
Appendix 2 Public information

This Appendix contains:

- lists of:
 - current publications;
 - speeches by Commissioners;
 - media releases; and
- some public registers material.

Publications

The following publications are available free from Commission offices unless otherwise indicated. Publications available from the Commission's web site (<http://www.accc.gov.au>) are indicated by an asterisk.

The Commission does not invoice but publications can be purchased by sending a cheque or money order made out to the Australian Competition and Consumer Commission with your order; via a telephone order using Mastercard, Visa or Bankcard; or over the counter at Commission offices.

(Some of the publications listed were published by the Trade Practices Commission, or Prices Surveillance Authority or Federal Bureau of Consumer Affairs).

Regular publications

ACCC Journal — bi-monthly journal (\$75.00 annual fee, second and following subscriptions to same address \$37.50 annually and \$25.00 student subscription). Six issues per year.

Journal back issues — \$5.00 each

Annual Reports

The first ACCC Annual Report (\$19.95), and past Annual Reports of the Trade Practices Commission and Prices Surveillance Authority, are available from Government Info Shops.

Guides to the legislation and ACCC procedures

Best and fairest — compliance training package — January 1996 (\$390.00)

Summaries of the Trade Practices Act and Prices Surveillance Act — November 1995 (\$10.00 or \$7.50 for orders of 10 or more)*

Revised merger guidelines — a guide to the Commission's administration of the merger provisions of the Trade Practices Act — July 1996 (\$15.00)*

Guide to authorisations and notifications — a guide on provisions for exemptions from anti-competitive conduct under the Trade Practices Act — November 1995 (\$10.00)*

Local government and the Trade Practices Act — June 1996*

Small business and the Trade Practices Act — a practical guide for small business — November 1995*

A guide to the Trade Practices Act for the health sector — November 1995 (\$10.00)*

Access regime — a guide to Part IIIA of the Trade Practices Act — November 1995 (\$10.00)

Access undertakings — a draft guide to access undertakings under Part IIIA of the Trade Practices Act — December 1996*

Access undertakings — an overview — overview of Part IIIA of the Trade Practices Act and the draft access undertakings guide (\$10.00 for the two volume set)

Access pricing principles — telecommunications — a draft guide — February 1997 (\$10.00)*

Section 155 of the Trade Practices Act — a guide to the administration of the ACCC's

power to require provision of information — November 1994 (\$10.00)*

Section 87B of the Trade Practices Act — a guideline on the ACCC's use of enforceable undertakings — August 1995 (\$10.00)*

When goods are defective — a guide to the product liability provisions of the Trade Practices Act — June 1993 (\$10.00)

Unconscionable conduct in commercial dealings — a guide to section 51AA of the Trade Practices Act

Unconscionable conduct in consumer dealings — a guide to section 51AB of the Trade Practices Act — October 1993 (\$5.00 each or \$7.50 per set)

Misleading job ads — how to handle them (manual for classified advertising staff by TPC, Media Council of Australia and JobWatch) — June 1994. Available from Media Council.

Misuse of market power — Section 46 of the Trade Practices Act — a background paper — February 1990

Business and consumer information sheets and leaflets

Refusal to deal — March 1997*

Warranties and refunds — December 1996*

Authorisations and notifications — July 1996

Fruit juice labelling — June 1996

Warranties — retailers have rights too — May 1996

Know your credit card — March 1996

The right to safe goods — June 1993

Hold the phone — read this before you buy a mobile — January 1995 (published jointly by TPC, TIO, Austel, Optus, Telecom and Vodafone)*

Recycling claims for used consumer plastic packaging — April 1995*

Telefraud — new name for an old scam — don't pay for ads you didn't order — January 1994

Don't let your suppliers tell you what to charge — resale price maintenance — November 1990

Product safety guides

Consumer product standards and bans — a compliance guide for suppliers — October 1996

Exercise cycles — 1996 (\$10.00)

Children's nightclothes — 1994

Sunglasses and fashion spectacles — 1994

Children's toys — 1994

Cyclists' helmets — 1992

Children's flotation toys and swimming aids — 1992

Ingredient labelling of cosmetics — 1992

Care labelling — 1991

Vehicle jacks, trolley jacks, ramps and stands — 1991

Reports and discussion papers

Acquisitions

Acquisitions and the failing company argument — discussion paper by the TPC and the NZ Commerce Commission — October 1993 (\$3.00)

Airport pricing

Regulation of airport pricing — is the New Zealand approach applicable to Australia? — May 1995 (PSA)

Banking and insurance

ACCC second submission to the Financial System Inquiry — September 1996 (\$25.00)

The social responsibilities of banks — March 1995 (PSA)

Taking advantage — sale of life insurance to Aboriginal people in remote communities — March 1994 (\$10.00) (TPC)

Life insurance and superannuation — information paper on an inquiry by the Trade Practices Commission at the direction of the Minister for Justice and Consumer Affairs — June 1992

Electronic funds transfer — report by the Treasury and the Trade Practices Commission on the operation of the EFT code of conduct — July 1990 (\$10.00)

Bar code scanning (computerised checkouts)

Checkout the price — review of the supermarket scanning code — July 1992 (\$10.00) (TPC)

Building

Home building — consumer problems and solutions — final report of the Trade Practices Commission review — November 1993 (\$15.00)

Competition issues

Non-price competition — October 1995 (\$10.00) (PSA)

Market definition and competition issues in commercial broadcast radio — June 1994 (\$10.00) (TPC)

Submission to the National Competition Policy Review (Hilmer) — April 1993 (\$25.00) (TPC)

Intellectual property

Application of the Trade Practices Act to intellectual property — July 1991 (\$10.00) (TPC)

Petroleum

Issues paper for the inquiry into the petroleum products declaration — February 1996

Professions

Study of the legal profession — March 1994 (full report \$30.00) (TPC)

Study of the architectural profession — September 1992 (\$10.00) (TPC)

Utilities

National Electricity Market network pricing forum (proceedings) — July 1996 (\$35.00)

National Electricity Market Code of Conduct — comments and issues arising — June 1996

National Electricity Market Code of Conduct — issues paper — March 1996

Review of the Victorian electricity industry access arrangements — a report to the Assistant Treasurer — May 1995 (TPC)

Safeguarding the consumer interest in reformed public utilities and complying with the Trade Practices Act — March 1995 (TPC)

Passing on the benefits — consumers and the reform of Australia's utilities — papers from Trade Practices Commission conference — March 1994 (\$50.00)

Pricing inquiry reports —1995 and 1996

Petroleum products declaration — August 1996 (\$20.00)

Steel mill products declaration — December 1995 (\$10.00)

Harbour towage declaration — December 1995 (\$10.00)

