paragraph 36(1)(a). The accused pleaded not guilty but, on May 21, 1982, was convicted and fined \$500 on each charge for a total fine of \$1,000.
Sale above advertised price (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	One charge was laid on April 10, 1981 under section 37.1. On May 21, 1982, the charge was withdrawn.

APPENDIX IV — (Continued)

74

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Bankruptcy sale)	Gary's Give-Aways Incorporated, Dick Rogers and Gary Clemmensen (St. Catharines, Ontario)	Thirteen charges were laid on January 5, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Beds)	Gary's Give-Aways Incorporated and Gary Clemmensen (St. Catharines, Ontario)	Two charges were laid on February 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Furniture)	M. Goldsmith and Company Limited (Montréal, Québec)	Ten charges were laid on October 3, 1978, under paragraph 36(1)(a).
False or misleading representation in a material respect (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Car rental rates)	Hertz Canada Limited (Toronto, Ontario)	One charge was laid on November 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Phonographic cartridges)	Hi-Fi Express Inc. (Toronto, Ontario)	Six charges were laid on March 25, 1982, under paragraph 36(1)(a)
False or misleading representation in a material respect (Car seats)	Hudson's Bay Company (Cape Breton, Nova Scotia)	One charge was laid on December 17, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(a). On December 22, 1981, a stay of proceedings was entered. On January 29, 1981, a new charge was laid in New Brunswick.
False or misleading representation in a material respect (Insurance)	International Warranty Company Limited (Edmonton, Alberta)	One charge was laid on January 28, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Mail solicitations)	Intra Canada Telecommunications Limited and Ralph Lawrence Devine (Toronto, Ontario)	One charge was laid on October 23, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Three charges were laid on March 6, 1980, against the first three accused and two charges were laid against D. Paton under paragraph 36(1)(a).
False or misleading representation in a material respect (Massagers)	K.B.M. Electropedic Adjustable Beds Ltd. carrying on business as Electropedic Products (Vancouver, British Columbia)	One charge was laid on April 29, 1981, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted and fined \$2,500 on July 10, 1981. Under appeal by accused.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain et Placement des Cantons de l'Est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Klean Burn Manufacturing, Inc. and Henry Norton (London, Ontario)	Two charges were laid on November 5, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Job opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under paragraph 36(1)(a). On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Representation without proper test (Electric speed control)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under paragraph 36(1)(b). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
False or misleading representation in a material respect (Gas grill)	Consumers Distributing Company Limited (Toronto, Ontario)	Two charges were laid on June 29, 1981 under paragraph 36(1)(a). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under section 37.1. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Non-availability (Toy)	Consumers Distributing Company Limited (Ottawa, Ontario)	One charge was laid on June 29, 1981 under section 37. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Representation without proper test (Electric speed control)	Hudson's Bay Company (Toronto, Ontario)	One charge was laid on June 29, 1981 under paragraph 36(1)(b). The accused pleaded guilty and on April 19, 1982, was convicted and fined \$10,000. Under appeal by accused.
Sale above advertised price (Sundry items)	André Aubé carrying on business as Pharmacie Aubé and as Uniprix (Montréal, Québec)	Five charges were laid on July 8, 1981 under section 37.1.
Sale above advertised price (Sundry items)	Cumberland Drugs (Merivale) Ltd. and Morrie Neiss (Dorval, Québec)	Sixteen charges were laid on July 8, 1981 under section 37.1.
Sale above advertised price (Sundry items)	Jean Marie Tétrault and Thomas Lapérière carrying on business as Tétrault et Lapérière Associés and as Uniprix (Montréal, Québec)	Fifteen charges were laid on July 9, 1981 under section 37.1.
Non-availability (Drill)	The Governor and Company of Adventurers of England trading into Hudson's Bay carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981 under section 37.
False or misleading representation in a material respect (Mail solicitations)	Intra Canada Telecommunications Limited and Ralph Lawrence Devine (Toronto, Ontario)	One charge was laid on October 23, 1981 under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Samuel Sarick Limited, Cannard Investments Limited, Collier & Park Advertising Ltd. and Murray Warsh Realty (1978) Limited (Toronto, Ontario)	Four charges were laid on October 23, 1981 under paragraph 36(1)(a). On September 16, 1982, Cannard Investments Limited pleaded guilty to one charge and was convicted and fined \$1,500. Under appeal by Crown. The charges against the other accused were withdrawn.
False or misleading representation in a material respect (Gas-saving seminar)	Thomas James Scott and James Lowry (Calgary, Alberta)	One charge was laid on October 28, 1981 under paragraph 36(1)(a). On November 6, 1981, the charge was withdrawn and replaced by another charge under the same paragraph.

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Fur coats)	Steen & Wright Furriers Ltd. (Winnipeg, Manitoba)	One charge was laid on March 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real Estate)	Geoffrey Bushby Stephenson and Grayfriars Realty Ltd. (Surrey, British Columbia)	Six charges were laid on January 18, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wallpaper)	Tonecraft Limited carrying on business as Color Your World (Toronto, Ontario)	One charge was laid on March 31, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Automobile rental)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(a).
False or misleading representation in a material respect (Fur coats)	Wendelyn Textiles & Products Ltd. carrying on business as Alan Cherry (Toronto, Ontario)	Nine charges were laid on October 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Eye glasses)	F.W. Woolworth Co. Ltd. carrying on business under the name and style of Woolco Department Stores (Brandon, Manitoba)	One charge was laid on March 10, 1982, under paragraph 36(1)(a).
Representation without proper test (Bust developer)	C.C.C.L. Canadian Consumer Company Ltd. and Allan Diamond (Montréal, Québec)	One charge was laid on May 5, 1980, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Fireplace)	Edmonton Fresh Air Fireplaces Ltd. (Edmonton, Alberta)	One charge was laid on January 15, 1982, under paragraph 36(1)(b).
Representation without proper test (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Hudson's Bay Company (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(b). On December 22, 1981, a stay of proceedings was entered. A new charge was laid in New Brunswick on January 29, 1982.
Representation without proper test (Gas-saving device)	Klean Burn Manufacturing, Inc. and Charles Henry Norton (London, Ontario)	Nine charges were laid on November 5, 1981, under paragraph 36(1)(b).
Representation without proper test (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Company Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(b).
Representation without proper test (Engine treatment)	Petro-Lon Canada (Edmonton, Alberta)	One charge was laid on December 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(b).
Misleading warranty or guarantee (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Two charges were laid on March 6, 1980, under paragraph 36(1)(c).

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Non-availability (Watch)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.
Non-availability (Drill)	The Governor and Company of Adventurers of England trading into Hudson's Bay carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981, under section 37.
Non-availability (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under section 37. On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and, on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.
Non-availability (Building material)	D.J. Shiller Stores Ltd. carrying on business as Au Bon Marché (Montréal, Québec)	Six charges were laid on April 22, 1981, under section 37.
Sale above advertised price (Sundry items)	André Aubé carrying on business as Pharmacie Aubé and as Uniprix (Montréal, Québec)	Five charges were laid on July 8, 1981, under section 37.1.
Sale above advertised price (Grocery items)	J. Bouliannes Inc. carrying on business as Provibec (Escoumins, Québec)	Seven charges were laid on December 28, 1981, under section 37.1.
Sale above advertised price (Sundry items)	René Brault, Laurent Trudeau and Distributions Brault & Trudeau Inc. carrying on business under the name and style of Pharmacie Jean Coutu (R. Brault & L. Trudeau) Enr. (St. Agathe and St. Jovite, Québec)	Twelve charges were laid on December 8, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean-Claude Brouillette carrying on business as Pharmaprix (Dorval, Québec)	Twelve charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Pierre Brunet carrying on business as Pharmaprix (Longueuil, Québec)	Five charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Beauty products)	Willie Brunet carrying on business as Pharmacie Brunet Enr. (Québec, Québec)	Twelve charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Food items)	Centre D'Escompte Racine Inc. carrying on business as Uniprix (Beauport, Québec)	Fifteen charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacies Escompte Jean Coutu Enr. & Pharmacies Jean Coutu Enrg. (Répertigny, Québec)	Twenty-two charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Jean Coutu carrying on business as Pharmacies Jean Coutu Enr. (Longueuil, Québec)	Thirty charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacie Jean Coutu Enr. (Granby, Québec)	Twelve charges were laid on March 19, 1982, under section 37.1.

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1984
to the Hon. Michel Côté, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

80

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Dog training)	Canisphere Kennels Ltd. (Winnipeg, Manitoba)	One charge was laid on December 30, 1982, under paragraph 36(1)(a). The accused pleaded not guilty but, on October 20, 1983, was found guilty and granted an absolute discharge.
False or misleading representation in a material respect (Make-up cases)	Jay Norris Canada Inc. (Dartmouth, Nova Scotia)	One charge was laid on June 13, 1983, under paragraph 36(1)(a). The accused pleaded not guilty but, on October 28, 1983, was convicted and fined \$7,500.
False or misleading representation in a material respect (Silver dollars)	476993 Ontario Corporation carrying on business as Upper Canada Mint and Claude A. Broos (New Westminster, Kelowna, Prince George and Vancouver, British Columbia)	Six charges were laid on January 25, 1982, under paragraph 36(1)(a). On January 13, 1983, the corporate accused pleaded guilty and was convicted and fined \$3,000 on each charge for a total fine of \$18,000. A stay of proceedings was entered with respect to the charges against the individual. The corporate accused appealed the sentence but, on October 28, 1983, the appeal was dismissed and the sentence upheld.
Representation without proper test (Electric speed control device)	Hudson's Bay Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b). On April 13, 1982, the accused pleaded guilty and was convicted and fined \$10,000. On May 5, 1982, the accused filed an appeal against sentence but, on November 1, 1983, the appeal was dismissed as abandoned by appellant.
Promotional contest (Skis and skates)	Tayside Sports Ltd. (Perth, Ontario)	Three charges were laid on September 20, 1983, under section 37.2. On November 1, 1983, the accused pleaded guilty to one charge and was convicted and fined \$50. The remaining charges were withdrawn.
False or misleading representation in a material respect (Kerosene heaters)	Wayne Conrad carrying on business as Custom Van World (Sydney, Nova Scotia)	Four charges were laid on August 31, 1983, under paragraph 36(1)(a). On November 3, 1983, the accused pleaded guilty and was convicted and fined \$250 on each of two charges and \$50 on the other two charges for a total fine of \$600.
Misleading price representation (Clothing)	Boutique des Amoureux Ltée (Montréal and Longueuil, Québec)	Three charges were laid on July 5, 1983, under paragraph 36(1)(d). On November 9, 1983, the accused pleaded guilty and was convicted and fined \$500 on each charge for a total fine of \$1,500.
Misleading price representation (Stereo equipment)	Mann's T.V. and Stereo Limited (Toronto, Ontario)	Six charges were laid on December 23, 1982, under paragraph 36(1)(d). On November 10, 1983, the charges were dismissed.
False or misleading representation in a material respect (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(a). On November 15, 1983, the charge was withdrawn.
Representation without proper test (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(b). On November 15, 1983, the corporate accused pleaded guilty and was convicted and fined \$1,000. The charge against the individual was withdrawn.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Misleading warranty representation (Employment opportunities)	John William Groves and Stef's World Trade Ltd. carrying on business as Lumby Publishing (Nelson, British Columbia)	Three charges were laid on September 22, 1983, under paragraph 36(1)(c). On November 15, 1983, the corporate accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$300. The charges against the individual were withdrawn.
Non-availability (Drill)	Hudson's Bay Co. carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981, under section 37. On November 21, 1983, the accused pleaded guilty to one charge and was convicted and fined \$1,000. The remaining charges were withdrawn.
Misleading price representation (Sundry items)	Ghislain Gobeil carrying on business as Liquidation Kent Enr. (Ottawa, Ontario)	One charge was laid on October 12, 1983, under paragraph 36(1)(d). On November 22, 1983, the accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Mattresses and box springs)	Majoli Furniture Ltd. and 408022 Ontario Limited both carrying on business as The Sleep Factory (Toronto, Ontario)	Eleven charges were laid on October 19, 1983, under paragraph 36(1)(a). On November 23, 1983, the accused pleaded guilty to seven charges and was convicted and fined \$1,700 on each charge for a total fine of \$11,900. The remaining charges were withdrawn.
False or misleading representation in a material respect (Furniture)	Meubles Gaston Auclair Inc. and Gaston Auclair (Cowansville, Québec)	One charge was laid on May 31, 1983, under paragraph 36(1)(a). On November 25, 1983, both accused pleaded not guilty but were convicted and fined \$250 each for a total fine of \$500.
False or misleading representation in a material respect (Hotel accommodation)	Keddy's Motor Inn (Fredericton) Limited (Fredericton, New Brunswick)	One charge was laid on November 8, 1983, under paragraph 36(1)(a). On November 29, 1983, the accused pleaded guilty and was convicted and fined \$800.
False or misleading representation in a material respect (Woodstoves)	Les Foyers Econo Inc. (St-Romuald, Québec)	Three charges were laid on August 26, 1983, under paragraph 36(1)(a). On December 2, 1983, the accused pleaded guilty and was convicted and fined \$300 on each charge for a total fine of \$900.
False or misleading representation in a material respect (Real estate)	Morris Bojeck (St-Bruno, Québec)	One charge was laid on June 16, 1983, under paragraph 36(1)(a). On December 2, 1983, the accused was acquitted.
False or misleading representation in a material respect (Microwave ovens)	Ameublement Prestige Furniture Ltd. (Ottawa, Ontario)	One charge was laid on August 12, 1983, under paragraph 36(1)(a). On December 6, 1983, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Mattresses and box springs)	Belvedere Beddings Ltd. carrying on business as The Sleep Factory (Hamilton, Ontario)	Fourteen charges were laid on October 28, 1983, under paragraph 36(1)(a). On December 9, 1983, the accused pleaded guilty to 10 charges and was convicted and fined \$1,200 on each charge for a total fine of \$12,000. The remaining charges were withdrawn.

Canada

Misleading Advertising Bulletin

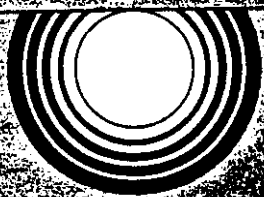
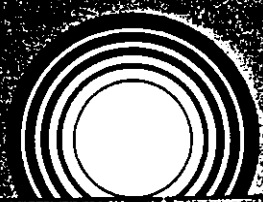
1984

1

October/December 1983

65
Canada

Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada



Name of Accused and Location of Offence	Details of Offence	Disposition
--	--------------------	-------------

84

Section 37: Non-availability of advertised bargains

Hudson's Bay Co. c.o.b. Shop-Rite Toronto, Ontario	Accused advertised items at "everyday low prices" together with a \$5 off coupon, creating bargain prices. Investigation revealed that a number of the items were not available in reasonable quantities, and that no substitutes or rain checks were being offered.	Accused pleaded guilty to a charge under section 37 and was convicted on 21/11/83 and fined \$1,000.
D.J. Shiller Stores Ltd. c.o.b. as Au Bon Marché Montréal, Québec	Accused advertised various bedding items for sale at bargain prices. Investigation revealed that the accused did not supply the items in reasonable quantities.	Accused pleaded guilty to five charges under section 37 and was convicted on 19/12/83 and was fined \$400 on each charge for a total of \$2,000.

Section 37.1 Sale above advertised price

Cumberland Drugs (Merivale) Ltd. Ottawa, Ontario	Accused advertised various items on sale at specified prices. Investigation revealed that a number of the products were supplied at prices higher than advertised.	Accused pleaded guilty to 16 charges under section 37.1 and was convicted on 19/12/83 and fined \$400 on each charge for a total of \$6,400.
M. Jean-Marie Tétrault and M. Thomas Laperrière Pharmaciens c.o.b. as Tétrault and Laperrière Associés Montréal, Québec	Accused, affiliated with the Uniprix chain, advertised health and personal care items at specified prices. Investigation revealed that the accused supplied some of the products at prices higher than advertised.	Both accused pleaded guilty to 15 charges under section 37.1 and were convicted on 19/12/83 and each fined \$200 on each charge for a total of \$6,000.

Exhibit 6

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1983
to the Hon. Judy Erola, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Car seats)	Hudson's Bay Company (Sydney, Nova Scotia)	One charge was laid on December 17, 1981 under paragraph 36(1)(a). On April 27, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Business opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982 under paragraph 36(1)(a). On May 3, 1982, the accused pleaded guilty and was convicted and fined \$200.
Misleading price representation (Shower massagers)	Clermont Rousseau Entrepreneur Plombier Inc. (Québec, Québec)	One charge was laid on January 26, 1982 under paragraph 36(1)(d). On May 7, 1982, the accused was acquitted.
False or misleading representation in a material respect (Beef)	Julien Desgagné and André Lebrun carrying on business as Boucherie Auclair Enregistré (Ste-Julie, Québec)	One charge was laid on March 18, 1982 under paragraph 36(1)(a). On May 10, 1982, both accused pleaded guilty and were convicted and fined \$200 each for a total fine of \$400.
False or misleading representation in a material respect (Jeans)	Bill Miller carrying on business as The Price is Rite (Harrow, Ontario)	One charge was laid on July 10, 1981 under paragraph 36(1)(a). On May 11, 1982, the accused pleaded not guilty but was convicted and fined \$100.
False or misleading representation in a material respect (Insulation)	Media Mail Order Inc. (Moncton, New Brunswick)	One charge was laid on February 28, 1982 under paragraph 36(1)(a). On May 12, 1982, the accused pleaded guilty and was convicted and fined \$5,000.
False or misleading representation in a material respect (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Three charges were laid on December 16, 1981 under paragraph 36(1)(a). On May 12, 1982, a stay of proceedings was entered.
Misleading price representation (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Two charges were laid on December 16, 1981 under paragraph 36(1)(d). On May 12, 1982, a stay of proceedings was entered.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain & Placement des Cantons de l'est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981 under paragraph 36(1)(a). On May 12, 1982, the accused was acquitted.
False or misleading representation in a material respect (Vending machines)	Dominion Lighter Sales Inc., 338598 Ontario Limited carrying on business as Dominion Lighter Sales and Terence Francis Alte (Edmonton, Alberta)	One charge was laid on June 7, 1981 under paragraph 36(1)(a). On May 17, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Jewellery)	Centennial Jewellers Limited carrying on business as The Gold Centre (London, Ontario)	One charge was laid on November 30, 1981 under paragraph 36(1)(a). On May 20, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981 under paragraph 36(1)(a). The accused pleaded not guilty but, on May 21, 1982, was convicted and fined \$500 on each charge for a total fine of \$1,000.
Sale above advertised price (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	One charge was laid on April 10, 1981 under section 37.1. On May 21, 1982, the charge was withdrawn.

APPENDIX IV — (Continued)

88

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Bankruptcy sale)	Gary's Give-Aways Incorporated, Dick Rogers and Gary Clemmensen (St. Catharines, Ontario)	Thirteen charges were laid on January 5, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Beds)	Gary's Give-Aways Incorporated and Gary Clemmensen (St. Catharines, Ontario)	Two charges were laid on February 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Furniture)	M. Goldsmith and Company Limited (Montréal, Québec)	Ten charges were laid on October 3, 1978, under paragraph 36(1)(a).
False or misleading representation in a material respect (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Car rental rates)	Hertz Canada Limited (Toronto, Ontario)	One charge was laid on November 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Phonographic cartridges)	Hi-Fi Express Inc. (Toronto, Ontario)	Six charges were laid on March 25, 1982, under paragraph 36(1)(a)
False or misleading representation in a material respect (Car seats)	Hudson's Bay Company (Cape Breton, Nova Scotia)	One charge was laid on December 17, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(a). On December 22, 1981, a stay of proceedings was entered. On January 29, 1981, a new charge was laid in New Brunswick.
False or misleading representation in a material respect (Insurance)	International Warranty Company Limited (Edmonton, Alberta)	One charge was laid on January 28, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Mail solicitations)	Intra Canada Telecommunications Limited and Ralph Lawrence Devine (Toronto, Ontario)	One charge was laid on October 23, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Three charges were laid on March 6, 1980, against the first three accused and two charges were laid against D. Paton under paragraph 36(1)(a).
False or misleading representation in a material respect (Massagers)	K.B.M. Electropedic Adjustable Beds Ltd. carrying on business as Electropedic Products (Vancouver, British Columbia)	One charge was laid on April 29, 1981, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted and fined \$2,500 on July 10, 1981. Under appeal by accused.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain et Placement des Cantons de l'Est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Klean Burn Manufacturing, Inc. and Henry Norton (London, Ontario)	Two charges were laid on November 5, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Job opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under paragraph 36(1)(a). On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Representation without proper test (Electric speed control)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under paragraph 36(1)(b). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
False or misleading representation in a material respect (Gas grill)	Consumers Distributing Company Limited (Toronto, Ontario)	Two charges were laid on June 29, 1981 under paragraph 36(1)(a). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under section 37.1. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Non-availability (Toy)	Consumers Distributing Company Limited (Ottawa, Ontario)	One charge was laid on June 29, 1981 under section 37. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Representation without proper test (Electric speed control)	Hudson's Bay Company (Toronto, Ontario)	One charge was laid on June 29, 1981 under paragraph 36(1)(b). The accused pleaded guilty and on April 19, 1982, was convicted and fined \$10,000. Under appeal by accused.
Sale above advertised price (Sundry items)	André Aubé carrying on business as Pharmacie Aubé and as Uniprix (Montréal, Québec)	Five charges were laid on July 8, 1981 under section 37.1.
Sale above advertised price (Sundry items)	Cumberland Drugs (Merivale) Ltd. and Morrie Neiss (Dorval, Québec)	Sixteen charges were laid on July 8, 1981 under section 37.1.
Sale above advertised price (Sundry items)	Jean Marie Tétrault and Thomas Lapérière carrying on business as Tétrault et Lapérière Associés and as Uniprix (Montréal, Québec)	Fifteen charges were laid on July 9, 1981 under section 37.1.
Non-availability (Drill)	The Governor and Company of Adventurers of England trading into Hudson's Bay carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981 under section 37.
False or misleading representation in a material respect (Mail solicitations)	Intra Canada Telecommunications Limited and Ralph Lawrence Devine (Toronto, Ontario)	One charge was laid on October 23, 1981 under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Samuel Sarick Limited, Cannard Investments Limited, Collier & Park Advertising Ltd. and Murray Warsh Realty (1978) Limited (Toronto, Ontario)	Four charges were laid on October 23, 1981 under paragraph 36(1)(a). On September 16, 1982, Cannard Investments Limited pleaded guilty to one charge and was convicted and fined \$1,500. Under appeal by Crown. The charges against the other accused were withdrawn.
False or misleading representation in a material respect (Gas-saving seminar)	Thomas James Scott and James Lowry (Calgary, Alberta)	One charge was laid on October 28, 1981 under paragraph 36(1)(a). On November 6, 1981, the charge was withdrawn and replaced by another charge under the same paragraph.

