

NOTICE 469 OF 2006**DEPARTMENT OF TRADE AND INDUSTRY
CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988**

I, Mandisi Mphahla, Minister of Trade and Industry, do hereby, in terms of section 12(6) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), give notice that I intend publishing the following notice in the Government Gazette. Interested parties are hereby invited to comment on the proposed notice within 30 (thirty) days from publication of the said notice. Comments should be directed to the address provided at the end of the notice.

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

I, Mandisi Mphahla, Minister of Trade and Industry, having considered a report by the Consumer Affairs Committee in relation to an investigation, of which notice was given in Notice 1067 of 2005, published in Government Gazette No. 27753, dated 01 July 2005, which report was published in Notice 460 in Government Gazette No. 28691 of 2006, and being of the opinion that an unfair business practice exists which is not justified in the public interest, do hereby exercise my powers in terms of section 12 of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), as set out in the Schedule.

SCHEDULE

1. In this notice, unless the context indicates otherwise-

“business practice” means:

any advertisement in which a **work from home opportunity** is offered in newspapers, magazines, other print and electronic media and by way of any other advertising method.

“work from-home opportunities”:

i) include but are not confined to:

- (a) typing work;
- (b) addressing (typing or writing) envelopes of any kind whatsoever;
- (c) addressing (typing or writing) labels of any kind whatsoever;
- (d) the filling of envelopes of any kind whatsoever;
- (e) administrative opportunities;
- (f) the gathering of names and addresses;
- (g) the compiling of data;
- (h) the direct sellers of consumer goods who do not truthfully identify themselves, the firm and their products in any advertisements.

ii) exclude:

- (a) Typing work requested by the purchaser of such a service, such **as** the typing of assignments required **by** learners and students;
- (b) The direct selling of consumer goods in which a sales person:
 - (i) either demonstrates the product or presents a product catalogue in **homes**, the workplace or similar places away from places **of** business;
 - (ii) collects an order;
 - (iii) subsequently delivers the goods personally or arranges delivery;
 - (iv) collects payment for goods or arranges for

payment or credit transactions;

- (v) applies "person to person" selling, "party plan" selling, "multilevel marketing" and "network marketing";

provided that the direct sellers truthfully identify themselves, the firm and their products in advertisements.

- (c) Mail-order entities such as manufacturers, wholesalers or retailers who contact buyers through direct mail, catalogues, television, radio, magazines, and newspapers and deliver the goods ordered by their clients to a post office or a physical address nominated by clients.

"direct sellers" refer to:

members of a sales organisation of a business who are involved in direct selling. They may be independent commercial agents, independent contractors, independent dealers and distributors, employed or self-employed representatives, franchisees or the like.

2. Any person who does not comply with these requirements commits a criminal offence and shall be liable on conviction, to a fine not exceeding R200 000 or to imprisonment for a period not exceeding five years or to both that fine and that imprisonment.
3. The 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.
4. 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 an

extent and for such period and subject to such conditions **as** may be specified in the exemption. Such application for exemption must be directed to:

The Chief Director
Office of Consumer Protection
Consumer **Affairs** Committee
Private **Bag X84**
Pretoria
0001
For Att: Ms TT Mashikinya
Tel: 012 3941586
Fax: 012 3942586
E MAIL- theresiam@thedti.gov.za

MANDISI MFAHLWA, MP
Minister of Trade and Industry