Welded steel pipes declaration — October 1995 (\$10.00)

Concrete roof tile declaration — June 1995
(\$10.00)

Toothpaste declaration — June 1995 (\$10.00)

Glass container declaration — June 1995
(\$10.00)

Fees and charges imposed on retail accounts by
banks and other financial institutions and by
retailers on EFTPOS transactions — June 1995
(\$10.00)

Book prices and parallel imports — April 1995
(\$10.00)

Pricing monitoring reports —1995 and 1996

Coastal shipping freight rates — December
1995 (\$10.00)

Movements in average air fares 1990–95 —
April 1996 (\$10.00)

Movements in average air fares (quarterly) —
January 1995, May 1995, September 1995

Pay TV subscription prices — August 1995
(\$10.00)

Credit card pricing — May 1995 (\$10.00)

Stevedoring costs and charges on terminal
handling charges — May 1995 (\$10.00)

Speeches

Commission Chairman Allan Fels

Australia's competition policy reforms.
OECD CLP Committee — 13 February 1997

*Recent developments in competition policy
reform.* CEDA, Melbourne — 14 March 1997

Deputy Commission Chairman Allan Asher

*Consumers 2000: updating the UN
guidelines.* Consumers International —
28 January 1997

*Globalised aviation industry: the Australian
perspective.* International Air Transport
Association — 3 February 1997

*ACCC: ensuring competition in the electricity
and gas markets.* AIC Cogeneration
Conference — 27 February 1997

Commissioner Sitesh Bhojani

*Implications of the Trade Practices Act for
urologists.* Urological Society of Australia —
19 February 1997

Commissioner David Lieberman

*Pay TV, cables and service bundling:
challenges for regulators.* Australasian Cable
and Satellite Television Conference —
4–6 February 1997

ACCC: monitoring the industry. AIC
Interconnection 97 — 27 February 1997

Commissioner Rhonda Smith

*Developments in mergers and acquisitions —
the ACCC viewpoint.* ICM Conference on
mergers and acquisitions — 10 February 1997

For copies of speeches, please contact
Ms Megan McEwin on ph. (06) 264 2909

Media releases

8/97 Telephone directory data now
accessible to all — 19.2.97

9/97 Further warnings on misleading
cash-back offers after Johnson &
Johnson promotion — 20.2.97

10/97 ACCC not to oppose Brambles'
proposed acquisition — 21.2.97

11/97 Recall of children's
dresses/nightdresses — 24.2.97

12/97 Foster bows to ACCC demands on
Biometrics — 25.2.97

- 13/97 Draft access pricing principles guide for telecommunications issued — 28.2.97
- 14/97 ACCC obtains injunction against Destiny Telecomm — 28.2.96
- 15/97 ACCC not to oppose acquisition of travel agents — 2.3.97
- 16/97 Nestle relabels misleading pet food — 3.3.97
- 17/97 ACCC ends cab mobile phone ban — 4.3.97
- 18/97 ACCC not to oppose Bunge proposed flour or bread acquisitions — 5.3.97
- 19/97 Interim authorisation for stage one of National Electricity Market — 5.3.97
- 20/97 ACCC stalls Grand Prix resale price maintenance — 6.3.97
- 21/97 ACCC not to oppose Kemcor's acquisition of Hoechst's plastics business — 7.3.97
- 22/97 Injunction against Destiny Telecomm International Inc. continued — 7.3.97

Media releases are available from the Media Liaison Officer, Ms Lin Enright on ph. (06) 264 2808, and from the Commission's home page at <http://www.accc.gov.au>

Public registers

The Commission is required to maintain a number of public registers, including documents relating to:

- applications for authorisation of anti-competitive practices;
- notifications of exclusive dealing;
- conferences held on bans or mandatory product recalls;
- Commission responsibilities under Part IIIA of the Trade Practices Act (the access regime); and
- price notifications.

These documents include statutory forms of application, supporting material, submissions by interested parties, related correspondence, the Commission's draft and final determinations and records of predecision conferences.

Such documents are available, or can be made available, for inspection at Commission offices during normal business hours. A fee is charged for photocopies. It is advisable to give prior notice of a request to see documents as not all are kept in all Commission offices.

The Commission voluntarily maintains summary registers listing merger matters it has considered and of enforceable undertakings given under s. 87B. These summaries, and a list of subsection 51(1) exemptions from the Trade Practices Act are published progressively in the Journal.

Mergers examined under s. 50

The following completes the list of non-confidential mergers examined in 1996, listed in *ACCC Journal 7*, and covers mergers examined so far in 1997. The list of non-confidential mergers examined by the Commission is periodically updated on a public register held at the Commission.

Mergers on the public register for the calendar year 1994 are listed in the former Trade Practices Commission *Bulletin 75*, April 1994 (which also included matters considered in 1993) and *Bulletin 80*, February 1995. Mergers examined in the calendar year 1995 are listed in *ACCC Journal* nos 1-2.

1996

Pioneer Building Products (Qld) Pty Ltd/A Class Blocks Pty Ltd — market for walling products in south-east Queensland. This matter first came to the Commission's notice in November 1994.

The market was divided into several sub-markets:

- walls for domestic construction, including housing and units;

- walls for industrial construction, including warehouses and factories;
- walls for commercial construction, including multi-level buildings; and
- retaining walls.

In all these markets it was found that no viable substitute for concrete masonry blocks existed due to the low price and ease of construction of masonry blocks, aside from tilt up concrete in industrial applications. Users of concrete blocks include builders, blocklayers and construction companies.

The acquisition left Pioneer with approximately 55 per cent of the market in south-east Queensland. Despite the fact that the acquisition triggered the concentration thresholds in the Commission's mergers guidelines, the parties did not approach the Commission to inform it of the proposal. The Commission only became aware of the transaction well after it had been completed.

The Commission concluded that there were barriers to entry including start-up costs, oversupply and severe price discounting.

In addition, when A Class entered the market in 1991 a sustained period of severe price discounting commenced. This took the form of high levels of discounts on the list price of masonry blocks, often up to 60 per cent of list price. Upon the removal of A Class from the market, Pioneer steadily reduced these discounts to approximately 20 per cent, which was approximately the base level before A Class entered the market. In that year Pioneer also recorded a \$2.1 million profit turnaround in its masonry business.

The matter was finalised on 20 December 1996 when Lockhart J awarded penalties totalling \$4.8 million against Pioneer International Limited and Pioneer Building Products (Qld) Pty Ltd, plus costs of \$200 000. This was the first time that a company had been fined for contravening s. 50 of the Trade Practices Act.

