Department of Justice

FOR IMMEDIATE RELEASE
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AT
(202) 616-2771
TDD (202) 514-1888

JUSTICE DEPARTMENT ALLOWS GEORGIA-BASED RETAIL PRICE AUDITING CO. TO BUY AND PUBLISH LISTS OF PRODUCT SHELF PRICES

WASHINGTON, D.C. -- A Georgia-based retail price auditing firm will be allowed to go forward with its plan to buy and publish current public shelf prices of products found in grocery stores and other retailers under a proposal approved today by the Department of Justice.

The Department said that since the shelf prices are public in nature and the company is taking measures to ensure that its service won't be used to fix prices, the proposed database is not likely to be anticompetitive.

DataCheck Inc., which has provided price auditing services for a grocery chain retailer, proposes to expand its services by purchasing current shelf price information from retailers such as grocery chains, mass merchandisers and discounters. The company will then enter the data in its own in-house computer system, and publish the data in electronic and hard copy reports on a subscription basis to retailers and other interested subscribers.

Retailers advertise the current prices of many of their items, and such firms often employ price auditors to ascertain

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the shelf prices offered by their rivals to the public. The information service to be offered by DataCheck would enable its subscribers to ascertain more efficiently the current shelf prices charged by their rivals.

Joel I. Klein, Acting Assistant Attorney General in charge of the Antitrust Division, said, "In view of the measures that DataCheck will adopt to prevent its information system from being used in any manner that would facilitate price fixing, and the public and generally non-negotiable nature of the current shelf prices that will be disseminated, the proposed conduct is not likely to restrict price competition."

Klein also noted that, "to the extent that the price information exchanged results in price reductions by retailers or enables consumers to better engage in comparative shopping, DataCheck's proposed conduct could have a procompetitive effect."

The Department's position was stated in a business review letter from Klein to counsel for DataCheck.

The Department said that the proposal would not allow any direct communications between rivals nor inhibit them in any way from unilaterally changing their prices or engaging in any form of discounting or indirect price reductions that they choose.

DataCheck, which does not and will not have any financial ties to any of its retailer subscribers, will implement a number of monitoring and other prophylactic measures to make sure that no information as to future retail prices will be purchased from

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or sold to its information suppliers or customers.

Under the Department's Business Review Procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Suite 215, Liberty Place, 325 7th Street, N.W., Department of Justice, Washington, D.C. 20004. After a 30-day period, the documents supporting the business review will be added to the file.

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