

MEDIA RELEASE

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Competition Commission's Decision in respect of Investigations into Resale Price Maintenance by Wholesalers of Secondary School Books.

Summary

Upon completion of three separate investigations by the Executive Director against Editions Le Printemps Ltée ('ELP'), Editions de L'Océan Indien ('EOI') and Edubooks Co Ltd, the Commissioners of the Competition Commission have determined each case and found that as importers/wholesale distributors of secondary school books, these companies have individually breached the prohibition against resale price maintenance in the Competition Act 2007 (the 'Act').

The breach relates to the distributors' practice of concluding wholesale dealings for secondary school books with retail bookshops on the basis of retail prices for secondary school books, as determined by the distributors themselves. Given the characteristics of the market for secondary school books in Mauritius, this practice was found to distort resellers' commercial independence in setting their own retail pricing, yielding uniform retail prices for secondary school books on the market.

The Commission has imposed directions on the companies to cease the practice of communicating retail prices to retail bookshops in the course of wholesale dealings and to clearly inform retail bookshops of their retail pricing freedom when selling to customers.

The companies collaborated fully with the investigation and volunteered measures at their end to address infringing practices and amend their commercial practices to become compliant with the law.

The investigations

Editions Le Printemps Ltée, Editions de L'Océan Indien, and Edubooks Co Ltd are the main importers and wholesale distributors of secondary school books in Mauritius. They respectively supply secondary school books at wholesale to retail bookshops. In addition, all three also operate in the retail segment through their retail outlets.

The investigations focused on the prevailing industry practice of wholesale distributors communicating, upon request, price lists for secondary school books to retail bookshops and which contain the retail prices of the textbooks. The listed prices were determined by the wholesale distributors. Such price lists were used by suppliers and retail bookshops in concluding sales for secondary school books. It was also observed that contractual agreements negotiated ahead of peak sales periods between some wholesale distributors and their resellers on wholesale discounts were also linked to retail prices/price lists of secondary school books.

The investigations assessed whether the individual practices of the concerned companies were tantamount to prohibited vertical agreement(s) under section 43 of the Act. Section 43 prohibits *“an agreement between a supplier and a dealer with the object or effect of directly or indirectly establishing a fixed or minimum price or price level to be observed by the dealer when reselling a product or service to his customers.”*

The Executive Director found that supplier communications on retail pricing to retailers eliminate market uncertainties and distort resellers' commercial independence in setting their own retail pricing for secondary school titles. The manner of concluding wholesale business /discounting on the basis of retail price lists for secondary school books, accentuated such distortion and facilitated an understanding among booksellers that retail prices communicated to them by their suppliers, which also operate at retail level, are to be observed as market prices when retailing secondary school books to end-consumers. Considering the above, the parties' conducts were found to have the object of directly or indirectly establishing a fixed reselling price for secondary school titles to be observed by the resellers.

Following his investigations, the Executive Director therefore found that the conducts of each of the concerned companies were in breach of the resale price maintenance provisions of the Act.

Decision of the Commissioners

After considering the findings of the Executive Director together with the companies' willingness to cooperate in remedying the matters of concern, the Commissioners of the Competition Commission have directed the concerned companies to cease the practices of using price lists containing retail prices when dealing with retail bookshops. They can no longer communicate retail pricing information to resellers and have to modify existing agreements with resellers that make mention of applicable resale prices. Booksellers should be informed that they are free to apply their own retail prices for the secondary school textbooks. The Commission upon reviewing the conducts in their current specificities and on the basis of the specific factors of each case decided not to impose fines on the main parties.

The Decisions of the Commissioners can be accessed from the website of the Commission.

Statement from the Executive Director

Deshmuk Kowlessur, Executive Director of the Competition Commission, said:

"The market for textbooks in Mauritius is a very sensitive one. I am conscious that parents find it hard to pay for a list of books that costs over thousands of rupees at the end of each academic year. For this reason, I consider it appropriate that RPM practices are condemned and remedial action taken, to the benefit of our student population. There is a need for retailers to play their role in the supply chain and to rigorously compete with one another on service level and prices to attract customers and gain sales legitimately. Market forces ought to dictate the price setting process. Undue interference in this process by suppliers or at times, at the behest of resellers, is detrimental to the process of rivalry at retail level and to consumers. Following the investigations now, the bookshops will have to decide on their own prices and students are likely to benefit from the competitive prices of the textbooks. The collaborative stance taken by the companies to quickly remedy the matter was commendable and this led to the rapid completion of the three investigations."

End of Media Release.