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Fur coats)	Steen & Wright Furriers Ltd. (Winnipeg, Manitoba)	One charge was laid on March 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real Estate)	Geoffrey Bushby Stephenson and Grayfriars Realty Ltd. (Surrey, British Columbia)	Six charges were laid on January 18, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wallpaper)	Tonecraft Limited carrying on business as Color Your World (Toronto, Ontario)	One charge was laid on March 31, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Automobile rental)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(a).
False or misleading representation in a material respect (Fur coats)	Wendelyn Textiles & Products Ltd. carrying on business as Alan Cherry (Toronto, Ontario)	Nine charges were laid on October 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Eye glasses)	F.W. Woolworth Co. Ltd. carrying on business under the name and style of Woolco Department Stores (Brandon, Manitoba)	One charge was laid on March 10, 1982, under paragraph 36(1)(a).
Representation without proper test (Bust developer)	C.C.C.L. Canadian Consumer Company Ltd. and Allan Diamond (Montréal, Québec)	One charge was laid on May 5, 1980, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Fireplace)	Edmonton Fresh Air Fireplaces Ltd. (Edmonton, Alberta)	One charge was laid on January 15, 1982, under paragraph 36(1)(b).
Representation without proper test (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Hudson's Bay Company (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(b). On December 22, 1981, a stay of proceedings was entered. A new charge was laid in New Brunswick on January 29, 1982.
Representation without proper test (Gas-saving device)	Klean Burn Manufacturing, Inc. and Charles Henry Norton (London, Ontario)	Nine charges were laid on November 5, 1981, under paragraph 36(1)(b).
Representation without proper test (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Company Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(b).
Representation without proper test (Engine treatment)	Petro-Lon Canada (Edmonton, Alberta)	One charge was laid on December 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(b).
Misleading warranty or guarantee (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Two charges were laid on March 6, 1980 under paragraph 36(1)(c).

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Non-availability (Watch)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.
Non-availability (Drill)	The Governor and Company of Adventurers of England trading into Hudson's Bay carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981, under section 37.
Non-availability (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under section 37. On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and, on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.
Non-availability (Building material)	D.J. Shiller Stores Ltd. carrying on business as Au Bon Marché (Montréal, Québec)	Six charges were laid on April 22, 1981, under section 37.
Sale above advertised price (Sundry items)	André Aubé carrying on business as Pharmacie Aubé and as Uniprix (Montréal, Québec)	Five charges were laid on July 8, 1981, under section 37.1.
Sale above advertised price (Grocery items)	J. Bouliannes Inc. carrying on business as Provibec (Escoumins, Québec)	Seven charges were laid on December 28, 1981, under section 37.1.
Sale above advertised price (Sundry items)	René Brault, Laurent Trudeau and Distributions Brault & Trudeau Inc. carrying on business under the name and style of Pharmacie Jean Coutu (R. Brault & L. Trudeau) Enr. (St. Agathe and St. Jovite, Québec)	Twelve charges were laid on December 8, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean-Claude Brouillette carrying on business as Pharmaprix (Dorval, Québec)	Twelve charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Pierre Brunet carrying on business as Pharmaprix (Longueuil, Québec)	Five charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Beauty products)	Willie Brunet carrying on business as Pharmacie Brunet Enr. (Québec, Québec)	Twelve charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Food items)	Centre D'Escompte Racine Inc. carrying on business as Uniprix (Beauport, Québec)	Fifteen charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacies Escompte Jean Coutu Enr. & Pharmacies Jean Coutu Enrg. (Répertigny, Québec)	Twenty-two charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Jean Coutu carrying on business as Pharmacies Jean Coutu Enr. (Longueuil, Québec)	Thirty charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacie Jean Coutu Enr. (Granby, Québec)	Twelve charges were laid on March 19, 1982, under section 37.1.

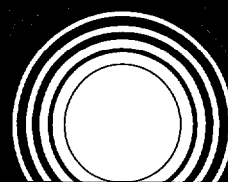
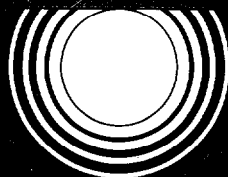
Misleading Advertising Bulletin

April/June 1982

Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy

1982

3



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

Name of Accused and Location of Offence	Details of Offence	Disposition
<u>Section 36(1)(a) Cont'd</u>		
Consumers Distribu- ting Company Limited Lambton, Ontario	Accused advertised an electric drill for sale at a special sale price. Investigation revealed that the accused did not supply the advertised drill but rather an inferior model at the advertised price.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 19/04/82 and fined \$7,000. (Under appeal by accused).
Hudson's Bay Company Sydney, Nova Scotia	Accused, in advertising a child's car seat on sale for \$44.00, represented "Save \$27." Investigation revealed that the savings claim was untrue.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 27/04/82 and fined \$1,000.
Louise Klyne Winnipeg, Manitoba	Accused, by means of newspaper advertisements, represented "Money Making Opportunity -- Earn Anywhere from \$150 - \$200 per week." Investigation revealed that the accused was not offering a business opportunity but, rather, supplied to persons responding to the advertisements information on envelope stuffing schemes.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 03/05/82 and fined \$200.
Julien Desgagné and André Lebrun carrying on business as Boucherie Auclair Enregistré	Accused advertised "A-1 Red Brand" beef for sale. Investigation revealed that in fact the accused supplied "C Brand" beef.	Both accused pleaded guilty to a charge under section 36(1)(a) and on 10/05/82 were convicted and fined \$200 each for a total fine of \$400.

Exhibit 7

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1981
to the Hon. André Ouellet, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

97

Part III - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Representation without proper test (Oil additive)	Karlsbow Corporation Inc. (Toronto, Ontario)	One charge was laid on January 23, 1981, under paragraph 36(1)(b). On March 20, 1981, the accused pleaded guilty and was convicted and fined \$200.
False or misleading representation in a material respect (Circus)	Ray W. Hogan, carrying on business as Jungle Wonders Wild Animal Circus (Gravelbourg, Saskatchewan)	One charge was laid on August 8, 1978, under paragraph 36(1)(a). On August 25, 1978, a Canada-wide warrant of arrest was issued. On March 23, 1981, the warrant of arrest was withdrawn and proceedings were discontinued.
False or misleading representation in a material respect (Automobiles)	Nova Motors Limited (Dartmouth, Nova Scotia)	Two charges were laid on October 7, 1980, under paragraph 36(1)(a). On March 23, 1981, both charges were dismissed.
False or misleading representation in a material respect (Mobile home development)	Central Homes Ltd. (Saskatoon, Saskatchewan)	Three charges were laid on July 7, 1980, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted on March 25, 1981, and fined \$100 on each charge for a total fine of \$300.
Sale above advertised price (Houses)	Van Arnhem Construction Limited (London, Ontario)	One charge was laid on August 15, 1980, under section 37.1. On March 26, 1981, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Vacations)	The T. Eaton Company Limited and Eaton Travel Limited (Toronto, Ontario)	One charge was laid on October 28, 1980, under paragraph 36(1)(a). On March 26, 1981, Eaton Travel Limited pleaded guilty and was convicted and fined \$5,000. The charge against The T. Eaton Company Limited was withdrawn.
False or misleading representation in a material respect (Department store merchandise)	La Compagnie de la Baie d'Hudson (Québec) Limitée (Rimouski, Québec)	Two charges were laid on December 9, 1980, under paragraph 36(1)(a). On March 27, 1981, the accused pleaded guilty and was convicted and fined \$1,500 on each charge for a total fine of \$3,000.

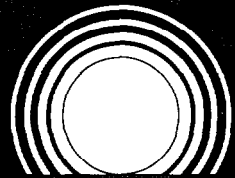
Misleading Advertising Bulletin


January/March 1981

Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy

1981

2



 Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

Name of Accused and Location of Offence	Details of Offence	Disposition
<u>Section 36(1)(a) Cont'd</u>		
Eaton Travel Limited Toronto, Ontario	Accused in offering a vacation package at a reduced price, represented "Offer applies to departures now through April 14 th ." Investigation revealed that, contrary to the impression conveyed by the advertisement, the reduced price was in effect only in April and not as of the date of the advertisement.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 26/03/81 and fined \$5,000.
La Compagnie de la Baie d'Hudson (Québec) Limitée Rimouski, Québec	Accused, in advertising its "Casino of Discounts" sale, represented that each purchase of merchandise entitled a customer to participate in a game of chance for discounts of 10% to 40% on all purchases during the sale period. Investigation revealed that, contrary to the impression conveyed by the advertisements, only purchases over \$5 entitled participation in the game and that discounts applied only to further purchases.	Accused pleaded guilty to two charges under section 36(1)(a) and was convicted on 27/03/81 and fined \$1,500 on each charge for a total fine of \$3,000.
<u>Section 36(1)(b)</u>		
John Edward Leetham Toronto, Ontario	Accused represented that the use of the product "Ball-Matic Gas Saver Valve" would result in "4 extra miles per gallon" and savings of \$200 or 20% a year in gasoline purchases. Investigation revealed that the representations were not based on an adequate and proper test.	Accused pleaded guilty to a charge under section 36(1)(b) and was convicted on 16/03/81 and fined \$4,000. An order of prohibition was issued.

Exhibit 8

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1978
to the Hon. Warren Allmand, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II - (Continued)

103

**Proceedings Completed in Cases Referred to the
Attorney General of Canada Direct**

Nature of Inquiry	Names of Persons or Companies Proceeded Against	Action Taken and Results
Misleading Price Representation (Tennis Rackets)	Gus Maue Sports Inc., carrying on business as Goderich Sports	One charge was laid at Goderich, Ontario under paragraph 36(1)(d). On January 30, 1977, the accused pleaded guilty and was fined \$300
False or Misleading representation in a material respect (Discounts)	The Governor and Company of Adventurers of England Trading into Hudson's Bay, also commonly known as Hudson's Bay Company	One charge was laid at St. John's under paragraph 36(1)(a). On January 30, 1978, the accused was convicted and fined \$300.
Double Ticketing (Grocery Items)	The Oshawa Group Limited, carrying on business under the name and style of Bonimart Foods	One charge was laid at Sudbury under section 36.2. On February 2, 1978, the accused pleaded guilty and was fined \$400.
Sale Above Advertised Price (Grocery Items)	The Oshawa Group Limited, carrying on business under the name and style of Bonimart Foods	Two charges were laid at Sudbury under section 37.1. On February 2, 1978, the charges were withdrawn.
False or Misleading representation in a material respect (Gasoline)	Claude & Rodolphe Leblanc Ltd.	One charge was laid at Moncton under paragraph 36(1)(a). On February 13, 1978, the accused was convicted and fined \$300.
False or Misleading representation in a material respect (Real Estate)	Whitehall Development Corporation Limited	Five charges were laid at Toronto under paragraph 36(1)(a). On February 17, 1978, the accused pleaded guilty and was fined \$5,000 on each of four charges for a total fine of \$20,000. The remaining charge was withdrawn.
False or Misleading representation in a material respect (Record)	Les disques Pacha Inc.	One charge was laid at Montreal under paragraph 36(1)(a). On February 21, 1978, the accused pleaded guilty and was fined \$350.
False or Misleading representation in a material respect (Gasoline)	John W. Nelson	One charge was laid at Moncton under paragraph 36(1)(a). On February 23, 1978, the accused pleaded guilty and was fined \$300.
False or Misleading representation in a material respect (Gasoline)	Ralph Long	One charge was laid at Moncton under paragraph 36(1)(a). On February 23, 1978, the accused pleaded guilty and was fined \$300.
False or Misleading representation in a material respect (Japanese Garden)	Jay-Norris Corporation Ltd. and Jean-Claude Heroux	One charge was laid at Montreal under paragraph 36(1)(a). On July 5, 1977, the company was convicted and fined \$500. Jean-Claude Heroux was given a suspended sentence and was placed on probation for six months. The accused appealed the conviction and sentence but on February 24, 1978 the Superior Court of Quebec dismissed the appeal.
False or Misleading representation in a material respect (Cable Television)	Kelowna Cable T.V. Limited	One charge was laid at Kelowna under paragraph 36(1)(a). On February 28, 1978, the accused was convicted and fined \$200.



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

BULLETIN
10
2

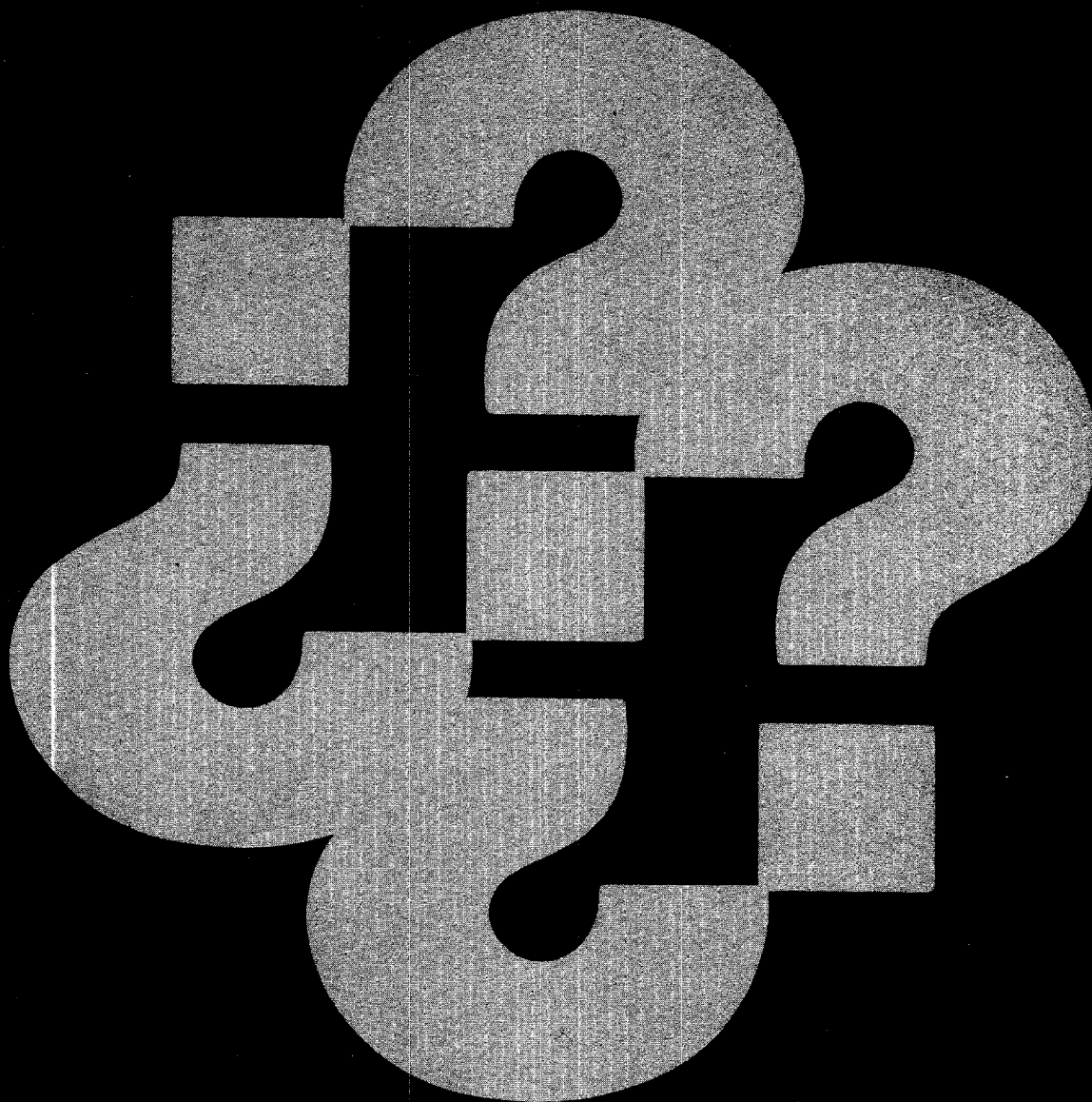
Issue

1978

Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy

Misleading Advertising Bulletin

January/March 1978



SECTION 36(1)(a) cont'd

<u>Name of Accused and Location</u>	<u>Details of Offence</u>	<u>Disposition</u>
J.C. Pratt (1974) Limited Corner Brook, Newfoundland	Accused advertised the only complete fire extinguisher testing, repair and recharge facility on the west coast of the province that the CO ₂ testing equipment was the only installation in the vicinity approved by the fire commissioner and that the accused had been a leading specialist in fire protection for over 40 years. It was established that the accused was not the only company in the vicinity approved to carry out these services and had not been in business for 40 years as advertised.	Accused pleaded not guilty to two charges under section 36(1)(a) but was convicted on 18-1-78 and fined \$500. on each charge for a total of \$1,000.
Listowel Trophies (Man.) Ltd. Winnipeg, Manitoba	Accused advertised trophies for sale and stated that purchasers were entitled to 1/3 off. It was established that the trophies were never sold at the advertised prices and that the sale price, after deducting the 1/3 off was the ordinary selling price of the trophies.	Accused pleaded not guilty to a charge under section 36(1)(a) but was convicted on 19-1-78 and fined \$500.
Consumers Glove Company Limited, Thunder Bay, Ontario	Accused represented by means of a label attached to a pair of gloves that the gloves were made in Canada. Investigation revealed that in fact the gloves were made in China.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 27-1-78 and fined \$1,000.
Governor and Company of Adven- turers of England Trading into Hudson's Bay, also known as Hudson's Bay Company, Grand Falls, Newfoundland	Accused represented "try your luck on our Wheel of Fortune. Win discounts from 10-50% off your next purchase." It was established that the discount was not made available to all winners.	Accused pleaded not guilty to a charge under section 36(1)(a) but was convicted on 30-1-78 and fined \$300.

Exhibit 9

Regina v. The Governor and Company of Adventurers
of England Trading Into Hudson's Bay also
known as Hudson's Bay Company

Supreme Court of Ontario Court of Appeal,
Toronto, Ontario, March 14, 1977.

Counsel:

Michael R. Dambrot for the appellant

John Brown, Q.C. and C.S. Goldman for the respondent

Brooke, J.A. (Orally): -

On the 12th of October, 1976, the respondent was convicted by His Honour Judge H. Ward Allen on an indictment which read as follows:

"The Governor and Company of Adventurers of England Trading into Hudson's Bay, also known as Hudson's Bay Company, stand charged that they unlawfully did, at the Municipality of Metropolitan Toronto, in the Judicial District of York and Province of Ontario, on or about the 10th day of September in the year 1974, to promote the sale of property, to wit: 100-ounce silver bars, cause to be published in the Globe and Mail, a newspaper published in the Municipality of Metropolitan Toronto aforesaid, an advertisement, to wit:

'the Bay
INVEST IN BULLION
100 ounce silver bar;

\$650

Take advantage of this special opportunity to make a smart investment in silver bullion. Please note: there is no sales tax on precious metals in bullion form.

Please allow 7 to 10 days for delivery. All sales final. Mail orders welcomed, and you can charge it on your Bay Account.

The Bay Coin & Stamp Shop
Bloor and Yonge Sts.,
Toronto
Phone 964-5511'

containing a statement which purported to be a statement of fact, but which was untrue, deceptive or misleading and did thereby commit an indictable offence, contrary to Section 37(1)(a) of the Combines Investigation Act, R.S.C. 1970, Chapter C-23."

Following the conviction the respondent was fined the sum of \$750.00. The respondent is a corporation by virtue of the laws of the United Kingdom and of Canada. It carries on business in general trading and retailing across this country through more than 300 retail outlets.

The advertisement in question was published in the Globe and Mail, a newspaper in Toronto, where it had been placed by the respondent and paid for by the respondent. It will be observed that on the advertisement appears the name "The Bay Coin & Stamp Shop". This is the name of a limited company that does business on the respondent's premises selling and trading in coins and precious metals. It is said that it is because of the expertise of that company in these matters, that the respondent entered into a licensing agreement with it which provided for a business relationship between the two by reason of which the Bay Coin & Stamp Shop carry on business on the respondent's premises, all of the monies from its sales are paid through the respondent, that the respondent is paid a percentage of the profits from sales and that the Bay Coin and Stamp Shop prepared all of the advertising, subject to the approval of the respondent in relation to its specialty. The clause in the licensing agreement with respect to the advertising is as follows:

"22. Advertising, Promotion and Wrapping Materials

The licensee undertakes to carry out regular advertising and promotion of the department. All costs of advertising publicity, promotion and wrapping materials will be borne by the licensee but shall be subject to the prior approval of the licensor. Under no circumstances shall a business name of the licensor be used by the licensee without the prior consent of the licensor."

However, the policy of the respondent was that all advertising be thoroughly screened. The evidence was:

"11. The velox or mat in which the advertisement had its origins was made by Bay Coins & Stamp Ltd. in Vancouver and sent to the manager of that company in Toronto. In turn such manager sent it to the advertising department of the Respondent where it was checked and altered, as required, and then sent to the newspaper publisher. The publisher returned the proof to the Respondent

for approval. It would have been the responsibility of the manager of Bay Coins & Stamps Ltd. to authorize the advertisement."

The learned trial judge questioned whether or not the silver bars were bullion within the meaning of the customarily accepted sense and found that they could not be traded as such. Nor were they exempt from sales tax as represented by the advertisement. He found that while the advertised price was in fact \$650.00, the selling price was \$550.00 but that a bar of silver, the same weight, could be bought and sold in the market place through the banks on the same day at prices ranging from \$395.00 and \$450.00. Fortunately only three people purchased the bars. Their monies were promptly refunded after the matter was brought to the attention of the public through the vigilance of the press.

The respondent and The Bay Coin & Stamp Shop were both charged with this offence. The latter company pleaded guilty and upon being convicted was fined \$2,000.00. The respondent was convicted following its trial on a plea of not guilty, and was fined \$750.00. We dismissed the respondent's appeal from its conviction earlier today, and these proceedings, as stated above, relate solely to the issue of the sentence.

In our view the sentence was not proportionate to the offence and must be increased. We accept the fact that the advertising policy of the respondent company requires a high standard of vigilance as to its accuracy with respect to the wares which it offers for sale to the public, and that in this instance it relied upon the expertise of the employees of the Bay Coin & Stamp Shop. However, that may be, the consequences of such reliance does not excuse it.

The case is not one in which there was a policy of the company to flout the law as was the case in Regina v. Browning Arms, [1975] 18 C.C.C. 2d, 298. Rather, it is perhaps like the case of Regina v. Steinberg (1977), 31 C.C.C. 30, where sound policy was not observed by employees. However, some of the principles laid down in Regina v. Browning Arms, *supra* are nevertheless applicable and were referred to by the Chief Justice of Ontario in determining a similar case in The Queen v. Family Tire Centres Ltd., 28 C.C.C. (2d) at p. 476.

In our view, while the learned trial judge has referred to these principles, he has not given sufficient weight to them and to the aspect of general deterrence. False advertising is a criminal offence. It is an indictable offence and it calls for substantial fines. The fine in this case can only be said to be trivial having regard to the offence and to the offender. In our respectful opinion, the learned trial judge was wrong in

failing to emphasize the gravity of the offence in the penalty he imposed. We think that an appropriate sentence would have been a fine in the sum of \$5,000.00. To this extent then, the appeal is allowed and the sentence is varied by increasing the amount of the fine from \$750.00 to \$5,000.00.

