

## Editorial

### Trading Stamps – A Sting In The Tail

*Philip Circus*

BA (LAW), MPHIL, DCA, BARRISTER\*

The only example of a statute being designed specifically to regulate a sales promotion technique was the Trading Stamps Act 1964. It was very much a piece of legislation of its time and it was intended to provide a legal framework for the new trading stamps schemes of the early 1960's.

It is hard now to remember the storm of opposition in the early 1960's to the growth of trading stamps schemes. There was the establishment of the "Anti Trading Stamp Front" made up of hundreds of retailers who opposed the introduction of trading stamps. The President of the National Union of Shopkeepers declared:

"The system is pernicious; the promoters are parasitical on the housewife and the retail distributive trade generally. It is fantastic, but one motor firm is giving trading stamps to car buyers; another to its workers as a bonus for good timekeeping".

Nevertheless, in the same year that the government abolished resale price maintenance for most goods in the Resale Prices Act of 1964, the government also enacted legislation which allowed trading stamps schemes but sought to regulate them.

The provisions of the new Act ranged across restrictions on those who could carry on business as promoters of trading stamp schemes, provisions relating to catalogues and stamp books and the display of information in shops. The Act also provided that goods received on the redemption of trading stamps would carry the normal implied terms that operated under what was then the 1893 Sale of Goods Act.

However, this editorial is concerned with the continuing effects of sections 2 and 3 of the Act. Section 3 created a right for consumers to claim a cash redemption if they could collect stamps which had a total cash redemption value of what today is 25p or more. To facilitate this, section 2 of the Act requires a redemption value expressed in terms of "current coin of the realm" to be printed on the face of the trading stamp. Yet by some oversight Parliament did not set down any basis under which the cash redemption value of individual stamps was to be calculated. Hence, individual trading stamps were given cash redemption values expressed as small fractions of a penny.

Trading stamps in their traditional sense, as epitomised by Green Shield Stamps, were not, however, to last very long. They were a creature of their time and despite attempts to revive trading stamps they have not now been seen in the market place for many years.

So where's the problem? The problem lies in the

very wide definition given by the Act to the word "stamp" and the term "trading stamp". "Stamp" is defined in section 10 as "any stamp, coupon, voucher, token or similar device, whether adhesive or not, other than lawful money of the realm".

"Trading stamp" is defined as meaning a stamp "which is, or is intended to be, delivered to any person upon or in connection with a purchase by that person of any goods (other than a newspaper or other periodical of which the stamp forms part or in which it is contained) and is, or is intended to be, redeemable (whether singly or together with other such stamps) by that or some other person." In other words, virtually anything which is given away with the purchase of goods or services which can be subsequently redeemed constitutes a trading stamp.

Although there are one or two minor exceptions in the Act, it will be seen from these definitions that a great many devices come within the statutory control of trading stamps that one would not think of as traditional trading stamp schemes. Money off coupons on packets of soap powder are a case in point. So too are those promotional schemes which involve collecting a number of packet tops and sending them off in exchange for some item of merchandise. As a result, all such devices, when they come within the statutory definition, should carry on their face a cash redemption value.

It is not, however, necessary for people to compete to get into the *Guinness Book of Records* for the largest number of noughts after the decimal point. A cash redemption value of 0.1p is quite sufficient given the number that would have to be collected to achieve the cash redemption threshold of 25p.

Nine times out of ten a failure to comply with this element of the Act will bring no consequence, particularly since there is no enthusiasm on the part of the public authorities to bring any sort of enforcement action. Indeed, the author believes there has been no action at all by the authorities in recent years. But the right to demand a cash redemption is a consumer right and a recent case illustrates the difficulty.

A man had collected about a dozen vouchers which offered £100 off his next holiday. They were given away as part of a promotion involving the purchase of goods and they were subsequently redeemable against the holiday. They, therefore, constituted trading stamps within the meaning of the Act.

The individual went to the promoter of the sales promotion scheme and said that the £100 off vouchers he had in his collection legally constituted trading stamps and, as such, were required to carry on their face a cash redemption value. Since there was no nominal cash redemption value of the 0.1p variety, he argued that the £100 must represent the cash redemption value. Since the threshold for securing a cash redemption was 25p, and since he had "trading stamps" with a total cash redemption value of £1,200, he demanded that sum of money. The case was settled out of court.

\*Partner in Lawmark, the Marketing Law Advisory Service.

---

## Editorial

---

That then is the sting in the tail of the Trading Stamps Act 1964. And the message for promoters is that they should always put a cash redemption value on the face of any device which constitutes a trading stamp and not, as is sometimes the case, tucked away in the rules for the promotion. If it is a bottle top which is subsequently redeemable, it is the bottle top which is the trading stamp and it is the bottle top that should carry on its face the cash redemption value. If it is the wrapper for a product, then it is the wrapper which is the trading stamp, and so on. And what this case shows is that this legal necessity in section 2 is particularly crucial where the trading stamp will ordinarily have on its face another cash figure, *ie* the

cash figure which represents the value of the token or coupon or whatever, when it is used in the way that the promoter intends. In such cases, the promoter must give a nominal cash redemption value for the purposes of the Act.

There are some obscure pieces of legislation that affect marketing practice, but what this case shows is that even a statute relating to a seemingly dead and buried promotional technique has within it the means of giving businesses a nasty shock and a considerable potential liability.

*For further information please contact the author on 01243 842182.*