Index

The References in the Index are to sections of the following pieces of legislation: Competition Act (CA), Competition Tribunal Act (CTA), Competition Tribunal Rules (CTR), Notifiable Transaction Regulations (NTR).

ABUSE OF DOMINANT POSITION

Generally, CA 78, 79, 79.1 Prohibition order, CA 79(1) Unpaid monetary penalty, CA 79.1

ACCESS TO DOCUMENTS

Generally, CTR 65 to 67

ACCESS TO PUBLIC

Generally, CTR 29, 30

ADMINISTRATION

Generally, CA 7 to 29.2

ADVANCE RULING CERTIFICATES

Generally, CA 102, 103

ADVERTISING

See also Misleading advertising Non-availability of advertised specials, **CA 74.04** Publishers of, defences, **CA 60** Sale above advertised price, **CA**

ADVISORY COUNCIL

74.05

Generally, CTA 3(3), 3(4)

AFFIDAVIT OF DOCUMENTS

Generally, CTR 60

AFFILIATED, DEFINED

Generally, CA 2(2), 77(5), 77(6)

AGREEMENTS TO LESSEN/PREVENT COMPETITION

Competitor defined, CA 90.1(11)

AGREEMENTS TO LESSEN/PREVENT COMPETITION—Cont'd

Evidence, CA 90.1(3)

Exceptions, CA 90.1(4) to 90.1(9)

Factors, CA 90.1(2)

Gains in efficiency, CA 90.1(4) to 90.1(6)

Limitation on proceedings, CA 45.1, 90.1(10)

Orders, CA 90.1(1)

AMATEUR SPORT

Generally, CA 6

ANTI-AVOIDANCE

Generally, CA 113.1

ANTI-COMPETITIVE ACTS

Generally, CA 78, 79

APPEALS

Generally, CA 73(3)

Prohibitions, from, CA 34(3) to 34(4)

Tribunal, from, CTA 13

APPLICATION

Generally, CA 4 to 6

ARTICLE, DEFINED

Generally, CA 2(1)

ASSETS

Generally, CA 109 to 110

BAIT AND SWITCH SELLING

Generally, CA 74.04(2), 74.04(3)

BANKS, AGREEMENTS OF COMPETITION TRIBUNAL -Cont'd Generally, CA 49 Evidence to be oral, CTR 88(2) **BARGAIN PRICE, SELLING AT** Hearings Generally, CA 74.04(1) chairman, CTA 11 **BUSINESS, DEFINED** panel, CTA 10(1), 10(3) Generally, CA 2(1) presiding officer, CTA 10(2) Interim orders, CTR 23 CASE MANAGEMENT Intervention, see Intervention Generally, CTR 134 to 139 Judgment, validity when absence, **CIVIL ACTION CTA 12(3)** Admissibility of Criminal Code Jurisdiction, CA 75, CTA 8(1) proceedings, CA 36(2) Members Limitation period, CA 36(4) acting after expiration of appoint-Rights not affected, CA 62, 74.08 ment, CTA 5(4) iudicial COMMISSIONER OF appointment, CTA 3(2)(a) **COMPETITION** tenure, CTA 5(1) Appointment, CA 7 lay Defined, CA 2(1) appointment, CTA 3(2) to 3(4) Deputies, CA 8 Opinions, CA 124.1 public service employees, CTA 6(3) Representations to federal boards, CA 125 remuneration, CTA 6(1) Representations to provincial tenure, CTA 5(2) boards, CA 126 re-appointment, CTA 5(3) temporary substitutes, CTA 5(5) COMMUNICATION OF when unable to take part in judg-CONFIDENTIAL ment, CTA 12(3) INFORMATION UNDER THE Oath of office, CTA 7 **COMPETITION ACT,** INFORMATION BULLETIN, Powers, CTA 8(2), 8(3) **SEPTEMBER 2013** Proceedings open to public, CTR 29, 30 Representations to provincial boards, CA 126 Proceedings to be informal, CTA 9(2) **COMPETITION TRIBUNAL** Questions of fact/mixed fact and Generally, CA 2 (commentary) law, CTA 12(1), 12(2) Access to documents, CTR 65 Questions of law, CTA 12(1), 12(2) Appeals, CTA 13 Rules, see Rules, Competition Chairman, CTA 4 Tribunal Conflicts of interest, CTA 10(3) Sittings, CTA 15, CTR 50(2) Contempt, CTA 8(3) Travel allowances, CTA 6(2) Court of record, CTA 9(1) **COMPUTER SYSTEM**