Annual Report

**Director of Investigation
and Research**

**Combines
Investigation Act**

**for the year ended
March 31, 1977**



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II—(Continued)

Proceedings Completed in Cases Referred to the
Attorney General of Canada Direct

Nature of Inquiry	Names of Persons or Companies Proceeded Against	Action Taken and Results
False Advertising (Motor Vehicles)	M & M Doyle Limited carrying on business under the name and style of Union Purchase Association	Two charges were laid at Toronto under paragraph 37(1)(a). On November 23, 1976, the accused company pleaded guilty to the second charge and was fined \$300. The first charge was withdrawn.
False Advertising (Car Rentals)	Budget Car Rentals Toronto Limited carrying on business under the firm name and style of Budget Rent-A-Car	One charge was laid at Toronto under paragraph 37(1)(b). On November 23, 1976, the charge was dismissed.
False Advertising (Device—Electronic Ignition Improvement)	Hafeez Ahmed Mirza carrying on business under the name and style of Silver Style Supplies	One charge was laid at Toronto under paragraph 37(1)(a). On November 25, 1976, the charge was withdrawn.
False Advertising (Swimming Pools)	Eugene Morgulis carrying on business as Pool World of Canada and Esther Williams Pools and Sheldon Schwartzberg	Three charges were laid at Hamilton under paragraph 37(1)(a). On November 29, 1976, Schwartzberg was convicted on one charge and fined \$1,000. The two remaining charges were outside the jurisdiction of the court. Morgulis was never brought before the court to answer the charges and the case was therefore closed.
Breach of Order of Prohibition	Ameublement Leger Inc.	One charge was laid at Montreal under subsection 30(6). On December 1, 1976, the accused was convicted and fined \$10,000.
False Advertising (Furniture and Furnishings)	Nathan Tessis	One charge was laid at Toronto under paragraph 37(1)(a). On December 6, 1976, the accused was acquitted.
False Advertising (Description of Business)	Federaland Sales Limited	One charge was laid at Dartmouth, N.S. under subsection 37(1). On December 7, 1976, the charge was dismissed.
False Advertising (Sweaters)	The Governor and Company of Adventurers of England Trading into Hudson's Bay also known as Hudson's Bay Company carrying on business under the name and style of The Bay	One charge was laid at Toronto under paragraph 37(1)(a). On December 9, 1976, the accused pleaded guilty and was fined \$1,500.
False Advertising (Device—Gas Saver)	Northeast Brokerage Limited	One charge was laid at St. John's, Nfld. under subsection 37(1). On December 17, 1976, the charge was dismissed.
False Advertising (Radios, Tape Recorders and Calculators)	Thomcor Holdings Ltd.—La Compagnie de Gestion Thomcor Ltée	Eight charges were laid at Montreal under subsection 37(1). On January 7, 1977, the charges were withdrawn.
False advertising (Electrical Fixtures)	Madame Bernard Moisan carrying on business under the name and style of Quincaillerie Moisan Enrg. et Bernard Moisan	One charge was laid at Montreal under paragraph 37(1)(a). On January 7, 1977, the accused was acquitted.
False Advertising (Camera)	Rutherford Photo Limited carrying on business under the name and style of Toronto Camera Centre and Toronto Camera Centres Limited carrying on business under the name and style of Toronto Camera	One charge was laid at Toronto under paragraph 37(1)(a). On January 12, 1977, Rutherford Photo Limited pleaded guilty and was fined \$1,500. The charge against Toronto Camera Centres Limited was withdrawn.

APPENDIX II—(Continued)

Proceedings Completed in Cases Referred to the
Attorney General of Canada Direct

Nature of Inquiry	Name of Persons or Companies Proceeded Against	Action Taken and Results
False advertising (Film)	Triple Print Film Labs Limited	Five charges were laid at Ottawa under subsection 37(1). On January 13, 1977, the accused pleaded guilty to one charge and was fined \$1,000. The remaining four charges were withdrawn.
False Advertising (Jewellery)	Williams of Burlington Limited	One charge was laid at Hamilton under paragraph 37(1)(a). On January 28, 1977, the charge was dismissed.
False Advertising (Shoes)	The Italian Room Shoe Salon Inc.	One charge was laid at Montreal under paragraph 37(1)(a). On February 7, 1977, the accused pleaded guilty and was fined \$450.
False Advertising (Furniture)	Le Roi des Bas Prix de la Region de Montreal Ltée doing business under the name of Faucher Roi des Bas Prix Enrg.	Four charges were laid at Montreal under paragraph 37(1)(a). On February 8, 1977, the accused was convicted and fined \$1,000 on each of the first and second charges and \$500 on each of the third and fourth charges for a total fine of \$3,000.
False advertising (Dwelling Units)	W.B. Sullivan Construction Limited, carrying on business under the name and style of 4091 Sheppard Avenue East and 4101 Sheppard Avenue East	Three charges were laid at Toronto under paragraph 37(1)(a). On February 11, 1977, the accused was convicted and fined \$4,000 on each charge for a total fine of \$12,000.
False Advertising (Employment Opportunity)	James Flonders and Randall A. Henry	Three charges were laid at London under paragraph 37(1)(a). On February 17, 1977, the accused pleaded guilty and were fined \$300 each on one charge for a total fine of \$600. The remaining two charges were withdrawn.
False advertising (Houses—Second Mortgages)	Costain Estates Limited	Two charges were laid at Ottawa under subsection 37(1). On February 24, 1977, the accused was convicted on the second charge and fined \$1,000. A stay of proceedings was entered in respect of the first charge.
Misleading Price Representation (Clipper Kits)	Sayvette Limited and David Charles Robinson and Gregory Robert Walker	One charge was laid at Toronto under subsection 36(1). On February 28, 1977, the charge against the accused was dismissed.
False Advertising (Business Opportunity)	John Brower—John Robert Smy	One charge was laid at Toronto under paragraph 37(1)(b). On March 2, 1977, both accused pleaded guilty and were each fined \$500.
False Advertising (100 Ounce Silver Bars)	Bay Coins & Stamps Ltd. and The Governor and Company of Adventurers of England Trading Into Hudson's Bay also known as Hudson's Bay Company	One charge was laid against Hudson's Bay Company and Bay Coins & Stamps Ltd. at Toronto under paragraph 37(1)(a). On February 23, 1976, Bay Coins & Stamps Ltd. pleaded guilty and was fined \$2,000. On October 12, 1976, Hudson's Bay Company was found guilty and a fine of \$750 was imposed. On November 10, 1976, Crown filed an appeal against that sentence. On November 16, 1976, the company filed Notice of Appeal. On March 14, 1977, the Ontario Court of Appeal upheld the conviction and allowed the Crown's Appeal as to sentence. The fine was increased to \$5,000.



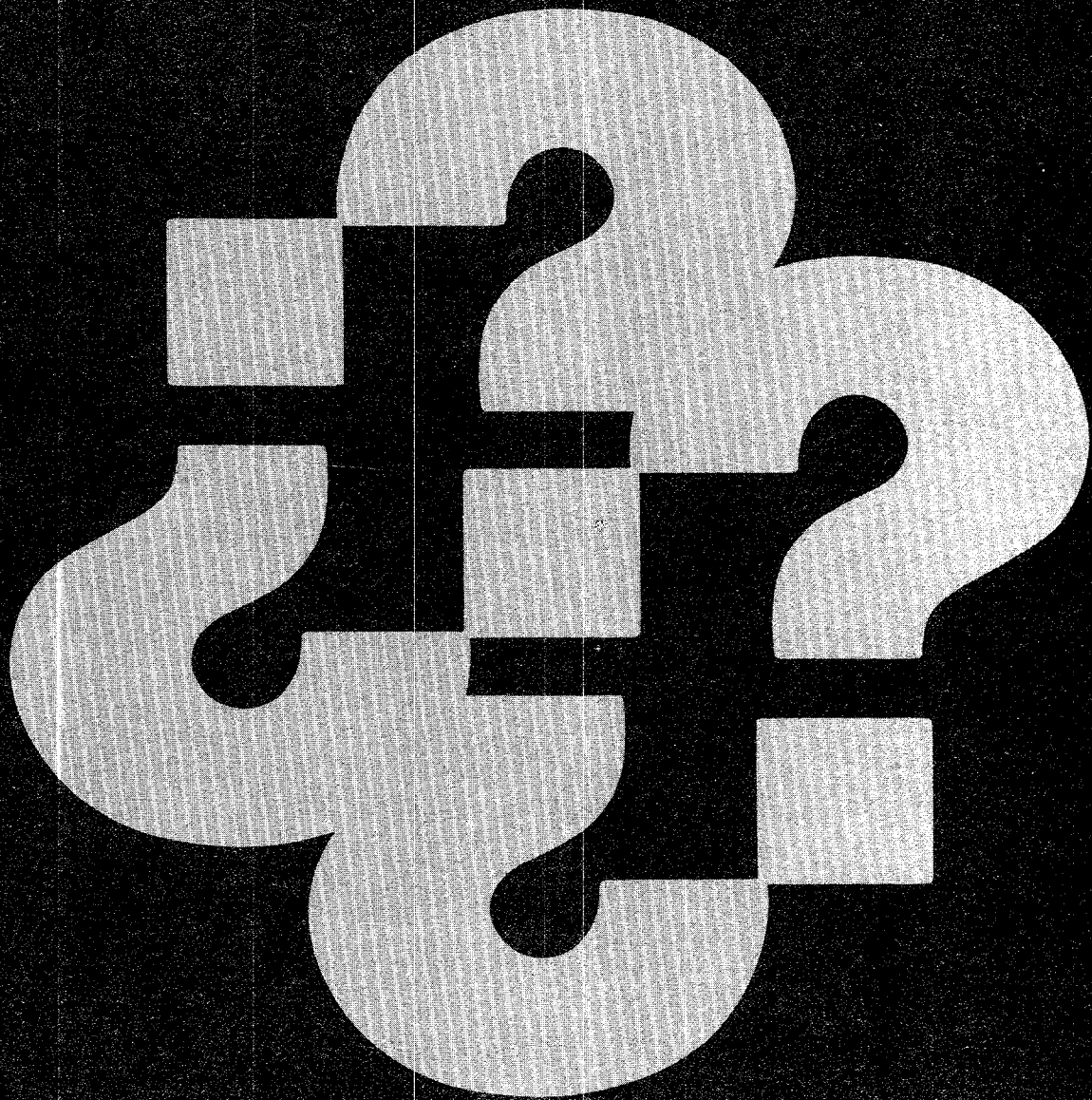
Consumer and Corporate Affairs Consommation et Corporations

PUBLIC
2

May 1977

published quarterly by
Misleading Advertising Division
Bureau of Competition Policy

Misleading Advertising Bulletin



Disposition of Recent AppealsR.v. Hudson's Bay Company

This case was reported on page 5 of the February 1977 edition of the Bulletin. An appeal re sentence was filed by the Crown and the company cross-appealed. On 14/3/77 the cross-appeal was rejected, the crown's appeal was allowed and the amount of the fine was increased from \$750. to \$5,000.

R.v. Henri Plante and Serge St. Pierre

This case was reported in the November 1976 edition of the Bulletin. Subsequently the accused appealed against the size of the fines imposed and on 31/3/77 the fines were reduced to \$250. on each charge.

Exhibit 10

Annual Report

**Director of Investigation
and Research**

**Combines
Investigation Act**

**for the year ended
March 31, 1977**



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II—(Continued)

Proceedings Completed in Cases Referred to the
Attorney General of Canada Direct

Nature of Inquiry	Names of Persons or Companies Proceeded Against	Action Taken and Results
False Advertising (Motor Vehicles)	M & M Doyle Limited carrying on business under the name and style of Union Purchase Association	Two charges were laid at Toronto under paragraph 37(1)(a). On November 23, 1976, the accused company pleaded guilty to the second charge and was fined \$300. The first charge was withdrawn.
False Advertising (Car Rentals)	Budget Car Rentals Toronto Limited carrying on business under the firm name and style of Budget Rent-A-Car	One charge was laid at Toronto under paragraph 37(1)(b). On November 23, 1976, the charge was dismissed.
False Advertising (Device—Electronic Ignition Improvement)	Hafeez Ahmed Mirza carrying on business under the name and style of Silver Style Supplies	One charge was laid at Toronto under paragraph 37(1)(a). On November 25, 1976, the charge was withdrawn.
False Advertising (Swimming Pools)	Eugene Morgulis carrying on business as Pool World of Canada and Esther Williams Pools and Sheldon Schwartzberg	Three charges were laid at Hamilton under paragraph 37(1)(a). On November 29, 1976, Schwartzberg was convicted on one charge and fined \$1,000. The two remaining charges were outside the jurisdiction of the court. Morgulis was never brought before the court to answer the charges and the case was therefore closed.
Breach of Order of Prohibition	Ameublement Leger Inc.	One charge was laid at Montreal under subsection 30(6). On December 1, 1976, the accused was convicted and fined \$10,000.
False Advertising (Furniture and Furnishings)	Nathan Tessis	One charge was laid at Toronto under paragraph 37(1)(a). On December 6, 1976, the accused was acquitted.
False Advertising (Description of Business)	Federaland Sales Limited	One charge was laid at Dartmouth, N.S. under subsection 37(1). On December 7, 1976, the charge was dismissed.
False Advertising (Sweaters)	The Governor and Company of Adventurers of England Trading into Hudson's Bay also known as Hudson's Bay Company carrying on business under the name and style of The Bay	One charge was laid at Toronto under paragraph 37(1)(a). On December 9, 1976, the accused pleaded guilty and was fined \$1,500.
False Advertising (Device—Gas Saver)	Northeast Brokerage Limited	One charge was laid at St. John's, Nfld. under subsection 37(1). On December 17, 1976, the charge was dismissed.
False Advertising (Radios, Tape Recorders and Calculators)	Thomcor Holdings Ltd.—La Compagnie de Gestion Thomcor Ltée	Eight charges were laid at Montreal under subsection 37(1). On January 7, 1977, the charges were withdrawn.
False advertising (Electrical Fixtures)	Madame Bernard Moisan carrying on business under the name and style of Quincaillerie Moisan Enrg. et Bernard Moisan	One charge was laid at Montreal under paragraph 37(1)(a). On January 7, 1977, the accused was acquitted.
False Advertising (Camera)	Rutherford Photo Limited carrying on business under the name and style of Toronto Camera Centre and Toronto Camera Centres Limited carrying on business under the name and style of Toronto Camera	One charge was laid at Toronto under paragraph 37(1)(a). On January 12, 1977, Rutherford Photo Limited pleaded guilty and was fined \$1,500. The charge against Toronto Camera Centres Limited was withdrawn.

APPENDIX II—(Continued)

Proceedings Completed in Cases Referred to the
Attorney General of Canada Direct

Nature of Inquiry	Name of Persons or Companies Proceeded Against	Action Taken and Results
False advertising (Film)	Triple Print Film Labs Limited	Five charges were laid at Ottawa under subsection 37(1). On January 13, 1977, the accused pleaded guilty to one charge and was fined \$1,000. The remaining four charges were withdrawn.
False Advertising (Jewellery)	Williams of Burlington Limited	One charge was laid at Hamilton under paragraph 37(1)(a). On January 28, 1977, the charge was dismissed.
False Advertising (Shoes)	The Italian Room Shoe Salon Inc.	One charge was laid at Montreal under paragraph 37(1)(a). On February 7, 1977, the accused pleaded guilty and was fined \$450.
False Advertising (Furniture)	Le Roi des Bas Prix de la Region de Montreal Ltée doing business under the name of Faucher Roi des Bas Prix Enrg.	Four charges were laid at Montreal under paragraph 37(1)(a). On February 8, 1977, the accused was convicted and fined \$1,000 on each of the first and second charges and \$500 on each of the third and fourth charges for a total fine of \$3,000.
False advertising (Dwelling Units)	W.B. Sullivan Construction Limited, carrying on business under the name and style of 4091 Sheppard Avenue East and 4101 Sheppard Avenue East	Three charges were laid at Toronto under paragraph 37(1)(a). On February 11, 1977, the accused was convicted and fined \$4,000 on each charge for a total fine of \$12,000.
False Advertising (Employment Opportunity)	James Flonders and Randall A. Henry	Three charges were laid at London under paragraph 37(1)(a). On February 17, 1977, the accused pleaded guilty and were fined \$300 each on one charge for a total fine of \$600. The remaining two charges were withdrawn.
False advertising (Houses—Second Mortgages)	Costain Estates Limited	Two charges were laid at Ottawa under subsection 37(1). On February 24, 1977, the accused was convicted on the second charge and fined \$1,000. A stay of proceedings was entered in respect of the first charge.
Misleading Price Representation (Clipper Kits)	Sayvette Limited and David Charles Robinson and Gregory Robert Walker	One charge was laid at Toronto under subsection 36(1). On February 28, 1977, the charge against the accused was dismissed.
False Advertising (Business Opportunity)	John Brower—John Robert Smy	One charge was laid at Toronto under paragraph 37(1)(b). On March 2, 1977, both accused pleaded guilty and were each fined \$500.
False Advertising (100 Ounce Silver Bars)	Bay Coins & Stamps Ltd. and The Governor and Company of Adventurers of England Trading Into Hudson's Bay also known as Hudson's Bay Company	One charge was laid against Hudson's Bay Company and Bay Coins & Stamps Ltd. at Toronto under paragraph 37(1)(a). On February 23, 1976, Bay Coins & Stamps Ltd. pleaded guilty and was fined \$2,000. On October 12, 1976, Hudson's Bay Company was found guilty and a fine of \$750 was imposed. On November 10, 1976, Crown filed an appeal against that sentence. On November 16, 1976, the company filed Notice of Appeal. On March 14, 1977, the Ontario Court of Appeal upheld the conviction and allowed the Crown's Appeal as to sentence. The fine was increased to \$5,000.

MISLEADING ADVERTISING BULLETIN

published quarterly by
Misleading Advertising Division
Bureau of Competition Policy



Consumer and
Corporate Affairs

Consommation et
Corporations

FEBRUARY 1977

CONVICTIONS REGISTERED BETWEEN
OCTOBER 1, 1976 AND DECEMBER 31, 1976

Section 36 - NoneSection 37Name of accused
and locationDetails of offenceDisposition

Bay Coins & Stamps Ltd.
and The Governor and
Company of Adventurers
of England Trading into
Hudson's Bay, also
known as Hudson's Bay
Company,
Toronto, Ontario

Accused advertised 100 ounce
silver bar for \$650 suggest-
ing that customers "take
advantage of this special
opportunity to make a smart
investment". Investigation
revealed that at the rele-
vant time 100 oz. silver
bars were being sold in the
same market area for less
than \$500 and the statement
that this was a "special
opportunity" was therefore
untrue.

Bay Coins & Stamps Ltd.
pleaded guilty to a
charge under section
37(1) and was convicted
on 23/2/76 and fined
\$2,000. Hudson's Bay
Company pleaded not
guilty to a charge under
section 37(1) and was
convicted on 12/10/76
and fined \$750.

Anastasios Karabatsos
carrying on business
as Champion Hairpiece
Company and S&A Trading
Co.,
Toronto, Ontario

Accused advertised magnetic
necklace stating that it
would "relieve and eliminate"
pain caused by rheumatism,
headache, dizziness etc.
Investigation revealed that
the claims made were untrue
since the necklace could not
achieve the advertised
results.

Accused pleaded guilty
to a charge under section
37(1) and was convicted
on 14/10/76 and fined
\$200.

Max Appleby carrying on
business as Banwell's
Better Luggage and
Gift Shop.
Windsor, Ontario

Accused advertised "Bankrupt
Stock Sale". Investigation
revealed that, although the
stock had formerly been part
of the inventory of a
bankruptcy, at the time of
the advertisement it was
part of the regular retail
stock of the accused and
could in no way be designa-
ted as bankrupt stock.

Accused pleaded guilty
to a charge under section
37(1) and was convicted
on 19/10/76 and fined
\$500.

Exhibit 11

Report of the Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1975
to the Hon. André Ouellet, Minister

**Consumer and
Corporate Affairs**

APPENDIX II—(Continued)

127

Nature of Inquiry	Names of Persons or Companies Proceeded Against	Action Taken and Results
False Advertising (Sewing Machines)	Léo Dandurand and Les Magasins d'Appareils LJD Ltée	One charge was laid at Montreal under section 37(1)(a). On May 7, 1974, the accused pleaded guilty and was fined \$500.
False Advertising (Tour-Holiday)	Suntours Limited and Algonquin Travel Services Limited	One charge was laid at Ottawa under section 37(1)(b). On May 8, 1974, the accused were convicted. Suntours Limited was fined \$600 and Algonquin Travel Services Limited was fined \$300.
Misleading Price Advertising (Books)	Hudson's Bay Company (Ottawa) Limited	Two charges were laid at Ottawa under section 36(1). On May 8, 1974, the accused pleaded guilty and was fined \$100 on each charge.
Misleading Price Representation (Book)	International Book Limited	One charge was laid at Ottawa under section 36(1). On May 8, 1974, the accused pleaded guilty and was fined \$200.
Misleading Price Representation (Book)	Shirley Leishman Books Limited	One charge was laid at Ottawa under section 36(1). On May 8, 1974, the accused pleaded guilty and was fined \$200.
False Advertising (Furniture)	Thomas Travers and Mrs. Thomas Travers	Five charges were laid at Brampton, Ontario, under section 37(1)(a). On May 9, 1974, Thomas Travers pleaded guilty to the first charge and was fined \$300. The remaining charges were withdrawn.
False Advertising (Divorce Services)	Aston Credit Corporation Ltd.	One charge was laid at Vancouver under section 37(1)(b). On May 28, 1974, the accused was convicted and fined \$500. The Court also granted an Order prohibiting the continuation or repetition of the offence.
False Advertising (Shampoo)	Alberto-Culver of Canada, Ltd.	Three charges were laid at Ottawa under section 37(1). On May 29, 1974, the Crown withdrew the second charge and the accused was discharged at the preliminary on the remaining charges.
False Advertising (Used Automobiles)	Don Robertson, Chrysler-Dodge Limited	Two charges under section 37(1) and one charge under section 36(1) were laid at Brampton, Ontario. On May 30, 1974, the accused were convicted and fined \$1,000 on each of the section 37 charges. The Court also granted an Order prohibiting the continuation or repetition of the offence. The charge under section 36 was withdrawn.
Resale Price Maintenance (Firearms)	Browning Arms Company of Canada Limited	Thirteen charges were laid at Toronto under section 38. At the trial the Crown elected to proceed on eight of the thirteen charges. On September 19, 1973, the accused pleaded guilty to four charges and were fined \$15,000 on each charge. The remaining four charges were dismissed. The Court also granted an Order prohibiting the continuation or repetition of the offence. The accused appealed the sentence to the Ontario Court of Appeal. The Appeal was argued on May 13, 1974, and on May 30, 1974, the Court reduced the fine to \$2,500 on each of the four charges.
Resale Price Maintenance (Coats)	Croydon Manufacturing Co. Limited	One charge was laid at Montreal under section 38(3)(b)(i). On May 30, 1974, the accused pleaded guilty and was fined \$1,000.