Blue Star Group Pty Limited/Ausdoc Office Pty Limited/Canberra Wholesale Stationers Pty Limited/H&P Stationery Limited/Perth Stationery Supplies Pty Limited/Paperwealth Limited —

stationery/office products. These acquisitions were first raised with the Commission in September 1996.

The Commission considered that the acquisitions were unlikely to substantially lessen competition due to the availability of supply from other national suppliers including the biggest competitor, Corporate Express, as well as from regional suppliers, and apparently low barriers to entry.

The Commission decided not to oppose the acquisitions in December 1996.

Adecco Pty Ltd/Icon Recruitment Pty Limited — personnel consultancy services.

This matter was first raised with the Commission in April 1996.

The Commission considered the proposed acquisition was unlikely to substantially lessen competition due to the limited market share of the merged firm and apparently low barriers to entry.

The Commission decided in December 1996 not to oppose the acquisition.

Allgas Pipelines Pty Ltd/Tenneco Energy Australia — natural gas.

This proposed acquisition was first raised with the Commission in October 1996.

Tenneco Energy Australia announced it would sell 43 per cent of its Australian assets to CNG International Pty Ltd (a subsidiary of US-based Consolidated Natural Gas Company) and 14 per cent to Allgas Pipelines Pty Ltd (a subsidiary of Allgas Energy Ltd) with the remaining 43 per cent interest to be retained by El Paso Energy. Tenneco's Australian assets include the Moomba-Adelaide natural gas pipeline and the Ballera-Wallumbilla natural gas pipeline (currently under construction).

In view of Allgas' downstream interests as a distributor of natural gas to south-east Queensland, the Commission considered the

likely competition issues raised by Allgas' acquisition, particularly those relating to possible information flows between its upstream and downstream interests. The Commission concluded that these competition concerns were adequately addressed through the ring-fencing provisions contained in the shareholders' agreement. Accordingly, it decided in December 1996 not to oppose the acquisition by Allgas of an interest in Tenneco's Australian assets.

Service Corporation Australia International Pty Ltd/George Richardson Funerals/Deception Bay Funerals — funeral director services in Melbourne and Brisbane. These proposed acquisitions were first raised with the Commission in November 1996.

The proposed acquisitions resulted in a small increase in the level of concentration in the Melbourne and Brisbane funeral markets. In the Melbourne market the acquisition did not reach the Commission's concentration thresholds, whilst in Brisbane the rise in concentration was less than 2 per cent.

The Commission decided in December 1996 to take no action with regard to the acquisitions.

1997

Stirling Harbour Services Pty Ltd/towage interests of P&O Maritime Services Pty Ltd — towage services in the ports of Kwinana, Fremantle and Geraldton, WA.

Stirling (which is owned jointly by Howard Smith and Adsteam) acquired P&O's port towage interests in Fremantle, Kwinana and Geraldton.

While the Commission had concerns about the foreclosure of new entry, it took into consideration the pre-existing interests of the parties and the limited duration of the contract for the port of Geraldton.

The Commission advised the parties in January 1997 that it would not oppose the acquisition.

Brambles/Ausdoc Group — provision of document exchange and records management services.

The Commission considered that, despite high market concentration, barriers to entry were not high. It did not oppose the proposed acquisition.

Kimberley Clark Australia Pty Ltd/Scott Paper Company Ltd — tissues and other sanitary products. The Commission was first approached about this matter in June 1995.

As Scott did not have a manufacturing presence in Australia the acquisition of Scott by Kimberly-Clark did not result in any increase in concentration in the relevant markets. The only competition concern was the acquisition of Scott trademarks, licensed to Carter Holt Harvey, by Kimberly-Clark.

After reviewing the licencing agreement the Commission determined that Carter Holt Harvey had secured rights over the relevant trademarks for a considerable period of time. Indeed for some intellectual property rights Carter Holt Harvey would have perpetual non-exclusive rights. The Commission decided that the terms of the licence agreement meant that Carter Holt Harvey would retain control over the trademarks for a sufficient period of time as to negate any anti-competitive effect.

The Commission decided in February 1997 to take no action in relation to the proposed acquisition.

Pharmacia & Upjohn (Aust) Pty Ltd/Procter & Gamble Pharmaceuticals Pty Ltd — manufacture and supply of a number of specialised pharmaceuticals. This matter was first raised with the Commission in February 1996.

Pharmacia & Upjohn proposed to acquire from Procter & Gamble the patents and distribution rights pertaining to a number of drugs.

There appeared to be no effective overlap between the existing products of Pharmacia and those acquired from Procter. Even in the two product categories where Pharmacia and Procter drugs are, or can be, used to treat the same condition, they did not appear to the

Commission to be truly competitive for price and medical reasons.

The Commission decided in March 1997 not to oppose the acquisition.

Kemcor Olefins Pty Ltd/plastics business of Hoechst Australia Ltd — supply of HDPE resin in Australia. The Commission was first approached about this proposed acquisition on a confidential basis in May 1996.

Plastics resins are generally traded as commodities. There are substantial Australian imports and exports of HDPE, and it is likely imports act as a constraint on domestic pricing. The competitiveness of imports has been further improved since 1 July 1996 when tariffs were reduced to 5 per cent.

There are also some uses of HDPE for which some degree of substitutability with other plastics and other materials exists.

The Commission decided in July 1996 not to oppose the acquisition and announced in March 1997, after the transaction had become public, it would take no action in regard to it.

Carlton & United Breweries Ltd/Goldchill Brewery — beer. This was first raised with the Commission in August 1996.

Until the Goldchill facility began production in Darwin, all beer for the Northern Territory was shipped from other States. While the Goldchill brewery gives CUB production capacity in the Northern Territory, long-term practice has indicated that freighting beer into Northern Territory outlets is a viable alternative for retailers.

The Commission decided in August 1996 not to oppose the acquisition.

Luxfer Gas Cylinders/CIG Gas Cylinders — manufacture and supply of high pressure gas cylinders. This proposed acquisition was first raised with the Commission in January 1997.

Luxfer advised that CIG is currently the only domestic manufacturer of high pressure gas cylinders. The remainder of the market, approximately 50 per cent, is supplied by

imports. The acquisition by Luxfer of CIG is effectively new entry into the Australian market for the supply of aluminium and steel high pressure gas cylinders.

In addition, the fact that imports are approximately 50 per cent of the total market means that it is highly unlikely that the merged firm would be able to exercise market power to increase prices and/or profits.

The Commission decided in February 1997 not to oppose the acquisition.

Concorde International Travel Pty Ltd/Metro Travel Pty Ltd — supply of international and domestic airline tickets to travel agents and to consumers. This matter was raised with the Commission in January 1997.

