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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GENERAL NOTICE

NOTICE 2975 OF 2004

DEPARTMENT OF TRADE AND INDUSTRY CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988

I, Mandisi Mpahlwa, MP, Minister of Trade and Industry, in terms of section 12(6)(a)(iii) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No 71 of 1988), hereby give notice that I intend publishing the following notice in the Government Gazette. Interested parties are hereby invited to comment on the proposed notice. These comments must be directed to the address which appears at the end of the proposed notice within a month from date of publication.

NOTICE IN TERMS OF SECTION 12(6) OF THE CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988

I, Mandisi Mpahlwa, Minister of Trade and Industry, by virtue of the powers vested in me by section 12(6) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No 71 of 1988), and after having considered a report by the Consumer Affairs Committee in relation to an investigation of which notice was given in Notice **4083** of 2002 published in Government Gazette No 21665 dated 20 October 2000, which report was published in Notice 1758 in Government Gazette 26700 of 18 August 2004, and after having amended Notice 1759 in Government Gazette 26700 in view of comments received, and being of the opinion that an unfair business practice exists which is not in the public interest, promulgate the notice in the Schedule.

SCHEDULE


In this notice, unless the context indicates otherwise -

1. "Unfair business practice" means inertia selling. Inertia selling is the business practice whereby goods and services are supplied to consumers without their unequivocal authorization and the supplier subsequently demands or effects payment.

Any supply, offer or other presentation of goods and services, which places no obligation whatsoever on the recipient thereof, shall not be construed as inertia selling.

Inertia selling excludes the practice of automatically renewing contracts for another period and/or imposing price increases during the course of the contracts, provided that the initial contracts make provision for such renewals and price increases and that either party could give notice, in writing, that the contract is to be terminated.

2. "Goods and services" means any property, whether corporeal or incorporeal and whether movable or immovable, and also any make or brand of any commodity and any service, whether personal, professional or otherwise, including any storage, transportation, insurance or banking service, but does not include service in terms of a contract of employment.
3. "Suppliers" are manufacturers and all types of middlemen, such as wholesalers, retailers, representatives, distributors, agents and all providers of services and their intermediaries, such as brokers and representatives.
4. The unfair business practice is hereby declared unlawful and persons are hereby directed to:
 - (a) refrain from applying the unfair business practice;
 - (b) refrain at any time from applying the unfair business practice.
5. This notice shall come into operation upon the date of the publication hereof.
6. On the recommendation of the Consumer Affairs Committee I may, in a particular case, in terms of section 12(6)(c) of the Act, grant exemption from a condition or requirement contemplated in this notice to such extent and for such period and subject to such conditions as may be specified in the exception. Such applications for exemption must be directed to: The Director: Consumer Investigations, Private Bag X84, PRETORIA, 0001
[For attention: Mr I Halkerd, (F) 012-394-2548]


M B M MPAHLWA
MINISTER OF TRADE AND INDUSTRY

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