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CONTENTS • INHOUD

No.

Page
No. Gazette
No.**GENERAL NOTICES****Trade and Industry, Department of***General Notices*

409	Consumer Affairs (Unfair Business Practices) Act (71/1988): Consumer Affairs Committee: Report on the investigation conducted by the committee: Report No. 125	3	33203
410	do.: Notice in terms of section 12 (l) (b)	14	33203

GENERAL NOTICES

NOTICE 409 OF 2010

DEPARTMENT OF TRADE AND INDUSTRY

CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, No 71 of 1988

I, Dr Rob Davies, Minister of Trade and Industry, do hereby, in terms of section 10(3) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), publish the report of the Consumer Affairs Committee on the investigation conducted by the Committee pursuant to Notice 293 of 2010 as published in Government Gazette No. 33077, volume 489, dated 31 March 2010, as set out in the Schedule.



Dr ROB DAVIES, MP

MINISTER OF TRADE AND INDUSTRY

REPORT
IN TERMS OF SECTION 10(1) OF THE
CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988
(ACT 71 OF 1988)

REPORT No. 125

AN INVESTIGATION INTO THE SALE AND OR DISPOSAL OF 2010
FIFA WORLD CUP™ TICKETS BY UNAUTHORIZED PERSONS/
ENTITIES

1 INTRODUCTION

The Consumer Affairs' Committee resolved on 25 March 2010 to undertake an investigation in terms of section 8 (1) (b) of the Consumer Affairs (Unfair Business Practices) Act, No 71 of 1988, arising from a concern that there is a strong likelihood that consumers who acquire or seek to acquire 2010 FIFA World Cup™ tickets through unauthorized persons/entities will be severely prejudiced, as these tickets may be invalid, unavailable, or present other risks and harms to consumers. This report establishes the Committee's concerns and suggests the control of such conduct in South Africa.

It must be noted from the outset that the purpose of this report is not to consider the merits of the system which the Fédération Internationale de Football Association (FIFA) has in place by which tickets to the 2010 FIFA World Cup™ are being sold. This is not the issue before the Committee. The fact of the matter is that, for whatever reasons, a particular system is in place for the sale of tickets. The Committee is primarily concerned with protecting the interests of consumers in accordance with its legislative mandate.

2. THE CONSUMER AFFAIRS COMMITTEE

The Consumer Affairs Committee (the Committee) was established in terms of section 2 of the Consumer Affairs (Unfair Business Practices) Act, 1988 ("the Act"). The purpose of the Act is to provide for the prohibition or control of unfair business practices and related matters. An "unfair business practice" is any business practice which directly or indirectly, has or is likely to have the effect of harming the relations between businesses and consumers, unreasonably prejudicing any consumer, deceiving any consumer or unfairly affecting any consumer or natural person.

The Act confers wide investigative powers on the Committee. In terms of the Act the Committee may conduct two types of formal investigations. First, in terms of section 8 of the Act, the Committee may on its own initiative, and shall on the directions of the Minister of Trade and Industry (the Minister), undertake such investigation as it may consider necessary into any harmful business practice of particular individuals or persons that the Committee believes exists or may come into existence. Secondly, the Committee may investigate any

business practice being applied by persons in general for the purposes of creating or maintaining a harmful business practice. The first type of investigation is a section 8(1) (a) investigation in terms of the Act and the second a section 8(1) (b) investigation. These types of investigations are known as formal investigations.

The Committee can also undertake preliminary investigations in terms of section 4(1) (c) of the Act into the business practice of an entity. A section 4(1) (c) investigation enables the Committee to undertake such preliminary investigation as it may consider necessary into, or confer with any party in connection with, any harmful business practice which allegedly exists or may come into existence. Notice of section 4(1) (c) investigations is not published in the Government Gazette as opposed to section 8 investigations. The purpose of section 4(1) (c) investigations is to enable the Committee to make a more informed decision as to whether a section 8(1) (a) investigation should be undertaken.

