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## GENERAL NOTICE

### NOTICE 303 OF 2005

#### DEPARTMENT OF TRADE AND INDUSTRY CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988

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

I, Mandisi Mpahlwa, Minister of Trade and Industry, by virtue of the powers vested in me by section 12(6) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No 71 of 1988), and after having considered a report by the Consumer Affairs Committee in relation to an investigation of which notice was given in Notice 213 of 2002 published in Government Gazette No 23118 dated 15 February 2002, which report was published in Notice 2177 in Government Gazette 26862 of 30 September 2004, and after having amended Notice 2178 in Government Gazette 26862 in view of comments received, and being of the opinion that an unfair business practice exists which is not in the public interest, promulgate the notice in the Schedule.

#### SCHEDULE

In this notice, unless the context indicates otherwise -

1. "Unfair business practice" means the business practice whereby mail-order entities, inform consumers or potential consumers, by any means whatsoever, that they have won a sum of money or any other prize,
  - (a) where the consumers have not won the money or prize mentioned in the headline; and/or
  - (b) where such money or prize is subject to suspensive conditions prior to entitlement, and the suspensive conditions are not printed, immediately after the announcement of the prize, in the same letter type and size as the announcement of the prize; and
  - (c) where consumers are required to send any sum of money in order to claim the prize, except such sum of money which is the purchase price for identified goods bona fide offered for purchase by the company and ordered by the consumer
2. "**Mail-order entities**" are manufacturers, wholesalers or retailers who contact buyers through direct mail, catalogs, television, radio, magazines, and newspapers and deliver the goods ordered by their clients to a post

office or a physical address nominated by the clients. It also includes entities who do not necessarily offer goods but require of consumers to forward any type of fee on order to receive a prize.

3. **"Prize"** includes, but is not restricted to, awards, donations, bonuses, gifts, grants, presents and rewards.
4. The unfair business practice is hereby declared unlawful and persons are hereby directed to:
  - (a) refrain from applying and/or perpetuating the unfair business practice; and
  - (b) refrain at any time from applying and/or perpetuating the unfair business practice".
5. 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 extent and for such period and subject to such conditions as may be specified in the exception. Such applications for exemption must be directed to: The Director: Consumer Investigations, Private Bag X84, PRETORIA, 0001 [For attention: Mr E Mohamed, (F) 012-394-2542]
6. This notice shall come into operation on 1 May 2005.

**M B M MPAHLWA**  
**MINISTER OF TRADE AND INDUSTRY**

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