OFFICE CONSOLIDATION

CODIFICATION ADMINISTRATIVE

**Combines
Investigation
Act**

R.S., c. C-23

**amended by
c. 10(1st Supp.)
c. 10(2nd Supp.)**

**Loi relative aux
enquêtes sur
les coalitions**

S.R., c. C-23

**modifiée par
c. 10(1^{er} Supp.)
c. 10(2^e Supp.)**

1972

NOTE

All persons making use of this consolidation are reminded that it has no parliamentary sanction; that the amendments have been embodied only for convenience of reference, and that the original Act should be consulted for all purposes of interpreting and applying the law.

REMARQUE

Nous rappelons aux lecteurs que cette codification n'a pas été soumise à la sanction du Parlement. Les modifications n'ont été incorporées à la loi que pour en faciliter la consultation. Pour interpréter et appliquer la loi, il faut se reporter aux textes tels qu'ils ont été adoptés par le Parlement.

©

Crown Copyrights reserved

Available by mail from Information Canada, Ottawa,
and at the following Information Canada bookshops:

HALIFAX
1735 Barrington Street

MONTREAL
1182 St. Catherine Street West

OTTAWA
171 Slater Street

TORONTO
221 Yonge Street

WINNIPEG
393 Portage Avenue

VANCOUVER
657 Granville Street

or through your bookseller

Price: 75 cents Catalogue No. YX75-C-23-1970

Price subject to change without notice

Information Canada
Ottawa, 1972

©

Droits de la Couronne réservés

En vente chez Information Canada à Ottawa,
et dans les librairies d'Information Canada:

HALIFAX
1735, rue Barrington

MONTRÉAL
1182 ouest, rue Ste-Catherine

OTTAWA
171, rue Slater

TORONTO
221, rue Yonge

WINNIPEG
393, avenue Portage

VANCOUVER
657, rue Granville

ou chez votre libraire.

Prix 75 cents N° de catalogue YX75-C-23-1970

Prix sujet à changement sans avis préalable

Information Canada
Ottawa, 1972

competition with the first-mentioned purchaser, (which other purchasers are in this section called "competing purchasers"), is guilty of an indictable offence and is liable to imprisonment for two years.

d'autres acheteurs faisant concurrence à l'acheteur en premier lieu mentionné (lesquels autres acheteurs sont au présent article appelés «acheteurs concurrents»), est coupable d'un acte criminel et passible d'un emprisonnement de deux ans.

131

Definition of proportionate terms

(3) For the purposes of this section, an allowance is offered on proportionate terms only if

(a) the allowance offered to a purchaser is in approximately the same proportion to the value of sales to him as the allowance offered to each competing purchaser is to the total value of sales to such competing purchaser,

(b) in any case where advertising or other expenditures or services are exacted in return therefor, the cost thereof required to be incurred by a purchaser is in approximately the same proportion to the value of sales to him as the cost of such advertising or other expenditures or services required to be incurred by each competing purchaser is to the total value of sales to such competing purchaser, and

(c) in any case where services are exacted in return therefor, the requirements thereof have regard to the kinds of services that competing purchasers at the same or different levels of distribution are ordinarily able to perform or cause to be performed. 1960, c. 45, s. 13.

(3) Aux fins du présent article, une remise n'est offerte à des conditions proportionnées que

Définition des conditions proportionnées

a) s'il existe entre la remise offerte à un acheteur et la valeur des ventes à ce dernier un rapport approximativement le même qu'entre la remise offerte à chaque acheteur concurrent et la valeur totale des ventes à celui-ci,

b) si, dans un cas où l'on exige une réclame ou d'autres dépenses ou services en retour de la remise, le coût qu'en doit supporter un acheteur représente approximativement, par rapport à la valeur des ventes à lui faites, la même proportion que le coût de cette réclame ou de ces autres dépenses ou services à supporter par chaque acheteur concurrent représente au regard de la valeur totale des ventes à cet acheteur concurrent, et

c) si, dans un cas où l'on exige des services en retour de cette remise, les exigences à cet égard tiennent compte des genres de services que les acheteurs concurrents à des niveaux de distribution semblables ou différents sont ordinairement capables de fournir ou de faire fournir. 1960, c. 45, art. 13.

Misrepresentations as to ordinary price

36. (1) Every one who, for the purpose of promoting the sale or use of an article, makes any materially misleading representation to the public, by any means whatever, concerning the price at which such or like articles have been, are, or will be, ordinarily sold, is guilty of an offence punishable on summary conviction.

36. (1) Quiconque, afin de favoriser la vente ou l'emploi d'un article, fait au public un exposé essentiellement trompeur, de quelque façon que ce soit, en ce qui concerne le prix auquel ledit article ou des articles semblables ont été, sont ou seront ordinairement vendus, est coupable d'une infraction punissable sur déclaration sommaire de culpabilité.

Faux exposé quant au prix ordinaire

Publishing advertisements in good faith

(2) Subsection (1) does not apply to a person who publishes an advertisement that he accepts in good faith for publication in the ordinary course of his business. 1960, c. 45, s. 13.

(2) Le paragraphe (1) ne s'applique pas à une personne qui fait paraître une annonce publicitaire qu'elle accepte de bonne foi en vue de la publication dans le cours ordinaire de son entreprise. 1960, c. 45, art. 13.

Publication d'annonces, faite de bonne foi

Publication of false advertisements

37. (1) Every one who publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue, deceptive or mis-

37. (1) Quiconque publie ou fait publier une annonce contenant une déclaration paraissant être une déclaration de fait, mais qui est fausse, fallacieuse ou trompeuse ou

Publication de fausses annonces

Exhibit 12

Report of the

**DIRECTOR OF INVESTIGATION
AND RESEARCH**

Combines Investigation Act

For the Year Ended March 31, 1971

APPENDIX II—(Continued)

Nature of Inquiry	Names of Persons or Companies Proceeded Against	Action Taken and Results
False Advertising (Tires)	Princess Auto & Machinery Ltd.	Investigation Act. On January 26, 1971, the accused was convicted and fined \$500. Two charges were laid at Winnipeg under section 33D(1) of the Combines Investigation Act. On January 29, 1971, the accused pleaded guilty to one charge and was fined \$300. Proceedings were stayed on the second charge.
Monopoly (Diaper Service)	Wee Folks Diaper Service Inc., ABC Diaper Service Inc. and Baby's Diaper Service Reg'd.	Proceedings under section 31(2) of the Combines Investigation Act for an Order of prohibition were instituted in Montreal in the Exchequer Court of Canada. On February 10, 1971, the Order was granted by the Court.
Misleading Price Advertising (Chandeliers)	Caneurop Manufacturing Limited	Two charges were laid in Toronto under section 33C(1) of the Combines Investigation Act. On February 18, 1971, the accused was convicted on both charges and fined \$200 on each. The Court also granted an Order prohibiting the continuation or repetition of the offences.
Misleading Price Advertising (Vinyl Flooring)	Beaver Lumber Company Limited	One charge was laid at Hamilton under section 33C(1) of the Combines Investigation Act. On February 25, 1971, the accused pleaded guilty and was fined \$500.
Misleading Price Advertising (Television Sets)	Hudson's Bay Company	One charge was laid at Vancouver under section 33C(1) of the Combines Investigation Act. On March 4, 1971, the accused pleaded guilty and was fined \$200.
False Advertising (Furniture)	Le Père du Meuble Inc.	Two charges were laid at Montreal under section 33D(1) of the Combines Investigation Act. On March 10, 1971, the accused pleaded guilty and was fined \$100 on each charge. The Court also granted an Order prohibiting the continuation or repetition of the offences.
False Advertising (Mobile Home)	Joe T. Agius (Sunshine City Homes & Trailers)	One charge was laid at Orillia under section 33D(1) of the Combines Investigation Act. Following a preliminary hearing, the accused was committed for trial. The Grand Jury returned a True Bill at Barrie on March 8, 1971. The trial before a Judge and jury in the Supreme Court of Ontario commenced on March 10 and on March 12 the accused was acquitted.
False Advertising (Carpeting)	L.W.L. Associates Ltd. (Crown Broadloom Corp.)	Two charges were laid at Ottawa under section 33D(1) of the Combines Investigation Act. On March 12, 1971, the accused pleaded guilty and was fined \$100 on each charge.
False advertising (Sewing Machines)	James Losee (Whitby Sewing Centre)	One charge was laid at Whitby under section 33D(1) of the Combines Investigation Act. On March 15, 1971, the accused was convicted and fined \$500. The Court also granted an

OFFICE CONSOLIDATION



**COMBINES
INVESTIGATION ACT**

R.S.C., 1952, c. 314

As amended by

1953-54, c. 51

1959, c. 40

1960, c. 45

1960-61, c. 42

1962-63, c. 4

1964-65, c. 35

1966-67, cc. 23, 25

1967-68, c. 16

1968-69, c. 38

All persons making use of this consolidation are reminded that it has no parliamentary sanction; that the amendments have been embodied only for convenience of reference, and that the original Act should be consulted for all purposes of interpreting and applying the law.

Definition
of pro-
portionate
terms.
New.
1960, c. 45,
s. 13.

(3) For the purposes of this section, an allowance is offered on proportionate terms only if

- (a) the allowance offered to a purchaser is in approximately the same proportion to the value of sales to him as the allowance offered to each competing purchaser is to the total value of sales to such competing purchaser,
- (b) in any case where advertising or other expenditures or services are exacted in return therefor, the cost thereof required to be incurred by a purchaser is in approximately the same proportion to the value of sales to him as the cost of such advertising or other expenditures or services required to be incurred by each competing purchaser is to the total value of sales to such competing purchaser, and
- (c) in any case where services are exacted in return therefor, the requirements thereof have regard to the kinds of services that competing purchasers at the same or different levels of distribution are ordinarily able to perform or cause to be performed.

Misrepre-
sentations as
to ordinary
price.
New.
1960, c. 45,
s. 13.

33c. (1) Every one who, for the purpose of promoting the sale or use of an article, makes any materially misleading representation to the public, by any means whatever, concerning the price at which such or like articles have been, are, or will be, ordinarily sold, is guilty of an offence punishable on summary conviction.

Not
applicable to
publishing
advertisements
in
good faith.
New.
1960, c. 45,
s. 13.

(2) Subsection (1) does not apply to a person who publishes an advertisement that he accepts in good faith for publication in the ordinary course of his business.

Publication
of false
advertisements.
New.
1968-69, c. 38,
s. 116.

***33d.** (1) Every one who publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue, deceptive or misleading or is intentionally so worded or arranged that it is deceptive or misleading, is guilty of an indictable offence and is liable to imprisonment for five years, if the advertisement is published

- (a) to promote, directly or indirectly, the sale or disposal of property or any interest therein, or
- (b) to promote a business or commercial interest.

Publication
of statement
without
proper test.
New.
1968-69, c. 38,
s. 116.

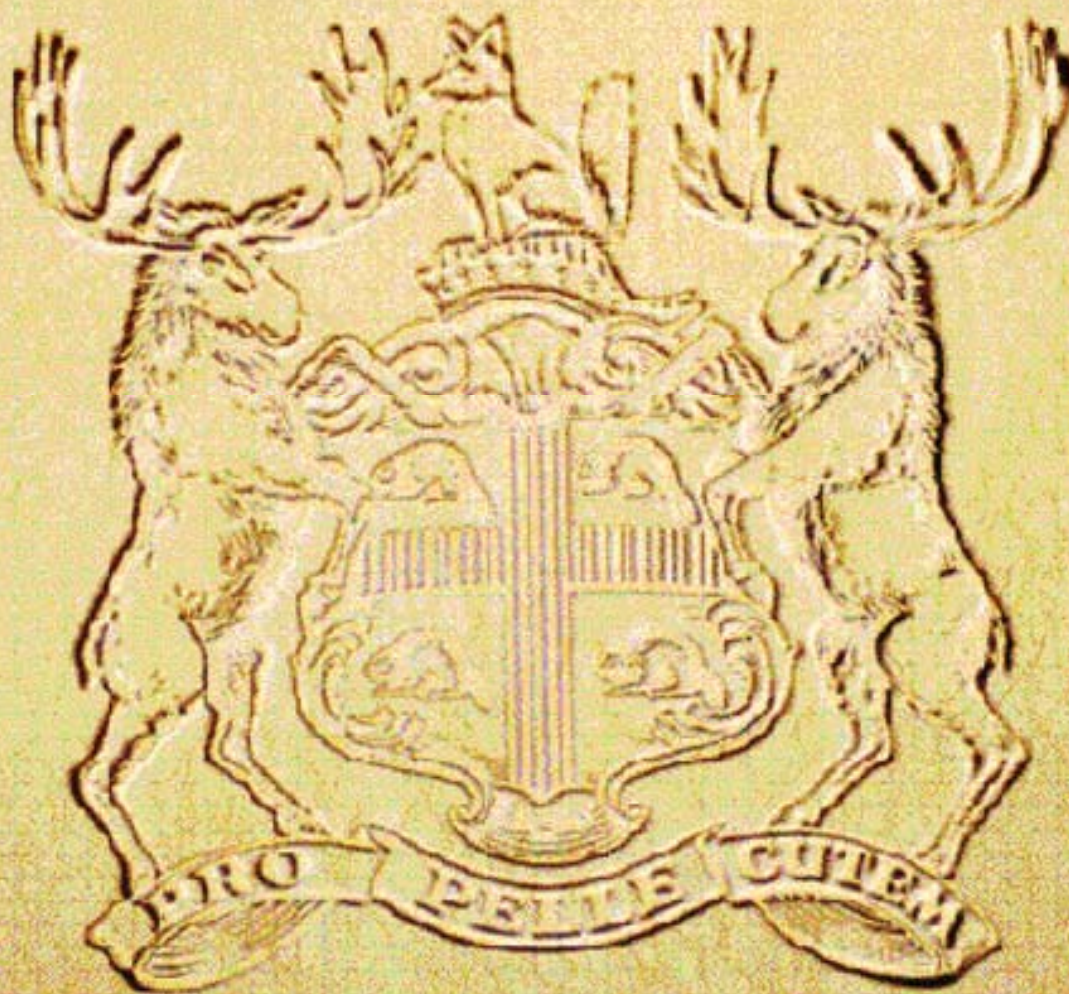
(2) Every one who publishes or causes to be published in an advertisement a statement or guarantee of the performance, efficacy or length of life of anything that is not based upon an adequate and proper test of that thing, the proof of which lies upon the accused, is, if the advertisement is published to promote, directly or indirectly, the sale or disposal of that thing, guilty of an offence punishable on summary conviction.

* Note: Proclaimed in force July 31, 1969. (SOR/69-390, Canada Gazette, Part II, Vol. 103, No. 15)

Exhibit 13

Compagnie de la Baie d'Hudson

R A P P O R T
A N N U E L
1 9 9 6



APERÇU HISTORIQUE

141

Le 2 mai 1670, le roi Charles II accorde à 18 investisseurs la charte qui crée «Le Gouverneur et la Compagnie des aventuriers d'Angleterre faisant le commerce dans la Baie d'Hudson» (CBH). Cet événement fait suite au succès de l'expédition du ketch Nonsuch, organisée dans le but de faire le commerce des pelleteries.

Durant son premier siècle d'existence, la CBH érige des forts à la baie d'Hudson et commerce avec les peuples autochtones. Pendant le deuxième siècle, la concurrence accrue de la Compagnie du Nord-Ouest amène la CBH à pénétrer plus avant à l'intérieur des terres. Tout au long de ces deux cents ans, la Compagnie contribue de nombreuses façons à la découverte et au développement du territoire qui devait devenir le Canada. En 1821, les deux sociétés rivales fusionnent sous le nom de la «Compagnie de la Baie d'Hudson».



Inspection de la charte de la Compagnie à l'Institut canadien de conservation, à Ottawa.

En 1870, deux siècles après sa formation, la Compagnie cède à l'État canadien la Terre de Rupert, territoire qu'elle possède en vertu de sa charte. En échange, elle reçoit des terres arables des Prairies, qu'elle vend graduellement aux colons qui s'y établissent dans les 85 années suivantes.

Au début du vingtième siècle, la Compagnie se tourne vers le commerce de détail, qui devient alors sa principale activité. Elle construit des grands magasins dans chacune des principales villes de l'Ouest (de 1913 à 1968), et s'établit dans l'Est au moyen d'acquisitions (Morgans en 1960 et Freimans en 1971). À compter des années 1960, elle étend ses activités à la banlieue des principales villes canadiennes. Elle fait l'acquisition de Zellers en 1978 et de Simpsons l'année suivante. Simpsons et La Baie fusionnent graduellement entre 1986 et 1991. En 1990-1991, Zellers achète Towers, et les deux entreprises fusionnent également. En 1993, la Compagnie acquiert des établissements Woodward's en Colombie-Britannique et en Alberta, de même que Linmark, importante agence d'achats en Extrême-Orient.

La CBH acquiert le contrôle de Propriétés Immobilières Markborough en 1973. Le secteur immobilier constitue une part importante de ses activités jusqu'à ce qu'elle distribue les actions de Markborough à ses actionnaires en 1990.

Entre 1950 et 1987, la CBH détient d'importants intérêts dans l'industrie du gaz naturel et du pétrole (Hudson's Bay Oil & Gas et Roxy Petroleum).

Au milieu des années 1980, la CBH se défait de ses activités «non stratégiques», dont les Magasins du Nord, le Commerce de gros et les Fourrures.

En 1979, Kenneth R. Thomson et sa famille acquièrent une participation majoritaire dans la CBH, laquelle a été réduite à 25 % en 1992 au moyen du placement d'un bloc de titres, et est par la suite passée à 22 %.

La Compagnie de la Baie d'Hudson est devenue société canadienne en 1970, année de son tricentenaire.

Exhibit 14

Product, Names of Accused and Location of Offence	Action Taken and Results
Business Awards – Amiram Peleg and Peleg Consumer Polls Incorporated (Winnipeg, Manitoba)	Eight charges were laid on December 22, 1988.
Furs – Peter Gaye Furs Limited c.o.b. as Peter Gaye Furs (Winnipeg, Manitoba)	Three charges were laid on December 22, 1988.
Furniture – Barney's Antiques Limited c.o.b. as World-Wide Antiques, and Arthur Aello (Toronto, Ontario)	Fifteen charges were laid on December 23, 1988.
Vacuum cleaners – 632018 Ontario Ltd. c.o.b. as Tri-Star, and Carter Brisebois (Barrie, Ontario)	Three charges were laid on December 23, 1988.
Carpets – Carpita Corporation c.o.b. as Factory Carpet (Ottawa and elsewhere, Ontario)	Five charges were laid on January 11, 1989
Employment opportunities – Pacific West Coast Cobra Wholesale Inc. c.o.b. as Mular Wholesale and Teddy Jacobson (Vancouver, British Columbia)	Two charges were laid on January 20, 1989.
Automobiles – Kern Chevrolet Oldsmobile Ltd. c.o.b. as Kern Chevrolet- Oldsmobile, and Bryan Douglas Kern (Vancouver, British Columbia)	Four charges were laid on January 20, 1989.
Photocopy supplies – 139834 Canada Inc. c.o.b. as Distribution Copie Centrale/ Distribution Copy Central (Montréal, Quebec)	Sixty-one charges were laid on January 25, 1989.
Blinds – Barry Laughren and Designer Blinds of Saskatoon Inc. c.o.b. as Designer Blinds by Stephen (Saskatoon, Saskatchewan)	Four charges were laid on February 3, 1989.
Blinds – Décoration Mont-Bruno Inc. and Michel Hébert (St-Bruno, Quebec)	Four charges were laid on February 6, 1989.
Meat – C & D Beef Enterprises Inc. c.o.b. as Alberta Beef Centre, and Douglas Wright (Edmonton, Alberta)	Six charges were laid on February 15, 1989.
Chinese carpets – Simpsons Limited/Simpsons Limitée c.o.b. as Simpsons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – T. Eaton Holdings Limited c.o.b. as Eatons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – Hudson's Bay Company c.o.b. as The Bay (Toronto, Ontario)	One charge was laid on February 21, 1989.

Product, Names of Accused and Location of Offence	Action Taken and Results
---	--------------------------

Paragraph 52(1)(d): Misleading Price Representation

Fur coats – Wendelyn Textiles & Properties Limited c.o.b. as Alan Cherry, Alan Cherry Enterprises Limited, Alan Cherry and Steven LeVine (Toronto, Ontario)	One charge was laid on January 3, 1986.
Blinds – Boutique Évolution Décor Inc. (Rimouski, Quebec)	Two charges were laid on May 14, 1986. On March 17, 1988, the accused was acquitted. The Crown has filed an appeal.
Televisions – Roy's Television & Radio Company Limited (Sudbury, Ontario)	One charge was laid on September 2, 1987.
Blinds – Keenan Frederick Ginn and 67767 (Manitoba) Limited c.o.b. as Elegant Blinds & Draperies (Winnipeg, Manitoba)	Twelve charges were laid on May 3, 1988.
Kitchenware – 566230 Ontario Limited c.o.b. as C.M.I. and Dynamics Unlimited, and Eric Bresler (Ottawa, Ontario)	One charge was laid on October 26, 1988.
Blinds – Despin Holdings Inc. and Verti Store Inc. (Québec, Quebec)	Six charges were laid on December 1, 1989.
Automobiles – Craig Stewart Esplen, Charles Elliott and Humberview Motors Inc. (Toronto, Ontario)	Two charges were laid on December 16, 1988.
Furs – Peter Gaye Furs Limited c.o.b. as Peter Gaye Furs (Winnipeg, Manitoba)	One charge was laid on December 22, 1988.
Carpets – Carpita Corporation c.o.b. as Factory Carpet (Ottawa and elsewhere, Ontario)	Eight charges were laid on January 11, 1989.
Blinds – Décoration Mont-Bruno Inc. and Michel Hébert (St-Bruno, Quebec)	Four charges were laid on February 6, 1989.
Chinese carpets – Simpsons Limited/Simpson's Limitée, c.o.b. as Simpsons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – T. Eaton Holdings Limited c.o.b. as Eatons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese carpets – Hudson's Bay Company c.o.b. as The Bay (Toronto, Ontario)	One charge was laid on February 21, 1989.
Michelin tires – Custom Muffler Service Ltd. (Ottawa, Ontario)	Four charges were laid on February 23, 1989.

