

1980 No. 263

CONSUMER PROTECTION

Price Marking (Bargain Offers) Order (Northern Ireland) 1980

Made 1st August 1980

Coming into operation 1st October 1980

The Department of Commerce, in exercise of the powers conferred on it by section 4 of the Prices Act 1974(a) and of every other power enabling it in that behalf, having consulted, in such manner as appeared to it to be appropriate having regard to the subject matter of the Order, with such organisations representative of interests substantially affected by the Order as appeared to it, having regard to those matters, to be appropriate, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Price Marking (Bargain Offers) Order (Northern Ireland) 1980 and shall come into operation on 1st October 1980.

(2) The Interpretation Act (Northern Ireland) 1954(b) shall apply to this Order as it applies to a Measure of the Northern Ireland Assembly.

Scope of Order

2.—(1) This Order does not apply in relation to an indication of a price for the sale of pre-packed goods which are pre-packed before 1st November 1980 or to a statement relating to such goods and to which Article 3 applies where the indication or statement—

- (a) is given in such a manner that it is integral with the container in which the goods are pre-packed; or
- (b) is printed on a label which is attached to the container in which the goods are pre-packed and which carries a similarly printed description of the goods in the container, being a description which is necessary to enable the goods to be identified without the container being opened;

and in this paragraph “pre-packed” in relation to any goods means made up in advance ready for retail sale in or on a container.

(2) This Order shall not apply in relation to an indication of a price—

- (a) in a catalogue or work of reference of more than 30 printed pages of which copies are first made available for publication in the ordinary course of business before 1st October 1980; or
- (b) in a periodical published before that date, being a periodical ordinarily published at regular intervals of more than 7 days; or
- (c) in a direct mail advertisement first issued before that date; or
- (d) in a cinematograph film or radio or television broadcast first exhibited or broadcast before that date.

(a) 1974 c. 24 s. 4 was amended by the Price Commission Act 1977 (1977 c. 33), s. 16(1)

(b) 1954 c. 33 (N.I.)

Regulation of bargain offers

3.—(1) Subject to paragraph (2), a person who indicates that—

- (a) any goods are or may be for sale by retail; or
- (b) any services (except services which he indicates are or may be provided only for the purposes of businesses carried on by other persons) are or may be provided,

shall not, on or in relation to those goods, indicate a price for their sale or, in relation to those services, indicate a charge for their provision, in such a manner that the indication includes a statement to which this Article applies.

(2) Nothing in this Article applies—

- (a) to a person who gives an indication of a price or charge only as—
 - (i) a compiler of a report or survey relating to prices or charges comprising that price or charge and other prices or charges, or
 - (ii) as a publisher or distributor of a publication or as an exhibitor or broadcaster of a cinematograph film or radio or television broadcast comprising the indication,
 not being a manufacturer or supplier of any goods to which, or a person who provides service to which, the indication relates; or
- (b) to a statement relating to a maximum permitted price or charge which is indicated pursuant to any enactment or Community obligation (whenever passed or created).

Bargain offers relating to goods

4.—(1) Subject to the following provisions of this Order, Article 3 applies, in relation to a price, to any statement (however framed and whether express or implied) that the price indicated is lower than—

- (a) a value ascribed to goods, not being the amount of such a price as is mentioned in sub-paragraph (b), or
- (b) the amount of another price for the sale of goods of the same description (whether that price is, or is not, specified or quantified or is, or is not, a price which has been charged, indicated or proposed by any person).

(2) Paragraph (1)(b) does not apply—

- (a) to a particular price which the person giving the indication—
 - (i) proposes to charge or has charged in the ordinary course of business on the same or on other identified premises, or
 - (ii) has reasonable cause for believing has been charged in the ordinary course of business by another identified person in identified circumstances and has no reason for believing has ceased to be a price at which that person is prepared to do business in those circumstances,
 including in each case a price for the sale of goods of the same description in a specified different condition or quantity;
- (b) to a particular price applicable to the sale by the person giving the indication of goods of the same description—
 - (i) upon specified different terms as to the time or manner of payment (including the provision of credit by any person either generally or to persons of a specified class or description),

- (ii) in specified different circumstances,
 - (iii) in a specified different condition or quantity, or
 - (iv) to any person who is not within a class or description of persons for sales to whom the indicated price is expressed to apply; or
- (c) in a case where the indicated price applies to goods when supplied with other specified goods or with specified services, to a particular price for the sale of the goods without those other goods or services or with other specified goods or services.