Although the merged firm will have a substantial share of consolidation business in Australia, market inquiries identified that the following factors were likely to exercise a competitive constraint on the merged firm in the market in which it competes:

- the supply of consolidation services to retail travel agents by Jetset and Consolidated Travel, and some smaller consolidators;
- in respect of domestic airline ticket sales, the direct supply by airlines to consumers;
- the availability of supply of tickets to accredited retail agents from airlines via IATA;
- for non-IATA agents, the opportunity to be accredited by IATA or join a retail franchise or buying group; and
- the ability of retail groups, having substantial buying power, to vertically integrate into consolidation for their own internal purposes.

In view of these competitive constraints, the Commission concluded that the proposed acquisition was unlikely to substantially lessen competition in the market in which Concorde and Metro compete.

The Commission decided in February 1997 not to oppose the acquisition.

Pacific BBA Limited/Melwire Pty Ltd — manufacture, wholesale and distribution of industrial flooring products in Australia. This matter came to the Commission's attention in February 1997.

The acquisition has not resulted in a large increase in concentration in this market. The merged entity will continue to face competition from the largest participant in the market, BHP Building Products, and a number of mid-size participants.

Barriers to entry to the industry did not seem to be insurmountable. There appeared to be few technical constraints facing a potential new entrant to the relevant market, with the required machinery and equipment being relatively easily obtainable.

The acquisition did not increase vertical integration in the industry. There may be potential substitutes for the relevant products for some uses. The industry in Australia appears to be characterised by a significant degree of countervailing power. The acquisition seemed unlikely to lead to price increases in the relevant market.

The Commission decided in February 1997 not to oppose the acquisition.

ARCO Chemical Australia Pty Ltd/Business of Olin Australia Ltd — toluene diisocyanate (TDI) and aliphatic diisocyanate (ADI). This matter was first raised with the Commission in December 1996.

TDI and ADI are not produced in Australia. ARCO, Olin and four or five others import TDI and ADI into Australia. The Commission considered that, even if the proposal proceeded, the importation of TDI and ADI is not a concentrated industry and barriers to entry are low.

The Commission decided in February 1997 not to oppose the acquisition.

Brook Compton Betts Pty Limited/Webster Manufacturing Limited

— national market for the manufacture and supply of alternating current (AC) electric motors. This matter was raised with the Commission in December 1996.

The Commission considered that the ability of the merged firm to raise prices and profits following the proposed acquisition was likely to be constrained by a number of factors. The level of imports appeared to be well above 10 per cent, and market participants, both competitors and customers, indicated that there was potential for the market share of imports to rise even higher.

In the Commission's view, the merged firm was also likely to be constrained by the countervailing power of customers which manifests itself in their ability to manufacture many of the motors that are currently sourced from Brook Crompton Betts and Webster.

The Commission decided not to oppose the acquisition in February 1997.

Westfield Holdings Limited/Galleria & Innaloo shopping centres — regional shopping centres in Perth. This matter came to the Commission's attention in October 1996.

The Commission was concerned that the price of regional retail shopping space in Perth was already quite high due primarily to the relative shortage of it in Perth.

But given the close and more immediate competition between regional shopping centres in north Perth and south Perth, it was unlikely that Westfield would be able to increase prices and profits beyond current levels.

Also with the proposed re-entry of David Jones into Western Australia, the Commission considered that there was a possibility that the market may expand if David Jones elected to set up stores in smaller shopping centres rather than existing regional shopping centres. This seemed more likely given that Myer stores were already established as anchor tenants in each of the regional shopping centres in Perth.

The Commission decided in February 1997 not to oppose the acquisition.

Australian Radio Network Pty Ltd/Radio Blue Mountains Broadcasters Pty Limited

— market for advertising on commercial broadcast radio in Katoomba area. The Commission was first approached in relation to this matter in January 1997.

Radio Blue Mountains Broadcasters operated ONE FM, the holder of the commercial radio broadcast licence for the Blue Mountains area of NSW. The acquisition would result in a modest increase in concentration owing to the overlapping service areas of ONE FM (Katoomba) and 2WS FM (Western Sydney) since ARN already controlled the 2WS licence. However, the acquisition was unlikely to result in a substantial lessening of competition.

The Commission decided not to oppose the acquisition in January 1997.

Australia-New Zealand Direct Line/Union Shipping Group Limited — trans-Tasman containerised and break-bulk cargo (sea freight). The Commission was first informed of this matter in January 1997. The proposed merger would combine the trans-Tasman shipping operations of the parties in the form of a joint venture.

The main barrier to entry to the trans-Tasman shipping market has been the existence of the trans-Tasman labour accord, although it is being dismantled at present and will cease to be a barrier in the future. However, the Commission considered that barriers to entry for new participants were likely to be still present in the form of capital costs.

Despite the barriers, there appeared to be a substantial amount of competition from other participants and the Commission concluded that the merger would be unlikely to lessen competition.

The Commission decided to take no action in regard to this matter in February 1997.

Bunge Cereal Foods Pty Ltd/Defiance Mills Limited — national market for the manufacture and supply of premixes/south-east

Australian market for the manufacture and supply of flour and a number of regional markets for the manufacture and supply of bread. This matter was first raised with the Commission in February 1997.

The Commission concluded that the proposed acquisition was unlikely to lead to a substantial lessening of competition in either the flour or bread markets. The main reason was that there was little overlap in the flour operations, and no overlap in the baking operations, of Bunge and Defiance. Bunge's flour and bread operations were limited to Victoria and southern NSW, whilst Defiance's operations were in Queensland, northern NSW and Sydney, Tasmania and Western Australia.

The only overlap appeared to be flour milling in the south-east Australian flour market and the national market for the supply of premixes. Accordingly, the Commission is undertaking limited market inquiries into the manufacture and supply of premixes.

Bunge submitted that the takeover would have a pro-competitive effect as it would create a 'third force' in milling and baking in Australia. Bunge claimed that if the takeover proceeded, the combined Bunge/Defiance would be able to compete more effectively with Goodman Fielder Limited and George Weston Foods Limited.

The Commission decided in March 1997 that it would not oppose the proposed acquisition.

Section 87B undertakings

A 1992 amendment to the Trade Practices Act conferred extensive powers on the Federal Court under s. 87B to enforce undertakings concerning future conduct given by a person to the Commission following a Commission investigation. The Commission keeps a public register of such undertakings.

The following is a list of s. 87B matters placed on the public register in 1996, and those placed on the register so far in 1997. (The register was first listed in the Trade Practices Commission *Bulletin* 74, February 1994.)

1996

Mobil Oil Australia Limited, s. 50. Proposed acquisition of Amgas and Coodax would be likely to have the effect of substantially lessening competition in the supply of petroleum products in a number of markets for petroleum products in WA.