Product, Names of Accused and Location of Offence	Action Taken and Results
Weight Loss - Les Laboratoires Produits Français Inc., Les Laboratoires Parolan Inc. and Guy Pothier (Montréal, Quebec)	Twenty-five charges were laid on May 12, 1988. On January 17, 1989, the companies pleaded guilty to one charge and were convicted and fined \$5 000 each. The remaining charges against them were withdrawn. The charges against Guy Pothier remain outstanding.
Weight Loss - 146474 Canada Inc., Louis Luc Roy, c.o.b. as Raisinase RR, Shirley Thérout and Taisinase R.R. Inc. (Montréal, Quebec)	Forty-nine charges were laid on May 18, 1988.
Audio & Video Equipment - Multitech Warehouse Direct (Ontario) Inc. (Toronto, Ontario)	Two charges were laid on September 2, 1988.
Various Products - Amway of Canada Ltd. (Edmonton, Alberta)	Six charges were laid on September 28, 1988. On September 18, 1989, two of the charges were stayed. On December 6, 1989, two charges were dismissed. The Crown has appealed this decision. The stayed charges were withdrawn on March 19, 1990. Two other charges remain outstanding.
Rugs - Stephano Cervone and Tapis Orientaux Amir Ltée, c.o.b. as Maison d'Encan Internationale (Lachine, Quebec)	Twelve charges were laid on October 26, 1988.
Diet Drink - Steward Sherwood and 603022 Ontario Inc., c.o.b. as House of Sherwood (Hamilton, Ontario)	Twenty-one charges were laid on November 3, 1988.
Furs - Peter Gaye Furs Limited, c.o.b. as Peter Gaye Furs (Winnipeg, Manitoba)	Three charges were laid on December 22, 1988.
Vacuum Cleaners- 632018 Ontario Ltd., c.o.b. as Tri-Star, and Carter Brisebois (Barrie, Ontario)	Three charges were laid on December 23, 1988.
Employment Opportunity - Pacific West Coast Cobra Wholesale Inc., c.o.b. as Mular Wholesale, and Teddy Jacobson (Vancouver, British Columbia)	Two charges were laid on January 20, 1989.
Photocopy Supplies - 139834 Canada Inc., c.o.b. as Distribution Copie Centrale/ Distribution Copy Central (Montréal, Quebec)	Sixty-one charges were laid on January 25, 1989.
Chinese Carpets - Simpson's Limited/Simpson's Limitée, c.o.b. as Simpsons (Toronto, Ontario)	One charge was laid on February 21, 1989.
Chinese Carpets - Hudson's Bay Company, c.o.b. as The Bay (Toronto, Ontario)	One charge was laid on February 21, 1989.
Travel Savings Card - Groupmark Canada Limited, c.o.b. as Encore, and Elwin D. Cathcart (Toronto, Ontario and elsewhere in Canada)	Eight charges were laid on February 21, 1989.



Consumer and
Corporate Affairs Canada

Consommation et
Corporations Canada

MISLEADING ADVERTISING BULLETIN

Director of Investigation
and Research

Competition Act

1 / 1991

Canada



Accused, Location of
Offence and Date
of Sentence

Details of Offence

Disposition

Section 52(1)(a): False or misleading representation in a material respect, cont'd

**Simpson's
Limited/Simpson's
Limitée**, carrying on
business as **Simpson's**
(Toronto and elsewhere
in Ontario)

January 29, 1991

In promoting the sale of Chinese carpets, the accused represented by means of displays, verbal statements and circulars that they could be purchased for 40% to 50% off the "regular ticketed price". Investigation revealed that the accused made the representations in connection with a travelling oriental carpet event sale which moved from store to store over a seven month period. Although the carpets would be offered for sale at the "regular ticketed price" when the sales were not in effect, sales were seldom made at that price. Moreover, if the rugs were available in a store when the travelling event was elsewhere, they could be purchased for up to 40% to 50% off the "regular ticketed price" anyway. Consequently, the "regular ticketed price" was misleading. It also did not represent the regular price in the relevant market.

The accused pleaded guilty to one charge under section 52(1)(a) and was fined \$120 000.

**690489 Ontario
Limited and 733784
Ontario Inc.**, both
carrying on business as
The Muscle Factory
(Toronto and elsewhere
in Ontario)

February 15, 1991

In promoting the sale of fitness club memberships, the accused represented verbally and in writing that certain persons were the winners of free three-year memberships. Investigation revealed that the representations were misleading in that "winners" were required to pay "maintenance fees," not required of regular members, which were equal to the cost of a regular membership.

The accused pleaded guilty--the first to six charges and the second to four--under section 52(1)(a) and were fined \$2 000 on each charge for a total fine of \$20 000.

Exhibit 15


Misleading Advertising Bulletin

Issue No. 2, 1989 / January - March, 1989

Canada

Director of Investigation
and Research

Competition Act

	Canada Post Postage paid	Postes Canada Port payé
Bulk	En nombre	
third	troisième	
class	classe	
K1A 0C9		
Montreal, Canada		



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

Convictions Registered between January 1, 1989, and March 31, 1989

154

Name of Accused and Location of Offence	Details of Offence	Disposition
Section 52(1)(a): False or misleading representation in a material respect		
R.J.P. Jewellers Sales Inc. (Oshawa, Ontario)	The accused, in promoting the sale of jewellery, represented in newspaper advertisements that an advertised sale consisted in whole or part of the assets of a bankrupt company. Investigation revealed that the representations were untrue.	The accused pleaded guilty to two charges under section 52(1)(a), and on April 27, 1988, was convicted and fined \$7 500 on each count for a total fine of \$15 000.
Simpsons Limited, Simpsons Limitée, (Toronto, Ontario)	The accused, in promoting the sale of merchandise, made representations in the form of "Mini casino" cards mailed directly to the public that "you could save 10% to 25% on practically everything in the store." Investigation revealed that the representations were untrue as the impression conveyed was that consumers had an equal chance to receive one of the four different discount values when in fact, 90 percent of the discounts were in the amount of 10 percent.	The accused pleaded not guilty to one charge under section 52(1)(a), but on October 18, 1988, was convicted and on January 10, 1989 was fined \$100 000.
Les Laboratoires Produits Français, and Les Laboratoires Parolan Inc. (Montréal, Quebec)	The accused, in promoting the sale of a cellulite reduction method, represented in newspaper advertisements that Mexican herbal teas and salts were a quick way of getting rid of cellulite. Investigation revealed that the representations were untrue.	The accused pleaded guilty to one charge under section 52(1)(a), and on January 17, 1989, were convicted and fined \$5 000 each for a total fine of \$10 000.

Exhibit 16

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1982
to the Hon. André Ouellet, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX IV — (Continued)

157

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Flour)	Robin Hood Multifoods Limited (Hull, Québec)	One charge was laid on October 30, 1980, under paragraph 36(1)(a). On May 5, 1981, the charge was dismissed. The Crown appealed the decision, but on November 30, 1981, the appeal was dismissed. The Crown has appealed from this decision.
False or misleading representation in a material respect (Coin sorter)	Samson Équipement de Bureau Inc. (Edmonton, Alberta)	One charge was laid on February 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Samuel Sarick Limited, Cannard Investments Limited, Collier & Park Advertising Ltd. and Murray Warsh Realty (1978) Limited (Toronto, Ontario)	Four charges were laid on October 23, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving seminar)	Thomas James Scott and James Lowry (Calgary, Alberta)	One charge was laid on October 28, 1981, under paragraph 36(1)(a). On November 6, 1981, the charge was withdrawn and replaced by another charge under paragraph 36(1)(a).
False or misleading representation in a material respect (Advertising opportunity)	Seaboard Publishing Ltd., James Sicoli, Yellow Directory of Canada Ltd., Kiloran Marketing Ltd. and James Killoran (Burnaby, British Columbia)	Sixty-two charges were laid on September 30, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Building material)	D.J. Shiller Stores Ltd. carrying on business as Au Bon Marché (Montréal, Québec)	Twenty-six charges were laid on April 22, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Anthony Simon carrying on business as Simons Importers and Wholesalers (Grand Falls, Newfoundland)	One charge was laid on December 2, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Travel tours)	Skylark Holidays Limited (Stephenville, Newfoundland)	One charge was laid on November 6, 1979, under paragraph 36(1)(a). On April 17, 1980, the charge was dismissed. Under appeal by Crown.
False or misleading representation in a material respect (Jewellery)	Jack Snow and Richer et Snow Limitée carrying on business as Richer and Snow Jewellers (Ottawa, Ontario)	One charge was laid on May 29, 1980, under paragraph 36(1)(a). The charge was dismissed on October 29, 1980. Under appeal by Crown.
False or misleading representation in a material respect (Jewellery)	The Robert Simpson Company Limited and H. Forth & Co. Limited carrying on business as Gem Lab (Toronto, Ontario)	Thirteen charges were laid on September 29, 1978, under paragraph 36(1)(a). The accused pleaded not guilty but were convicted on July 30, 1981, on eleven of the charges. The remaining charges against both accused were dismissed. On September 15, 1981, the Robert Simpson Company Limited was fined \$7,000 on each charge for a total fine of \$77,000; and H. Forth & Co. was fined \$500 on each charge for a total fine of \$5,500. An order of prohibition was issued against both accused. Under appeal by both accused.
False or misleading representation in a material respect (Jewellery)	Simpsons-Sears Limited and H. Forth & Co. Limited carrying on business as Gem Lab (Toronto, Ontario)	Eleven charges were laid on September 15, 1980, under paragraph 36(1)(a) (and two charges were laid under the former section 37).

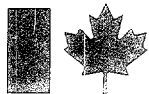
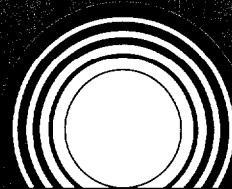
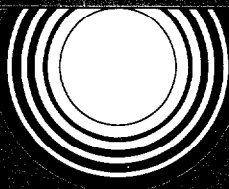
Misleading Advertising Bulletin

July/September 1981

Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy

1981

4



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

Name of Accused	Details of Offence	Disposition	15
<u>Section 36(1)(a) Cont'd</u>			
<p>Robert Simpson Company Limited and H. Forth & Co. Limited carrying on business as Gem Lab Toronto, Ontario</p>	<p>Accused, Robert Simpson Company Limited, in advertis- ing diamond rings at 40 per cent less than appraised value, represented, "Each ring is individually examined by a skilled gemmologist." It was established that each ring was not individually examined as represented and that the "appraised value" was assigned by Robert Simpson Company Limited and adopted by the gemmologist, H. Forth & Co. Limited.</p>	<p>Both accused pleaded not guilty to 11 charges under section 36(1)(a), but were convicted on 30/07/81 and on 15/09/81, Robert Simpson Company Limited was fined \$7,000 on each charge for a total fine of \$77,000 and H. Forth & Co. Limited was fined \$500 on each charge for a total fine of \$5,500. An order of prohibition was issued. (Under appeal by accused.)</p>	
<p>United Waterbed (1980) Ltd. Burnaby, British Columbia</p>	<p>Accused, in advertising a sale of waterbeds and accessories, represented savings of 30 to 50 per cent off regular prices. Investigation re- vealed that the regular sell- ing prices of similar merchan- dise in the market area were lower than those indicated by the accused and the represen- tation concerning savings was therefore untrue.</p>	<p>Accused pleaded guilty to two charges under section 36(1)(a) and was convicted on 15/09/81 and fined \$2,500 on each charge for a total fine of \$5,000.</p>	

Exhibit 17

Product, Names of Accused and Location of Offence	Action Taken and Results
Blinds - Décoration Mont-Bruno Inc. and Michel Hébert (St-Bruno, Quebec)	Four charges were laid on February 6, 1989. On January 11, 1990, the charges were withdrawn.
Blinds - Camille Lévesque, c.o.b. as Camille Lévesque Meubles (Sainte-Hélène, Quebec)	Seven charges were laid on July 12, 1989. On January 17, 1990, the accused pleaded guilty to one charge and was convicted and fined \$150. The remaining charges were withdrawn.
Blinds - Despin Holdings Inc. and Verti Store Inc. (Québec City, Quebec)	Six charges were laid on December 1, 1988. On January 19, 1990, Despin Holdings Inc. was convicted and fined \$2 000 on each charge for a total fine of \$12 000. The remaining charges were withdrawn.
Chinese Carpets - T. Eaton Holdings Limited, c.o.b. as Eaton (Toronto, Ontario)	One charge was laid on February 21, 1989. On January 22, 1990, the accused pleaded guilty and was convicted and fined \$65 000.
Sewing Machines - Jean Ricard, c.o.b. as J.R. Ricard Machine à coudre (Grand-Mère, Quebec)	Two charges were laid on December 1, 1989. On January 22, 1990, the accused pleaded guilty and was convicted and fined \$300 on each charge for a total fine of \$600.
Christmas Ornaments and Mallard Decoys - Shears Direct Marketing Inc. (Markham, Brantford, Hamilton and elsewhere in Ontario; Burnaby, British Columbia; and elsewhere in Canada)	Three charges were laid on July 4, 1989. On February 20, 1990, the charges were withdrawn.
Carpets - Carpita Corporation, c.o.b. as Factory Carpet (Ottawa, Toronto and elsewhere in Ontario)	Eight charges were laid on January 11, 1989. On March 6, 1990, the accused pleaded guilty to two charges and was convicted and fined \$50 000 in respect of one charge and \$15 000 in respect of the other for a total fine of \$65 000. The remaining charges were withdrawn.

Section 56: Referral Selling

Meat -
C & D Beef Enterprises Inc., c.o.b. as Alberta Beef Centre,
and Steven Duane Willmarth (Edmonton, Alberta)

Two charges were laid on February 15, 1989. On July 13, 1989, the accused were acquitted.

Section 58: Sale Above Advertised Price

Miscellaneous Items -
Zellers Inc., c.o.b. as Zellers (Halifax, Nova Scotia)

Twenty-nine charges were laid on May 25, 1988. On October 18, 1989, the accused pleaded guilty to ten charges and was convicted and fined \$3 500 on each charge for a total fine of \$35 000. The remaining charges were withdrawn.

Mattresses -
United Buy and Sell Service B.C. Inc. and John Volken
(Coquitlam, Richmond, the District of Maple Ridge and elsewhere in the Province of British Columbia)

Three charges were laid on January 3, 1989. The accused pleaded not guilty but, on December 11, 1989, the company was convicted and fined \$1 000 on each charge for a total fine of \$3 000. The individual was acquitted.

Misleading Advertising Bulletin

Issue No. 1, 1990 / October - December, 1989

Canada

Director of Investigation
and Research

Competition Act



Convictions and Sentences Registered between October 1, 1989 and December 31, 1989

17

Name of Accused, Location of Offence and Date of Sentence	Details of Offence	Disposition
Section 58: Sale above advertised price		
Zellers Inc., carrying on business as Zellers (Halifax, Nova Scotia) October 18, 1989	The accused, in promoting the sale of various products , represented in flyers that the products were available at special prices. Investigation revealed that the advertised products were being sold at higher prices than those indicated in the flyers.	The accused pleaded guilty to 10 charges under section 58 and was fined \$3 500 on each charge for a total fine of \$35 000.
United Buy & Sell Service B.C. Inc. (Coquitlam, Richmond, the District of Maple Ridge and elsewhere in British Columbia) December 11, 1989	The accused, in promoting the sale of mattresses , represented in T.V. magazine advertisements that the products were available for \$159.95. It was established that a higher price was charged for the items.	The accused pleaded not guilty to three charges under section 58 but was convicted and fined \$1 000 on each charge for a total fine of \$3 000.
Section 59: Promotional Contests		
146935 Canada Inc., carrying on business as Excel-Tech Advertising Specialties Reg - Les promotions Excel-Tech Enrg. (Montréal, Quebec)* December 5, 1989	The accused, in promoting the sale of a product or business interest , represented through telephone solicitations that a person had won a valuable prize. Investigation revealed that the accused did not adequately and fairly disclose the number of prizes or the approximate value of one of the prizes.	The accused pleaded guilty to two charges under section 59 and was fined \$2 000 on each charge for a total fine of \$4 000.

* See also offences under section 52(1)(a).

Exhibit 18

Product, Names of Accused and Location of Offence	Action Taken and Results
Homes – Greater Gulf Developments Limited, c.o.b. as Great Gulf Homes, and Gulf Lake Realty Ltd. (Markham and Toronto, Ontario)	Eleven charges were laid on April 29, 1987. The accused were charged jointly with respect to eight charges, and Greater Gulf Developments Limited was charged solely with respect to an additional three charges. On June 21, 1988, Greater Gulf Developments pleaded guilty to eight charges and was convicted and fined a total of \$75 000. The remaining charges against Greater Gulf Developments and all charges against Gulf Lake Realty Ltd. were withdrawn.
Jewellery – Stephen William Joseph Holloway and Holloway Jewellers Limited, c.o.b. as Holloway Diamond Merchants (London, Ontario)	Seven charges were laid on August 11, 1986. The corporate accused pleaded guilty to three charges and, on March 6, 1987, was convicted and fined \$3 000 on each of the first two charges and \$4 000 on the other charge, for a total fine of \$10 000. On June 27, 1988, the charges against the individual were withdrawn.
Employment opportunities – Capital Kirby Alberta Inc. (Sherwood Park, Alberta)	Two charges were laid on November 13, 1987. On June 27, 1988, the charges were dismissed.
Sewing machines – Zellers Inc. (Ottawa, Ontario)	One charge was laid on August 18, 1987. On July 4, 1988, the accused pleaded guilty and was convicted and fined \$5 000.
Photo supplies – Westfair Foods Ltd., c.o.b. as Super Valu (Saskatoon, Saskatchewan)	Two charges were laid on August 30, 1983. On February 16, 1984, the accused was acquitted. On January 31, 1985, an appeal by the Crown was dismissed. Leave to appeal to the Court of Appeal was dismissed on July 6, 1988.
Lamps – Sunrise Lighting Distributors (Maritime) Limited (Halifax, Nova Scotia)	One charge was laid on October 16, 1987. On July 14, 1988, the accused pleaded guilty and was convicted and fined \$1 500.
Oriental carpets – A & B Financiers & Liquidators Ltd., Citizen Union Financial Corporation Limited and Azam Khan (Dartmouth, Nova Scotia)	One charge was laid on May 5, 1988. On July 25, 1988, A & B Financiers and Liquidators Ltd., pleaded guilty and was convicted and fined \$5 000. The charge against the other accused was withdrawn.
Weight loss clinic – 597721 Ontario Inc., c.o.b. as Anatomy 2000 Clinic, and George Julius Lucio (London, Ontario)	Four charges were laid on September 10, 1987. The company pleaded guilty to one charge and on August 8, 1988, was convicted and fined \$5 000. The remaining charges against the company and the individual were withdrawn.
Employment opportunities – 33021 Alberta Ltd. and Darrell John McGuire (Edmonton, Alberta)	Two charges were laid on March 11, 1988. On August 9, 1988, the corporate accused pleaded guilty and was fined \$1 200 on each charge for a total fine of \$2 400. The individual accused pleaded guilty to one charge and was fined \$500. The remaining charge was withdrawn. A prohibition order was granted.
Windows – Bagnall's Building Supplies Ltd. (Charlottetown, Prince Edward Island)	One charge was laid on June 28, 1988. On July 19, 1988, the accused pleaded guilty and was convicted. On August 15, 1988, the accused was fined \$1 000.


Misleading Advertising Bulletin

Issue No. 4, 1988 / July - September, 1988

Canada

Director of Investigation
and Research

Competition Act

	Canada Post Postage paid	Postes Canada Postage payé
Bulk	En nombre	
third	troisième	
class	classe	
K1A 0C9		
Montreal, Canada		



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

26

Name of Accused and Location of Offence	Details of Offence	Disposition
Section 36(1)(a): False or misleading representation in a material respect		
Zellers Inc. (Ottawa, Ontario)	The accused, in promoting the sale of sewing machines, represented in store flyers, "½ off manufacturer's suggested list price." Investigation revealed the representation to be untrue.	The accused pleaded guilty to one charge under section 36(1)(a) and on July 4, 1988, was convicted and fined \$5 000.
Sunrise Lighting Distributors (Maritime) Limited (Halifax, Nova Scotia)	The accused, in promoting the sale of brass lamps, represented in newspaper advertisements that the lamps were available for a limited time at a special price. Investigation revealed that these representations were untrue.	The accused pleaded guilty to one charge under section 36(1)(a) and on July 14, 1988, was convicted and fined \$1 500.
A & B Financiers and Liquidators Ltd. (Dartmouth, Nova Scotia)	The accused, in promoting the sale of oriental carpets, represented in advertisements that cargo was being held in transit by Canada Custom Brokers and had been released for liquidation by public auction. Investigation revealed that the representations were untrue.	The accused pleaded guilty to one charge under section 36(1)(a) and on July 25, 1988, was convicted and fined \$5 000.
597721 Ontario Inc. carrying on business as Anatomy 2000 Clinic. (London, Ontario)*	The accused, in promoting the sale of a weight loss program, represented in newspaper advertisements that its program was guaranteed to remove inches, tone and strengthen muscles, increase endurance and reduce cellulite. Investigation revealed that the representations were untrue.	The accused pleaded guilty to one charge under section 36(1)(a) and on August 8, 1988, was convicted and fined \$5 000.

*See also offences under section 36(1)(b)

Exhibit 19

Appendix VII

175

Misleading Advertising and Deceptive Marketing Practices Provisions: Proceedings Concluded

Product, Names of Accused and Location of Offence	Action Taken and Results
Paragraph 52(1)(a): False or Misleading Representation in a Material Respect	
Gas saving seminar – Thomas James Scott and James Lowry (Calgary, Alberta)	One charge was laid on October 28, 1981. On November 6, 1981, the charge was withdrawn and replaced by another charge. Warrants for the arrest of the accused were issued in July 1982 but have now been cancelled due to the lengthy elapse of time.
Electrical and household appliances, toys – Peter James Bartram c.o.b. as Anglo Canadian Warehouses (Hamilton, Mississauga, Oakville, Bowmanville, Toronto, Ontario)	Seven charges were laid on May 14, 1986. On April 6, 1988, the information and warrant were withdrawn.
Fitness club memberships – David Fisher and Woodlawn Fitness Centre Limited (Dartmouth, Nova Scotia)	On February 2, 1987, four charges were laid against the company, and four charges were laid against the individual. The company pleaded guilty to three charges and on March 9, 1987, was convicted and fined \$1 000 on each charge, for a total fine of \$3 000. The remaining charge against the company was withdrawn. Charges against the individual were subsequently withdrawn.
Mufflers – Zoro Discount Muffler Ltd. c.o.b. as Zoro Discount Muffler (Niagara Falls, Ontario)	Seven charges were laid on January 19, 1987. On April 15, 1988, the accused was convicted and fined \$2 500 on two charges and \$5 000 on one charge for a total fine of \$10 000. The remaining charges were dismissed. An order of prohibition was granted.
Clothing – 275199 Alberta Ltd., 272215 Alberta Ltd., and 275186 Alberta Ltd., c.o.b. as St. Clair Shop and as Francines (Weyburn, Saskatchewan)	Seven charges were laid on May 6, 1987. On February 1, 1988, the accused were convicted on one charge and on April 19, 1988, were each fined \$6 750 for a total fine of \$20 250. The remaining charges were stayed.
School supplies – Zellers Inc. c.o.b. as Zellers (Halifax, Nova Scotia)	One charge was laid on March 2, 1988. On April 18, 1988, the accused was convicted and fined \$10 000.
Jewellery – Larry Gluckstein and Sydney Lanys, c.o.b. as Kenton Liquidators (Toronto, Ontario)	Thirty-seven charges were laid on September 30, 1986. On May 19, 1987, the accused pleaded guilty to three charges each and were convicted and fined \$7 500 on each charge. The accused appealed the sentence and on April 25, 1988, the fine was reduced to \$6 250 for each charge, for a total fine of \$37 500.
Vacuums – Saad Mohammad Attiyat and Marwan Mohammad Attiyat c.o.b. as Corydon Vacuum and Winnipeg Vacuum (Winnipeg, Manitoba)	Five charges were laid on March 9, 1988. On May 4, 1988, the accused pleaded guilty to one charge and were each fined \$1 250, for a total fine of \$2 500. The remaining charges were withdrawn.

