






Restricting the Supply and Use of Products



WHEN A COMPANY USES RESTRICTIVE PRACTICES IN THE MARKETPLACE

Restrictive practices, such as exclusive dealing, tied selling and market restriction, may be cause for concern under the *Competition Act*. These types of restrictions may exist, for example, in franchise agreements, distribution relationships, dealer agreements or other similar relationships. However, these practices are not always harmful to competition. In some situations, these practices may enhance the distribution of a product to the benefit of consumers.




□ UNDERSTANDING EXCLUSIVE DEALING, TIED SELLING AND MARKET RESTRICTION

-  **Exclusive Dealing** occurs when a supplier requires or induces a customer to deal only, or mostly, in products supplied by the supplier or someone designated by the supplier.
-  **Tied Selling** occurs when a supplier, as a condition of supplying a particular product, requires or induces a customer to acquire a second product, or prevents the customer from using or distributing another product with the supplied product.
-  **Market Restriction** occurs when a supplier requires a customer to sell specified products in a defined market, or penalizes a customer for selling outside a defined market.

□ WHEN THE *COMPETITION ACT* APPLIES



Exclusive dealing, tied selling and market restriction may raise issues under the *Competition Act* when the following conditions are met:

-  The practice is engaged in by a major supplier or is widespread in relation to a product.
-  In the case of exclusive dealing and tied selling, the practice discourages the entry or expansion of a firm or product in the market, or has any other exclusionary effect.
-  The practice is substantially lessening competition, or is likely to do so.

The *Competition Act* includes a number of exceptions, which recognize that these practices may be used for pro-competitive reasons. For example:

- The Act does not apply to exclusive dealing or market restriction where they are used on a temporary basis to promote a new supplier or product.
- The Act does not apply to tied selling that is required by a technological relationship between products, or to financial institutions imposing reasonably necessary tied-selling arrangements to better secure a loan.
- The Act does not apply to these practices when they are used only between or among affiliated companies, partnerships or sole proprietorships.

If the Commissioner believes that these provisions of the Act have been breached, the Commissioner may apply to the Competition Tribunal for a remedial order. Third parties may also seek leave to apply directly to the Tribunal.

For more information on Restricting the Supply and Use of Products, please visit the Preventing Abuse of Market Power section of the Bureau's website.

The Competition Bureau, as an independent law enforcement agency, ensures that Canadian businesses and consumers prosper in a competitive and innovative marketplace.

Headed by the Commissioner of Competition, the Bureau is responsible for the administration and enforcement of the *Competition Act*, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act* and the *Precious Metals Marking Act*.

Legal Actions

We have the ability to refer criminal matters to the Director of Public Prosecutions, who then decides whether to prosecute before the courts. We also have the power to bring civil matters before the Competition Tribunal or the courts, depending on the conduct in question and applicable legal provisions.

Written Opinions

The Commissioner has the discretion to provide a binding written opinion to businesses seeking to comply with the *Competition Act*. Any person may request written opinions on whether proposed business plans and practices could raise concerns under the Act.

Questions or Complaints

If you believe any of the laws under the Bureau's jurisdiction have been breached, please fill out our online form, call, fax or write.

We are required by law to conduct our investigations in private. We keep the identity of the source and the information provided confidential, subject to certain exceptions.

This publication is also available online in HTML at:
www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03802.html

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For More Information:



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This publication is intended to provide basic information only. To learn more, please refer to the full text of the Acts or contact the Competition Bureau.

