

Memorandum of Understanding
BETWEEN THE COMMISSIONER OF COMPETITION OF THE COMPETITION
BUREAU

AND:

HER MAJESTY THE QUEEN IN THE RIGHT OF ONTARIO
AS REPRESENTED BY THE MINISTER OF COMMUNITY SAFETY AND
CORRECTIONAL SERVICES operating as THE ONTARIO PROVINCIAL POLICE
(“OPP”)

Whereas the Commissioner of Competition and the Commissioner of the OPP (the “OPP Commissioner”) are the Participants to this Memorandum of Understanding;

Whereas the Participants share a common goal of enhancing the public interest through investigating illegal economic activities that are of regional, provincial, national or international significance to the Canadian economy;

Whereas the Participants wish to acknowledge their important relationship and to recognize that cooperation can contribute to improve delivery of their respective mandates;

Whereas certain conspiracies, agreements or arrangements between or among two or more competitors or persons are criminal offences under the *Competition Act*;

Whereas the Competition Bureau’s Immunity Program has proven to be its single most powerful means of detecting covert cartel activity;

Whereas certain false or misleading representations and certain deceptive marketing practices are criminal offences under the *Competition Act*;

Whereas the Participants are members of several mass marketing fraud investigative partnerships with other domestic and international law enforcement partners;

Whereas cooperation and coordination will enhance the effectiveness of the Participants to deliver investigative excellence relating to activities concerning investigations of possible cartel activity and misleading representations and deceptive marketing practices; and

Whereas the Participants recognize their shared interest in working together to communicate the results of their collaborative efforts to other partners, and to federal and provincial government departments and agencies.

Therefore the Participants understand as follows:

1. Purpose and Governing Principles

- 1.1 The purpose of this Memorandum of Understanding (“MOU”) is to promote cooperation and coordination between the Participants in addressing possible cartel activity and misleading representations and deceptive marketing practices in Ontario and Canada.
- 1.2 In order to achieve the purpose of this MOU, areas of collaboration may include:
 - (a) enforcement, cooperation and coordination;
 - (b) sharing of resources and information; and
 - (c) education and awareness.

2. Definitions

- 2.1 In this MOU, these terms will have the following definitions:
 - (a) “cartel activity” means conduct subject to the criminal cartel provisions in sections 45, 46, 47, 48 and 49 of the *Competition Act*;
 - (b) “false or misleading representations and deceptive marketing practices” means conduct subject to the criminal provisions in sections 52, 52.01, 52.1, 53, 54, 55 and 55.1 of the *Competition Act*; and
 - (c) “enforcement activity” includes an inquiry or examination conducted by the Commissioner of Competition under the *Competition Act* involving possible cartel activity, false or misleading representations and deceptive marketing practices, or an investigation conducted by the OPP involving possible cartel activity, or false or misleading representations and deceptive marketing practices.

3. Preservation of Powers, Duties and Functions

- 3.1 The Participants have separate powers, duties and functions, and each recognizes the other’s independence in performing its powers, duties and functions.
- 3.2 Nothing in this MOU abrogates or derogates from any power, duty, operational decision or decision-making function of the Commissioner of Competition, the OPP Commissioner, or the OPP.

4. Enforcement, Cooperation and Coordination

4.1 The Participants will consult with each other on matters of mutual interest whenever the need arises. As part of this consultation process, the Participants will:

- (a) seek to coordinate their enforcement efforts where the Participants consider it appropriate to do so, given each organization's responsibilities to administer and enforce their applicable legislation;
- (b) seek to work together to minimize potential adverse effects of one Participant's enforcement activities on the other Participant's enforcement interests;
- (c) provide support, upon request, to each other's enforcement activities, where appropriate and when resources are available; and
- (d) meet annually (or more frequently, as necessary) at the management level to explore further opportunities for cooperation and coordination.

5. Sharing of Resources and Information

5.1 The Participants will share resources and information in accordance with Canadian and Ontario legislation. More specifically, the Participants will:

- (a) work in cooperation and coordinate resources and exchange information in order to increase expertise in areas of mutual interest; and
- (b) share information related to enforcement activity, including associated best practices and information relating to international policies and programs, in areas of mutual interest.

6. Education and Awareness

6.1 Training and awareness enhance the ability of the Participants to achieve their goals of preserving and promoting the benefits of a fair, efficient and competitive Canadian marketplace. The Participants will provide outreach activities through training and awareness programs aimed at educating organizations and individuals on how to detect and prevent illegal activities in Ontario and Canada.

7. Financial Arrangements

7.1 The Participants will bear their own costs in carrying out their obligations under this MOU.

7.2 Should certain services provided by one Participant to the other require reimbursement, the Participants will concur in writing to reimburse, on a cost recovery basis only, the cost of those services prior to the Participant submitting an invoice to the other.

8. Confidentiality

- 8.1 Subject to the provisions of the *Competition Act*, the *Access to Information Act*, the *Privacy Act*, the *Freedom of Information and Protection of Privacy Act*, any other applicable legislation of Parliament or the province of Ontario, and any relevant policies and/or guidance documents, the information communicated between the Participants pursuant to this MOU will be treated confidentially.
- 8.2 Any information communicated between the Participants can only be used for the specific purpose for which it was provided, and cannot be communicated to a third party without the express written consent of the Participant from whom it originated unless:
- (a) such information has been made public; or
 - (b) such communication is required by law, in which case the Participant will notify the other as soon as possible upon learning of such requirement in order to enable them to take the steps necessary to maintain the confidentiality of the information.
- 8.3 Each Participant shall immediately inform the other Participant of any request under applicable access to information and/or privacy legislation, or other lawful authority, for information and/or documents provided pursuant to this MOU. The Participant responsible for handling such a request shall consult with the other Participant and the other Participant will provide assistance. The Participant responsible for handling any such request shall endeavour to protect the information and/or documents from disclosure to the extent permitted by law.

9. Review

- 9.1 The Participants will evaluate the effectiveness of their activities under this MOU annually, commencing with the first anniversary of its coming into effect.

10. Amendments

- 10.1 The Participants may amend this MOU, provided such amendments are signed, witnessed, and dated by individuals capable of binding each Participant.

11. Communications

- 11.1 The Participants will be represented publicly in communications related to this MOU by the following designated officials or their delegates:

For the OPP	For the Commissioner Deputy Commissioner of Competition Cartels Directorate
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Deputy Commissioner, Investigations and Organized Crime Command Ontario Provincial Police	Cartels and Deceptive Marketing Practices Branch - and - Deputy Commissioner of Competition Deceptive Marketing Practices Directorate Cartels and Deceptive Marketing Practices Branch
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12. Effective Date and Termination

12.1 This MOU will come into effect on the date of last signature.


12.2 This MOU will remain in effect indefinitely.

12.3 Either Participant may terminate this MOU by providing 30 days' notice in writing to the other Participant.

In Witness Whereof, this MOU was signed in duplicate, in both official languages, each copy being equally authentic.

For the Ontario Provincial Police

Date




J.V.N. (Vince) Hawkes
Commissioner
Ontario Provincial Police

13 Jun 15

For the Commissioner of Competition

Date



Matthew Boswell
Senior Deputy Commissioner of
Competition

July 2, 2015.