The Committee reports to the Minister on the result of any investigation undertaken by it in terms of section 8. If the Committee, after an investigation, believes that a harmful business practice exists, or may come into existence and is not satisfied that the harmful business practice is justified in the public interest, the Committee in its report recommends to the Minister the action that should be taken to ensure the discontinuance of the harmful business practice. The orders of the Minister are published in the Government Gazette and a contravention of the Minister's order constitutes a criminal offence.

3. REASONS FOR THE INVESTIGATION

FIFA has warned that thousands of illegitimate, nonexistent, fake or bogus tickets for the football FIFA World Cup™ to be held in South Africa in 2010 are being sold on websites for many times their face value. Sellers are seemingly seeking to profit from those consumers who may be: (a) desperate to buy tickets for high demand matches for which tickets are no longer available through legitimate sales channels, or (b) unaware that tickets for some less high profile matches are still available at face price directly through official sales channels.

Legitimate tickets are currently being sold exclusively by FIFA or such entities that are expressly authorised by FIFA to do so. FIFA's rules state that tickets may only be used by the ticket-holder named at the time of purchase, being the ticket applicant whose name will be printed on the ticket and his/her guests' names that will be embedded in the legitimate ticket.

It is claimed by FIFA that for security reasons, it does not issue paper tickets until a few weeks before the competition starts, that is, from 15 April 2010 onwards. For all general public sales, FIFA World Cup™ tickets are supplied only to the original ticket applicant at collection points in the Republic of South Africa.

This means that any unauthorised seller/ reseller claiming to be able to supply tickets will only be able to supply illegitimate tickets. If a ticket was sold before 15 April 2010, such unauthorised persons would have sold a ticket which they do not have; and if any of these tickets are sold after 15 April 2010 then these persons would be in violation of the contractual terms applicable to the ticket transaction. Consumers are being misled into believing that they will receive legitimate tickets from unauthorised resellers. Many consumers will, in all probability, only discover that the tickets they acquired are not legitimate after they have outlaid substantial sums of money for these tickets. All tickets have the name of the ticket applicant printed on the face of the ticket.

In some instances unauthorised resellers have a "money-back" guarantee should tickets be unavailable. However, the fine print in these types of contracts reveals that the refund relates only to a refund for the cost of the ticket. This refund does not cover the money which has been spent by the consumer on related accommodation and travel, which would be especially significant for the consumer. Furthermore, the refund cannot assuage the disappointment in not being able to see a match.

FIFA has advised the Committee that a specific team from FIFA's legal affairs division is working with international authorities to monitor the internet for illegal 2010 FIFA World Cup™ or unauthorised ticket offers and is taking action as far as possible to combat such practices.

Having received representations from representatives of FIFA, the Committee resolved that there is a strong likelihood that consumers who acquire or seek to acquire 2010 FIFA World Cup™ tickets through unauthorised persons/entities will be severely prejudiced, as these tickets may be invalid, unavailable or present other risks and harms to consumers. Thus notice was given of the Committee's intention to institute a formal investigation in terms of section 8(1) (b) of the Act, into the business practice whereby 2010 FIFA World Cup™ tickets are offered by unauthorised persons/entities to consumers. The said investigation notice was published under General Notice 293 of 2010 in the Government Gazette No.

33077, volume 537, dated 31 March 2010. A copy of this notice is attached hereto marked "A".

4. MATCH SERVICES

MATCH Services AG is a professional services company selected by FIFA to develop complete systems and operations solutions in the areas of ticketing, accommodation and event information technology services to FIFA for the 2010 FIFA World Cup South Africa™, the 2014 FIFA World Cup Brazil™ and related events. Similar to FIFA, MATCH Services AG is based in Zürich, Switzerland. MATCH Services AG has formed a wholly owned South African subsidiary, MATCH Event Services (Pty) Ltd ("MATCH") to operate local activities in South Africa in connection with the 2010 FIFA World Cup™.