Generally, CA 16, 17

Definitions, CTA 2
Establishment, CTA 3

CONFIDENTIALITY

Generally, CA 29

CONSENT AGREEMENTS Generally, CTR 105 to 106

CONSENT ORDERS

Generally, CA 105
Deceptive marketing practices, CA
74.12

CONSIDERATION AND REPORT

Generally, CA 19 to 24

CONSPIRACY

Generally, CA 45

Defence, CA 45(4), CA 45(5) Evidence, CA 45(3) Foreign directives, CA 46 Limitation, CA 45.1, 48(3) Non-application to specialization agreements, CA 90 Penalty, CA 45(2)

CONTEMPT

Generally, CTA 8(3)

CONTESTED PROCEEDINGS

Admissions, CTR 56 to 59

Generally, CTR 35 to 80
Access to documents, CTR 65 to
67

Applications, CTR 35 to 41
Default order, CTR 41
Discovery of documents, CTR 60
to 64

Evidence at hearing, CTR 71 to 74 Expert evidence, CTR 77 to 80 Filing of motion, CTR 43(1) Intervention, CTR 42 to 55

Pre-hearing disclosure, CTR 68 to 70

Reply, CTR 39
Response, CTR 38
Service of documents, CTR 37
Specialization agreements, CTR
100 to 104

CONTESTED PROCEEDINGS

-Cont'd

Variation or rescission of order, **CTR 99**

Witness panels, CTR 75 to 76

CONTESTS

Generally, CA 74.06

CONTROLLED, DEFINED

Generally, CA 2(4)

CORPORATION

Affiliated, CA 77(5), 77(6)
Defined, CA 2(1)
Liability of directors/officers/
agents, CA 65(4)
Trial without jury, CA 67(4)

COUNSEL

Inquiry, to assist at, CA 21
Representation of witnesses, CA 12(3)

CRIMINAL CODE PROCEEDINGS

Institution of, CA 23 Use of, in civil actions, CA 36(2)

CROWN

Competition Act binding on, CA 2.1 Control by, CA 2(4)(b)

CUSTOMS DUTIES, REMOVAL OF

Generally, CA 31

DECEPTIVE MARKETING PRACTICES

Administrative remedies, CA 74.09 to 74.16

aggravating or mitigating factors, CA 74.1(5)

determination of reviewable conduct, **CA 74.1(1)**

temporary order, CA 74.11

Appeals, CA 74.18 to 74.19

Bait and switch selling, CA 74.04(2), 74.04(3)