16.1.96 undertaking to make the Kwinana terminal available for use by independents on reasonable commercial terms, in the event that Mobil does not require the terminal for its own use.

Atticus Pty Ltd (trading as Mobile Pool Care (Qld)), s. 47. Exclusive dealing in relation to franchising licensing agreements for swimming pool maintenance and repair.

17.1.96 undertaking to amend the conditions of its future sales of franchises and franchise licensing agreements, and to notify all franchisees, agents and employees of the company of the terms of these undertakings.

Austcomm Tele Services Pty Ltd, s. 52. Misleading and deceptive conduct in the marketing and promotion of its telecommunications reselling service.

21.2.96 undertaking to cease engaging in the conduct, to send corrective letters to customers, and to establish a compliance program.

Danny Ehrenfeld (Managing Director of Rational Enterprises Pty Ltd), ss 47(6), 52, 53(c), 53(g), 63A. Promotion of pre-approved credit.

28.2.96 undertaking to implement a corporate compliance program involving key management and operational staff using the Commission's Best & Fairest package. The undertaking included commissioning three-monthly audits to assess the effectiveness of the compliance program for 12 months.

St John Ambulance Australia WA Ambulance Service Inc., ss 52, 53(c), 53(g). Misleading promotion of 'Phone Saver' offer to its members.

7.3.96 undertaking to cease offering the Phone Saver service, to pay to members all monies held in trust as a result of discounts received from the scheme, to refund to members any pensioner discounts forgone as a result of entering into the Phone Saver scheme and to implement a compliance program with an independent audit to be conducted of effectiveness of the program.

Port Adelaide Wool Company Pty Ltd, s. 52. Misleading or deceptive conduct in relation to the supply of wool.

13.3.96 undertaking to pay the Commission's costs of \$100 000 according to a court order.

Doug Hall Poultry Pty Ltd, Australian Quality Egg Farms Ltd, ss 52, 53. Misleading claims about the actual content of Omega 3 fatty acids in Megga Eggs.

13.3.96 undertaking to withdraw Megga Eggs from sale immediately, to conduct analysis of the eggs and report the results to the Commission, and to ensure that packages and containers did not misrepresent the actual level of Omega 3 fatty acid contained.

Taranza Pty Ltd (producer of the Omega Egg), ss 52, 53. Misleading claims on packaging about the actual Omega 3 fatty acids content of Omega Eggs.

3.4.96 undertaking to cease using the name 'Safe Eggs', adopt a standard testing procedure to determine the Omega 3 content of the eggs, cease making misleading health benefits claims, and issue corrective advertising.

Radio Rentals Limited, ss 52, 53(e). Alleged misleading and deceptive price of refrigerators through the use of the word 'Now' in 'Easter Specials' promotion, when it was the regular price and there was no actual saving.

26.4.96 undertaking to cease the conduct, offer refunds to purchasers, publish apologies (both in-store and in newspapers) and implement a national three-year compliance program.

Universal Press, s. 52. Misleading or deceptive conduct in selling advertising in three

regional community business and street directories in Tasmania on the basis that substantially more households would receive a directory than actually did, and that the directories were annual when at least one was current for only nine months.

1.5.96 undertaking to provide full refunds to customers who advertised in the directories where they believe they have been disadvantaged by the company's conduct, and to place a public apology notice in certain Tasmanian newspapers. The company also undertook not to misrepresent the distribution of its directories or the length of time its directories were in circulation.

Ultra Tune Australia Pty Limited, ss 51AA, 52, 53(g). Unconscionable conduct in relation to supplying a franchisee with a software package without disclosing it had a lock-out code, and asking the franchisee to sign a revised franchise agreement before supplying the password.

8.5.96 undertaking to continue to provide the necessary passwords to franchisees supplied with the software package for the currency of their agreements; fully inform franchisees about the existence or effect of any conditions before supplying the new software package; and not place franchisees under unconscionable pressure when negotiating the terms of their franchise agreements, the need for a new or revised franchise agreement, and for the provision of any computer system. The company also undertook to institute a compliance program and a complaints handling system, and to apply to become subject to the Franchising Code of Practice.

Ansett Australia Limited, s. 52. Misleading or deceptive conduct in relation to an Ansett Australia Frequent Flyer promotion.

8.5.96 undertaking to remove from circulation the publications containing the promotion, place corrective advertising in its magazine, to allocate AAFF points for economy and discount economy travel to members who can prove they took Singapore Airlines flights or are booked to travel on Singapore Airlines up to 30 June 1996, and to include a reference to AAFF terms and conditions on frequent flyer

application forms. Ansett also undertook to continue to update, develop and implement a compliance program.

Port of Portland Pty Limited, Ascot Investments, Infratil Australia Limited, s. 50. Proposed acquisition of port of Portland would be likely to have the effect of substantially lessening competition in the supply of port services.

22.5.96 undertaking to allow access to land transport and freight forwarder operators to the port and its facilities. The consortium also undertook not to conduct any business which uses the port for the movement of goods or produce, without reasonable advance notice to the Commission, and not to acquire any interest in the port of Geelong or the port of Adelaide without giving the Commission reasonable advance notice.

Paul Marsh Publications Pty Ltd, ss 64(2A), 53(bb), 51AA, 52. Demanding payment for advertising which an Aboriginal community claimed not to have authorised.

22.5.96 undertaking to cease any conduct which leads to the placing of advertising without the authorisation of clients, to modify its practices by engaging each of its clients on contract, and to establish a compliance program.

Heart Smart Eggs producers, ss 52, 53. False or misleading representations in relation to the health and nutritional benefits of eating Heart Smart Eggs.

24.5.96 undertaking to cease using the name 'Heart Smart Eggs', adopt a standard testing procedure to determine the Omega 3 content of the eggs, cease making misleading health benefits claims, issue corrective advertising, and pay the Commission's costs.

Safe Eggs producers, ss 52, 53. False or misleading representations in relation to the health and nutritional benefits of eating Safe Eggs.

14.6.96 undertaking to cease using the name 'Safe Eggs', adopt a standard testing procedure to determine the Omega 3 content of the eggs,

cease making misleading health benefits claims, and issue corrective advertising.

National Mutual Life Association of Australasia Limited, ss 47(6), 52, 53, 55. False or misleading representations and exclusive dealing in relation to a promotion of its Lifestyle Protection policies.

19.6.96 undertaking to maintain and update its compliance education programs.

Rhone Merieux Australia Pty Ltd, s. 48. Resale price maintenance in relation to veterinary products, in particular the flea control product Frontline.