Misleading Advertising Bulletin


77

Issue No. 3, 1988 / April - June, 1988

Canada

Director of Investigation
and Research

Competition Act

	Canada Post Postage paid	Postes Canada Port payé
Bulk	En nombre	
third	troisième	
class	classe	
K1A 0C9		
Montreal, Canada		



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

8

Name of Accused and Location of Offence	Details of Offence	Disposition
Section 36(1)(a): False or misleading representation in a material respect		
Zoro Discount Muffler Ltd., carrying on business as Zoro Discount Muffler (Niagara Falls, Ontario)	The accused, in promoting the sale of mufflers, represented in newspaper advertisements a "½ price muffler sale." The advertisements quoted a list price and a sale price for various models of cars. It was established that the representations were untrue.	The accused pleaded not guilty to three charges under section 36(1)(a), but on April 15, 1988, was convicted and fined \$2 500 on two charges and \$5 000 on one charge for a total fine of \$10 000. An Order of Prohibition was granted.
Zellers Inc., carrying on business as Zellers (Halifax, Nova Scotia)	The accused, in promoting the sale of school supplies, represented on in-store signs the "lowest prices on school needs" and "if you buy your supplies anywhere else you'll pay too much." Investigation revealed that the representations were untrue as school supplies could be purchased elsewhere for less.	The accused pleaded guilty to one charge under section 36(1)(a) and on April 18, 1988, was convicted and fined \$10 000.
275199 Alberta Ltd., and 272215 Alberta Ltd., and 275186 Alberta Ltd., carrying on business as St. Clair Shop and Francines (Weyburn, Saskatchewan)	The accused, in promoting the sale of clothing, represented on in-store price tags that they were selling items at a special price. It was established that the advertised price was the regular price for the clothes.	The accused pleaded not guilty to one charge under section 36(1)(a), but on February 1, 1988, were convicted and on April 19, 1988, were each fined \$6 750 for a total fine of \$20 250.

Exhibit 20

Product, Names of Accused and Location of Offence

Action Taken and Results

Paragraph 52(1)(c): Misleading Warranty Representation

Water filters –
Canadian Apollo Water Filters Inc. and Robert MacElwain
(Calgary, Alberta)

One charge was laid on July 9, 1987. The accused pleaded guilty and on September 13, 1988, were convicted. The corporate accused was fined \$3 000 and the individual was fined \$10 000. An order of prohibition was granted.

Paragraph 52(1)(d): Misleading Price Representation

Pens –
Zellers Inc. c.o.b. as Zellers (Dartmouth, Nova Scotia)

Three charges were laid on November 26, 1987. The accused pleaded guilty to one charge and on April 18, 1988, was convicted and fined \$5 000. The remaining two charges were withdrawn.

Fur coats –
Caskie Furs (Regina) Ltd. and Earl Alexander Bremner
(Regina, Saskatchewan)

Twenty-four charges were laid on December 9, 1987. On April 25, 1988, the charges were withdrawn.

Battery charger package –
Home Hardware Stores Limited (London and elsewhere in
Ontario)

One charge was laid on June 22, 1987. On May 20, 1988, the accused was acquitted.

Down duvets –
The Linen Chest (Phase II) Inc./ La Boutique Linen Chest
(Phase II) Inc. (Montréal, Quebec)

One charge was laid on April 6, 1988. On May 24, 1988, the accused pleaded guilty and was convicted and fined \$1 000.

Bookcase –
Les Meubles Tousignant Inc. (Sherbrooke, Quebec)

Six charges were laid on September 15, 1987. The accused pleaded not guilty but on June 20, 1988, was convicted and fined \$250 on each charge for a total fine of \$1 500. On July 19, 1988, the accused appealed the conviction. The appeal was dismissed on October 6, 1988.

Sewing machines –
Zellers Inc. (Ottawa, Ontario)

One charge was laid on August 18, 1987. On July 4, 1988, the charge was withdrawn.

Lamps –
Sunrise Lighting Distributors (Maritime) Limited (Halifax,
Nova Scotia)

One charge was laid on October 16, 1987. On July 14, 1988, the charge was withdrawn.

Windows –
Bagnall's Building Supplies Ltd. (Charlottetown, Prince
Edward Island)

One charge was laid on June 28, 1988. On July 19, 1988, the charge was withdrawn.

Skis –
La Boutique Vent de Mer Inc. c.o.b. as Oberson (Québec,
Quebec)

Three charges were laid on March 17, 1988. The accused pleaded guilty and on August 19, 1988, was convicted and fined \$2 000 on each charge for a total fine of \$6 000.

Misleading Advertising Bulletin

Issue No. 3, 1988 / April - June, 1988

Canada

Director of Investigation
and Research

Competition Act

	Canada Post Postage paid	Postes Canada Port payé
Bulk	En nombre	
third	troisième	
class	classe	
K1A 0C9		
Montreal, Canada		



12

Name of Accused and Location of Offence	Details of Offence	Disposition
Section 36(1)(b): Representation without adequate and proper test		
132013 Canada Ltd., carrying on business as Niagara Labs and Niagara Labs Hair and Scalp Specialists and Dr. Stanley H. Weisberg (Hamilton and St. Catharine's, Ontario)	The accused, in promoting the sale of a hair regrowth product, represented that with use of the product "Hair can be Regrown" and it "Stops Hair Loss." It was established that the representations were not based on an adequate and proper test.	The accused each pleaded not guilty to three charges under section 36(1)(b), but on May 24, 1988, were convicted and fined \$250 on each count for a total fine of \$1 500.
Section 36(1)(d): Misleading representation relating to ordinary selling price		
Zeller's Inc., carrying on business as Zellers (Dartmouth, Nova Scotia)	The accused, in promoting the sale of pens, represented in flyers that the pens were available at 50 percent off the manufacturer's suggested list price. Investigation revealed that the manufacturer's suggested list price was in fact lower than advertised.	The accused pleaded guilty to one charge under section 36(1)(d), and on April 18, 1988, was convicted and fined \$5 000.
The Linen Chest (Phase II) Inc., Boutique Linen Chest (Phase II) Inc. (Montréal, Quebec)*	The accused, in promoting the sale of duvets, represented in a newspaper advertisement a sale of "60% off." Investiga- tion revealed that the repre- sentations were untrue.	The accused pleaded guilty to one charge under section 36(1)(d), and on May 24, 1988, was convicted and fined \$1 000.

* See also offences under 36(1)(a)

Exhibit 21

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1984
to the Hon. Michel Côté, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

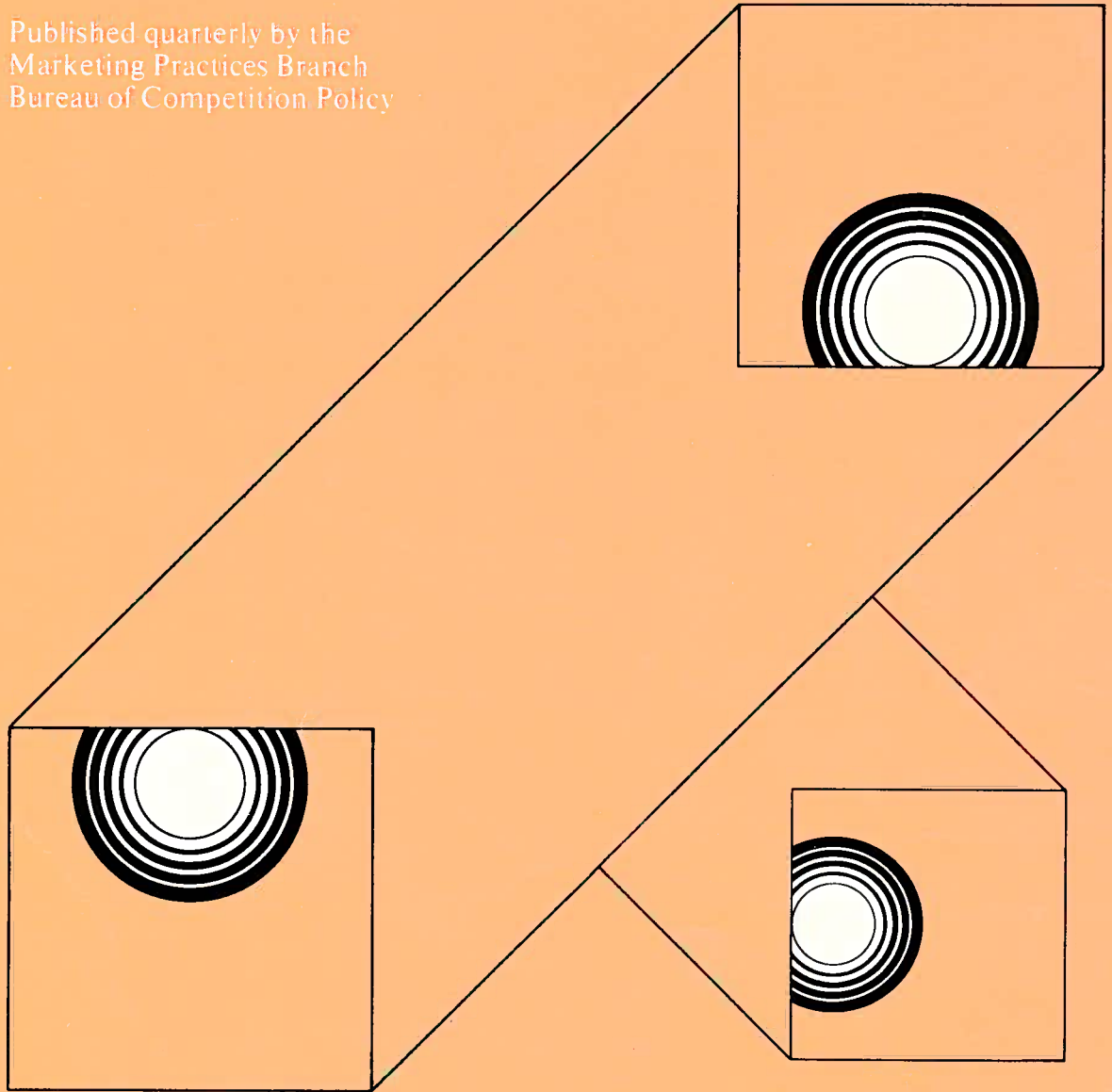
Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Diamond earrings)	H.M.F. Minerals Ltd. and Ralph Zacks (Toronto and Whitby, Ontario)	Three charges were laid on September 22, 1982, under paragraph 36(1)(a). On April 27, 1983, the corporate accused pleaded guilty to one charge and was convicted and fined \$15,000. On May 9, 1983, the remaining charges against the corporate accused and all charges against the individual were withdrawn.
False or misleading representation in a material respect (Slimming devices)	Media Mail Order Inc. (St. John's, Newfoundland)	One charge was laid on August 16, 1982, under paragraph 36(1)(a). On May 9, 1983, the charge was withdrawn.
False or misleading representation in a material respect (Metal products)	Dobney Foundry Ltd. (Vancouver, British Columbia)	Two charges were laid on September 10, 1982, under paragraph 36(1)(a). On May 10, 1983, the charges were dismissed.
Sale above advertised price (Hardware items)	Quincaillerie Morency Inc. (Québec, Québec)	Eight charges were laid on January 26, 1983, under section 37.1. The accused pleaded not guilty but, on May 13, 1983, was convicted on seven charges and fined \$100 on each of four charges and \$75 on each of three charges for a total fine of \$625. The remaining charge was dismissed.
False or misleading representation in a material respect (Insulated airpots)	K-Mart Canada Limited/ K-Mart Canada Limitée carrying on business as K-Mart (Dartmouth, Nova Scotia)	Two charges were laid on October 6, 1982, under paragraph 36(1)(a). The accused pleaded not guilty but, on May 13, 1983, was convicted on one charge and fined \$2,000. The remaining charge was dismissed.
False or misleading representation in a material respect (Gas-saving seminar)	Millage Illimité Inc. and Guy Sasseville (Sherbrooke, Québec)	Three charges were laid on September 13, 1982, under paragraph 36(1)(a). On March 21, 1983, the accused pleaded guilty and were convicted. The corporate accused was fined \$200 on each charge and, on May 16, 1983, the individual was fined \$50 on each charge for a total fine of \$750.
Non-availability (Camping equipment)	Zellers Inc. (Winnipeg, Manitoba)	Nine charges were laid on November 24, 1982, under section 37. On May 13, 1983, one new charge was laid under section 37 and the nine charges were withdrawn. On May 16, 1983, the accused pleaded guilty and was convicted and fined \$1,100.
False or misleading representation in a material respect (Audio equipment)	Audiotrend Ltd. carrying on business as Audio-Video Liquidators of Canada, and David Tsai and Lindsay Lipton (Toronto, Ontario)	One charge was laid on April 19, 1983, under paragraph 36(1)(a). On May 18, 1983, the corporate accused pleaded guilty and was convicted and fined \$20,000. The charges against the individuals were withdrawn.
Sale above advertised price (Health and personal care products)	Gilles Beaulieu and Les Produits de Santé Beaulieu (Giffard, Québec)	Twelve charges were laid on March 17, 1982, under section 37.1 against the corporate accused. On July 23, 1982, a motion for non-suit was allowed and the charges were dismissed. On August 10, 1982, twelve charges were laid against the individual. On May 20, 1983, the individual pleaded guilty and was convicted and fined \$75 on each charge for a total of fine \$900.

Misleading Advertising Bulletin

April/June 1983



Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy



22	Name of Accused and Location of Offence	Details of Offence	Disposition
<u>Section 36.3: Pyramid selling provision</u>			
	Felix J. Ibay carrying on business as Business Success Enterprises Toronto, Ontario	Accused, by means of mail solicitations, invited other persons to participate in a scheme for the sale of "Instant Business Success Kits" wherein a person paid \$25 for a kit and thereafter received the right to commissions on the sale of kits by the accused to other persons participating in the scheme. Investigation revealed that the accused was inviting persons to participate in a scheme of pyramid selling.	Accused pleaded guilty to a charge under section 36.3 and was found guilty on 08/06/83 and given a conditional discharge with a probation term of six months and a condition to make restitution to aggrieved persons.
<u>Section 37: Non-availability of advertised bargains</u>			
	Zellers Inc. Winnipeg, Manitoba	Accused advertised various items of camping equipment for sale at bargain prices. Investigation revealed that the accused did not supply the items in reason- able quantities.	Accused pleaded guilty to a charge under section 37 and was convicted on 16/05/83 and fined \$1,000.
<u>Section 37.1: Sale above advertised price</u>			
	Metropolitan Stores (MTS) Ltd. - Les Magasins Metropoli- tains (MTS) Ltée carrying on business as The Met Sydney, Nova Scotia	Accused advertised mens' and ladies' watches on sale for \$10. Investigation revealed that the accused supplied the watches at a price higher than advertised.	Accused pleaded guilty to a charge under section 37.1 and was convicted on 13/04/83 and fined \$4,000.

Exhibit 22

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1983
to the Hon. Judy Erola, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Car seats)	Hudson's Bay Company (Sydney, Nova Scotia)	One charge was laid on December 17, 1981 under paragraph 36(1)(a). On April 27, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Business opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982 under paragraph 36(1)(a). On May 3, 1982, the accused pleaded guilty and was convicted and fined \$200.
Misleading price representation (Shower massagers)	Clermont Rousseau Entrepreneur Plombier Inc. (Québec, Québec)	One charge was laid on January 26, 1982 under paragraph 36(1)(d). On May 7, 1982, the accused was acquitted.
False or misleading representation in a material respect (Beef)	Julien Desgagné and André Lebrun carrying on business as Boucherie Auclair Enregistré (Ste-Julie, Québec)	One charge was laid on March 18, 1982 under paragraph 36(1)(a). On May 10, 1982, both accused pleaded guilty and were convicted and fined \$200 each for a total fine of \$400.
False or misleading representation in a material respect (Jeans)	Bill Miller carrying on business as The Price is Rite (Harrow, Ontario)	One charge was laid on July 10, 1981 under paragraph 36(1)(a). On May 11, 1982, the accused pleaded not guilty but was convicted and fined \$100.
False or misleading representation in a material respect (Insulation)	Media Mail Order Inc. (Moncton, New Brunswick)	One charge was laid on February 28, 1982 under paragraph 36(1)(a). On May 12, 1982, the accused pleaded guilty and was convicted and fined \$5,000.
False or misleading representation in a material respect (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Three charges were laid on December 16, 1981 under paragraph 36(1)(a). On May 12, 1982, a stay of proceedings was entered.
Misleading price representation (Roller skates)	L.E. Skate Sensation Ltd. (Winnipeg, Manitoba)	Two charges were laid on December 16, 1981 under paragraph 36(1)(d). On May 12, 1982, a stay of proceedings was entered.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain & Placement des Cantons de l'est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981 under paragraph 36(1)(a). On May 12, 1982, the accused was acquitted.
False or misleading representation in a material respect (Vending machines)	Dominion Lighter Sales Inc., 338598 Ontario Limited carrying on business as Dominion Lighter Sales and Terence Francis Alte (Edmonton, Alberta)	One charge was laid on June 7, 1981 under paragraph 36(1)(a). On May 17, 1982, the charge was withdrawn.
False or misleading representation in a material respect (Jewellery)	Centennial Jewellers Limited carrying on business as The Gold Centre (London, Ontario)	One charge was laid on November 30, 1981 under paragraph 36(1)(a). On May 20, 1982, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981 under paragraph 36(1)(a). The accused pleaded not guilty but, on May 21, 1982, was convicted and fined \$500 on each charge for a total fine of \$1,000.
Sale above advertised price (Automobile rentals)	Uptown Auto Rental Ltd. (Toronto, Ontario)	One charge was laid on April 10, 1981 under section 37.1. On May 21, 1982, the charge was withdrawn.

APPENDIX IV — (Continued)

194

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Bankruptcy sale)	Gary's Give-Aways Incorporated, Dick Rogers and Gary Clemmensen (St. Catharines, Ontario)	Thirteen charges were laid on January 5, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Beds)	Gary's Give-Aways Incorporated and Gary Clemmensen (St. Catharines, Ontario)	Two charges were laid on February 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Furniture)	M. Goldsmith and Company Limited (Montréal, Québec)	Ten charges were laid on October 3, 1978, under paragraph 36(1)(a).
False or misleading representation in a material respect (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Car rental rates)	Hertz Canada Limited (Toronto, Ontario)	One charge was laid on November 16, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Phonographic cartridges)	Hi-Fi Express Inc. (Toronto, Ontario)	Six charges were laid on March 25, 1982, under paragraph 36(1)(a)
False or misleading representation in a material respect (Car seats)	Hudson's Bay Company (Cape Breton, Nova Scotia)	One charge was laid on December 17, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(a). On December 22, 1981, a stay of proceedings was entered. On January 29, 1981, a new charge was laid in New Brunswick.
False or misleading representation in a material respect (Insurance)	International Warranty Company Limited (Edmonton, Alberta)	One charge was laid on January 28, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Mail solicitations)	Intra Canada Telecommunications Limited and Ralph Lawrence Devine (Toronto, Ontario)	One charge was laid on October 23, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Three charges were laid on March 6, 1980, against the first three accused and two charges were laid against D. Paton under paragraph 36(1)(a).
False or misleading representation in a material respect (Massagers)	K.B.M. Electropedic Adjustable Beds Ltd. carrying on business as Electropedic Products (Vancouver, British Columbia)	One charge was laid on April 29, 1981, under paragraph 36(1)(a). The accused pleaded not guilty but was convicted and fined \$2,500 on July 10, 1981. Under appeal by accused.
False or misleading representation in a material respect (Real estate)	Hans Kaiser carrying on business as Terrain et Placement des Cantons de l'Est Enr. (Montréal, Québec)	Two charges were laid on April 22, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Klean Burn Manufacturing, Inc. and Henry Norton (London, Ontario)	Two charges were laid on November 5, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Job opportunity)	Louise Klyne (Winnipeg, Manitoba)	One charge was laid on March 9, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under paragraph 36(1)(a). On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Representation without proper test (Electric speed control)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under paragraph 36(1)(b). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
False or misleading representation in a material respect (Gas grill)	Consumers Distributing Company Limited (Toronto, Ontario)	Two charges were laid on June 29, 1981 under paragraph 36(1)(a). The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981 under section 37.1. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Non-availability (Toy)	Consumers Distributing Company Limited (Ottawa, Ontario)	One charge was laid on June 29, 1981 under section 37. The accused pleaded guilty and was convicted on April 19, 1982, and fined \$7,000. Under appeal by accused.
Representation without proper test (Electric speed control)	Hudson's Bay Company (Toronto, Ontario)	One charge was laid on June 29, 1981 under paragraph 36(1)(b). The accused pleaded guilty and on April 19, 1982, was convicted and fined \$10,000. Under appeal by accused.
Sale above advertised price (Sundry items)	André Aubé carrying on business as Pharmacie Aubé and as Uniprix (Montréal, Québec)	Five charges were laid on July 8, 1981 under section 37.1.
Sale above advertised price (Sundry items)	Cumberland Drugs (Merivale) Ltd. and Morrie Neiss (Dorval, Québec)	Sixteen charges were laid on July 8, 1981 under section 37.1.
Sale above advertised price (Sundry items)	Jean Marie Tétrault and Thomas Lapérière carrying on business as Tétrault et Lapérière Associés and as Uniprix (Montréal, Québec)	Fifteen charges were laid on July 9, 1981 under section 37.1.
Non-availability (Drill)	The Governor and Company of Adventurers of England trading into Hudson's Bay carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981 under section 37.
False or misleading representation in a material respect (Mail solicitations)	Intra Canada Telecommunications Limited and Ralph Lawrence Devine (Toronto, Ontario)	One charge was laid on October 23, 1981 under paragraph 36(1)(a).
False or misleading representation in a material respect (Real estate)	Samuel Sarick Limited, Cannard Investments Limited, Collier & Park Advertising Ltd. and Murray Warsh Realty (1978) Limited (Toronto, Ontario)	Four charges were laid on October 23, 1981 under paragraph 36(1)(a). On September 16, 1982, Cannard Investments Limited pleaded guilty to one charge and was convicted and fined \$1,500. Under appeal by Crown. The charges against the other accused were withdrawn.
False or misleading representation in a material respect (Gas-saving seminar)	Thomas James Scott and James Lowry (Calgary, Alberta)	One charge was laid on October 28, 1981 under paragraph 36(1)(a). On November 6, 1981, the charge was withdrawn and replaced by another charge under the same paragraph.

