

PANASONIC NEW ZEALAND LIMITED

AND

COMMERCE COMMISSION

SETTLEMENT AGREEMENT

DATED

2012

AGREEMENT DATED

day of

2012

PARTIES

PANASONIC NEW ZEALAND LIMITED (Panasonic) a duly incorporated company having its registered office in Auckland

and

COMMERCE COMMISSION (the Commission) a statutory body established under section 8 of the Commerce Act 1986

BACKGROUND

1. Panasonic is a New Zealand registered company that was incorporated in August 1998. It has its registered office at 350 Te Irirangi Drive, East Tamaki, New Zealand.
2. Panasonic is part of Panasonic Corporation, which is a multinational electronics producer, manufacturer and marketer.
3. In November and December 2010 Panasonic ran a 'Million Dollar Summer' two tier prize draw promotion. The promotion headlined the chance to win million dollar prizes. The only prizes which were guaranteed to be won were four prizes valued at \$10,000. Each of those prize winners had a 1 in 300 chance to win the million dollar prize. There was therefore only a remote chance that the headlined million dollar prize would be won.
4. The Commission is of the view that there is a high risk that two tier prize draws will be misleading and in breach of the Fair Trading Act because these promotions often feature prizes that are unlikely to be won. In the Commission's opinion the primary focus of the advertising of such promotions should be on those prizes which are guaranteed to be won.
5. The Commission has investigated Panasonic for alleged breaches of the Fair Trading Act 1986 (FTA) in failing to supply the headlined prize as offered, in each of four draws that were part of its 'Million Dollar Summer' promotion during the period 1 November 2010 to 2 January 2011.
6. The four separate 'Million Dollar Summer' promotions were each carried by a separate retail buying group.

7. The 'Million Dollar Summer' promotion was advertised by retailers using in-store promotional material provided by Panasonic and via retailer catalogues and newspaper advertising. The promotion also featured on Panasonic's website
8. Panasonic has fully co-operated with the Commission's investigation, and the parties have resolved to settle the matter by way of this Settlement Agreement (Agreement).

UNDERTAKINGS

9. Panasonic acknowledges that it has or may have breached sections 11 and 17 of the FTA by implying that the headlined prize valued at \$1,000,000 which featured in four separate 'Million Dollar Summer' promotions that it was responsible for, would actually be won rather than just the guaranteed \$10,000 prizes.
10. Panasonic agrees that the advertising of any future two tier or similar promotions will primarily feature those prizes which are guaranteed to be won.
11. Panasonic also agrees to conduct a full review of its in-house processes and/or procedures to ensure that its future promotions and promotional material will not breach the FTA.

IMPLEMENTATION AND EFFECT OF THE AGREEMENT

12. The Commission cannot bind other parties, and therefore this Agreement does not preclude any person taking his or her own action against Panasonic in relation to the 'Million Dollar Summer' promotion described above.
13. The Commission agrees to be bound by this Agreement. The Commission will not bring any further or other action in relation to the 'Million Dollar Summer' promotions subject to clause 15.
14. Subject to paragraph 15 below, the Commission agrees to be bound by this Agreement.
15. If Panasonic breaches any of its obligations under this Agreement, the Commission may recommence its investigation into the same conduct and take any action it deems appropriate. This includes commencing criminal prosecution and/or taking civil proceedings under the FTA.
16. If the Commission commences any Court proceedings pursuant to paragraph 15, Panasonic hereby waives any limitation defence that may be available to it in respect of those proceedings to the extent that the limitation arose as a result of the settlement recorded in this Agreement.

17. The parties agree to take such steps as are necessary or desirable to give full effect to the terms of this Agreement.
18. The fact that this Agreement has been entered into is not confidential. The Parties acknowledge and agree that none of the contents of this Agreement are confidential and that the facts of this investigation and this Agreement may be published and/or released to the public.
19. Nothing in this Agreement prevents the Commission from commencing an investigation or bringing Court proceedings in relation to any other conduct by Panasonic.

EXECUTED on behalf of the **COMMERCE COMMISSION** by:

Mark Berry

Dr Mark Berry, Commissioner

Date: 20/8/ 2012

EXECUTED on behalf of **PANASONIC NEW ZEALAND LIMITED** by:

Stewart Fowler

Stewart Fowler, Managing Director

Date: 8/8 2012