19.6.96 undertaking to institute a compliance program; send a letter to all veterinary surgeons in Australia providing trade practices compliance information, twice over a two-year period; and fund an industry-wide education program to promote greater awareness of trade practices.

Chubb Security Holdings Australia Pty Ltd, s. 52. Misleading or deceptive conduct in relation to the level of supply of mobile security services.

24.6.96 undertaking to maintain sufficient staff levels including adequate back-up resources; maintain procedures for monitoring patrol attendances, inspection recording; advise clients of shared nature of service and exceptional circumstances in which services may not be provided; offer 2.5 per cent compensation to Perth metropolitan clients; fully refund significantly underserved clients; and establish a trade practices compliance program.

TNT Limited, Ports Pty Limited, Infrastructure Investment Corporation Limited, Primera Pty Ltd, Geelong Port Pty Limited, s. 50. Acquisition of port of Geelong.

26.6.96 undertaking to allow non-discriminatory access to port of Geelong to current and future users, notify the Commission of any intention to vertically integrate into the provision of other services at the port, and to give advance notice of any linkages between the joint venture and any other competing port

through ownership or involvement in any other significant business.

University Building Society, s. 47(6). Tying of loans and building insurance.

26.6.96 undertaking not to engage in conduct which might cause borrowers from Keystart to believe that they are obliged to take out building insurance with one of the insurance companies nominated by Keystart; to send letters to borrowers who have taken out mortgage protection insurance with Lionheart clarifying earlier information provided to them and informing them that an association exists between UBS, Lionheart and St James; and to implement a trade practices compliance program.

Prentice Hall, s. 52. Misleading or deceptive conduct in relation to the publication of guides offering free access to the Internet.

3.7.96 undertaking to recall the guide to correct the offending representations; publish corrective advertisements in major Australian newspapers; offer refunds to customers of either the guide or registration fee; and introduce a Commission approved compliance program, and a complaints handling system consistent with the Australian Standard.

Hamilton Island Enterprises Limited (HIE), Hamilton Island Limited, ss 51AA, 52. Unconscionable conduct in commercial transactions and misleading and deceptive conduct in relation to a Hamilton Island concessionaire.

12.7.96 undertaking to conduct management seminars on the Trade Practices Act and to develop a compliance manual for all company management staff.

Vita Pacific Pty Ltd, s. 53(eb). False or misleading representations regarding place of origin of bedding ensembles.

16.7.96 undertaking for three years to not supply a bedding ensemble labelled or otherwise represented as containing items made in Australia where such items are not made in Australia; relabel reserve stocks of the bedding ensembles held by the company; notify K-Mart,

and any other retailer to whom the bedding ensembles had been sold or supplied, of the undertakings and make best efforts at its own cost to relabel, replace or recall the bedding ensembles; and continue to participate in the corporate compliance program established for the Pacific Dunlop group.

Wild Gear Pty Ltd, Mountain Designs Pty Ltd, Outdoor Designs Pty Ltd, Glyndahigh Pty Ltd and Pack Imports Pty Ltd, s. 48. Resale price maintenance in relation to supply of 'Mountain Design' outdoor adventure products.

17.7.96 undertaking to delete or strike through the proviso in the offending clause (or any clause with similar effect) in any franchise agreements it issues, review all franchise and supply agreements used by each company in the group to ensure the agreements do not contain clauses that breach the Trade Practices Act, develop a Commission-approved compliance education program, and apply for registration with the Franchising Code Council Ltd and adhere to its code of conduct.

Hugo Boss Australia Pty Ltd, s. 48. Resale price maintenance in relation to supply of prestige men's clothing.

23.7.96 undertaking to develop a trade practices compliance program.

Pricotech Leisure Brands Pty Ltd, s. 53(eb). False or misleading representations in relation to the place of origin of barbecues.

6.8.96 undertaking to, for three years, use only the representation 'Designed and manufactured in Australia using Australian and imported parts' in relation to the origin of its barbecues; to provide refunds to affected customers; and to place corrective advertising in Australian newspapers.

NW Frozen Foods Pty Ltd, s. 45, 45A. Price fixing agreement in relation to the distribution of frozen foods in Tasmania.

2.9.96 undertaking to establish a compliance committee; provide trade practices compliance training, as well as a trade practices compliance manual, to employees, servants or agents who occupy managerial, sales or buying positions; review its practices, procedures and policies to

ensure they comply with the Trade Practices Act; contract with a solicitor to provide a confidential facility whereby employees, servants or agents can report suspected company breaches of the Trade Practices Act.

The undertaking follows the imposition of pecuniary penalties and injunctions by the Federal Court (see *ACCC Journal* 4, p. 18).

Mayne Nickless Pty Ltd, s. 52. Misleading representations that goods would be transported by air when they were often transported by road.

3.9.96 undertaking to provide refunds, publish corrective advertisements, and improve compliance program.

Berrivale Orchards Ltd, ss 52, 53(a). Misleading labelling on two of its juice products.

4.9.96 undertaking to place corrective advertising in newspapers, and to adhere to a corporate compliance program.

Northern Food Service Pty Ltd, s. 45. Price fixing arrangements in relation to frozen foods in Tasmania.

10.9.96 undertaking to provide trade practices compliance training, as well as a comprehensive compliance manual, to its employees, servants or agents; and to examine its practices and policies to ensure they comply with the Trade Practices Act.

The undertaking follows the imposition of pecuniary penalties and injunctions by the Federal Court (see *ACCC Journal* 4, p. 18).

Telstra Corporation Limited, ss 52, 53, 64(2A). Misleading and deceptive conduct in relation to a wiring repair plan.

16.9.96 undertaking to cease charging for the plan; and to use its best endeavours to refund to current and non-current customers the amount paid for the plan since 1992, including placing advertisements in newspapers asking non-current customers to contact Telstra regarding a refund.

Jones Stroud (Aust.) Pty Ltd (trading as J&J Cash), ss 52, 53. Misleading conduct in

relation to country of origin labelling of baseball caps.

16.9.96 undertaking to place corrective advertising offering refunds; develop and implement a trade practices compliance program for executive directors and staff; and implement checking procedures to prevent the re-occurrence of similar labelling problems.

Harvey Fresh Ltd, ss 52, 53. Misleading and deceptive conduct and false representations in relation to labelling on orange juice products.

18.9.96 undertaking to cease using the label 'Orchard Fresh' on any future packaging; place corrective advertising in a WA newspaper; and implement a trade practices compliance program.

TNT Australia Pty Limited, s. 52. Misleading representations that goods would be transported by air when they were often transported by road.

30.9.96 undertaking to change names of 'Air' courier divisions, improve internal trade practices education, and provide a free courier service to many customers likely to have been adversely affected.