DECEPTIVE MARKETING DEFINITIONS PRACTICES—Cont'd Agreements to lessen/prevent com-"Bargain price" defined, CA petition, CA 90.1(11) 74.04(1) Competition Tribunal Act, CTA 2 Civil rights not affected, CA 74.08 Mergers, CA 91 Consent agreement, CA 74.12, Notifiable transactions, CA 108 74.13 Notifiable transactions regulations, Drip pricing, CA 74.01(1.1) NTR 2 Misrepresentations to public, CA Specialization agreements, CA 85 74.01(1) **DELIVERED PRICING** ordinary price suppliers generally, CA Generally, CA 80, 81 74.01(2) DIRECTOR supplier's own, CA 74.01(3) See Commissioner of Competition print or publish in good faith, CA 74.07 DIRECTORS/OFFICERS OF time, references to, CA 74.01(4) CORPORATIONS. Prize notification, CA 53 LIABILITY Promotional contests, CA 74.06 Generally, CA 65(4) Representation as to reasonable test DISCONTINUANCE/WITHDRAWAL and publication of testimonials, **CA 74.02** Generally, CTR 26 to 34 Representations accompanying DISCOVERY OF DOCUMENTS product, CA 74.03(1) Generally, CTR 60 to 64 Rules of procedure, CA 74.17 Sale above advertised price, CA **DOCUMENTS** 74.05 Access to, CTR 65 to 67 Discovery of, CTR 60 to 64 DECEPTIVE TELEMARKETING Filing of, CTR 96(3) Disclosures required, CA 52.1(2) Production of, CA 11 Due diligence defence, CA 52.1(2) General impression test, CA 52.1(4) DOMINANCE, ABUSE OF Injunction, CA 33(1.1) Generally, **CA 78 – 79.1** Offence, CA 52.1(2), 52.1(3), **DOUBLE TICKETING** 52.1(9) Officers and directors, liability of, Generally, CA 54, 60 CA 52.1(8) **DUE DILIGENCE DEFENCE** Punishment, CA 52.1(9) Generally, **CA 52.1(6)** Sentencing, CA 52.1(10) Telemarketing defined, CA 52.1(1) **EVIDENCE** Copies of records, admissibility, CA **DEFECTS OF FORM** 20(2), 20(3) Generally, CA 3 Participants, against, CA 69 **DEFENCES** Reviewable transactions, CA 107 Generally, CA 60 Statistics, see Statistics

EXCLUSIVE DEALING

Generally, CA 77, 90, 103.1 to 103.3

EXPERT EVIDENCE

Generally, CTR 77 to 80

FALSE ADVERTISING

See Misleading advertising

FEDERAL COURT

Appeals from, CA 73(3) Jurisdiction, CA 73(1) Powers, CA 32

FINANCIAL INSTITUTIONS, **AGREEMENTS OF**

Generally, CA 49

FOREIGN

JUDGMENTS/LAWS/DIRECTIVES

Conspiracy, CA 46 Refusal to implement, CA 82, 83

FOREIGN SUPPLIER

Generally, CA 84

GEOGRAPHIC PRICE DISCRIMINATION

Goods, CA 111(a)

INJUNCTIONS

Generally, CA 33

Deceptive telemarketing, CA 33(1.1)

Extension or cancellation of, CA 33(5)

Interim, CA 33(1), 74.111

Punishment for disobedience, CA 33(7)

Terms of, CA 33(4)

INQUIRY

Administration of oaths, **CA 14(1)** Application for, CA 9 Attendance by person who is subject of, CA 12(4)

Counsel, CA 21

INQUIRY—Cont'd

Criminal proceedings, institution of, **CA 23**

Discontinuance, CA 22

Effect of an order, CA 11(4)

Formation of, CA 10

Information as to progress of, CA 10(2)

Obstruction of, CA 64

Oral examination, CA 11

Orders of presiding officer, CA 14(2) to 14(4)

Person outside Canada, CA 11(5)

Presiding officer, CA 13

Private, to be conducted in, CA 10(3)

Production of records, CA 11

Records or information in posses-

sion of affiliate, CA 11(2)

Report, interim, CA 28

Self-incrimination, CA 11(3)

Warrant for entry of premises, see Search and seizure

Witnesses, see Witnesses

Written return of information, CA

11(1)(c)

INSURANCE COMPANIES, AGREEMENTS OF

Generally, CA 49

INTERIM ORDERS

Application of Part, CTR 95 Application to vary or set aside, **CTR 99**

Ex parte, service of, CTR 98

Injunction, CA 33(1)

Mergers, CA 100

Notice of application, CTR 96

Official language, CTR 97

Reviewable transactions, CA 104

Tribunal, before, CTA 11

INTERVENTION

See also Province

Attorney general, participation,

CTR 52

INTERVENTION—Cont'd

Commissioner, intervention by, CTR 54

access to documents, CTR 55
Consent orders, CTR 86 to 90
Disposition, CTR 46
Document list, CTR 51
Filing of motion, CTR 43
"Intervenor" defined, CTR 1
Intervention allowed, CTR 47

