

## CANADIAN COMPETITION RECORD

# CANADIAN COMPETITION LAW AND POLICY DEVELOPMENTS

*The articles in this section were written by staff of the Record and staff of the Competition Bureau.*

## THE CANADIAN BAR ASSOCIATION FIFTH ANNUAL COMPETITION LAW CONFERENCE

For the fifth consecutive year, The Canadian Bar Association is pleased to present Canada's premiere Competition Law Conference. This year the conference will explore various issues which will influence the development of Competition Law in the next century.

The plenary sessions will address the following topics:

- The Year in Review: Leading Cases and Developments in 1996/97;
- The Future of International Antitrust: The 21<sup>ST</sup> Century Belongs to the World; and
- Key Developments in Marketing Law.

Mark your calendars now for September 18 and 19, 1997. The conference will be held at The Château Cartier Hotel in Aylmer, Quebec (just across the Ottawa River from the Nation's Capital).

For more information, or to register, please contact the Canadian Bar Association, Continuing Legal Education Department, 902-50 O'Connor Street, Ottawa, Ontario, K1P 6L2, or phone (613) 237-2925

(toll free 1-800-267-8860) or fax (613) 237-0185 or e-mail [info@cba.org](mailto:info@cba.org)

Staff

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## COMPETITION BUREAU REQUIRES RESTRUCTURING OF NON-HAZARDOUS SOLID WASTE MERGER

*The following is a News Release issued by the Competition Bureau on June 6, 1997, and is reproduced with permission.*

The Competition Bureau announced today that it is not challenging the closing of the acquisition by Canadian Waste Services Inc. ("CWS") of certain non-hazardous solid waste assets of Waste Management Inc. ("WMI"). The collection and disposal assets are located in British Columbia, Alberta, Ontario and Quebec.

"The decision not to challenge the transaction is the result of steps taken by CWS which will address the substantial lessening of competition arising from the merger, thereby benefitting customers," said Francine Matte, Q.C., Senior Deputy Director of Investigation and Research under the *Competition Act*.

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As a result of serious competitive concerns identified by the parties and the Competition Bureau in the commercial front-end business, CWS has agreed to sell certain of CWS and/or WMI commercial front-end collection assets in the Greater Vancouver, Edmonton, Calgary, Kitchener and Barrie markets. Assets to be sold include commercial front-end routes, customer contracts, containers and trucks. Commercial front-end service involves the collection and disposal of containers of waste by front-end trucks from institutional and commercial customers such as restaurants, offices and small establishments.

The Senior Deputy Director has approved the sale of the commercial front-end collection assets in these five markets to a new company ("Newco"), owned by an arm's length group of investors with experience in the waste management industry. The identity of the ownership group of Newco will be made public following shareholder approval, expected within three weeks. The sale to Newco was completed at the same time as the acquisition by CWS of the WMI assets. An interim arrangement has been reached between CWS and the purchaser to ensure that competition is preserved during a transition period.

In addition to these assets, Newco will acquire the interest of USA Waste Services in Western Canadian Waste Services Inc., whose operations are located in British Columbia and Alberta. USA Waste Services is the parent company of CWS.

Newco will also acquire the solid waste collection assets which CWS is required to divest as a result of a Consent Order issued by the Competition Tribunal on April 16, 1997. These assets include Allied Waste Holdings (Canada) Ltd.'s waste collection business in Sarnia; the CWS business in Brantford; and the CWS assets acquired from WMI in the Ottawa and Outaouais markets.

An additional competition issue involves the acquisition by CWS of the WMI landfill in Edmonton, giving CWS a dominant position in the Edmonton disposal market. As a result, CWS has committed to remedying competition concerns through a sale or reassignment of landfill rights in the Edmonton area. The completion of this process is expected to be finalized within the next two months.

The Bureau's review of the transaction involved the assistance of economic experts. Information was obtained from many participants in the waste services industry, including customers, competitors and other related parties.

Early identification to the Bureau of those markets where this acquisition could result in competition concerns enabled the Bureau to resolve the problematic aspects of the acquisition while permitting the transaction to proceed on a timely basis. The Bureau reserves the right to review all aspects of the matter.

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### **HMI MODEL AND TALENT AGENCIES CONVICTED FOR MISLEADING ADVERTISING UNDER THE COMPETITION ACT**

*The following is a News Release issued by the Competition Bureau on June 9, 1997, and is reproduced with permission.*

The Competition Bureau announced today that Mr. Shannon Hoehn and Click Modeling and Talent Agency of Canada, operating as HMI Model and Talent Agencies ("HMI") pleaded guilty to a total of fifteen counts in the commission of offences contrary

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to section 52(1)(a) of the misleading advertising and deceptive marketing provisions of the *Competition Act*.