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
False or misleading representation in a material respect (Fur coats)	Steen & Wright Furriers Ltd. (Winnipeg, Manitoba)	One charge was laid on March 17, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Real Estate)	Geoffrey Bushby Stephenson and Grayfriars Realty Ltd. (Surrey, British Columbia)	Six charges were laid on January 18, 1982, under paragraph 36(1)(a).
False or misleading representation in a material respect (Wallpaper)	Tonecraft Limited carrying on business as Color Your World (Toronto, Ontario)	One charge was laid on March 31, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Automobile rental)	Uptown Auto Rental Ltd. (Toronto, Ontario)	Two charges were laid on April 10, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(a).
False or misleading representation in a material respect (Fur coats)	Wendelyn Textiles & Products Ltd. carrying on business as Alan Cherry (Toronto, Ontario)	Nine charges were laid on October 7, 1981, under paragraph 36(1)(a).
False or misleading representation in a material respect (Eye glasses)	F.W. Woolworth Co. Ltd. carrying on business under the name and style of Woolco Department Stores (Brandon, Manitoba)	One charge was laid on March 10, 1982, under paragraph 36(1)(a).
Representation without proper test (Bust developer)	C.C.C.L. Canadian Consumer Company Ltd. and Allan Diamond (Montréal, Québec)	One charge was laid on May 5, 1980, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Fireplace)	Edmonton Fresh Air Fireplaces Ltd. (Edmonton, Alberta)	One charge was laid on January 15, 1982, under paragraph 36(1)(b).
Representation without proper test (Health apparatus)	David John Graham and David John Institute (Toronto, Ontario)	Two charges were laid on August 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Electric speed control)	Hudson's Bay Company (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b).
Representation without proper test (Wheel balancing system)	Imperial Distributing & Supply Limited (Ottawa, Ontario)	One charge was laid on September 15, 1981, under paragraph 36(1)(b). On December 22, 1981, a stay of proceedings was entered. A new charge was laid in New Brunswick on January 29, 1982.
Representation without proper test (Gas-saving device)	Klean Burn Manufacturing, Inc. and Charles Henry Norton (London, Ontario)	Nine charges were laid on November 5, 1981, under paragraph 36(1)(b).
Representation without proper test (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Company Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(b).
Representation without proper test (Engine treatment)	Petro-Lon Canada (Edmonton, Alberta)	One charge was laid on December 7, 1981, under paragraph 36(1)(b).
Representation without proper test (Gas-saving device)	Voguil Inc. and Pierre Guillemette (Québec, Québec)	Three charges were laid on July 8, 1980, under paragraph 36(1)(b).
Misleading warranty or guarantee (Vending machine distributorships)	Java Coffee and Nut Shops Limited, Michael Quinlan, James Wiechoff and Douglas Paton (Windsor, Ontario)	Two charges were laid on March 6, 1980, under paragraph 36(1)(c).

APPENDIX IV — (Continued)

Proceedings Pending at the End of Fiscal Year in Marketing Practices Cases

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken
Non-availability (Watch)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.
Non-availability (Drill)	The Governor and Company of Adventurers of England trading into Hudson's Bay carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981, under section 37.
Non-availability (Air conditioners)	Krazy Kelly's Limited carrying on business as Krazy Kelly's (London, Ontario)	One charge was laid on September 15, 1978, under section 37. On September 10, 1980, the accused pleaded not guilty but was convicted and fined \$1,000. The Crown appealed the sentence and, on February 2, 1981, the appeal was allowed and the fine was increased to \$2,500. Under appeal by Defence.
Non-availability (Building material)	D.J. Shiller Stores Ltd. carrying on business as Au Bon Marché (Montréal, Québec)	Six charges were laid on April 22, 1981, under section 37.
Sale above advertised price (Sundry items)	André Aubé carrying on business as Pharmacie Aubé and as Uniprix (Montréal, Québec)	Five charges were laid on July 8, 1981, under section 37.1.
Sale above advertised price (Grocery items)	J. Bouliannes Inc. carrying on business as Provibec (Escoumins, Québec)	Seven charges were laid on December 28, 1981, under section 37.1.
Sale above advertised price (Sundry items)	René Brault, Laurent Trudeau and Distributions Brault & Trudeau Inc. carrying on business under the name and style of Pharmacie Jean Coutu (R. Brault & L. Trudeau) Enr. (St. Agathe and St. Jovite, Québec)	Twelve charges were laid on December 8, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean-Claude Brouillette carrying on business as Pharmaprix (Dorval, Québec)	Twelve charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Pierre Brunet carrying on business as Pharmaprix (Longueuil, Québec)	Five charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Beauty products)	Willie Brunet carrying on business as Pharmacie Brunet Enr. (Québec, Québec)	Twelve charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Food items)	Centre D'Escompte Racine Inc. carrying on business as Uniprix (Beauport, Québec)	Fifteen charges were laid on March 17, 1981, under section 37.1.
Sale above advertised price (Gold rings)	Consumers Distributing Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacies Escompte Jean Coutu Enr. & Pharmacies Jean Coutu Enrg. (Répertigny, Québec)	Twenty-two charges were laid on November 27, 1981, under section 37.1.
Sale above advertised price (Sundry items)	Jean Coutu carrying on business as Pharmacies Jean Coutu Enr. (Longueuil, Québec)	Thirty charges were laid on November 30, 1981, under section 37.1.
Sale above advertised price (Drug store items)	Jean Coutu carrying on business as Pharmacie Jean Coutu Enr. (Granby, Québec)	Twelve charges were laid on March 19, 1982, under section 37.1.

Annual Report

Director of Investigation and Research

Combines Investigation Act

for the year ended March 31, 1984
to the Hon. Michel Côté, Minister



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II — (Continued)

200

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
False or misleading representation in a material respect (Dog training)	Canisphere Kennels Ltd. (Winnipeg, Manitoba)	One charge was laid on December 30, 1982, under paragraph 36(1)(a). The accused pleaded not guilty but, on October 20, 1983, was found guilty and granted an absolute discharge.
False or misleading representation in a material respect (Make-up cases)	Jay Norris Canada Inc. (Dartmouth, Nova Scotia)	One charge was laid on June 13, 1983, under paragraph 36(1)(a). The accused pleaded not guilty but, on October 28, 1983, was convicted and fined \$7,500.
False or misleading representation in a material respect (Silver dollars)	476993 Ontario Corporation carrying on business as Upper Canada Mint and Claude A. Broos (New Westminster, Kelowna, Prince George and Vancouver, British Columbia)	Six charges were laid on January 25, 1982, under paragraph 36(1)(a). On January 13, 1983, the corporate accused pleaded guilty and was convicted and fined \$3,000 on each charge for a total fine of \$18,000. A stay of proceedings was entered with respect to the charges against the individual. The corporate accused appealed the sentence but, on October 28, 1983, the appeal was dismissed and the sentence upheld.
Representation without proper test (Electric speed control device)	Hudson's Bay Company Limited (Toronto, Ontario)	One charge was laid on June 29, 1981, under paragraph 36(1)(b). On April 13, 1982, the accused pleaded guilty and was convicted and fined \$10,000. On May 5, 1982, the accused filed an appeal against sentence but, on November 1, 1983, the appeal was dismissed as abandoned by appellant.
Promotional contest (Skis and skates)	Tayside Sports Ltd. (Perth, Ontario)	Three charges were laid on September 20, 1983, under section 37.2. On November 1, 1983, the accused pleaded guilty to one charge and was convicted and fined \$50. The remaining charges were withdrawn.
False or misleading representation in a material respect (Kerosene heaters)	Wayne Conrad carrying on business as Custom Van World (Sydney, Nova Scotia)	Four charges were laid on August 31, 1983, under paragraph 36(1)(a). On November 3, 1983, the accused pleaded guilty and was convicted and fined \$250 on each of two charges and \$50 on the other two charges for a total fine of \$600.
Misleading price representation (Clothing)	Boutique des Amoureux Ltée (Montréal and Longueuil, Québec)	Three charges were laid on July 5, 1983, under paragraph 36(1)(d). On November 9, 1983, the accused pleaded guilty and was convicted and fined \$500 on each charge for a total fine of \$1,500.
Misleading price representation (Stereo equipment)	Mann's T.V. and Stereo Limited (Toronto, Ontario)	Six charges were laid on December 23, 1982, under paragraph 36(1)(d). On November 10, 1983, the charges were dismissed.
False or misleading representation in a material respect (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(a). On November 15, 1983, the charge was withdrawn.
Representation without proper test (Asbestex)	Edward Joseph McHale and Ottawa Perma-Coating Ltd. (Ottawa, Ontario)	One charge was laid on June 8, 1981, under paragraph 36(1)(b). On November 15, 1983, the corporate accused pleaded guilty and was convicted and fined \$1,000. The charge against the individual was withdrawn.

APPENDIX II — (Continued)

Part II - Misleading Advertising and Deceptive Marketing Practices

Nature of Inquiry	Names of Accused and Location of Offence	Action Taken and Results
Misleading warranty representation (Employment opportunities)	John William Groves and Stef's World Trade Ltd. carrying on business as Lumby Publishing (Nelson, British Columbia)	Three charges were laid on September 22, 1983, under paragraph 36(1)(c). On November 15, 1983, the corporate accused pleaded guilty and was convicted and fined \$100 on each charge for a total fine of \$300. The charges against the individual were withdrawn.
Non-availability (Drill)	Hudson's Bay Co. carrying on business as Shop-Rite Catalogue Stores (Toronto, Ontario)	Three charges were laid on August 31, 1981, under section 37. On November 21, 1983, the accused pleaded guilty to one charge and was convicted and fined \$1,000. The remaining charges were withdrawn.
Misleading price representation (Sundry items)	Ghislain Gobeil carrying on business as Liquidation Kent Enr. (Ottawa, Ontario)	One charge was laid on October 12, 1983, under paragraph 36(1)(d). On November 22, 1983, the accused pleaded guilty and was convicted and fined \$500.
False or misleading representation in a material respect (Mattresses and box springs)	Majoli Furniture Ltd. and 408022 Ontario Limited both carrying on business as The Sleep Factory (Toronto, Ontario)	Eleven charges were laid on October 19, 1983, under paragraph 36(1)(a). On November 23, 1983, the accused pleaded guilty to seven charges and was convicted and fined \$1,700 on each charge for a total fine of \$11,900. The remaining charges were withdrawn.
False or misleading representation in a material respect (Furniture)	Meubles Gaston Auclair Inc. and Gaston Auclair (Cowansville, Québec)	One charge was laid on May 31, 1983, under paragraph 36(1)(a). On November 25, 1983, both accused pleaded not guilty but were convicted and fined \$250 each for a total fine of \$500.
False or misleading representation in a material respect (Hotel accommodation)	Keddy's Motor Inn (Fredericton) Limited (Fredericton, New Brunswick)	One charge was laid on November 8, 1983, under paragraph 36(1)(a). On November 29, 1983, the accused pleaded guilty and was convicted and fined \$800.
False or misleading representation in a material respect (Woodstoves)	Les Foyers Econo Inc. (St-Romuald, Québec)	Three charges were laid on August 26, 1983, under paragraph 36(1)(a). On December 2, 1983, the accused pleaded guilty and was convicted and fined \$300 on each charge for a total fine of \$900.
False or misleading representation in a material respect (Real estate)	Morris Bojeck (St-Bruno, Québec)	One charge was laid on June 16, 1983, under paragraph 36(1)(a). On December 2, 1983, the accused was acquitted.
False or misleading representation in a material respect (Microwave ovens)	Ameublement Prestige Furniture Ltd. (Ottawa, Ontario)	One charge was laid on August 12, 1983, under paragraph 36(1)(a). On December 6, 1983, the accused pleaded guilty and was convicted and fined \$1,000.
False or misleading representation in a material respect (Mattresses and box springs)	Belvedere Beddings Ltd. carrying on business as The Sleep Factory (Hamilton, Ontario)	Fourteen charges were laid on October 28, 1983, under paragraph 36(1)(a). On December 9, 1983, the accused pleaded guilty to 10 charges and was convicted and fined \$1,200 on each charge for a total fine of \$12,000. The remaining charges were withdrawn.

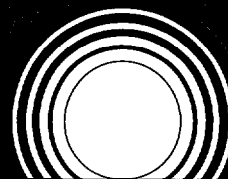
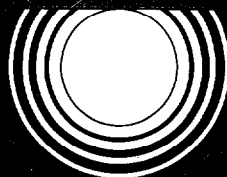
Misleading Advertising Bulletin

April/June 1982

Published quarterly by the
Marketing Practices Branch
Bureau of Competition Policy

1982

3



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

16	Name of Accused and Location of Offence	Details of Offence	Disposition
	<u>Section 36(1)(b)</u>		
	Hudson's Bay Company Limited Toronto, Ontario	Accused, in promoting the sale of an automotive "Electric Speed Control" device, represented: "Maintains highway speed without foot on the gas pedal." Investigation revealed that the representation was not based on an adequate and proper test.	Accused pleaded guilty to a charge under section 36(1)(b) and was convicted on 13/04/82 and fined \$10,000. (Under appeal by accused).
	Consumers Distribu- ting Company Limited Toronto, Ontario	Accused represented that an automotive "Electric Speed Control" device "Holds desired speed for you." Investigation revealed that the representation was not based on an adequate and proper test.	Accused pleaded guilty to a charge under section 36(1)(b) and was convicted on 19/04/82 and fined \$7,000. (Under appeal by accused).
	Imperial Distributing & Supply Limited Ottawa, Ontario	Accused represented that a "permanent wheel balancing system" attached to the wheel of an automobile would have the effect of longer tire life, better braking, better stability and better road hold. Investigation revealed that the representation was not based on an adequate and proper test.	Accused pleaded guilty to a charge under section 36(1)(b) and was convicted on 28/05/82 and fined \$250.

Exhibit 23

Annual Report

**Director of Investigation
and Research**

**Combines
Investigation Act**

**for the year ended
March 31, 1977**



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

APPENDIX II—(Continued)

Proceedings Completed in Cases Referred to the
Attorney General of Canada Direct

Nature of Inquiry	Names of Persons or Companies Proceeded Against	Action Taken and Results
False Advertising (Motor Vehicles)	M & M Doyle Limited carrying on business under the name and style of Union Purchase Association	Two charges were laid at Toronto under paragraph 37(1)(a). On November 23, 1976, the accused company pleaded guilty to the second charge and was fined \$300. The first charge was withdrawn.
False Advertising (Car Rentals)	Budget Car Rentals Toronto Limited carrying on business under the firm name and style of Budget Rent-A-Car	One charge was laid at Toronto under paragraph 37(1)(b). On November 23, 1976, the charge was dismissed.
False Advertising (Device—Electronic Ignition Improvement)	Hafeez Ahmed Mirza carrying on business under the name and style of Silver Style Supplies	One charge was laid at Toronto under paragraph 37(1)(a). On November 25, 1976, the charge was withdrawn.
False Advertising (Swimming Pools)	Eugene Morgulis carrying on business as Pool World of Canada and Esther Williams Pools and Sheldon Schwartzberg	Three charges were laid at Hamilton under paragraph 37(1)(a). On November 29, 1976, Schwartzberg was convicted on one charge and fined \$1,000. The two remaining charges were outside the jurisdiction of the court. Morgulis was never brought before the court to answer the charges and the case was therefore closed.
Breach of Order of Prohibition	Ameublement Leger Inc.	One charge was laid at Montreal under subsection 30(6). On December 1, 1976, the accused was convicted and fined \$10,000.
False Advertising (Furniture and Furnishings)	Nathan Tessis	One charge was laid at Toronto under paragraph 37(1)(a). On December 6, 1976, the accused was acquitted.
False Advertising (Description of Business)	Federaland Sales Limited	One charge was laid at Dartmouth, N.S. under subsection 37(1). On December 7, 1976, the charge was dismissed.
False Advertising (Sweaters)	The Governor and Company of Adventurers of England Trading into Hudson's Bay also known as Hudson's Bay Company carrying on business under the name and style of The Bay	One charge was laid at Toronto under paragraph 37(1)(a). On December 9, 1976, the accused pleaded guilty and was fined \$1,500.
False Advertising (Device—Gas Saver)	Northeast Brokerage Limited	One charge was laid at St. John's, Nfld. under subsection 37(1). On December 17, 1976, the charge was dismissed.
False Advertising (Radios, Tape Recorders and Calculators)	Thomcor Holdings Ltd.—La Compagnie de Gestion Thomcor Ltée	Eight charges were laid at Montreal under subsection 37(1). On January 7, 1977, the charges were withdrawn.
False advertising (Electrical Fixtures)	Madame Bernard Moisan carrying on business under the name and style of Quincaillerie Moisan Enrg. et Bernard Moisan	One charge was laid at Montreal under paragraph 37(1)(a). On January 7, 1977, the accused was acquitted.
False Advertising (Camera)	Rutherford Photo Limited carrying on business under the name and style of Toronto Camera Centre and Toronto Camera Centres Limited carrying on business under the name and style of Toronto Camera	One charge was laid at Toronto under paragraph 37(1)(a). On January 12, 1977, Rutherford Photo Limited pleaded guilty and was fined \$1,500. The charge against Toronto Camera Centres Limited was withdrawn.

APPENDIX II—(Continued)

Proceedings Completed in Cases Referred to the
Attorney General of Canada Direct

Nature of Inquiry	Name of Persons or Companies Proceeded Against	Action Taken and Results
False advertising (Film)	Triple Print Film Labs Limited	Five charges were laid at Ottawa under subsection 37(1). On January 13, 1977, the accused pleaded guilty to one charge and was fined \$1,000. The remaining four charges were withdrawn.
False Advertising (Jewellery)	Williams of Burlington Limited	One charge was laid at Hamilton under paragraph 37(1)(a). On January 28, 1977, the charge was dismissed.
False Advertising (Shoes)	The Italian Room Shoe Salon Inc.	One charge was laid at Montreal under paragraph 37(1)(a). On February 7, 1977, the accused pleaded guilty and was fined \$450.
False Advertising (Furniture)	Le Roi des Bas Prix de la Region de Montreal Ltée doing business under the name of Faucher Roi des Bas Prix Enrg.	Four charges were laid at Montreal under paragraph 37(1)(a). On February 8, 1977, the accused was convicted and fined \$1,000 on each of the first and second charges and \$500 on each of the third and fourth charges for a total fine of \$3,000.
False advertising (Dwelling Units)	W.B. Sullivan Construction Limited, carrying on business under the name and style of 4091 Sheppard Avenue East and 4101 Sheppard Avenue East	Three charges were laid at Toronto under paragraph 37(1)(a). On February 11, 1977, the accused was convicted and fined \$4,000 on each charge for a total fine of \$12,000.
False Advertising (Employment Opportunity)	James Flonders and Randall A. Henry	Three charges were laid at London under paragraph 37(1)(a). On February 17, 1977, the accused pleaded guilty and were fined \$300 each on one charge for a total fine of \$600. The remaining two charges were withdrawn.
False advertising (Houses—Second Mortgages)	Costain Estates Limited	Two charges were laid at Ottawa under subsection 37(1). On February 24, 1977, the accused was convicted on the second charge and fined \$1,000. A stay of proceedings was entered in respect of the first charge.
Misleading Price Representation (Clipper Kits)	Sayvette Limited and David Charles Robinson and Gregory Robert Walker	One charge was laid at Toronto under subsection 36(1). On February 28, 1977, the charge against the accused was dismissed.
False Advertising (Business Opportunity)	John Brower—John Robert Smy	One charge was laid at Toronto under paragraph 37(1)(b). On March 2, 1977, both accused pleaded guilty and were each fined \$500.
False Advertising (100 Ounce Silver Bars)	Bay Coins & Stamps Ltd. and The Governor and Company of Adventurers of England Trading Into Hudson's Bay also known as Hudson's Bay Company	One charge was laid against Hudson's Bay Company and Bay Coins & Stamps Ltd. at Toronto under paragraph 37(1)(a). On February 23, 1976, Bay Coins & Stamps Ltd. pleaded guilty and was fined \$2,000. On October 12, 1976, Hudson's Bay Company was found guilty and a fine of \$750 was imposed. On November 10, 1976, Crown filed an appeal against that sentence. On November 16, 1976, the company filed Notice of Appeal. On March 14, 1977, the Ontario Court of Appeal upheld the conviction and allowed the Crown's Appeal as to sentence. The fine was increased to \$5,000.

MISLEADING ADVERTISING BULLETIN

published quarterly by
Misleading Advertising Division
Bureau of Competition Policy



Consumer and
Corporate Affairs

Consommation et
Corporations

FEBRUARY 1977

<u>Name of accused and location</u>	<u>Details of offence</u>	<u>Disposition</u>
The Governor and Company of Adventurers of England Trading into Hudson's Bay also known as Hudson's Bay Company carrying on business as The Bay, Toronto, Ontario	Accused advertised "Don Parker Sweaters - Famous Canadian Made Quality". Investigation revealed that the sweaters were made in Hong Kong.	Accused pleaded guilty to a charge under section 37(1) and was convicted on 9/12/76 and fined \$1,500.
<u>Amended Provisions of Act</u>		
<u>Name of accused and location</u>	<u>Details of offence</u>	<u>Disposition</u>
Cie de Bijouterie Continental - Continental Jewellery Co., Dieppe, New Brunswick	Accused represented on a cardboard mount that a pendant had a "hand engraved initial". Investigation revealed that the initial was in fact traced by machine and not hand engraved as advertised.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 1/11/76 and fined \$50.
Morgan's Variety Store Ltd., Wainwright, Alta.	Accused advertised \$4.00 trade in sale on old blue jeans and cords and as an "added special" \$2.00 off boys jeans and cords. It was established that contrary to the impression conveyed by the advertisement the \$4.00 trade in did not apply to boy's jeans.	Accused pleaded not guilty to a charge under section 36(1)(a) and was convicted on 9/11/76 and fined \$50.
Lynnlee Emjay Limited, carrying on business as Banwell's Better Luggage and Gift Shop, Windsor, Ontario	Accused advertised merchandise for sale stating "Save 70% on everything." Investigation revealed that the ordinary selling price was considerably inflated and the savings were therefore not as advertised.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 19/11/76 and fined \$500.
Knobhill Pharmacy Limited, Toronto, Ontario	Accused represented a sale of products as a "½ price or better drug sale". Investigation revealed that the products represented as half-price were not being sold at half the ordinary selling price in the market area.	Accused pleaded guilty to a charge under section 36(1)(a) and was convicted on 25/11/76 and fined \$500.