Bargain offers relating to services

5.—(1) Subject to the following provisions of this Order, Article 3 applies, in relation to a charge, to any statement (however framed and whether express or implied) that the charge indicated is lower than—

- (a) a value ascribed to the provision of services, not being the amount of such a charge as is mentioned in sub-paragraph (b); or
- (b) the amount of another charge for the provision of services of the same description (whether that charge is, or is not, specified or quantified or is, or is not, a charge which has been made, indicated or proposed by any person).

(2) Paragraph (1)(b) does not apply—

- (a) to a particular charge which the person giving the indication—
 - (i) proposes to make or has made in the ordinary course of business in circumstances with which a comparison may reasonably be made, or
 - (ii) has reasonable grounds for believing has been made in the ordinary course of business by another identified person in identified circumstances with which a comparison may reasonably be made and has no reason for believing has ceased to be a charge at which that person is prepared to do business in those circumstances,

including in each case a charge for the provision of services of the same description in specified different circumstances or a specified different number of times;

- (b) to a particular charge applicable to the provision by the person giving the indication of services of the same description—
 - (i) upon specified different terms as to the time or manner of payment (including the provision of credit by any person either generally or to a specified class or description of persons),
 - (ii) in specified different circumstances,
 - (iii) a specified different number of times, or
 - (iv) to any person who is not within a class or description of persons for the provision of services to whom the indicated charge is expressed to apply; or
- (c) in a case where the indicated charge applies to services when supplied with other specified services or with specified goods, to a particular charge for the provision of the services without those other services or goods or with other specified services or goods.

Recommended and similar prices and charges

6.—(1) In relation to any goods or services, other than goods or services of a description specified in the Schedule, Article 4(1)(b) does not apply to the amount of

a price and Article 5(1)(b) does not apply to the amount of a charge which, in either case, is recommended or suggested by any person in the course of business.

(2) In relation to any goods which are exempted goods for the purposes of the Resale Prices Act 1976(e), Article 4(1)(b) does not apply to the amount of the price for the sale of those goods.

Treatment of additional goods or services

7. Where, in relation to an indication of price for the sale of any goods or of a charge for the provision of any services—

- (a) an indication is also given that other goods or services will or may be supplied with the first mentioned goods or services; and
- (b) no consideration in money is ascribed to the supply of those other goods or services,

the indication shall not, in relation to those other goods or services, include any statement of a description which would be prohibited by this Order if it were made in relation to the first mentioned goods or services.

Comparison of prices and charges

8.—(1) For the purposes of this Order—

- (a) goods shall be taken to be of the same description as other goods if those other goods are, by reason of their construction or comparison or of a purpose for which they may be used, of a description with which the goods may reasonably be compared; and
- (b) services shall be taken to be of the same description as other services if those other services are of a description with which the services may reasonably be compared.

(2) For the purposes of this Order, a person shall at any time be taken—

- (a) to propose a particular price or charge only if at or before that time he gives notice by display, advertisement or other public notice of his intention to do business at that price or charge at or after a date specified therein or after a period so specified; and
- (b) to have charged a price or made a charge only if before that time he has sold or agreed to sell goods at that price or has performed or agreed to perform services for that charge.

(3) For the purposes of Articles 4 and 5 in relation to an indication of a price or charge—

- (a) a person shall be taken to be an identified person, premises shall be taken to be identified premises, and circumstances shall be taken to be identified circumstances, only if the person is, or the premises or circumstances are, identified in the indication; and
- (b) a condition, a number, a quantity, circumstances or terms shall be taken to be specified only if the condition, number, quantity, circumstances or terms are specified in the indication.

