

For Your Information : March 14, 2006

FTC CONSENT ORDER PROTECTS COMPETITION IN THE MARKET FOR FREE-STANDING NEWSPAPER INSERTS

Commission Alleged Valassis Invited News America to Collude, End Industry Price War

Valassis Communications, Inc., a leading producer of free-standing newspaper inserts (FSIs) in the United States, has settled Federal Trade Commission charges that it attempted to collude with News America Marketing, its only FSI rival, to eliminate competition between the two companies. Under the consent order settling the FTC's complaint, Valassis is barred from engaging in, or attempting to engage in, similar anticompetitive conduct in the future.

"Collusive agreements to fix prices or allocate markets are condemned by the antitrust laws," said Jeffrey Schmidt, Director of the FTC's Bureau of Competition. "The action taken by the Commission today demonstrates that the FTC will protect consumers by challenging, in appropriate circumstances, invitations to collude before the invitations are accepted and become agreements to fix prices or divide markets."

Background

FSIs are multi-page booklets containing discount coupons for the products sold by various firms. They are inserted into newspapers for distribution to consumers. For the manufacturers of consumer-packaged goods and others, FSIs are a uniquely efficient way to distribute coupons on a mass scale. On a typical Sunday, Valassis' and News America's FSIs are distributed to more than 50 million households in hundreds of newspapers nationwide.

Valassis, a publicly traded company based in Michigan, holds conference calls with securities analysts on a quarterly basis. The calls are open to the public and can be heard live on the Internet. According to the FTC, during such a call in July 2004, Valassis invited its direct competitor, News America, to join in a scheme to allocate FSI customers and fix FSI prices and thereby end an ongoing price war between the two companies. Valassis' goal, the FTC contends, was to raise FSI prices, which had decreased from about \$6.00 per full page per thousand booklets in 2001, to less than \$5.00 per full page per thousand booklets in 2004.

During the July 2004 call, Valassis' president and chief executive officer opened the company's second quarter earnings call by detailing its strategy to increase FSI prices. Specifically, the strategy included: 1) abandoning its 50 percent market share goal; 2) aggressively defending its existing customer base and market share; 3) submitting price bids at levels substantially above current market prices for current News America customers; and 4) monitoring News America's response to its new business strategies. If News America competed for Valassis customers and market share in the future, then the price war would resume.

Thus, according to the Commission, during Valassis' earnings call, the company communicated to its only competitor proposed terms of coordination for the FSI market, and did so in a very specific manner. Valassis would stop competing for News America customers, only if News America similarly stopped competing for Valassis customers. Valassis also proposed restoring the pre-price war price level of \$6.00 per FSI page per thousand booklets and \$3.90 per half page per thousand booklets.

The Commission's Complaint

According to the Commission's complaint, Valassis' conduct was anticompetitive and constituted a violation of Section 5 of the FTC Act. The complaint alleges that Valassis acted with the intent to facilitate collusion and without a legitimate business purpose. If Valassis' invitation to collude had been accepted by News America, the complaint states, the likely result would have been higher FSI prices and reduced output.

Terms of the Consent Order

The consent order in this matter is designed to ensure that Valassis does not engage in the anticompetitive conduct alleged in the complaint in the future. Accordingly, it bars the company from inviting collusion and from actually entering into or implementing a collusive scheme.

Specifically, the order prohibits Valassis from inviting an FSI competitor to divide markets, allocate customers, or fix prices. It also prohibits Valassis from entering into or participating in an agreement with any FSI competitor to divide markets, allocate customers, or fix prices. The order does not restrict Valassis' efforts to negotiate prices with prospective customers, and allows Valassis to provide investors with appropriate information about the company's business strategy. Finally, the order includes a safe harbor provision that allows Valassis publicly to communicate any information that is required to be disclosed by federal securities law. The order will expire in 20 years.

The Commission vote to accept the consent order and to place a copy on the public record was 5-0. The order will be subject to public comment for 30 days, until April 12, 2006, after which the Commission will decide whether to make it final. Comments should be sent to: FTC, Office of the Secretary, 600 Pennsylvania Ave., N.W., Washington, DC 20580.

NOTE: A consent agreement is for settlement purposes only and does not constitute an admission of a law violation. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of \$11,000.

Copies of the complaint, proposed consent order, and an analysis to aid public comment are available on the FTC's Web site at www.ftc.gov. The FTC's Bureau of Competition, in conjunction with the Bureau of Economics, seeks to prevent business practices that restrain competition. The Bureau carries out its mission by investigating alleged law violations and, when appropriate, recommending that the Commission take formal enforcement action. To notify the Bureau concerning particular business practices, call or write the Office of Policy and Coordination, Room 394, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave, N.W., Washington, DC 20580, Electronic Mail: antitrust@ftc.gov; Telephone (202) 326-3300. For more information on the laws that the Bureau enforces, the Commission has published "Promoting Competition, Protecting Consumers: A Plain English Guide to Antitrust Laws," which can be accessed at <http://www.ftc.gov/bc/compguide/index.htm>.

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Related Documents:

[In the Matter of Valassis Communications, Inc.](#)
File No. 051 0008

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