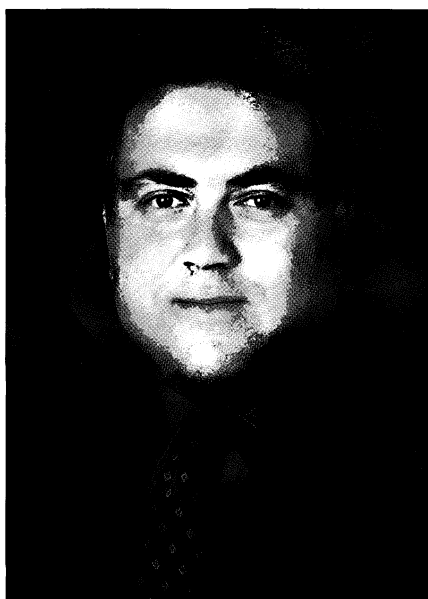

Policy developments

A New Tax System (Trade Practices Amendment) Bill 1998

On 10 December 1998 the Government introduced A New Tax System (Trade Practices Amendment) Bill 1998 into the House of Representatives as part of its proposed package of reforms to the tax system including the introduction of a GST.

The following is the second reading speech by the Hon. Joe Hockey MP, Minister for Financial Services and Regulations, outlining the main elements of the proposed legislation and the role of the ACCC in relation to it.



Minister Joe Hockey

Second reading speech

Mr Speaker

I move that the Bill be now read a second time.

The *A New Tax System (Trade Practices Amendment) Bill 1998* delivers on the Government's commitment to address legitimate community concern regarding possible exploitation of consumers and excessive profit taking by business in the transition to the new tax system.

The Bill inserts a new Part VB into the *Trade Practices Act 1974 (TPA)* to give the ACCC special transitional powers to monitor prices for 3 years from 1 July 1999. The monitoring will identify instances where consumers have not fully benefited from reductions in tax rates, or would otherwise be exposed to greater than necessary price rises.

The Bill prohibits price exploitation during the 3 year transitional period. Price exploitation occurs if the price for the supply of a good or service is unreasonably high, having regard to the effect of the tax changes under the new system. It is recognised that many factors may affect price and, therefore, price exploitation will not occur if the unreasonably high price is attributable to the supplier's costs, supply and demand conditions, or any other relevant matter. The ACCC will issue guidelines relating to price exploitation, in particular, about when prices will be regarded as unreasonably high.

Prosecutions for breaches of the prohibition on price exploitation will be taken by the ACCC in the Federal Court, with penalties of up to \$10 million for a body corporate, and up to \$500 000 for a person other than a body corporate.

The ACCC will have extensive information gathering powers to facilitate its price monitoring and prosecution roles. It will also be able to seek injunctions to restrain breaches of the prohibition. As an alternative to taking court action, the ACCC will have power to

accept voluntary undertakings relating to prices and price setting, using its existing powers under the TPA to accept undertakings.

The ACCC will also have power to issue a notice to a corporation that it considers has contravened the prohibition against price exploitation. These notices will constitute prima facie evidence, in proceedings by the ACCC to seek penalties or to obtain an injunction, that the price charged is unreasonably high, and is not attributable to supplier's costs, supply and demand conditions, or any other relevant matter. It will be for the corporation to whom the notice is issued to provide evidence to the contrary.

The ACCC will also be able to issue a second type of notice to a corporation, relating to supplies that may be made in the future. In this notice the ACCC will specify a maximum price which, in its opinion, may be charged for a supply referred to in the notice. That is, the ACCC will be able to provide a warning to a corporation that if it supplies above the maximum price specified, that price will, in the ACCC's opinion, constitute price exploitation. This notice will not constitute prima facie evidence in future proceedings, but the ACCC will be able to publish details of the notice as it sees fit, including in national newspapers. Adverse publicity should help to discourage price exploitation and in addition provide consumers with information of assistance in avoiding unnecessary price rises.

Limitations on the Commonwealth's constitutional power mean that these measures cannot extend across the whole economy without the cooperation of the States and Territories. To facilitate that cooperation, the Bill creates a form of text to be known as the New Tax System Price Exploitation Code. This Code replicates the provisions of the new Part VB in the Schedule to the TPA, and also contains the other provisions and regulations to the TPA so far as they relate to Part VB, modified to refer to 'persons' rather than 'corporations'. The application of this Code by State and Territory legislation will provide economy-wide coverage of these anti-profiteering measures.

Competitive pressures that already exist in the economy should largely ensure that the benefits of reductions in tax rates are passed on to

consumers in the form of lower prices. Nevertheless, this Bill is necessary to deal with those instances where price exploitation could occur. The substantial penalties that can be imposed, demonstrate the Government's determination to ensure that consumers receive the full benefits of the changes to the tax system.

I present the Explanatory Memorandum to this Bill and I commend the Bill to the House.

Cosmetic labelling rules

On 17 December 1998 the Minister for Financial Services and Regulation, the Hon. Mr Joe Hockey MP, introduced an updated cosmetic ingredient labelling standard.

The mandatory standard requires that all cosmetic and toiletry products, such as skin creams, make-up, deodorants and shampoos, provide a list of ingredients.

The amendments update the standard by adopting an international system of nomenclature for cosmetic ingredients developed in the United States and the European Union. They also allow some new terms and symbols based on international practice.

'Adoption of an international standard of nomenclature will facilitate international harmonisation of mandatory requirements, enhance trade opportunities, boost competition and lower compliance costs as products will not have to be re-labelled for the Australian market', the Minister said.

The cosmetic ingredient labelling regulations were reviewed in 1997-98 in accordance with the National Competition Principles Agreement and the Commonwealth Legislation Review Schedule. The review was completed in June 1998.