Sealed with the Official Seal of the Department of Commerce for Northern
Ireland on 1st August 1980.

(L.S.)

W. T. McCrory
Assistant Secretary

SCHEDULE

Article 6(1)

Beds

1. Beds of any description (other than camp beds and beds intended primarily for outdoor use) intended for ultimate sale to private consumers, including mattresses and headboards.

Electrically powered and similar domestic appliances and apparatus

2. Appliances and apparatus of the following descriptions designed exclusively or mainly for domestic use and embodying mechanical, heating or refrigerating components operated by electricity or by gas or other fuel—

- (a) dishwashers;
- (b) drying cabinets, drying machines, washing machines, washers, ironing machines, irons;
- (c) floor polishers, floor scrubbers, vacuum cleaners;
- (d) refrigerators, freezers;
- (e) machines for mixing, extracting, cutting or otherwise preparing food and drink;
- (f) cookers, ovens, grills, hot-plates, heating rings, toasters and similar appliances and apparatus;
- (g) kettles, cooking utensils, coffee makers;
- (h) trays, stands, cabinets and trolleys for warming food;
- (i) dry shavers, toothbrushes, hairdryers, rollers and tongs;
- (j) blankets;
- (k) portable space heaters;

and accessories and attachments for such equipment.

Consumer electronic goods

3. Equipment designed exclusively or mainly for domestic use or for use in private cars, used for—

- (a) receiving radio or television broadcasts; or
- (b) reproducing sound or images from magnetic tape; or
- (c) reproducing sound from gramophone records;

and accessories and attachments for such equipment.

Carpets

4. Carpets, mats, rugs, carpet tiles and carpet underlays.

Furniture

5. Movable and fitted furniture designed exclusively or mainly for domestic use, including unassembled furniture and kitchen furniture but excluding garden furniture and soft furnishings.

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

1. This Order, subject to a number of exceptions, prohibits the indication of a price for the retail sale of goods, or a charge for the provision of services, to non-business users which includes an express or implied statement that the price or charge in question is lower than another price or charge for, or a value ascribed to goods or services of the same description. For example, claims such as "Worth £36, only £19.95" or "Could cost at least £7.85 elsewhere, only £4.75" are prohibited. The prohibition is not confined to specific quantifiable comparisons with other prices but extends to anything which states or implies that the price is lower than another price for the sale of goods of the same description, e.g., "reduced to £5", "special price 65p".

2. The prohibition applies not only to retailers and providers of services, but to anyone who quotes a price or charge to non-business users.

3. The Order also prohibits for those classes of goods specified in the Schedule, comparisons with Recommended Retail Prices and other prices or charges which are recommended or suggested in the course of business.

4. Articles 4 to 6 set out exceptions to the prohibition. These exceptions are comparisons between the indicated price of charge and—

- (a) prices or charges which have been charged in the ordinary course of business by the person giving the price indication or by another identified person; (e.g. "our price £5, firm X's price in the same circumstances £6).
- (b) prices or charges which the person giving the price indication proposes to charge from a specified date (e.g. "new — 10p off until 1st August").
- (c) prices or charges for goods or services of the same description in a different condition or quantity, or in different circumstances, or on different terms (e.g. "shop-soiled £2, perfect £3", "10p each or three for 25p", "£5 delivered, £4 cash and carry").
- (d) prices or charges for different combinations of goods or services (e.g. "table £60, chairs £30 each, table plus four chairs only £150").
- (e) where the indicated price applies only to members of a specified group of persons, a price to persons not within that group (e.g. "old age pensioners £1.20, normal price £1.50").
- (f) prices or charges which are recommended or suggested by any person in the course of business with the exception of the goods specified in the Schedule.

5. The Order contains transitional provisions for pre-packed goods and for advertisements in certain catalogues, periodicals, films and radio and television broadcasts.

6. A contravention of or failure to comply with the requirements of this Order is an offence under the Prices Act 1974, as amended.