

Pfitzner, Laura

From: Tan, Jasmine
Sent: Thursday, 11 April 2013 10:54 AM
To: 'Paul Holm'
Cc: Hartcher-O'Brien, Imogen
Subject: RE: Narta - Authorisation No A91335 [DLM=For-Official-Use-Only]

From: Paul Holm [<mailto:prh@anzarut.com.au>]
Sent: Thursday, 11 April 2013 10:57 AM
To: Tan, Jasmine
Subject: FW: Narta - Authorisation No A91335

Jasmine,

I refer to our telephone conversation of earlier today.

Please find below a revised redacted version of the submission e-mail of 26 March 2013.

Best wishes

Paul Holm

Director

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From: Paul Holm
Sent: Tuesday, 26 March 2013 4:26 PM
To: Hartcher-O'Brien, Imogen (Imogen.Hartcher-O'Brien@accc.gov.au); Tan, Jasmine (Jasmine.Tan@accc.gov.au)
Subject: Narta - Authorisation No A91335

Confidential

Dear Imogen/Jasmine,

I refer to our conversation regarding advertised pricing of 20 March 2013. I acknowledge your concern that a direct comparison between average on-line and off line advertising is difficult.

In this regard I am instructed that the 'off line' (bricks and mortar) advertising is a mixture of catalogue advertising and newspaper and other media advertising and this commonly will have a validity period that may be as much as 3 weeks and will commonly be for at least one week. However I am instructed that each such advertised price (i.e. in a catalogue or newspaper) is only counted once by CMS when calculating an average price and not counted for each day of the validity period of the offer. Conversely I am instructed that the on-line advertising is reviewed daily by CMS. In this regard we remain of the view that the most valid comparison that can be made between online of off line advertising prices is the average price. The main issue with looking only at the average advertising price appears to be that:

- this does not highlight the short term advertising price reductions that can occur on-line; and
- the fact that the lowest advertising price in a month may be such a short term on-line price.

In recognition of this concern my client requested further data from CMS from which the attached spread sheet is derived. This illustrates the point that online advertised prices often drop at a point during the month, only to rebound to their previous level a few days later. We have used the [REDACTED] [REDACTED], for this analysis (which was again provided to us by CMS and which can be made available to the ACCC for your own analysis).

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This data illustrates that:

- Online advertised prices often drop to the 'Low Online' price (shown in highlight) for only a small number of days during the month, only to revert to the previously advertised price shortly thereafter.
- Online advertised price drops usually coincides with the weekend trading period – presumably when the Retailer wants to improve sell through during the peak trading days of the week and thereby reduce inventory.
- These short term reductions appear only to be utilised by major outlets (as highlighted in the attached). For these products it is limited [REDACTED] [REDACTED] (none of whom are primarily online retailers). In our submission this conduct is therefore not a feature of 'on-line' retailing, but rather an example of bricks and mortar retailers using online advertising to aggressively compete in the total market.
- The Low Online price may only be one instance among many instances for that item or not occur at all in any month. Because it is a short term price drop, the lowest online price is not indicative of the true state of pricing for that item across the entire month. In our view therefore the average advertised pricing remains the most valid comparison that can be made, although we agree that it does not reflect any short term on-line price reductions that may have occurred in the month.
- Offline pricing is often locked in for the period of the catalogue advertising, to give consumers a benchmark comparison, with short term Online pricing likely to provide further competition by providing a lower advertising price which consumer may use to negotiate a better price, either at brick and mortar stores or with another on line retailer. It may also drive an advertising response by another retailer.
- Online pricing allows retailers to respond to market competition immediately. The reason the Online price may start off higher than Offline may be to leave ample space for a future advertised price changes. That is perhaps why we see online advertising often as less keenly priced than the traditional Press Advertisement.

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I also refer to your comment that the Commission had understood from its interview with a GfK representative that on-line selling prices of electrical goods was commonly lower than off line. My client has sought further data from GfK in response to this comment, but GfK have confirmed that they do not have sufficient data to provide any meaningful comparison of off line and on line selling prices. If the ACCC has any data on comparing online and off line selling prices we would appreciate the opportunity to review and comment upon this.

My client's position remains that (with the possible exception of DSLR cameras) off line prices for products sold by Narta members are commonly lower than on-line. This is because:

- The highest level of negotiation of prices occurs in store;
- On average on-line advertising prices are higher and, although these are subject to negotiation, the resulting sale prices are likely to also be higher;
- This may reverse during a brief period when a 'special' online price is offered. This may however only be 2 or 3 days in a month and only applies to a select few products in any month (i.e. some products may never be subject to such an on-line 'special' offer).
- Online sales of major branded products (those sold by Narta members) often involve making sales to consumers who puts a value on convenience. They want the brand name highly specified product, but want to make the transaction from home with free delivery, free installation and free removal of the old appliance. Therefore such a consumer may be less price sensitive and accept a slightly higher retail price than they could negotiate in-store by 'clicking to basket'.

Further this is likely to be the case for 'exclusive' or new release products subject of this authorisation application, as these will be premium products. As you will appreciate, Narta's intent in making the current application is to allow its members to continue to compete in such products [REDACTED]

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[REDACTED], including in the manner illustrated by the short term 'low online' pricing being offered by Narta members as shown in the attached spread sheet. Obviously if Narta members did not have access to a products they would be unable to make a competing online short term advertising offer for that product. Narta acknowledges that those members may also be constrained by any MAP that could have been applied (in relation to Beko, or Exclusive products subject to this authorisation application), but submits that this is of limited effect to overall competition in the relevant market (as it will not limit members ability to negotiate the selling price on any product and would only effect the advertising price of a very small portion of total products in any category) and would have a far less chilling effect on competition than Narta members losing access to these directly competitive products and being unable to offer consumers a competitive breadth and range of product.

Please do not hesitate to call me to discuss.

Best wishes

Paul Holm

Director

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