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;
and

IN THE MATTER OF an application for orders pursuant to section 74.1 of the
Competition Act for conduct reviewable pursuant to paragraph 74.01(1)(a) and
subsection 74.01(3) of the *Competition Act*.

BETWEEN:

COMMISSIONER OF COMPETITION

Applicant

- and -

HUDSON'S BAY COMPANY

Respondent

Supplemental Witness Statement of Adam Zimmerman

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase 1
50 Victoria Street, 22nd Floor
Gatineau, QC K1A 0C9
Fax: (819) 953-9267

Alexander Gay (LSUC: 37590R)
Tel: (613) 670-8497
Alexander.Gay@justice.gc.ca

Derek Leschinsky (LSUC: 48095T)
Tel: (819) 956-2842
Derek.Leschinsky@canada.ca

Katherine Rydel (LSUC: 58143I)
Tel: (819) 997-2837
Katherine.Rydel@canada.ca

Counsel to the Commissioner of Competition

Tab 3

Expert Report of Theodore L. Banks

Please refer to ANNEX B of the Commissioner's Memorandum of Fact and Law

Tab 4

Expert Report of Dr. Joel Urbany

Please refer to ANNEX C of the Commissioner's Memorandum of Fact and Law

Tab 5

Competition Tribunal



Tribunal de la concurrence

Reference: *The Commissioner of Competition v. Hudson's Bay Company*, 2018 Comp Trib 6
File No.: CT-2017-008
Registry Document No.: 65

IN THE MATTER OF an application for orders pursuant to section 74.1 of the Competition Act for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the Competition Act;

AND IN THE MATTER OF a case management conference held on March 9, 2018 to discuss the scheduling proposal filed by the parties and related oral submissions.

BETWEEN:

The Commissioner of Competition
(applicant)

and

Hudson's Bay Company
(respondent)



Date of case management conference: March 9, 2018
Before Judicial Member: J. Gagné
Date of Order: March 28, 2018

ORDER AMENDING THE SCHEDULING ORDER

[1] **FURTHER TO** the notice of application filed by the Commissioner of Competition (“**Commissioner**”) against the respondent, Hudson’s Bay Company (“**HBC**”) for orders pursuant to section 74.1 of the Competition Act for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the *Competition Act*;

[2] **AND FURTHER TO** the Tribunal’s Order, dated February 22, 2018, granting the Commissioner’s motion to file his Amended Notice of Application;

[3] **AND FURTHER TO** the Commissioner filing his Amended Notice of Application on February 26, 2018;

[4] **AND FURTHER TO** parties’ correspondence, dated March 5, 2018, attaching their scheduling proposals and requesting a case management conference;

[5] **AND FURTHER TO** a case management conference held on March 9, 2018;

[6] **AND WHEREAS**, in the particular circumstances of this case – specifically, the filing of an Amended Notice of Application by the Commissioner – and taking into consideration the submissions made by the parties at the case management conference, the Tribunal is satisfied that the following revised dates are appropriate and respect the principles found in subsection 9(2) of the *Competition Tribunal Act*, RSC 1985, c 19 (2nd Supp), and, in particular, the considerations of procedural fairness;

THE TRIBUNAL ORDERS THAT:

[7] The schedule for the remaining pre-hearing steps shall now be as follows:

March 21, 2018	Last day for HBC to file Amended Response
March 28, 2018	Last day for Commissioner to file Amended Reply
June 1, 2018	HBC produces Further Affidavit of Documents
Aug. 13 – Sept. 14, 2018	Examinations for discovery according to a schedule to be settled between counsel
October 15, 2018	Deadline for fulfilling answers to discovery undertakings
October 30, 2018	Last day for filing of motion arising from answers to undertakings and refusals
November 20, 2018	Hearing of any motions arising from answers to undertakings or refusals
November 23, 2018 December 19, 2018	Last day for follow-up examinations for discovery Commissioner to serve documents relied upon, witness statements and expert reports, if any

January 4, 2019	Commissioner to serve list of documents proposed to be admitted without further proof
January 8, 2019	Mediation Briefs are due
January 22 and 23, 2019	Mediation before the Honourable Justice Robert Barnes
March 1, 2019	HBC to serve documents relied upon, witness statements, and expert reports (if any)
March 13, 2019	Deadline for delivering any Request for Admissions
March 22, 2019	Applicant to serve list of Reply documents, witness statements and expert reports (if any)
April 5, 2019	Deadline to provide documents to the Tribunal for use at the hearing (e.g., Briefs of Authorities, witness statements, expert reports and Agreed Books of Documents) Deadline for responding to any Requests for Admissions
April 18, 2019	Deadline for the hearing of any motions for Summary Dispositions and/or any motions related to the evidence

[8] The hearing of the Application shall commence at 10:00 a.m. on May 6, 2019, in the hearing room of the Tribunal located at 600-90 Sparks Street, Ottawa. The schedule for the hearing shall be as follows:

May 6-10, 2019	First week of hearing
May 13-17, 2019	Second week of hearing
May 20-24, 2019	Third week of hearing
May 27-31, 2019	Fourth week of hearing
June 3-7, 2019	Fifth week of hearing

[9] The Tribunal will hear oral argument from June 25-27, 2019 in Ottawa.

DATED at Ottawa, this 28 day of March 2018.

SIGNED on behalf of the Tribunal by the Judicial Member

(s) Jocelyne Gagné

COUNSEL OF RECORD:

For the applicant:

The Commissioner of Competition

Alexander Gay
Derek Leschinsky
Katherine Rydel

For the respondent:

Hudson's Bay Company

Eliot Kolers
Mark Walli
William S. Wu

Tab 6

Competition Tribunal



Tribunal de la concurrence

Reference: *The Commissioner of Competition v. Hudson's Bay Company*, 2018 Comp Trib 12

File No.: CT-2017-008

Registry Document No.: 73

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an application for orders pursuant to section 74.1 of the *Competition Act* for conduct reviewable pursuant to paragraph 74.01(1)(a) and subsection 74.01(3) of the *Competition Act*.

BETWEEN:

The Commissioner of Competition
(applicant)

and

Hudson's Bay Company
(respondent)

Decided on the basis of the written record

Before Judicial Member: J. Gagné J.

Date of Order: May 8, 2018

AMENDED CONFIDENTIALITY ORDER

FURTHER TO the application filed by the Commissioner of Competition (the “**Commissioner**”) against the Respondent, Hudson’s Bay Company (“**HBC**”) pursuant to paragraph 74.1(1)(a) and subsection 74.01(3) of the *Competition Act*, R.S.C. 1985, c. C-34, as amended (the “**Act**”);

AND FURTHER to the confidentiality order dated December 21, 2017 filed on consent by the Commissioner and HBC;

AND FURTHER to the draft confidentiality order filed on consent by the Commissioner and HBC, which makes provision for Level C Protected Records;

THE TRIBUNAL ORDERS THAT:

[1] For the purposes of this Order:

- (a) “**Act**” mean the *Competition Act*, RSC 1985, c C-34, as amended;
- (b) “**Affiliate**” means, in respect of a Person, any other Person controlling, controlled by or under common control with such first Person, whether directly or indirectly, and “control” means directly or indirectly hold securities or other interests in a Person (i) to which are attached more than 50% of the votes that may be cast to elect directors or persons exercising similar functions or (ii) entitling the holder to receive more than 50% of the profits of the Person or more than 50% of its assets on dissolution;
- (c) “**Commissioner**” means the Commissioner of Competition appointed pursuant to section 7 of the Act or any person designated by the Commissioner to act on his behalf;
- (d) “**Fact Witness**” means an individual who has personal knowledge of facts relevant to this proceeding, is expected to give evidence at the hearing, and has executed a confidentiality agreement in the form attached as Schedule A hereto;
- (e) “**Designated Representatives**” means up to three in-house counsel and up to four additional individuals designated by HBC as their respective representatives who will be permitted access to Records designated as Level B Protected Records in accordance with the terms of this Order, which designations shall be made by written notice to the Tribunal, with a copy sent concomitantly to the Commissioner. The Commissioner may make a motion to the Tribunal objecting to such designations;
- (f) “**Record Review Vendor**” means a professional service provider retained by a Party with respect to the Proceeding to facilitate the review of Records, both digital and paper, by legal professionals and who has executed a confidentiality agreement in the form attached as Schedule A hereto;
- (g) “**Independent Expert**” means an expert retained by a Party with respect to the Proceeding who (i) is not a current employee of the Respondent; (ii) has not been an employee of the Respondent or its Affiliates within 2 years prior to the date of this Order, (iii) is not a current employee of a competitor of the Respondent or its Affiliates; (iv) has not been an employee of a competitor of the Respondent within 2 years prior to the date of this

Order; and (v) has executed a confidentiality agreement in the form attached as Schedule A hereto;

(h) “**Parties**” means the Commissioner and the Respondent collectively, and “**Party**” means any one of them;

(i) “**Person**” means any individual or corporation or partnership, sole proprietorship, trust or other unincorporated organization capable of conducting business, and any Affiliates thereof;

(j) “**Proceeding**” means the application filed by the Commissioner against the Respondent (File Number CT-2017-008);

(k) “**Protected Record**” means any Record (including the information such Record contains) that is produced in the Proceeding, including documents listed in affidavits of documents, excerpts from transcripts of examinations for discovery, answers to undertakings, documents produced with answers to undertakings, expert reports, lay witness statements, pleadings, affidavits or submissions that:

(i) the Party producing the Record claims is confidential pursuant to Section 4 of this Order; or

(ii) the Tribunal has determined is confidential;

(l) “**Record**” has the same meaning as in subsection 2(1) of the Act and, for greater certainty, includes any email or other correspondence, memorandum, pictorial or graphic work, spreadsheet or other machine readable record and any other documentary material, regardless of physical form or characteristics;

(m) “**Respondent**” means the Hudson’s Bay Company doing business as Hudson’s Bay, its directors, officers, employees, agents, representatives, successors and assigns; and all joint ventures, subsidiaries, divisions, groups and Affiliates controlled by the Respondent, and the respective directors, officers, employees, agents, representatives, successors and assigns of each; ~~and~~

(n) “**Third Party**” means any Person other than the Commissioner or the Respondent; and

(o) “**Tribunal**” means the Competition Tribunal established pursuant to s. 3(1) of the *Competition Tribunal Act*, RSC 1985, c 19 (2nd Supp), as amended.

[2] Disclosure of Records containing any of the following types of information could cause specific and direct harm, and such Records may be designated as Protected Records:

(a) Information relating to prices (to the extent that such prices have not been published or made generally known to competitors and customers), capacity, specific output or revenue data or market shares, or negotiations with customers or suppliers about prices, rates or incentives;

- (b) Sales figures of the Respondents that are otherwise not public;
- (c) Confidential contractual arrangements between the Respondent and its customers, agents, and/or suppliers;
- (d) Financial data or reports, or financial information relating to the Respondent or its customers, suppliers or a Third Party;
- (e) Business plans, marketing plans, strategic plans, budgets, forecasts and other similar information;
- (f) Internal market studies and analyses;
- (g) Internal investigative and related documents belonging to the Commissioner;
- (h) Other Records containing competitively sensitive and/or proprietary information of a Party or Third Party.

[3] If information from a Protected Record is incorporated into any other Record, that Record shall be a Protected Record. Any Protected Record shall cease to be a Protected Record if: (a) it or the protected information contained therein becomes publicly available (except if it becomes publicly available through a breach of this Order); (b) if the Parties agree that the Record shall cease to be a Protected Record; or (c) the Tribunal determines that the Record shall cease to be a Protected Record.

[4] Protected Records will be identified in the following manner for the purpose of this Proceeding:

- (a) A Person who claims confidentiality over a Record shall, at the time of production of a Protected Record, mark it with the name of the entity producing the Record and with “Confidential – Level A”, ~~or~~ “Confidential – Level B” or “Confidential –Level C” on the face of each Record and/or on each page that is claimed as confidential;
- (b) Subject to Section 3 of this Order, all Records designated as Protected Records shall be treated as a Protected Record, save for determination otherwise by the Tribunal or re-designation pursuant to Section 8 below;
- (c) The inadvertent failure to designate a Record or portion thereof as Confidential at the time it is disclosed does not constitute waiver of the right to so designate after disclosure has been made;
- (d) If a Record originates with or from more than one Party and is designated by at least one Party as a Protected Record, the highest level of confidentiality shall universally attach to that Record, subject to the resolution of any challenge to that claim of confidentiality;
- (e) At any point in the Proceeding, a Party may challenge a claim of confidentiality or level of confidentiality made by another Party. The Parties shall use their best efforts

to agree as to whether the Records (or portions thereof) are to be treated as Protected Records; and

- (f) If agreement cannot be reached, the Parties may apply to the Tribunal to determine whether the Record or a portion thereof, is a Protected Record.

[5] Subject to a further order of the Tribunal, the consent of the Party or Parties that produced and claimed confidentiality over the Protected Record, or as required by law, Protected Records marked “Confidential – Level A” (“**Level A Protected Records**”) may be disclosed only to:

- (a) the Commissioner, counsel to the Commissioner, and the Commissioner’s staff who are directly involved in the Proceeding;
- (b) outside counsel to the Respondent and outside counsel’s staff who are directly involved in the Proceeding;
- (c) Independent Experts and their staff who are directly involved in the Proceeding;
- (d) Record Review Vendors; and
- (e) a Fact Witness, but such disclosure may be done only in preparation of the witness to give evidence at the hearing and the confidential documents disclosed must bear upon the witness’ expected evidence.

[6] Subject to a further order of the Tribunal, the consent of the Party or Parties that produced and claimed confidentiality over the Protected Record, or as required by law, Protected Records marked “Confidential – Level B” (“**Level B Protected Records**”) may be disclosed only to:

- (a) the individuals described in Section 5 above; and
- (b) Designated Representatives of the Respondent who have executed a confidentiality agreement in the form attached as Schedule A.

[7] Subject to a further order of the Tribunal, the consent of the Commissioner, or as required by law, Protected Records marked “Confidential – Level C” by the Commissioner (“**Level C Protected Records**”) may be disclosed only to:

- (a) outside counsel of the Respondent and its staff who are directly involved in the Proceeding;
- (b) Independent Experts and their staff of the Respondent who are directly involved in the Proceeding;
- (c) Record Review Vendors of the Respondent; and
- (d) the person who supplied Level C Protected Records to the Commissioner.

[8] Notwithstanding any provision of this Order, the Commissioner may disclose any Level A Protected Records, ~~or~~ Level B Protected Records or Level C Protected Records that he has so designated, and that have not been produced in this Proceeding by the Respondent or otherwise originated from the Respondent, subject to the limits prescribed by section 29 of the Act; and the Respondent may do the same with respect to documents it has so designated, and that have not been produced in this Proceeding by the Commissioner or otherwise originated from the Commissioner.

[9] A Party may at any time and with prior reasonable notice to the other Parties re-designate any of its own Level A Protected Records as Level B Protected Records or public documents, its Level C Protected Records as Level A Protected Records, Level B Protected Records or public documents, and/or may re-designate any of its own Level B Protected Records as public documents. Where another Party disputes the re-designation, the Tribunal shall determine the proper designation. Records re-designated as public shall cease to be Protected Records and shall form part of the public record if introduced into evidence at the hearing of the Proceeding, unless the Parties agree otherwise or the Tribunal so orders. If a Party changes the designation of a Record to confidential, a prior disclosure of it shall not constitute a breach of this Order.

[10] If a Party is required by law to disclose a Protected Record, or if a Party receives written notice from a Person who has signed a confidentiality agreement pursuant to this Order that they are required by law to disclose a Protected Record, that Party shall give prompt written notice to the Party that claimed confidentiality over the Protected Record so that a protective order or other appropriate remedy may be sought.

[11] Outside counsel to the Respondent and his or her staff, counsel to the Commissioner, the Commissioner and his staff, and Independent Experts and their staff, may make copies of any Protected Record as they require in connection with the Proceeding.

[12] Nothing in this Order prevents a Party from having full access to Protected Records that originated from that Party.

[13] For greater certainty, in accordance with section 62 of the *Competition Tribunal Rules*, all Persons who obtain access to Records and information through documentary, written and oral discovery through this Proceeding are subject to an implied undertaking to keep the Records and information confidential and to use the Records and information solely for the purposes of this Proceeding (including any application or proceedings to enforce any order made by the Tribunal in connection with this Proceeding) and any related appeals.

[14] At the hearing of the Proceeding:

- (a) Protected Records tendered as evidence at the hearing of the Proceeding shall be identified and clearly marked as such, in accordance with paragraph 4(a), above;
- (b) The Tribunal may determine whether the Record should be treated as a Protected Record;
- (c) Protected Records shall not form part of the public record unless the Party or Parties claiming confidentiality waive the claim, or the Tribunal determines that the Record is not a Protected Record;

- (d) Records over which no privilege or confidentiality claim has been asserted shall, unless otherwise determined by the Tribunal at the hearing, form part of the public record in this Proceeding if introduced into evidence or otherwise placed on the record. Public Records shall be marked “Public” on the face of the document; and
- (e) Nothing in this Order shall abrogate or derogate any legal burden or requirement applicable to a sealing order or abrogate or derogate in any way from the rights of the Parties to assert confidentiality claims during the course of the hearing.

[15] The Parties shall provide the Tribunal with redacted versions of Protected Records at the time any such Records are introduced into evidence or otherwise placed on the record, which redacted versions shall be marked “Public” on the face of the document and shall form part of the public record in this Proceeding. Each Protected Record shall identify the portions of the document which have been redacted from the “Public” version, by highlighting such portions in the Protected Record.

[16] The termination of the Proceeding shall not relieve any person to whom Protected Records were disclosed pursuant to this Order from the obligation of maintaining the confidentiality of such Protected Records in accordance with the provisions of this Order and any confidentiality agreement, subject to any further order of the Tribunal.

[17] Upon completion or final disposition of the Proceeding and any related appeals, all Protected Records and any copies of Protected Records, with the exception of Protected Records in the possession of the Commissioner and his staff, shall be destroyed or returned to the Party that produced them unless the Party that produced the Protected Records states, in writing, that they may be disposed of in some other manner, provided that outside counsel to the Respondent and counsel to the Commissioner may keep copies of Protected Records in their files and that any copies of Protected Records as may exist in the Parties' automatic electronic backup and archival systems may be kept provided that deletion is not reasonably practical and the copies are retained in confidence and not used for any purpose other than backup and archival purposes.

[18] The Parties shall bear their own costs associated with the request for and issuance of this Order.

[19] Nothing in this Order prevents or affects the ability of a Party from applying to the Tribunal for further order or directions with respect to the use or disclosure of Records or information produced by another Party.

[20] The Tribunal shall retain jurisdiction to deal with any issues relating to this Order, including, without limitation, the enforcement of this Order and any undertakings executed pursuant to this Order. This Order shall be subject to further direction of the Tribunal and may be varied by order of the Tribunal.

DATED at Ottawa, this 8th day of May, 2018.

SIGNED on behalf of the Tribunal by the presiding judicial member

(s) Jocelyne Gagné

SCHEDULE "A"**Confidentiality Undertaking**

IN CONSIDERATION of being provided with information or documentation in connection with the Proceeding prior to the issuance of a Confidentiality Order by the Competition Tribunal or a further agreement between the parties to that proceeding relating to confidentiality (the "**Confidential Information**"), I _____, of the City of _____, in the Province/State of _____, hereby agree to maintain the confidentiality of the Confidential Information so obtained, until such a Confidentiality Order or further agreement is reached that may supersede or amend this Undertaking.

1. I will not copy or disclose the Confidential Information so obtained to any other person, except, as applicable, (a) my staff who are directly involved in this matter who have signed an Undertaking in substantially the same form as this one; (b) counsel for the Party on whose behalf I have been retained, members of counsel's firm who are directly involved in this Proceeding and, in the case of the Commissioner, the Commissioner's staff directly involved in the Proceeding; (c) other experts retained by or on behalf of the Party on whose behalf I have been retained and who have signed a similar confidentiality Undertaking; and (d) persons permitted by order of the Competition Tribunal. Nor will I use the Confidential Information so obtained for any purpose other than in connection with this Proceeding and any related proceedings.

2. Upon completion of this Proceeding and any related proceedings, I agree that the Confidential Information, and any copies of same, shall be dealt with in accordance with instructions from counsel for the Party I am retained by or as prescribed by the Order of the Competition Tribunal.

3. I acknowledge and agree that the completion of this Proceeding and any related proceedings shall not relieve me of the obligation of maintaining the confidentiality of the Confidential Information in accordance with the provisions of this Undertaking, subject to any further order of the Tribunal. I acknowledge that I am aware of the Confidentiality Order granted by the Competition Tribunal in this matter and agree to be bound by same. I further acknowledge and agree that any Party shall be entitled to injunctive relief to prevent breaches of this Undertaking and to specifically enforce the terms and provisions hereof, in addition to any other remedy to which they may be entitled in law or in equity.

4. In the event that I am required by law to disclose any of the Confidential Information, I will provide counsel for the Party on whose behalf I have been retained with prompt written notice so that the Party that claimed confidentiality over such Confidential Information may seek a protective order or other appropriate remedy. In any event, I will furnish only that portion of the Confidential Information that is legally required and I will exercise my best efforts to obtain reliable assurances that confidential treatment will be accorded to the Confidential Information.

5. I will promptly, upon the request of the person providing the Confidential Information, advise where such material is kept. At the conclusion of my involvement, I will, upon the request and direction of the person providing the Confidential Information, destroy, return or otherwise dispose of all Confidential Information received or made by me having been duly authorized and directed to do so.

6. I hereby attorn to the jurisdiction of the Federal Court of Canada and/or the Competition Tribunal to resolve any disputes arising under this Undertaking.

DATED this _____ day of _____, 201__.

SIGNED, SEALED & DELIVERED in the presence of:

Name of Signatory

Name of Witness

COUNSEL OF RECORD

For the applicant:

The Commissioner of Competition

Alexander Gay
Katherine Rydel
Derek Leschinsky

For the respondent:

Hudson's Bay Company

Eliot Kolers
Mark Walli
William Wu

CT-2017-008

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;
and

IN THE MATTER OF an application for orders pursuant to section 74.1 of the
Competition Act for conduct reviewable pursuant to paragraph 74.01(1)(a) and
subsection 74.01(3) of the *Competition Act*.

BETWEEN:

COMMISSIONER OF COMPETITION

Applicant

- and -

HUDSON'S BAY COMPANY

Respondent

**MOTION RECORD
OF THE COMMISSIONER OF COMPETITION**

ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase 1
50 Victoria Street, 22nd Floor
Gatineau, QC K1A 0C9
Fax: (819) 953-9267

Alexander Gay
Tel: (613) 670-8497
Alexander.Gay@justice.gc.ca

Derek Leschinsky
Tel: (819) 956-2842
Derek.Leschinsky@canada.ca

Katherine Rydel
Tel: (819) 997-2837
Katherine.Rydel@canada.ca

Counsel to the Commissioner of Competition