noteworthy that this is in contrast to recent media stories quoting Victorian Branch President, Dr Gerald Segal, stating that it is unethical for AMA members to refer patients to chiropractors.[7]

The future

In view of AMA assurances that no policy or action of the AMA prevents or discourages members from dealing with chiropractors, general practitioners should now feel free to communicate professionally with chiropractors as each of them individually sees fit. If they wish to refer certain patients to chiropractors or establish a multi-disciplinary practice which includes chiropractors, they may do so. If they wish to share premises with chiropractors or to engage in research projects with chiropractors or on chiropractic, they may do so. The AMA will not seek to take action to discourage or prevent chiropractors working in public hospitals, or discourage the offering of courses or research through universities.

In addition, the AMA or its affiliates will not seek to exclude chiropractors from participating fully in the health care delivery system.

That is not to say that the AMA will automatically embrace chiropractic. As a vigorous professional association the AMA can be expected to market the services provided by its members aggressively, and to argue the efficacy of member services over alternative forms of health care. The AMA certainly retains the right to question all forms of health care and will remain a vigorous opponent of health services it believes are ineffective or dangerous.

However, individual members of the AMA, as practitioners in their own right, have the capacity, unfettered by the AMA, to guide patients on health care as they see fit.

The AMA has pointed out that there are some legal issues that medical practitioners need to consider when dealing with chiropractors. For example, if a medical practitioner refers a patient to another health care provider and the health care provider causes the patient some loss or injury, it is conceivable that the patient may take legal action against the referring medical practitioner, as well as the person who caused the injury. The same applies to chiropractors who refer to medical practitioners. This is a legal risk that all medical practitioners face when referring a patient to anyone; however, the risk to the medical practitioner is reduced somewhat if the health care provider maintains public liability insurance. All members of the Chiropractors Association of Australia are required to carry appropriate public liability insurance. These are the sorts of issues medical practitioners need to consider when establishing professional relationships with other health care providers.

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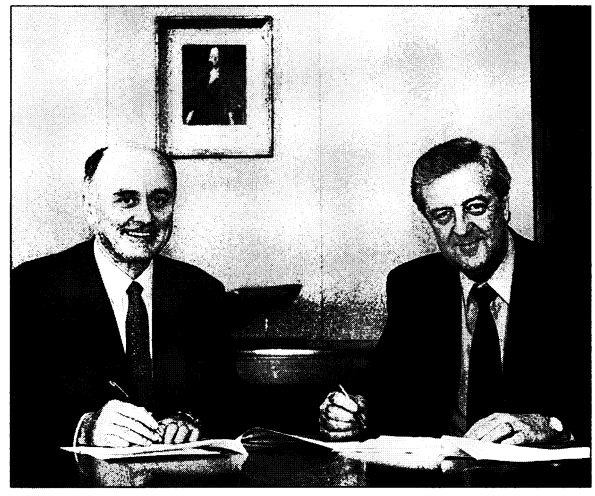
MOU with Reserve Bank of Australia

On 8 September 1998 the Commission and the Reserve Bank of Australia (RBA) released a memorandum of understanding covering their respective responsibilities for access and competition in the payments system.

Both the Commission and the RBA have legislative responsibilities for access and competition policy in the payments system. Both have a role in arbitration of disputes over access. The Commission has general responsibility for these issues under the Trade Practices Act. The Reserve Bank now has specific responsibilities under the Payment Systems (Regulation) Act 1998.



7 See 'Experts' back care battle', Sunday Herald Sun, 19 October 1997, p. 24.

The Commission is responsible for ensuring that payments system arrangements comply with the competition and access provisions of the Trade Practices Act, in the absence of specific RBA initiatives. Under its adjudication role the Commission may grant immunity from court action for certain anti-competitive practices if it is satisfied that such practices are in the public interest. It may also accept undertakings in respect of third party access to essential facilities.

The RBA may designate a payments system as being subject to its powers. Following public consultation it may then impose an access regime on the participants and/or determine standards for that system. Where the RBA has taken such initiatives, members of that system will not be at risk under the Trade Practices Act by complying with the RBA's requirements.

In effect, the Commission retains responsibility for competition and access in a payments system unless the RBA imposes an access regime or sets standards for it. Designation does not, by itself, remove a system from the Commission's coverage.

The Commission and the RBA will work closely together to ensure that a consistent approach is taken to regulatory policy in the payments system. The MOU sets out an agreed basis for policy coordination and information-sharing between the two bodies in respect of the payments system.

Court orders compliance program: WD & HO Wills

On 23 February 1998, WD & HO Wills, one of Australia's largest cigarette manufacturing and distributing companies, became the first company in Australia to be ordered by the Federal Court to implement a trade practices compliance program in line with the newly developed Australian Standard for Compliance Programs AS 3806–1998.

The Commission had instituted proceedings against Wills for its part in an attempted price fix between two of its South Australian distributors.[8] At the time of the offence, Wills had a compliance program in place. Von Doussa J of the Federal Court ordered Wills to revise its existing program in accordance with the standard and to submit details of its revised program to the Commission to enable it to review that program.

Although it has been common practice for the Commission to seek orders obliging a company to institute a compliance program, this is the first time that a company has been ordered to institute a program in line with the newly developed Australian Standard. The order sought by the Commission against Wills signals a new Commission approach to orders that relate to compliance programs.

AS 3806 was launched by the Commission's Chairman, Professor Fels, on 5 February 1997. The standard, which was developed by Standards Australia at the request of the Commission, forms part of an ongoing Commission strategy to improve trade practices compliance. It was drafted by a committee of representatives of corporate compliance professionals, government and the consumer movement. It provides a set of objective criteria against which a firm may assess its system for dealing with compliance issues. AS-3806 stresses the need for full organisational commitment to compliance, starting with the company board.

Like many companies asked to explain their compliance activities to the Commission, Wills initially tendered a training manual to the Commission. However, while a training manual may form part of a compliance program conforming to the standard, the existence of a training manual in itself is insufficient evidence of a compliance program. To demonstrate compliance with AS-3806 a firm must show much greater evidence of commitment to compliance and have the necessary systems in place.

The revised Wills compliance program includes the following essential elements:

- a senior executive officer with overall responsibility for trade practices compliance is to sit on the Wills board;
- a review to identify critical compliance issues within the company;

8 See ACCC Journal 13, pp. 31–2.