

**AGREEMENT BETWEEN THE FEDERAL TRADE COMMISSION OF THE
UNITED STATES OF AMERICA AND THE AUSTRALIAN COMPETITION &
CONSUMER COMMISSION ON THE MUTUAL ENFORCEMENT
ASSISTANCE IN CONSUMER PROTECTION MATTERS**

The Australian Competition and Consumer Commission ("ACCC") and the U.S. Federal Trade Commission ("FTC"), recognising the challenges posed by cross-border Internet fraud and deception, and desiring to improve the effectiveness of the enforcement of the Consumer Protection Laws of both countries, hereby agree as follows:

ARTICLE I: Definitions

Consumer Protection Laws - refers,

(a) in the case of the United States, to "unfair or deceptive acts or practices" under Section 5 of the Federal Trade Commission Act, and,

(b) in the case of Australia, to Parts IVA, V, and Section 75AYA of the Trade Practices Act of 1974;

as well as any amendments thereto, and such other laws or regulations as the Parties may from time to time agree in writing to be a "Consumer Protection Law" for purposes of this Agreement. Each Party shall promptly notify the other of any amendments to its Consumer Protection Laws.

Evidence - refers to information, testimony, statements, documents or copies thereof, or other things that are obtained in anticipation of or during the course of an investigation or proceeding under the Parties' respective Consumer Protection Laws.

Person or Persons - refers to any natural person or legal entity, including corporations, unincorporated associations, partnerships, or bodies corporate existing under or authorised by the laws of either the United States, its States, or its Territories, the laws of Australia, its States, or its Territories, or the laws of other sovereign states.

Request - refers to a request for assistance under this Agreement.

Requested Party - refers to the Party from which assistance is sought under this Agreement, or which has provided such assistance.

Requesting Party - refers to the Party seeking or receiving assistance under this Agreement.

ARTICLE II: Object and Scope of Assistance

A. The Parties agree that it is in their common interests to share Evidence that will: facilitate effective enforcement of their respective Consumer Protection Laws; avoid

unnecessary duplication; facilitate coordinated investigations, research and education; promote a better understanding by each of economic and legal conditions and theories relevant to their respective consumer protection law enforcement and related activities; and keep each other informed of developments in their respective countries or companies based in that country.

B. In furtherance of this common interest, subject to Article IV, staff of the Parties will use best efforts to exchange and provide appropriate information in relation to: investigations and research; speeches, research papers, journal articles, etc.; compliance education programs; amendments to relevant legislation; and staffing and resource issues.

C. Subject to Article IV, the Parties intend to assist one another and to cooperate on a reciprocal basis in providing or obtaining Evidence that could assist in determining whether a person has violated or is about to violate their respective Consumer Protection Laws, or in facilitating the administration or enforcement of such Consumer Protection Laws.

D. Subject to Article IV, staff of the Parties shall use their best efforts, to the extent compatible with the Parties' laws, enforcement policies and other important interests, to inform each other as soon as practicable about violations of Consumer Protection Laws occurring or originating in the territory of the other Party, or that affect consumers or markets in the territory of the other Party.

E. Subject to Article IV, assistance contemplated by this Agreement includes, but is not limited to, the following: (c)-6(e)

6. in appropriate cases, coordinating enforcement against transborder violations of the Parties' respective Consumer Protection Laws.

F. Nothing in this Agreement should prevent a Party from seeking assistance from or providing assistance to the other Party pursuant to other agreements, treaties, arrangements, or practices.

G. This Agreement should be used solely for the purpose of law enforcement assistance between the Parties. The provisions of this Agreement do not give rise to a right on the part of any private person to obtain, suppress, or exclude any Evidence, or to impede the execution of a Request made pursuant to this Agreement.

H. Nothing in this Agreement compels a person to provide Evidence in violation of any legally applicable right, privilege or restriction.

I. Nothing in this Agreement affects the right of a Party to seek Evidence on a voluntary basis from a person located in the territory of the other Party, nor does anything in this Agreement preclude any such person from voluntarily providing Evidence to a Party.

ARTICLE III: Requests for Assistance

A. Requests for assistance under this Agreement by the ACCC should be addressed to:
Associate Director, Division of Planning and I. >>BDC q 88.56 83.64 435 636.36 re V

8. any other information that the Requesting Party believes would be helpful in facilitating review or execution of a Request.

C. Staff of the Parties should consult with each other regarding a Request in order to work out details regarding the manner and timing of executing the Request.

ARTICLE IV: Limitations on Assistance

A. Notwithstanding any other provision of this Agreement, neither Party should communicate information to the other Party if such communication is prohibited by the laws of the Party possessing the information or would be incompatible with that Party's important interests.

B. Consistent with its domestic law and interests, a Party should use its best efforts to provide assistance in response to a Request. The Requested Party may decline to provide assistance.

C. Before denying a Request, the Requested Party should consult with the Requesting Party to determine whether assistance may be given in part, subject to specified terms and conditions. If a Request is denied, the Requested Party should provide the Requesting Party with a written explanation of the basis for denial.

D. The determination as to whether to grant a Request in whole or in part rests with the Associate Director, Division of Planning and Information, in the case of the FTC, and with the Chief Executive Officer in the case of the ACCC.

ARTICLE V: Confidentiality

A. Unless otherwise agreed by the Parties, each Party should, to the fullest extent possible and consistent with its laws, use its best efforts to maintain the confidentiality of any information communicated to it in confidence by the other Party under this Agreement. The receiving Party may, however, subject to Article IV, communicate such confidential information to other law enforcement agencies for the purpose of Consumer Protection Law enforcement, unless agreed otherwise by the Parties.

B. Each Party should use its best efforts to oppose, to the fullest extent possible consistent with its laws, any application by a third party for disclosure of such confidential information.

C. Unless otherwise agreed by the Parties, notifications and consultations pursuant to Articles II and III of this Agreement and other communications between the Parties in relation thereto should be deemed to be confidential.

D. Nothing in this Agreement should prevent disclosure to third parties if such disclosure is required by the law of the Party. The Requesting Party should use its best efforts to

regarding the cooperation, coordination and enforcement assistance undertaken between the Parties for each 12 month period.

Agreed on this _____ day of _____ 2000, in duplicate, in the English language.

Robert Pitofsky
Chairman
Federal Trade Commission

Professor Allan Fels
Chairman
Australian Competition & Consumer
Commission