Mergers, CA 101 Motions, CTR 27, 38 to 41

Notice, CTR 50

Province, by, CA 88, CTR 49, 101

Reply, CTR 45

Response, CTR 28

Service of documents, CTR 48, 53 Specialization agreements, CA 88 Tribunal, before, CTA 9(3)

INVESTIGATION AND RESEARCH

Generally, CA 7 to 17

JOINT MONOPOLIZATION

Generally, CA 79 (commentary)

JURY TRIALS

Generally, CA 67(1) to 67(4), 73(2)

LIMITATION PERIODS

Abuse of dominant position, CA 79(6)
Civil action, CA 36(4)
Merger, CA 97

LOAN ORDER

Generally, CTR 128 to 133

LOTTERIES

Generally, CA 74.06

Offences, CA 67(6)

MARKET RESTRICTION

Generally, CA 77

MERGERS

See Reviewable transactions

MERGERS—Cont'd

Advance ruling certificates, CA 102, 103

Guidelines, see Merger enforcement guidelines

Intervention by province, CA 101

Merger, defined, CA 91

Orders, conditional, CA 99

Orders, interim, CA 100

Orders, making

generally, CA 92

exceptions, CA 94 to 96, 98

factors to consider, CA 93

limitation period, CA 97

MINISTER, DEFINED

Generally, CA 2(1)

MISLEADING ADVERTISING

Deemed representation to public, CA 52(3)

Drip pricing, CA 52(1.3)

Duplication of proceedings, CA 52(7)

General impression test, CA 52(4)

Permitted representations, CA 52(1.2)

52(1.2)

Proof of deception not required, CA 52(1.1)

Representation accompanying products, CA 52(2)

Reviewable conduct, CA 52(6)

Statutory provisions, CA 52, 60

MOTIONS

Generally, CTR 81 to 94

Formal procedure, CTR 82

application, CTR 82

decision without a hearing, CTR 86

evidence and memorandum,

CTR 87 notice of motion, CTR 83

service of response, CTR 85

testimony by affidavit, CTR 88

Informal procedure, CTR 81

MOTIONS—Cont'd NOTIFIABLE TRANSACTIONS Motion for summary disposition, Generally, CA 108 to 119, NTR 16, CTR 89 to 94 123 to 124 motion refused or granted, CTR Aggregate value, determination of, 93 to 94 NTR 4 to 14 notice of motion, CTR 89 Anti-avoidance, CA 113.1 response, CTR 90 Application, CA 109, 110 Audited financial statements, NTR testimony, CTR 91 tribunal's power, CTR 92 Definitions, CA 108 **MULTI-LEVEL MARKETING Exemptions PLAN** generally, CA 113 Generally, CA 55, 55.1, 60 acquisitions, CA 111 combinations, CA 112 MUTUAL LEGAL ASSISTANCE Failure to comply, CA 123.1 Agreements Information required, NTR 16 generally, CA 30.01, 30.3 Information to be certified, CA 118 publication of, CA 30.02 Non-application, CA 109 requests under, CA 30.03 Notification to Director Search and seizure generally, CA 114, 115(2) access to premises, CA 30.06(5) exemption, generally, CA 115 appeals, CA 30.24 exemptions for cross-directors of application of sections 15, 16 and affiliated companies, CA 19, CA 30.04 arrest warrant, CA 30.18 re-notification requirements, CA 118 evidence, CA 30.08, 30.1, 30.12 where information irrelevant, CA evidence for use abroad, CA 116(2), 116(3) 30.1, 30.09, 30.11 to 30.17, where information unavailable, 30.19(1) CA 116(1) evidence from abroad, CA 30.25 Prenotification, CA 114 to 30.28 Regulations, generally, NTR lending exhibits, CA 30.19 to **SOR87** to 348 30.23 Regulations, power to make, CA request by foreign state, CA 124 30.05(1), 30.08(2), 30.29, Short Form Information, NTR 16 30.291 Waiting period before completion, warrant, CA 30.05(2), 30.06, **CA 123** 30.07 **OFFENCES** NOTICE See also Punishment Application, CTR 3, 56 Admissibility of statistics, CA 70 Expert witnesses, CTR 77 to 80 Civil rights not affected, CA 62 Of prize, CA 53 Competition, in relation to, CA 45 to 62 Statistics, prior to admission of, CA 72(1) Defences, CA 60