MATCH is also mandated to manage for and on behalf of FIFA the 2010 FIFA World Cup™ Tour Operator Programme that includes the appointment and management of Participating Tour Operators who are authorised by FIFA to sell official travel packages inclusive of 2010 FIFA World Cup™ tickets. FIFA has also formed a local South African subsidiary, 2010 FIFA World Cup™ Ticketing (Pty) Ltd, to operate in connection with event ticketing.

MATCH has been tasked with addressing unauthorised sales and re-sales of tickets while FIFA's Rights Protection Team, based in Switzerland, is tasked with addressing unauthorised use of tickets in promotions such as contests, sweepstakes and ambush marketing related activities.

MATCH Hospitality AG (including MATCH Event Hospitality (Pty) Ltd) is the rights holder exclusively appointed by FIFA to deliver the official FIFA Hospitality Programme for 2010 FIFA World Cup™ including producing and managing the sale of official on-site ticket-inclusive hospitality packages and has appointed worldwide sales agents in various territories publicly listed on www.fifa.com.

5. LEGITIMATE MEANS OF SECURING WORLD CUP TICKETS

FIFA has established defined legitimate means of gaining access to 2010 FIFA World Cup™ matches. FIFA, itself has strongly urged consumers to secure their tickets through these

means. If consumers attempt to obtain tickets through unauthorized channels, these tickets will either never materialize in which case consumers will lose their money, or the tickets will be invalid or counterfeit in which case consumers may be refused entry to the World Cup stadia. Legitimate 2010 FIFA World Cup™ tickets may be purchased from defined legitimate sources. These sources are listed in Annex "B" hereto.

FIFA has confirmed that it will not issue paper tickets until a few weeks before the World Cup starts, being as from 15 April 2010, and the tickets will be issued to the original applicant providing the necessary proof at various collection points in South Africa. It does not matter where in the world the tickets have been purchased by members of the general public; the actual issue of the tickets will be made in the Republic of South Africa. Legitimate tickets are conditional upon acceptance of the ticket general terms and conditions which stipulates, amongst other things, that tickets purchased by consumers cannot be resold by the consumer or transferred without FIFA's permission and via the official transfer platform which is available. A legitimate ticket will be issued by FIFA and these tickets will be issued to the ticket applicant whose name will be printed on the ticket and his/her guests' names embedded in the legitimate ticket.

6. SCAMS AND INTERNET HOAXES

It has been reported by FIFA that e-mail scams and internet hoaxes may falsely claim to:

- (a) be part of a FIFA lottery, prize draw or competition;
- (b) require additional payment from consumers to guarantee tickets that consumers have won, or
- (c) receive consumer's personal information to secure tickets in contravention of FIFA rules.

Competitions offering tickets to the 2010 FIFA World Cup™ can only be held by those entities which are commercially affiliated with FIFA, such as sponsors. A list of official FIFA Sponsors and Commercial Affiliates, is available on:

<http://www.fifa.com/aboutfifa/marketingtv/partners/fifapartners.html>

7. BUSINESS PRACTICE

The Committee has considered the business practice whereby unauthorised persons, juristic or otherwise have and will continue to, in the build up towards the 2010 FIFA World Cup™, sell, market, distribute, dispose of and/or allege that they can access 2010 FIFA World Cup™ tickets for unsuspecting consumers.

The Committee is of the view that the business practice of those unauthorised persons which business practice involves the sale, marketing, distribution, disposal of 2010 FIFA World Cup™ tickets and/or allegation that they can access 2010 FIFA World Cup™ tickets for consumers presents the following risks to consumers:

- Consumers will be misled into believing that they are securing legitimate tickets through a duly authorised distributor/ marketer,
- Consumers will not secure legitimate tickets;
- Exorbitant prices, far in excess of the published price, may be paid by consumers for tickets which either do not exist or are counterfeit;
- Consumers may be lured into a false sense of security when money back guarantees are issued by these sellers only to find that the refund is limited to the cost of the ticket alone and does not include the refund of accommodation costs; airfare or other transport costs.

In essence, consumers will be severely inconvenienced and prejudiced, financially and otherwise if they attempt to secure 2010 FIFA World Cup™ tickets from unauthorised persons or entities.