Pacific Optics Pty Ltd, ss 52, 53(a), 53(c), 65C(1). Misleading and/or false representations about the suitability of yellow-lensed glasses for driving, and supplying sunglasses that did not comply with a consumer product safety standard.

16.10.96 undertaking to recall Aerial Vision yellow-lensed glasses, appropriately relabel four types of sunglasses, refrain from making false or misleading representations about the glasses and sunglasses it supplies, and in future supply only those sunglasses that comply with the consumer product safety standard.

Southern Foodservice Pty Limited, s. 45A. Price fixing arrangements in relation to the distribution of frozen foods in Tasmania.

30.10.96 undertaking to provide trade practices compliance training on a regular basis to all its employees, servants or agents who occupy managerial, sales or buying positions;

produce or acquire a trade practices compliance manual and provide a copy to each of its employees, servants or agents; and examine its practices, procedures and policies to ensure that they comply with the provisions of the Trade Practices Act.

The undertaking follows the imposition of pecuniary penalties and injunctions by the Federal Court (see *ACCC Journal* no. 4, p. 18).

Emmanuel Klonaris, proprietor of Cut Price Frozen Foods, s. 45A. Price fixing arrangements in relation to distribution of frozen foods in Tasmania.

6.11.96 undertaking to provide trade practices compliance training on a regular basis to all employees, servants and agents who occupy managerial, sales or buying positions; and produce or acquire a trade practices compliance manual.

The undertaking follows the imposition of pecuniary penalties and injunctions by the Federal Court (see *ACCC Journal* no. 4, p. 18).

Cannon Investments Pty Ltd (trading as Travelshop), ss 47(6), 52, 53(e). False or misleading representations in relation to its advertising, and exclusive dealing in relation to a requirement that customers wishing to purchase a flight to London also purchase travel insurance with a nominated insurer.

13.11.96 undertaking to withdraw its current advertising and in future ensure that full details are provided in its advertising of all conditions applicable to its offers, refrain from representing that insurance from a nominated supplier is compulsory in relation to any of its flights or other services, publish corrective advertising in each newspaper and publication in which the advertising originally appeared, and institute an internal trade practices compliance program.

Abbey Constructions Pty Ltd, ss 52, 53. False or misleading representations in relation to the marketing of its vinyl cladding products business.

13.11.96 undertaking to refrain from representing that all its products carry a

Standards Australia licence number when only some of its products carry that licence number, that Abbey Constructions Pty Ltd was the winner of the Telecom – Queensland Government Business Award in 1993, and that its product is ‘environmentally friendly’ unless that claim is properly substantiated; to put in place internal procedures to ensure that the product it markets, sells and advertises is clearly identifiable; and to implement an internal trade practices compliance program.

Hirere Pty Ltd (trading as Vivien’s Model and Theatrical Management), ss 45A, 45(2)(a)(ii), 45(2)(b)(ii), 76. Price fixing arrangement in relation to the imposition of an agency service fee.

14.11.96 undertaking to develop and implement an internal trade practices compliance program, to remain in force for three years; and to appoint Mr Kevin Smith, a director and shareholder of Vivien’s, as Vivien’s Compliance Officer, with overall responsibility for the company’s trade practices compliance.

Chadwicks Model Agency Pty Ltd, ss 45A, 45(2)(a)(ii), 45(2)(b)(ii), 76. Price fixing arrangement in relation to the imposition of an agency service fee.

14.11.96 undertaking to develop and implement an internal trade practices compliance program, to remain in force for three years; and to appoint a senior executive as its Compliance Officer.

Bulk Frozen Foods Pty Ltd, ss 45, 45A. Price fixing arrangements in relation to distribution of frozen foods in Tasmania.

19.11.96 undertaking to provide trade practices compliance training, as well as a trade practices compliance manual, to its employees, servants and agents who occupy managerial, sales or buying positions; and examine its practices and policies to ensure they comply with the Trade Practices Act.

The undertaking follows the imposition of pecuniary penalties and injunctions by the Federal Court (see *ACCC Journal* no. 4, p. 18).

PAK Allied Enterprises Pty Ltd (trading as Private Pleasures), ss 52, 53. Misleading or deceptive conduct in relation to a promotion of its adult chat line service.

20.11.96 undertaking to refrain from making misleading or deceptive representations about the cost of calling the service, or any similar services; and to place corrective advertising in the personal column of the *West Australian*, offering reimbursement to consumers who used the service when the advertisements were placed and believe they were misled as to the cost of the service.

Gordon Charles Management Pty Ltd, ss 45A, 45(2)(a)(ii), 45(2)(b)(ii), 76. Price fixing arrangement in relation to the imposition of an agency service fee.

26.11.96 undertaking to develop and implement a trade practices compliance program, to remain in force for three years; and appoint Mr Gordon Charles Donald as the company’s Compliance Officer, with overall responsibility for trade practices compliance.

Proctology Centres of Australia, s. 53. False or misleading representations in relation to haemorrhoid treatment.

26.11.96 undertaking to place corrective advertising in the *Daily Telegraph* and the *Sunday Telegraph*; stop making the representations to patients; and provide written instructions to staff to ensure accurate information is given to consumers.

Priscilla’s Model Management Pty Ltd, ss 45A, 45(2)(a)(ii), 45(2)(b)(ii), 76. Price fixing arrangement in relation to the imposition of an agency service fee.

27.11.96 undertaking to develop and implement a trade practices compliance program, to remain in force for three years; and appoint Priscilla Leighton-Clark as the company’s Compliance Officer, with overall responsibility for trade practices compliance.

Marigny (A/sia) Pty Ltd (trading as L’Oreal), ss 52, 53(g). False or misleading representations in relation to a cash back offer on a hair colorant.

27.11.96 undertaking to carry out audits of its internal trade practices compliance program for financial years 1996–97 and 1997–98; and to submit reports of the audits to the Commission.

Trinnon Pty Ltd, s. 53A. False or misleading representations in relation to promotion of a Gold Coast high-rise development, 'The Mediterranean', as having absolute beach frontage.

23.12.96 undertaking to place corrective advertising in the *Australian* and *Gold Coast Bulletin*; implement a trade practices compliance program, including an internal trade practices education program.

Turning Point (Aust) Pty Ltd, s. 53(eb). False or misleading representation in relation to the country of origin of boy's shirts. Shirts which were made in India were inadvertently mixed with a batch of Australian-made shirts and all the shirts were labelled as being made in Australia.

30.11.96 undertaking to ensure that all labelling, packaging, advertising and promotional material correctly represents the products' country of origin. The company also undertook to review its operations to minimise the risk of mislabelling in the future and to train staff about trade practices issues.

Sancellia Pty Limited, s. 52. Misleading or deceptive conduct in relation to a cash back offer on Libra Cotton tampons.

30.11.96 undertaking to honour all claims in relation to the cash back promotion; write to all claimants informing them of their rights to make multiple claims; review its trade practices compliance program; and, in any future promotion of its products, disclose conditions at or before the time of purchase.

Microsoft Pty Limited, s. 53. False or misleading representations in relation to a promotion regarding free Internet access.

12.12.96 undertaking to honour all claims for free Internet access from consumers who bought the product displaying the offer up to and including 31 December 1996; review its current promotions and procedures for the

trade practices vetting of future promotions; improve its complaint handling procedures; and instigate a more comprehensive trade practices compliance program for its management, sales and marketing staff.

Bank of Western Australia Limited, ss 53(aa), (c), (g). False or misleading representations in relation to home loans offered by non-bank lenders.

16.12.96 undertaking to launch advertising offering compensation to customers who believe they were misled; review its internal trade practices compliance program; and develop a pamphlet for intending home buyers on the home loan financial services of bank and non-bank lenders.

Chubb Security Australia Pty Ltd, s. 53. False or misleading representations in relation to mobile security services.

17.12.96 undertaking to provide refunds or credits to most customers who had been, or were, with Chubb for more than three months at any time in the last three years; send letters of apology to all affected consumers; place public notices in national newspapers and in a security industry magazine; introduce a management control program, to carefully monitor patrol services; each year, for three years; implement a code of ethics for the administration of patrol services; pay for a Commission officer to address the next two conferences of ASIAL, the security industry's association; and lobby for Australian Standard AS4421 to be amended to require all security firms to run trade practices compliance programs, and to ensure accuracy of all representations about levels of service.

Kenco Car Care Pty Ltd, ss 52, 53(eb). False or misleading representation about the place of origin of towelling. Product produced in Pakistan but described on packaging as Australian Made.

18.12.96 undertaking not to represent that Australia is the place of origin of the towelling; to remove the statement 'Australian Made' from all packaging; to visit all outlets to ensure that the statement has been removed; to report to the Commission on the outcome of the visits;

to publish corrective advertising offering refunds; and to institute a trade practices compliance program.

Carter Wallace (Australia) Pty Ltd (trading as Aapri), s. 52. Misleading or deceptive conduct in relation to a cash back offer on Aapri Foaming Wash Gel.

19.12.96 undertaking to publish corrective advertising in major Australian newspapers; notify retail outlets; provide a toll-free number for refunds and cash back payments; implement a trade practices compliance program; and, in any future promotion of its products, disclose conditions at or before the time of purchase.

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Cue Designs Pty Ltd, s. 53. Misleading representations regarding refunds.

13.1.97 undertaking to withdraw 'Returns Policy' signs from all its stores, issue a returns and refunds policy to its staff, and institute internal training and compliance programs.

Julian Mark Wolfhagen (trading as Tasmania Honey Company), ss 52, 53(eb). Misleading or deceptive conduct, false or misleading representations regarding the origin of a shipment of honey sourced from South Australia that was labelled 'Choice Tasmanian Meadow Honey'.

21.1.97 undertaking not to sell any honey described in any way as having its origin in Tasmania unless that honey has its sole origin in Tasmania.

Network Ten Limited, ss 52, 53A. False or misleading representations in relation to promotion of land sales at Maryland, Queensland.

23.1.97 undertaking to maintain a compliance program which includes the review of all advertorial scripts before broadcast, editorial control over the content of all advertorials, and a complaints handling system.

Johnson & Johnson Pacific Pty Ltd, s. 52. Misleading conduct in relation to a cash back offer on tampons.

10.2.97 undertaking to honour all claims for the cash back; place corrective advertising in State and Territory newspapers; write to all claimants; identify claimants to the Commission; and review its trade practices compliance program.

Optus Networks Pty Ltd and Optus Mobile Pty Ltd, ss 52, 53(g), 53C.

Misleading advertising in relation to its long distance call rates, its Freestyle Weekend package, its mobile phone group plans, and its mobile phone handset packages.

10.2.97 undertaking to refrain from repeating the advertisements; review all proposed Optus bus and billboard advertisements; write to affected members of mobile phone group plans setting out Optus' method of calculation of call charges and offering refunds; specify minimum total costs and conditions in any future promotion of mobile phone handset packages; support the distribution and use of guidelines for the telecommunications industry; implement a trade practices compliance program; and review its internal procedures for the production of promotional material.

Telstra Corporation Limited, s 46. Misuse of market power through refusal to supply data on reasonable terms.

18.2.97 undertaking to provide access to its customer data for directory purposes, at a maximum specified contract price, for a contract period of five years unless the access seeker requests a shorter term. Undertaking in effect for two years.

Radio Cabs of Wollongong Co-operative Society, s. 45. Anti-competitive agreement to ban taxi drivers from using mobile phones in their cabs.

26.2.97 undertaking to notify all owners and drivers that no action would be taken against them for carrying or using a mobile phone in their cabs; ensure that no driver who carries or uses a mobile phone in his/her cab is denied access to the radio network of Radio Cabs of

Wollongong by reason of having carried or used a mobile phone; hold an Extraordinary General Meeting to rescind the rule; and introduce a trade practices compliance program.

Sub-section 51(1) exceptions from the Trade Practices Act

Under s. 51(1) of the Trade Practices Act, statutory exceptions from certain prohibitions is available for conduct that is specifically authorised or approved by a Commonwealth or State Act, or a Territory law, or any regulation under such Act, which expressly refers to the Trade Practices Act. Exceptions made by regulation are limited to two years. As part of the competition policy reform program, the Commission is required to provide a cumulative list of such legislation in its Annual Report.

The *ACCC Journal* will progressively update this list throughout the year.

New South Wales

Sydney Organising Committee for the Olympic Games Amendment Act 1996

Dairy Industry Act 1996

Victoria

Electricity Industry (Amendment) Act 1996

Water Industry Regulations 1995

Competition Policy (Gas Supply Contract Exemption) Regulations 1996 — SR No. 135

Queensland

Competition Policy Reform (Queensland — Exemptions) Regulation 1996

Forestry Act 1959 (s. 46 — specific authorisation)

Water Resources Act 1989 (s. 231 — specific authorisation)

South Australia

Cooper Basin (Ratification) Act 1975

Dairy Industry Act 1992

Industries Development Act 1941

Roxby Downs (Indenture Ratification) Act 1982

Stony Point (Liquids Project) Ratification Act 1981

Tasmania

Electricity Supply Industry Act 1995

Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995

Western Australia

North West Gas Development (Woodside) Agreement Amendment Act 1996