Competition Act

OFFENCES—Cont'd

Directors/officers of corporation, by, CA 65(4)

Jurisdiction of Federal Court, **CA**73

Jury trials, CA 67(1) to 67(4), 73(2)

Notice, CA 72

Other, CA 64, 65

Procedure for enforcing punishment, CA 67

Statistics collected by sampling methods, **CA 71**

Venue of prosecutions, CA 68

OFFENDERS

Information returns, CA 35 Prohibitions, CA 34

ORDINARY PRICE CLAIMS

Generally, CA 74.01(2), 74.01(3)

PARTICIPANT

Generally, CA 69

PRICE MAINTENANCE

Generally, CA 45.1, 76

PRIVATE ACCESS

Generally, CTR 114 to 127

PRIVILEGE,

SOLICITOR-CLIENT

Generally, CA 19

PRODUCT, DEFINED

Generally, CA 2(1)

PRODUCTION OF DOCUMENTS

Generally, CA 11

PROHIBITIONS

Generally, CA 34, 67(5), 79

PROMOTIONAL CONTESTS

Generally, CA 74.06

PROVINCE

See also Intervention

Service of notice of application on, CTR 37

PUBLISHERS OF ADVERTISEMENTS,

DEFENCESGenerally, **CA 74.07**

PUNISHMENT

See also Offences

Abuse of dominant position, CA **79(3.1)–79(3.3)**

Bid-rigging, CA 47(2)

Conspiracy, CA 45(2)

Conspiracy relating to professional sport. **CA 48**

Destruction/alteration of records/ things, CA 65(3)

Double ticketing, CA 54(2)

Financial institutions, agreements of, **CA 49(1)**

Foreign directives, CA 46(1)

Information returns, failure to make, CA 35(2), 65(2)

Injunctions, failure to comply with, CA 33(7)

Misleading advertising, CA 52(5)

Multi-level marketing plan, CA 55(3)

Obstruction, CA 64(2)

Procedure for enforcing, CA 67

Produce records, failure to, CA 65(2), 65.2

Prohibitions, failure to comply with, CA 34(6)

Promotional contests, CA 74.06

Pyramid selling, CA 55.1(2)

Representations/testimonials, CA 74.02

Sale above advertised price, CA 74.05

Warrant, failure to comply with, CA 65(1), 65.1

PURPOSE

Generally, CA 1.1v

PYRAMID SELLING

Generally, CA 55.1, 60

QUESTIONS OF LAW

Generally, CTA 12(1), 12(2)

RECORDS

See also Search and seizure Defined, CA 2(1) Destruction/alteration, CA 65(3) Inspection/copies, CA 18, 20 Production, CA 11 Seizure, CA 15, 16

REFERENCES

Generally, CTR 107 to 113

REFUSAL TO DEAL

Generally, CA 75, 103.1 to 103.3

REGISTER OF

SPECIALIZATION AGREEMENTS

Generally, CA 89

REGULATIONS, POWER TO MAKE

Competition Act, CA 128 Investigation and research, CA 24 Notifiable transactions, CA 124