The Committee is of the view that it is not in the public interest to allow unauthorised persons to continue selling or disposing of 2010 FIFA World Cup™ tickets to consumers. The Committee is further of the view that the business practice revealed by its investigation constitutes an unfair business practice for the purpose of section 1 of the Act.

8. CONCLUSION AND RECOMMENDATIONS

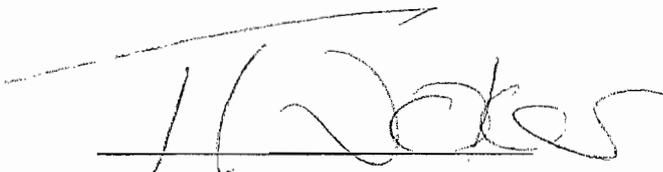
The Committee has concluded that the sale or disposal of 2010 FIFA World Cup™ tickets by unauthorised persons and or entities constitutes an unfair business practice and the Committee is not satisfied that the unfair business practice is justified in the public interest.

Hence, the Committee hereby recommends to the Minister of Trade and Industry (Minister) that this unfair business practice be controlled so as to ensure the discontinuance of the business practice.

In order to control the business practice, the Committee recommends that in terms Section 12 of the Act-

The Minister declares unlawful the business practices of any entity / person whereby without the written authorisation of FIFA such entity or person:

- (a) Sells or otherwise disposes of 2010 FIFA World Cup South Africa™ tickets, or any right pertaining to such a tickets, to another person, for commercial purposes, or
- (b) Uses a 2010 FIFA World Cup South Africa™ ticket for advertising, sales or promotional purposes, as a sweepstake prize or as part of hospitality or travel package, or makes it available or advertises it for any such purpose.



PROFESSOR TANYA WOKER

CHAIRPERSON OF THE CONSUMER AFFAIRS COMMITTEE

16 APRIL 2010

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CONTENTS • INHOUD

No.

Page
No. Gazette
No.**GENERAL NOTICE**

Trade and Industry, Department of

General Notice

293 Consumer Affairs (Unfair Business Practices) Act (71/1988): Investigation in terms of section 8 (1) (b) 2 33077

GENERAL NOTICE**NOTICE 293 OF 2010****DEPARTMENT OF TRADE AND INDUSTRY****CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988**

In terms of the provisions of section 8(4) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), Notice is hereby given that the Consumer Affairs Committee, intends undertaking an investigation in terms of section 8(1)(b) of the said Act into the following business practice:

The offer, sale, re-sale, advertisement and or promotion of 2010 FIFA World Cup tickets to consumers by **unauthorised persons / entities** including such tickets being part of any hospitality or travel package. This investigation is informed by the Committee's concern that there is a strong likelihood that consumers who acquire or seek to acquire 2010 FIFA World Cup tickets through unauthorised persons/ entities will be severely prejudiced, as these tickets will be invalid or unavailable.

Further take notice that any person may, within a period of 14 (fourteen) days of publication of this Notice, make written representations and proposals regarding the investigation to the Consumer Affairs Committee. These written representations must be directed to the under mentioned address.

The Secretary Consumer Affairs Committee
Private Bag X84
PRETORIA
0001
For Attention: Mr R Netsianda
Tel: 012 3941559
Fax: 012 394 2559
E-mail: rcnetsianda@thedti.gov.za

ANNEX B

Legitimate 2010 FIFA World Cup™ ticket sources:

- i) The official FIFA Website, namely, www.fifa.com;
- ii) First National Bank (FNB) branches in and around South Africa;
- iii) For credit card ticket purchase orders: FIFA Call Centre with the contact details of 083 123 2010.
- iv) As from 15 April 2010: Tickets may be purchased over the counter at the FIFA World Cup Ticketing Centers operated by MATCH located at the following venues:

