

Competition Bureau Commences Drip Pricing Application Against Cineplex

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On May 17, 2023, the Competition Bureau filed a [notice of application](#) with the Competition Tribunal commencing legal proceedings against Cineplex, Canada's largest theatre operator, alleging that it has engaged in drip pricing contrary to subsection 74.01(1.1) of the *Competition Act*. Specifically, the Bureau alleges that the price of movie tickets advertised on the Cineplex website and app were unattainable because of the addition of an obligatory \$1.50 online booking fee.

Drip pricing is the practice of advertising a price, which is not actually attainable because of the addition of mandatory fees (other than those imposed by a government, such as a sales tax).

This is the Competition Bureau's first enforcement action under drip pricing provisions which came into effect last year as part of amendments to the *Competition Act* made in June 2022. Section 74.01(1.1) specifically provides that the making of a representation of an unattainable price due to obligatory fees or charges that are not imposed by or under an Act of Parliament or the legislature of a province constitutes a false or misleading representation.

Drip pricing has been an enforcement priority of the Bureau for many years, featuring prominently in Competition Bureau [guidance](#) and resulting in several high-profile settlements in the car rental and online sporting and entertainment ticketing industries. Prior to June 2022, the Bureau had to proceed under the *Competition Act's* general civil prohibition against making representations to the public that are false or misleading in a material respect.

The June 2022 amendments also increased the maximum penalty for deceptive marketing practices (including drip pricing) pursued on a civil basis. The maximum fine for corporations is the greater of:

- \$10 million (for an initial violation)
- three times the value of the benefit from drip pricing
- if the benefit cannot be reasonably determined, three percent of annual global revenues

For guidance relating to drip pricing, please contact [Jennifer McKenzie](#), [Eric Buist](#), or any member of the Cassels [Competition & Foreign Investment Group](#).

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