

THE COMPETITION TRIBUNAL

IN THE MATTER OF an Application by the
Director of Investigation and Research under
sections 77 and 79 of the Competition Act
R.S.C. 1985 c. C-34 as amended.

Between:

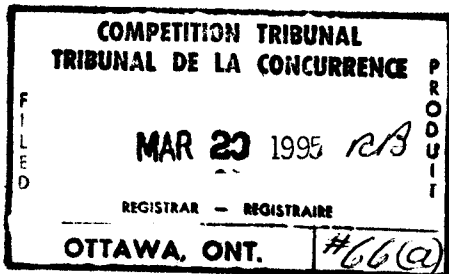
THE DIRECTOR OF INVESTIGATION AND RESEARCH

Applicant

- and -

TELE-DIRECT (PUBLICATIONS) INC.,
TELE-DIRECT (SERVICES) INC.

Respondents



See amendment #66 (c)

NOTICE OF APPLICATION (AMENDED)

TAKE NOTICE THAT:

1. The Applicant, the Director of Investigation and Research will make an application to the Competition Tribunal pursuant to sections 77 and 79 of the Competition Act R.S.C. 1985, c. C-34 as amended, for:

(a) an order pursuant to s. 77 of the Competition Act prohibiting the Respondents from continuing to engage in the practice of tied selling and to take such further steps as are necessary to restore or stimulate competition in the market, including:

(i) that the Respondents offer and supply advertising services and advertising space at separate prices and in a fashion that the price of advertising services and advertising space when offered together equals the sum of the separately quoted prices for such products and that such separate prices reflect the relative costs of providing each component; or, in the alternative

(ii) that the Respondents expand their commission criteria so that all or further advertisements placed by independent advertising agencies certified by the Respondents qualify for a specified commission, where the aforesaid certification is available on a non-discriminatory basis to all independent advertising agencies who can satisfy reasonable requirements of solvency; or, in the further alternative

(iii) that the Respondents take the action specified in clause (i), after or during a reasonable transition period in which the action specified in clause (ii) is taken.

(b) an order pursuant to s. 79 of the Competition Act prohibiting the Respondents from engaging in the practice of anti-competitive acts specified herein and directing the Respondents to take such actions as are reasonable and necessary to overcome the effects of the said practice, including:

Market for Advertising Services

(i) that the Respondents take the action specified in subparagraph (b) above in respect of tied selling;

(ii) that the Respondents be prohibited from providing advertising space to independent advertising agencies

on less favourable terms and conditions than those available to the Respondents' own sales staff, or otherwise discriminating between independent advertising agencies and the Respondents' own sales staff;

(iii) that the Respondents accept orders for advertising space on behalf of any party that can satisfy the Respondents' reasonable requirements of evidence of authority to act on behalf of an advertiser and capacity to pay for the space requested;

(iv) that the Respondents establish the same or substantially similar deadline for the receipt of orders from advertising agencies as applies to orders received from the Respondents' own sales staff;

(v) that the Respondents make available to advertising agencies or their customers the same payment and credit terms made available to advertisers handled by the Respondents' own sales staff;

(vi) that the Respondents make available to independent advertising agencies, in a timely fashion, through some freely and publicly available vehicle, information regarding any promotional programs (i.e. marketing policies applying to more than one customer) which would affect advertisers' costs or the availability of additional space or colour offered to advertisers;

(vii) that the Respondents make such programs available to advertisers who use the services of an independent advertising agency on the same terms as such programs are made available to advertisers handled by the Respondents' own sales staff;

(viii) that the Respondents provide, to independent agencies, marketing tools and information relating to the sale or supply of advertising space, such as "tear sheets", maps and directories, on the same terms as such tools and information are provided to the Respondents' own sales staff;

(ix) that the Respondents accept and process orders from independent agencies on the same terms and conditions as apply to orders accepted and processed from their own sales staff;

(x) that the Respondents be prohibited from squeezing the return available to independent agencies by acts which include transferring functions, refusing services previously available, or making the terms of supply or commission more onerous or restrictive;

(xi) that the Respondents supply, to any party who requests it, the specifications utilized by them in the reception, placing and publishing of orders for advertising space;

(xii) that the Respondents licence, at the request of independent advertising agencies, including consultants, and on commercially reasonable terms and conditions, the trade marks registered for the Respondents' own use in relation to telephone directories;

Market for Advertising Space

(xiii) that the Respondents be prohibited from targeting price reductions and other discounts for advertising space to those markets in which entry by competing publishers has occurred or is occurring;

(xiv) that the Respondents be prohibited from causing, directly or indirectly, advertising agencies to refuse to place advertising in telephone directories published by competing publishers or otherwise discriminating, or causing advertising agencies to discriminate against competing publishers; and

(c) an order to the effect that, in the event of a dispute, the Director or the Respondents may apply to the Tribunal for a further order interpreting any of the provisions of the order made; and

(d) such further and other order to remedy the anti-competitive effects of the practices engaged in by the Respondents as the evidence may disclose and the Tribunal may deem just and necessary.

AND TAKE NOTICE THAT:

2. The Applicant will rely upon the Statement of Grounds and Material Facts which follows and is attached hereto.

3. If you do not file a response with the Registrar of the Tribunal within thirty days of the date upon which this Notice of Application and accompanying Grounds are served upon you, the Tribunal may, upon the ex parte application of the Director, make such order as it considers appropriate.

4. The persons against whom an order is sought are the Respondents. Their address is set out below.

5. The Applicant will seek directions from the Tribunal for the expeditious hearing of this Application in Ottawa.

6. The Applicant requests that this Application be heard in the English language.

DATED at Hull, Quebec, this 22nd day of December, 1994.

(original application signed by)
George N. Addy

Director of Investigation
and Research

ADDRESS FOR SERVICE OF THE APPLICANT:

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