Fines totalling \$200,000 on the company and \$4,300 on Mr. Hoehn were imposed by the Provincial Court of Ontario, in Toronto. The fine imposed on Mr. Hoehn was applied to the reimbursement of victims named in the information.

The illegal conduct involved representations that specific modeling and acting opportunities were available through HMI. The misrepresentations related to approximately one thousand display and classified advertisements placed in both daily newspapers and weekly tabloids in Greater Metropolitan Toronto. The Competition Bureau's investigation determined that HMI was not in the business of securing modeling or acting jobs for its customers, but was in the business of selling courses or photographs. Many of the advertisements specifically referred to employment opportunities for children.

In addition to the fines, a Prohibition Order was imposed on both Mr. Hoehn and the company for five years. The terms of the Order require, among other things, that Mr. Hoehn and the company comply with the Act by not misrepresenting the nature of modeling and acting opportunities. The Order specifically prohibits Mr. Hoehn from incorporating or causing the incorporation of companies for the purpose of continuing or repeating the offence.

"Consumers need to be cautious when they are asked to pay exorbitant prices in advance for questionable modeling and acting courses or photographs with a promise of future work," said Mr. von Finckenstein, Director of Investigation and Research under the *Competition Act*. "False expectations are often created. This conviction shows that this type of

misrepresentation will be prosecuted under the *Competition Act*."

The Metropolitan Toronto Police Services provided useful assistance to the Bureau in the case.

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### INDIVIDUAL CONVICTED FOR MISLEADING ADVERTISING INVOLVING SALE OF CARPETS

*The following is a News Release issued by the Competition Bureau on July 9, 1997, and is reproduced with permission.*

The Competition Bureau announced today that Mr. Hossein Farjami of Aban Persian Rugs Inc., who was tried in two separate cases at the same time relating to the misleading advertising and deceptive marketing provisions under the *Competition Act*, was convicted in both matters.

Mr. Farjami is the sole shareholder of Aban Persian Rugs of Markham, Ontario, a company importing and selling carpets in Canada through stores and auctions which were advertised in newspapers or mailings sent to regular customers.

A fine totalling \$11,300 was imposed by the Quebec Court, Criminal Division, in Montreal on June 27, 1997, in relation to the commission of offences contrary to section 52(1)(a) of the Act.

The first case involved representations in two Montreal-area newspapers from September to December 1992, describing the urgent need to auction carpets. The advertisements suggested various pretexts for the auction of these carpets including actions taken by customs authorities.

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The second case involved representations in three Montreal-area newspapers from February to September 1993, describing a going-out-of-business sale by Parvizian Masterpieces of Montreal, a business in which Mr. Farjami had an interest. The advertisements included such phrases as "Final sale", "This week only", "Last day", "Last phenomenal auction" and "Everything must go".

The Bureau's investigation determined that, contrary to the claims in the advertisements, the business continued to operate and that inventory was regularly brought in from other sources.

"Our investigation also determined that there was no urgent need to auction the carpets," stated Mr. Konrad von Finckenstein, Director of Investigation and Research under the *Competition Act*. "Consumers should be aware that the claims made with respect to carpet auctions can be false and misleading."

On May 15, 1995, Aban Persian Rugs pleaded guilty to the same charges as those against Mr. Farjami. The company was fined a total of \$70,000 on January 31, 1996.

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### INFORMATION BULLETIN ON CORPORATE COMPLIANCE PROGRAMS RELEASED BY THE COMPETITION BUREAU

*The following is a News Release issued by the Competition Bureau on July 10, 1997, and is reproduced with permission.*

The Competition Bureau announced today that the Information Bulletin on Corporate Compliance Programs is now available.

This publication is one in an ongoing series of Bulletins and other publications designed to assist all businesses to better understand the *Competition Act* and to comply with it in their daily operations. The Bureau encourages firms to adopt internal programs of compliance.

"The importance of a corporate compliance program in avoiding anti-competitive conduct under the Act and in detecting and dealing with such behaviour cannot be underestimated," said Mr. Konrad von Finckenstein, Director of Investigation and Research under the *Competition Act*. "Business persons want to comply with the law and we have prepared, in consultation with stakeholders, a proactive approach to maximize compliance efforts."

Copies of the Bulletin are available by contacting the Competition Bureau at these numbers:

Toll free: 1-800-348-5358

National Capital area: 997-4282

You may also go to the Bureau's Internet address:  
<http://strategis.ic.gc.ca/competition>

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