

# More Regulators Focus on Price Comparisons

Gonzalo E. Mon

March 8, 2017

Yesterday, the Virginia Attorney General announced that it reached a settlement with Hobby Lobby over the retailer's price comparisons. According to the press release, Hobby Lobby advertised discounts compared to "other sellers," but failed to disclose the basis of comparison, thus making it difficult for consumers to determine whether they were getting a good deal.

The Attorney General stated that "comparison price advertising only works if businesses are clear about their prices and how they compare to competitors." As part of the settlement, Hobby Lobby is required to more clearly disclose the basis of its price comparisons, in accordance with Virginia's Comparison Price Advertising Act. In addition, the company must pay \$8,000.

Regulators in other countries are also focusing on these issues. For example, earlier this year, Canada's Competition Bureau announced that Amazon had agreed to pay \$1.1 Million to resolve an investigation into the company's use of "list" prices. Amazon would frequently advertise a list price with a line through it, followed by the selling price and a savings claim. For example:

List Price: ~~CDN\$ 39.99~~  
Price: **CDN\$ 29.99 & FREE Shipping on orders over CDN\$ 35.** [Details](#)  
You Save: **CDN\$ 10.00 (25%)**

The Bureau picked a sample of 12 products and investigated the prices at which those products were sold by Amazon and its competitors over a two-year period. According to the Bureau, those items were rarely sold at the advertised list price. Amazon stated that it required its suppliers to provide accurate price information, and had relied on this information, without independently verifying it.

The Bureau noted that Amazon had initiated various changes to its pricing practices, including (a) suppressing the list prices of certain products, (b) adopting policies and procedures to ensure compliance with the requirements the Competition Act, and (c) including the requirement that list prices be set in good faith for all products offered for sale by Amazon for Amazon Retail.

Based on recent trends, we expect to see more of these types of investigations in 2017. Retailers need to pay close attention to these developments and pricing laws, particularly when they advertise discounts, sales, or other price reductions.