

public. These Sections also make it an offence to participate in a monopoly which has been operated or is likely to be operated to the detriment or against the interest of the public.

Sect. 33A deals with what are commonly called "price discrimination" and "predatory price cutting". It provides that a supplier may not make a practice of discriminating among those of his trade customers who come into competition with one another by giving one a preferred price which is not available to another if the second is willing to buy in like quantities and qualities as the first; and it also forbids a supplier from selling at prices lower in one locality than in another, or unreasonably low anywhere, if the effect or tendency of such policy is to lessen competition substantially or eliminate competitors or the policy is designed to have such effect.

Sect. 33B provides that where a supplier grants advertising or display allowances to competing trade customers he must grant them in proportion to the purchases of such customers; any services he exacts in return must be such that his different types of customers are able to perform; and if such customers are required to incur expenses to earn such allowances, such expenses also must be proportionate to their purchases.

Sect. 33C makes it an offence for any person, for the purpose of promoting the sale or use of an article, to make any materially misleading representation to the public concerning the price at which such or like articles have been, will be or are ordinarily sold.

Sect. 34 prohibits a supplier of goods from prescribing the prices at which they are to be resold by wholesalers or retailers or from cutting off supplies to a merchant because of the merchant's failure or refusal to abide by such prices, i.e., the practice of "resale price maintenance". The Section also provides that it shall not be inferred that a person practised resale price maintenance simply because he refused, or counselled the refusal of supplies to a merchant if there was reasonable cause to believe and the supplier did believe that the merchant was making a practice of using articles of such supplier as "loss-leaders" or as bait advertising or was making a practice of engaging in misleading advertising in respect of such articles or of not providing services that purchasers of such articles might reasonably expect.

The Act provides for a Director who is responsible for investigating combines and other restrictive practices, and a Commission (the Restrictive Trade Practices Commission) which is responsible for appraising the evidence submitted to it by the Director and the parties under investigation, and for making a report to the Minister. When there are reasonable grounds for believing that a forbidden practice is engaged in, the Director may obtain from the Commission authorization to examine witnesses, search premises, or require written returns. After examining all the information available, if the Director believes that it proves the existence of a forbidden practice, he submits a statement of the evidence to the Commission and to the parties believed to be responsible for the practice. The Commission then sets a time and place at which it hears argument on behalf of the Director in support of his statement, and hears argument and receives evidence on behalf of any persons against whom allegations have been made in the statement. Following this hearing, the Commission prepares and submits a report to the Minister, ordinarily required to be published within thirty days.

The Act also provides for general inquiries into restraints of trade which, while not forbidden or punishable, may affect the public interest. It further provides in Sect. 31 that the courts, including the Exchequer Court of Canada, in addition to imposing punishment for a contravention of the legislation, may make an order restraining persons from embarking on, continuing or repeating a contravention or directing the dissolution of a merger or monopoly as the case may be. Application also may be made to the courts for such an order in lieu of prosecuting and convicting for a contravention of the legislation. By virtue of the 1960 amendments, prosecutions for offences against the substantive provisions of the legislation (other than Sect. 33C which is punishable only on summary conviction) may be taken either in the provincial courts or with the consent of the accused in the Exchequer Court of Canada. The amendment conferring jurisdiction on the Exchequer Court came into force on Dec. 1, 1960.