REMEDIES

Generally, CA 31 to 36

REPORT TO PARLIAMENT

Generally, CA 127

REPRESENTATIONS

Compensation, relating to, CA 55, 60

Reasonable test, as to, CA 60, 74.02

RESPONSE

Generally, CTR 38, 44

RESTRAINT OF TRADE, REMEDIES TO LESSEN

Generally, CA 32

RESTRICTIVE TRADE PRACTICES

Generally, CA 84

REVIEWABLE MATTERS

See also Deceptive marketing practices

Generally, CA 74.01 to 74.16

Administrative remedies, CA 74.09 to 74.16

Appeals, CA 74.18 to 74.19

Rules of procedure, CA 74.17

REVIEWABLE TRANSACTIONS

See also Rules, Competition Tribunal

Generally, CA 75 to 107

Applications by Director

notice of application, CTR 36

reply, CTR 39

response, CTR 38

responses, order in default, CTR

41

Consent agreements, CA 105

Evidence, CA 107

Interim orders, CA 104

Variation/rescission of agreements,

CA 106, CTR 49

RULES, COMPETITION TRIBUNAL

Advance publication, CTA 17

Applications of Director, CTR 3 to

7

Consent agreements, CTR 105 to 106

Definitions, CTR 2

Discovery of documents, CTR 60 to 64

Interim orders, CTR 95 to 99

Interpretation, CTR 1

Power to make, CTA 16(1)

Pre-hearing disclosure, **CTR 68 to**

Quorum needed to make, CTA 16(4)

Specialization agreements, CTR 100 to 104

Tabling before Parliament, **CTA 16(3)**

COMPETITION ACT

RULES, COMPETITION TRIBUNAL—Cont'd

When effective, CTA 16(2)

SALE ABOVE ADVERTISED PRICE

Generally, CA 74.05

SANCTIONS

See Punishment

SEARCH AND SEIZURE

Generally, CA 15

Computer system, use of, CA 16

Copies of thing seized, CA 18(3)

Data, of, CA 16

Offences, CA 65

Presentation/report on thing seized,

Retention of thing seized, CA 17(3), 18(4)

Return of thing seized, CA 18(4) Solicitor-client privilege, CA 19

SELF-INCRIMINATION

Generally, CA 11(3)

SERVICE

Documents, intervention, CTR 48, 53

Loan order, CTR 31

Motion for intervention, CTR 42 Notice of application, CTR 37, 53,

55

Private access, CTR 123, 127

Response, formal procedure, CTR

SERVICE, DEFINED

Generally, CA 2(1)

SOLICITOR-CLIENT PRIVILEGE

Generally, CA 19

SPECIALIZATION AGREEMENTS

See also Reviewable transactions Definitions, **CA 85**

SPECIALIZATION

AGREEMENTS—Cont'd

Motion for registration, CA 102

Non-application of conspiracy/ exclusive dealing/agreements to lessen/prevent competition provisions, CA 90

Notice of appearance, CTR 101

Notice of application, CTR 100

Register of, CA 89

Registration

generally, CA 86

Reply, CTR 103

SPORTS

Amateur, application of Act to, **CA**

Professional, conspiracy relating to, CA 48

STAFF

Generally, CA 25 to 27, 29

STATISTICS

Admissibility, CA 70, 71

Attendance of preparer for crossexamination, CA 72(2), 72(3)

Notice required before admission, CA 72(1)

SUBSIDIARY, DEFINED

Generally, CA 2(3)

SUGGESTED RETAIL PRICE

Generally, CA 61

SUPPLY, DEFINED

Generally, CA 2(1)

TELEMARKETING

See also

Deceptive telemarketing Defined, CA 52.1(1)

TESTIMONIALS

Generally, CA 53, 60

TIED SELLING

Generally, CA 77

TIMETABLE OF APPLICATION

Generally, CTR 40

TRADE, INDUSTRY OR PROFESSION, DEFINED

Generally, CA 2(1)

TRIBUNAL

See Competition Tribunal

TRUST COMPANIES, AGREEMENTS OF

Generally, CA 49

UNDERWRITING

Generally, CA 5

VARIATION/RESCISSION OF ORDERS

Generally, CA 106, CTR 49

WHISTLEBLOWING

Generally, **CA 66.1**Confidentiality, **CA 66.1(2)**Prohibition from disciplining employee for whistleblowing, **CA 66.2**

WITHDRAWAL/DISCONTINUANCE

Generally, CTR 50 to 51

WITNESSES

Expert, CTR 77 to 80
Inquiry, at
competence/compellability, CA
12(1)
fees, CA 12(2)
representation by counsel, CA
12(3)
Panels, CTR 75 to 76

manner of testimony, CTR 78