Cape Town	The Spearhead, Foreshore, Cape Town, Western Cape
Durban	Sun Coast Casino, Marine Parade, Kwa-Zulu Natal
Durban	Gateway Shopping Centre, Umhlanga Ridge, Kwa-Zulu Natal
Johannesburg	Maponya Mall, Soweto, Gauteng
Johannesburg	Laico Isle (Sandton), Sandown, Gauteng
Mangaung/Bloemfontein	Loch Logan Waterfront Mall, Bloemfontein, Free State
Nelson Mandela Bay/Port Elizabeth	Moffet On Main Lifestyle Centre, Walmer, Port Elizabeth, Eastern Cape
Nelspruit	The Grove Shopping Centre, Riverside Park, Nelspruit, Mpumalanga
Polokwane	Polokwane Lifestyle Centre, Polokwane
Rustenburg	Waterfall Mall, Rustenburg, North West Province
Tshwane/Pretoria	Brooklyn Mall, New Muckleneuk, Pretoria

- v) For ticket-inclusive hospitality packages: Either directly from the FIFA hospitality partner, MATCH Hospitality or via its worldwide sales agents in various territories publicly listed on www.fifa.com, (MATCH Hospitality is the only entity authorized to sell on-site hospitality packages that are inclusive of tickets),
- vi) For ticket-inclusive travel packages: The Participating Tour Operators appointed by FIFA under the 2010 FIFA World Cup™ Tour Operator Programme as listed on the official FIFA website of www.fifa.com.

In addition to the above, FIFA has recently decided to also sell tickets to the general public via the following authorised channels:

Shoprite/Checkers – Tickets will be sold at the Moneymarket counters in the stores;

- vii) Passenger Rail Agency South Africa (“PRASA”) - Tickets will be sold with PRASA transportation packages at train ticket outlets.
- viii) Civic Centre in Nelspruit

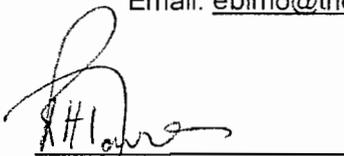
NOTICE 410 OF 2010
**NOTICE IN TERMS OF SECTION 12 (6) OF THE CONSUMER AFFAIRS (UNFAIR
BUSINESS PRACTICES) ACT, Act No 71 of 1988**

I, Dr Rob Davies, Minister of Trade and Industry, after having considered a report by the Consumer Affairs Committee in relation to an investigation of which notice was given in Notice 293 of 2010 published in Government Gazette No. 33077, volume 537 dated 31 March 2010, which report was published under Notice 409 in Government Gazette No. 33203 of 2010, and being of the opinion that an unfair business practice exists which is not justified in the public interest, do hereby exercise my powers in terms of section 12(l)(b) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), as set out in the Schedule.

SCHEDULE

1. In this notice, unless the context means otherwise-
- 1.1 **Business practice** means:
any entity / person whereby, without the written authorisation of the Fédération Internationale de Football Association also known as FIFA, such entity or person:
 - (a) sells or otherwise disposes of 2010 FIFA World Cup South Africa™ tickets, or any right pertaining to such tickets, to another person, for commercial purposes, or
 - (b) uses a 2010 FIFA World Cup South Africa™ ticket for advertising, sales or promotional purposes, as a sweepstake prize, or as part of hospitality or travel package, or makes it available or advertises it for any such purpose.
2. The **business practice** is hereby declared unfair and therefore unlawful and persons, juristic or otherwise, are hereby directed to:
 - (a) refrain from applying the business practice;
 - (b) refrain at any time from applying the business practice.
3. This notice shall come into operation upon date of publication hereof.
4. On the recommendation of the Consumer Affairs Committee I may, in a particular case, in terms of section 12 of the Consumer Affairs (Unfair Business Practices) Act, grant exemption from a condition or requirement contemplated in this notice to such an extent and for such period and subject to such conditions as may be specified in the exemption. Such application for exemption must be directed to:

The Chief Director: Office of Consumer Protection
Consumer Affairs Committee
Private Bag X84
PRETORIA
0001
Email: ebimo@thedti.gov.za



Dr ROB DAVIES, MP
MINISTER OF TRADE AND INDUSTRY