

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

**In the Matter of**

**Valassis Communications, Inc.,  
a corporation**

**DOCKET NO. C-**

**COMPLAINT**

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that Valassis Communications, Inc., a corporation, has violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint stating its charges in that respect as follows:

**Preliminary Allegations**

1. Respondent Valassis Communications, Inc. (“Valassis” or “respondent”) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 19975 Victor Parkway, Livonia, Michigan 48152.
2. The line of commerce relevant to assessing respondent’s anticompetitive conduct is the production and distribution in the United States of cooperative free-standing inserts (“FSI’s”). FSI’s are multi-page booklets containing discount coupons for the products of various firms; these booklets are inserted into newspapers for distribution to consumers. For manufacturers of consumer packaged goods and others, FSI’s are a uniquely efficient means of distributing coupons on a mass scale. Entry into the relevant market is difficult and is not likely to deter or counteract the competitive harm described below.
3. For over a decade, there have been only two U.S. publishers of FSI’s: Valassis and News America Marketing (“News America”). On a typical Sunday, both the Valassis FSI and the News America FSI are distributed by hundreds of newspapers to over 50 million households.

4. Valassis is a publicly traded corporation, and holds a conference call with securities analysts on a quarterly basis. Any person may listen to the call live over the internet, or obtain a transcript of the call from the Valassis website. During these “earnings conference calls,” Valassis executives provide information and answer questions about recent business developments.
5. As detailed below, during the course of an earnings conference call in July 2004, Valassis invited its competitor News America to join with Valassis in a scheme to allocate FSI customers and to fix FSI prices. Valassis intended thereby to bring an end to the price war being waged in the FSI industry.

### **The FSI Price War**

6. Between 1998 and 2001, Valassis and News America each published approximately fifty percent of FSI industry pages. Valassis’ minimum price or “floor price” during this period was \$6 per full page per thousand booklets.
7. In June 2001, Valassis notified its clients of a five percent price increase. On all future contracts, Valassis’ FSI floor price would be \$6.30 for a full page. Valassis anticipated that News America would follow its FSI price increase.
8. News America did not follow the Valassis price move. As a result, News America captured additional customers and built up a substantial market share lead.
9. Valassis largely adhered to its \$6.30 floor price for eight months. In February 2002, Valassis determined that the company had waited as long as it could for a favorable signal from News America, and rolled back the price increase.
10. Over a three year period (2001-2004), FSI prices fell by nearly 20 percent due to competition between Valassis and News America. By 2004, FSI prices were below \$5 per full page. Valassis’ strategic objective, announced publicly on numerous occasions, was to regain a 50 percent share of the FSI market.

### **Valassis Invites its Competitor to Collude**

11. In mid-2004, Valassis determined that its aggressive pursuit of greater market share was no longer serving the company’s interests. Company executives developed a new strategy. Valassis would communicate to News America its readiness to cease challenging for News America customers, provided that News America ceased competing for Valassis customers. This would enable each firm to raise FSI prices within its uncontested domain.

12. Valassis held its second quarter 2004 earnings conference call on July 22, 2004. Valassis executives were aware that News America representatives would be monitoring the call. A complete transcript of the earnings conference call is annexed hereto as Exhibit A.
13. The President and Chief Executive Officer of Valassis, Alan Schultz, opened the earnings conference call by detailing the company's new strategy for increasing FSI prices. Specifically, the following program was announced:
  - a. Valassis will abandon its 50 percent market share goal. The company will be content to maintain its current share (mid-40s). "[W]e can achieve our 2005 target for pages produced with no further shifts in co-op FSI market share." Exhibit A at 3.
  - b. As necessary, Valassis will aggressively defend its existing customers and its existing market share. "[W]e will defend our customers and market share and use whatever pricing is necessary to protect our share." *Id.* at 4.
  - c. But with regard to customers with expiring contracts with News America, Valassis will submit bids at a level substantially above current prices. Effective July 26, 2004, "we will quote all News America first right of refusal customers at the floor price which was effective in May of 2001; hence our net price after ancillary price discounts, rebates, et cetera, will not go below \$6 [per thousand] for a full page and \$3.90 [per thousand] for a half page." *Id.* at 3-4.
  - d. With regard to the small number of customers that divide their FSI business between Valassis and News America, Valassis will seek to retain its current share of each customer's business, but not to encroach upon News America's position. "For Valassis/News America shared accounts we'll price our share at whatever price is necessary to retain our share of the business. If the client wants us to take more than our previous year's share, we will quote the new floor price [\$6 per thousand] on that portion of the business." *Id.* at 4.
  - e. For a limited time, Valassis will continue to honor its outstanding bids to News America customers at market prices. "We have proposals currently outstanding to four News America customers where we have previously quoted lower than the 6 and 3.90 floor. We will notify these four clients that the price quotes in these previously delivered proposals will expire on August 1, 2004. Thereafter, after August 1, 2004, all News America customers or market share will be quoted at our new floor price." *Id.* at 4.
  - f. Finally, Valassis will monitor News America's response to this overture. If News America competes for Valassis customers, then the price war will

resume. "In the recent past News America has been quick to make their intentions known. We don't expect to read the tea leaves. We expect that concrete evidence of News America's intentions will be available in the marketplace in short order. If News continues to pursue our customers and market share then we will go back to our previous strategy." *Id.* at 4.

14. Valassis acted with the intent to facilitate collusion and without a legitimate business purpose.
15. Valassis' invitation to collude, if accepted by News America, would likely have resulted in higher FSI prices and reduced output.
16. The acts and practices of Valassis, including the acts and practices alleged herein, are in commerce or affect commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

#### **Violation Alleged**

17. As set forth in Paragraphs 11 through 16 above, Valassis invited its competitor to collude with Valassis in violation of Section 5 of the Federal Trade Commission Act, as amended.
18. The acts and practices of respondent, as alleged herein, constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such acts and practices will continue or recur in the absence of appropriate relief.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this \_\_\_\_ day of \_\_\_\_\_, 2006 issues its complaint against respondent.

By the Commission.

Donald S. Clark  
Secretary

SEAL: