
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 on 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, \$25.00 student subscription). Six issues per year.

Journal back issues \$10.00 each.

Annual Reports

The first ACCC Annual Report (\$19.95) as well as 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 (ss 50, 50A) 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)*

Rural guideline and the Trade Practices Act — December 1997 (\$10.00)*

Telecommunications industry — ACCC role — an outline — October 1997 (\$10.00)

Telecommunications — competition notice guideline — June 1997*

Advertising and selling — October 1997 (\$10.00)*

Exports and the Trade Practices Act — October 1997 (\$10.00)*

Benchmarks for dispute avoidance and resolution — a guide — October 1997*

Contracted employment services and the Trade Practices Act — September 1997*

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 of Part IIIA of the TPA and the draft undertakings guide — December 1996 (\$10.00 for the two-volume set)

Access pricing principles — telecommunications — guide — July 1997 (\$10.00)*

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

Section 155 of the Trade Practices Act — a guide to the administration of the Trade Practices Commission's power to require provision of information — November 1994 (\$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 (\$5.00 each or \$7.50 per set)

Unconscionable conduct in consumer transactions — 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

Rural industry and the Trade Practices Act — summary — December 1997

News for business — Internet service providers — October 1997

News for business — Disposable cigarette lighters — October 1997

Exports and the Trade Practices Act — October 1997

Scams — Protect your business from them — May 1997

Making markets work — April 1997

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

Product liability — a guide for business — June 1993

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
(photocopy only)

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 (TPC) (photocopy only)

Intellectual property

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

On-line commerce

The global enforcement challenge — enforcement of consumer protection laws in a global marketplace — August 1997*

Petroleum

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

Professions

Can the professions survive under a national competition policy? — a joint conference on competition law and the professions — May 1997 (published proceedings \$15.00, audio tapes \$20.00)*

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

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

Utilities

Competitive safeguards and carrier performance 1996–97 — November 1997

National electricity market: Network Pricing Forum (proceedings) — July 1996 (\$35.00)

National electricity market code of conduct — comments and issues arising — June 1996 (photocopy only)

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 (summary only)

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

Pricing monitoring reports — 1995 and 1996

Coastal shipping freight rates (no. 3) 1993 and 1994 — December 1995 (\$10.00)

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

Movements in average air fares (quarterly reports) — January 1995, May 1995, September 1995, March 1996

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 Professor Allan Fels

Competition policy in the food industry. Agri Business Group in the Department of Marketing, Monash University — 7 November 1997

Role of ACCC in National Competition Policy. Monash Law School Foundation Lecture Series — 17 November 1997

Small business and the Trade Practices Act. Victorian Automobile Chamber of Commerce — 26 November 1997

Competition policy for the 21st century. Fair Trade Commission — 1–2 December 1997

Role of the ACCC. ATUG Telecommunications Industry Management Forum — 15 December 1997

Commissioner David Lieberman

Access to privatised airports: maintaining the spirit of competition. Privatisation and outsourcing in the aviation industry — 9-10 December 1997

Commissioner Rod Shogren

Role of the ACCC. ATUG Telecommunications Industry Management Forum — 15 December 1997

For copies of speeches, please contact Ms Jennifer Moore on ph. (02) 6243 1133.

Media releases

- 154/97 Cosmetics consumers gain product information — 14.11.97
- 155/97 Sunglasses recall to protect consumers — 18.11.97
- 156/97 Second sunglasses recall — 19.11.97
- 157/97 ACCC clarifies AGS use of lawyers in Australis Media case — 20.11.97
- 158/97 ACCC announces public inquiry into intercarrier roaming — 24.11.97
- 159/97 Small print disclaimers in ads not good enough — 25.11.97
- 160/97 ACCC restrains weight loss company — 2.12.97
- 161/97 ACCC prosecutes Nissan, advertising agent over advertising — 8.12.97
- 162/97 Blue-green water — potential health hazard — 8.12.97
- 163/97 National rules for electricity trade cleared by ACCC — 10.12.97
- 164/97 Rural guide to the Trade Practices Act and its effects — 11.12.97
- 165/97 Newsagents receive reauthorisation until 2001 — 12.12.97
- 166/97 \$2 million fines and costs for Pacific Dunlop Ltd subsidiaries and executive — 12.12.97

- 167/97 Further ACCC court action against Transport Workers' Union in Queensland — 12.12.97
- 168/97 New fuel competitor enters Geelong — 16.12.97
- 169/97 ACCC files against cigarette manufacturer, delicatessen operator — 16.12.97
- 170/97 ACCC court action against Construction Forestry Mining Energy Union in Western Australia — 17.12.97
- 171/97 Victorian gas industry issues paper — 19.12.97
- 172/97 ACCC authorises ASX business rules for derivatives — 19.12.97
- 173/97 ACCC extends period for which pricing determination will apply — 19.12.97
- 174/97 ACCC moves against Westco 'No Refund' policy — 19.12.97
- 175/97 ACCC calls ISDN public inquiry — 22.12.97
- 176/97 ACCC puts Telstra on notice on internet — 22.12.97
- 177/97 Court stops John West's 'Australian' tuna claims — 22.12.97
- 178/97 Court finds health fund guilty of exclusive dealing — 22.12.97
- 179/97 ACCC not to oppose Montell's acquisition of ICI's polypropylene business — 23.12.97
- 180/97 Toys 'R' Us settles ACCC action against No Refund signs — 23.12.97
- 181/97 ACCC releases draft determination on North West Shelf gas authorisation application — 23.12.97
- 182/92 ACCC releases draft facilities access code for comment — 24.12.97

Media releases are available from the Media Liaison Officer, Ms Lin Enright on ph. (02) 6243 1108, and from the Commission's Internet web site 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 continues the list of mergers examined in 1997. Mergers examined earlier in the year are listed in previous 1997 issues. 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. Mergers examined in the calendar year 1996 are listed in *ACCC Journal* 8.

Bristile Holdings Limited/Concrete tile assets of Pioneer Building Products (WA) Pty Limited — manufacture, supply and fixing of clay and concrete roof tiles in Western Australia. This was an authorisation application, first lodged with the Commission in September 1997.

The Commission considered that the acquisition would increase the level of concentration and size of Bristile's share in the market, which would significantly enhance Bristile's ability to exercise unilateral market power or coordinate actions with the few remaining firms in the market.

Imports were low and were unlikely to be a significant constraint on the pricing policies of the local manufacturers. In addition, the barriers to entry, in particular the substantial excess capacity of the incumbent firms, would make new entry to the industry unlikely.

The Commission had concerns that, following the acquisition, Bristile may be able to exert a considerable degree of control over both clay and concrete tile prices. It was also concerned that Bristile would derive economies of scope which would allow it to force its competitors (BGC and Monier) from the market by lowering concrete tile prices for a period supported by its profits from clay tiles.

The Commission concluded that if the merger were to proceed, Bristile's ability to exercise market power to the detriment of competition would be increased. Further, the competitive detriment that would arise as a consequence of the acquisition would be substantially greater than if Pioneer chose to exit the market and liquidate its business.

On 31 October 1997 the Commission decided to deny the authorisation.

Infratil Australia Limited/Partial shareholding in Sea-Land Australia Limited

— container handling. This partial acquisition was first raised with the Commission in October 1997.

Infratil proposed to acquire 15 per cent of Sea-Land Australia's shares. Infratil is an investment company which owns the port of Portland, Victoria. Sea-Land operates a container terminal at the port of Adelaide.

The Commission formed the view that there did not appear to be significant potential for the port of Portland to be used for container handling.

It therefore considered it unlikely that Infratil's acquisition of 15 per cent of Sea-Land Australia would have any competition implications for container handling. It informed the parties in November 1997 that it would take no action in relation to the proposed acquisition.

John & Pamela Usher (trading as Invictabus)/TigerLine coach operation business of Hobart Coaches Pty Ltd

— operation of passenger coach service. This acquisition was first raised with the Commission in October 1997.

The Usher family operates several bus services in Victoria and the Tasmanian Wilderness Travel minibus service and charter operation.

Like all passenger coach services in Tasmania, the main passenger route between Hobart, Launceston and Burnie is regulated by the State Department of Transport. Any increases in fares as a result of the acquisition would be likely to be restricted as a result of these regulations. Barriers to entry in the charter and tour sector are relatively low. There are a significant number of interstate operators that bring coaches to Tasmania regularly.

The Commission decided that the acquisitions were unlikely to substantially lessen competition and that it would take no action in relation to them. The Commission advised the parties in November 1997 that it would take no action in relation to the acquisition.

Toll Holdings Limited/Certain freight businesses of TNT Australia — container sea freight, road freight, refrigerated freight.

This acquisition was first raised with the Commission in October 1997.

This acquisition did not trigger the Commission's concentration thresholds. Barriers to entry to relevant markets are low and there is a large number of participants.

The Commission announced in November 1997 that it would take no action in relation to the acquisition.

Professional Services Australia Pty Ltd/Medical Indemnity Protection Society Pty Ltd

— occurrence based cover, professional indemnity insurance. This acquisition was first raised with the Commission in October 1997.

The barriers to entry to the provision of occurrence based cover were considered to be low. The licensing requirements of the Insurance Act do not apply to MDO's offering occurrence based cover, nor do the prudential requirements of the ISC.

Whilst the barriers to entry to the provision of general professional indemnity insurance are higher, MDOs constitute a relatively insignificant part of the broader insurance market and the Commission decided that the acquisition was unlikely to substantially lessen competition.

The Commission decided in November 1997 not to take any action in relation to the proposed acquisition.

Motorola International Development Corporation/Partial acquisition of ERG Limited

— smart cards. ERG proposed to issue convertible notes and shares (equivalent to 20 per cent of ERG's issued capital) to MIDC. This matter was brought to the Commission's attention in November 1997.

There were no significant competition concerns with this proposal. Competition within this industry appears to be centred on research and development and is conducted by, in general, large, high technology, multi-national firms. Significantly, import barriers appear to be minimal.

The Commission decided in December 1997 that the acquisition was unlikely to substantially lessen competition and to take no action with regard to the matter.

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 continues the list of s. 87B matters placed on the public register in 1997. (The register was first listed in the Trade Practices Commission *Bulletin* 74, February 1994.)

City West Water Limited, ss 52, 55. Supply of blue-green water causing corrosion and potential health effects.

2.12.97 undertaking to write to affected customers, alerting them to signs of blue-green water, its potential health effects and what steps can be taken to reduce copper levels to safe levels; deliver annually to all customers a water quality brochure describing types of water quality problems and steps to mitigate the problem; implement a systematic and random testing program; advise the Office of the Regulator General and the Commission of the findings of the CSIRO study and, should CWW be the party found responsible, implement the solution suggested by the study.

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

Under s. 51(1) of the Trade Practices Act, statutory exception 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

Competition Policy Reform (New South Wales) Regulation 1996

Dairy Industry Act 1979 — specific authorisation

Queensland

Competition Policy Reform (Queensland — Exemptions) Regulation 1996

Forestry Act 1959 (s. 46 — specific authorisation)

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

Competition Policy Reform (Queensland — Dairy Produce Exemptions) Regulations 1997 (as amended)

Tasmania

Electricity Supply Industry Act 1995

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

Victoria

Electricity Industry (Amendment) Act 1996

Water Industry Regulations 1995

Competition Policy (Gas Supply Contract Exemption) Regulations 1996

Western Australia

North West Gas Development (Woodside) Agreement Amendment Act 1996