
Appendix 2 Public information

This appendix contains:

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

Media releases

- 1/99 Shop 'til you drop ... but don't forget you have rights — 5.1.99
- 2/99 Mereenie authorisation draft determination — 7.1.99
- 3/99 Unsafe bikes detected, withdrawn by pre-Christmas survey — 14.1.99
- 4/99 ACCC rejects Telstra's interconnect proposal: concludes prices should be halved — 19.1.99
- 5/99 Berri to fix misleading product claims — 21.1.99
- 6/99 Shell/Mobil joint refining venture — 21.1.99
- 7/99 ACCC to monitor container stevedoring services — 22.1.99
- 8/99 ACCC acts against landlord for alleged unconscionable conduct — 4.1.99

Media releases are available from the Director, Public Relations, Ms Lin Enright on ph. (02) 6243 1108, and from the Commission's Internet website 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 and pre-determination 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 sub-section 51(1) exceptions from the Trade Practices Act are published progressively in the Journal.

Mergers examined under s. 50

The following is a list of mergers examined by the Commission in 1998 and mergers considered so far in 1999. 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

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(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. Mergers examined in the calendar year 1997 are listed in *ACCC Journal* 13.

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Nuplex Industries Limited/Australian Chemical Holdings Ltd — alkyd resins, aqueous dispersions. This proposed acquisition was first raised with the Commission in December 1997.

The parties produced a wide range of chemicals. The only overlap with Nuplex's activities lay in the markets for alkyd resins and aqueous dispersions, used mainly in the manufacture of paint.

Typically, paint producers have a significant degree of countervailing power. Some are vertically integrated and already produce some of their own alkyds and aqueous dispersions requirements themselves. The strength of the customers of the merged entity is likely to act as a constraint on its behaviour.

The Commission advised the parties in January 1998 that it would take no action in relation to the proposed acquisition but that it would continue to monitor the industry.

Maxi Cube Limited/Freighters Australia Pty Ltd — semi-trailer manufacture. This proposed acquisition was first raised with the Commission in December 1997.

Maxi-Cube specialised in solid-walled trailers, particularly refrigerated products. Its main rival in this area was FTE. Freighters specialised in curtain-sided trailers, and its main rival was Krueger. The parties submitted that Maxi-Cube and Freighters operated in different markets for the purposes of the Trade Practices Act. The Commission agreed that there were likely to be separate markets for solid wall and curtain-sided trailers.

The information available appeared to indicate that semi-trailer manufacturers faced competition from 'back yard operators' who manufactured relatively simple products and

competed on the basis of price. Entry into the more complex products sector appeared to be more difficult.

Market inquiries generally indicated that the merger did not raise concerns because there was a wide range of other manufacturers of semi-trailers.

The Commission announced in January 1998 that it would not oppose the acquisition.

Guinness Plc/Grand Metropolitan Plc — distribution of alcoholic spirits and liqueurs in Australia. This matter was first raised with the Commission on 1 August 1997.

On 20 January 1998 the Commission announced it would not intervene in the worldwide merger between Guinness Plc and Grand Metropolitan Plc.

Guinness is involved in the production, marketing and sales of spirits and beers around the world. It is also involved in publishing and hotels. Through its wholly owned subsidiary United Distillers, Guinness owns a number of leading spirit brands such as Johnnie Walker, McCallums, Dewars, Real McCoy and Vickers. In Australia, Guinness spirits products are distributed by its local subsidiary United Distillers (Australia) which also distributes Stolichnaya under an agency agreement.

Grand Metropolitan Plc (GrandMet) is a consumer goods company involved in food manufacturing, fast food restaurants, pubs and the production and marketing of distilled spirits. Its major brands include J&B, Smirnoff, Gilbeys, Baileys Irish Cream and Malibu. In Australia, GrandMet brands are distributed by Swift & Moore under an agency arrangement. GrandMet owns 30 per cent of the share capital of Swift & Moore.

The Commission considered that the spirits industry was highly brand oriented and products tended to be marketed as individual brands rather than under the brand name of the supplier. Further, each brand tends to be specific to a particular category, and brand extensions do not usually cross spirit categories.

The merged entity would control a number of category leaders such as Johnnie Walker and McCallums in scotch; Bundaberg (70 per cent

of rum sales); Vickers, Gordons, Bombay and Gilbeys in gin; Smirnoff and Stolichnaya (an agency brand) in vodka; and Baileys Irish Cream and Malibu in liqueur. However, the merger was likely to increase concentration only in the vodka and gin categories. The Commission concluded that the effect of the merger on concentration in scotch, which is the largest spirits category, would be minimal.

Under these circumstances, the Commission decided not to take any action in relation to the merger.

Southern Cross Broadcasting (Australia) Limited/Radio Station Triple M (Perth) — radio services. This acquisition was first raised with the Commission on 9 January 1998.

Southern Cross acquired Perth FM radio station, currently known as Triple M, from Austereo. Austereo was required to divest the station under the terms of an undertaking given to the Commission when it acquired PMFM and 94.5 FM in 1997.

Southern Cross already owned 6PR and 6IX in Perth. Under the Broadcasting Services Act rules, Southern Cross has to divest one of its stations, which will bring a new entrant into the market.

The Commission concluded that the acquisition would not change concentration in the market and therefore was unlikely to substantially lessen competition. It advised the parties on 21 January 1998 that it would take no action in relation to the acquisition.

Coles Myer Limited and Davids Limited — retail and wholesale grocery market. This matter was first raised with the Commission on 5 September 1997.

On 28 January 1998 the Commission announced it would not intervene in the sale by Davids Limited of four of its supermarkets to Coles Myer Limited. The supermarkets were the Jewel stores at Alice Springs, Northlakes and Casuarina (Darwin) in the Northern Territory and Bundaberg in Queensland.

The Commission considered that the acquisition would result in only a marginal increase in Coles Myer's market share in the Territory from 15 per cent to 22 per cent and an almost negligible increase in its overall

market share in Queensland.

Coles Myer would continue to face competition from Woolworths, Foodland and Welcome Mart stores in Alice Springs; from Woolworths and Foodland stores in Darwin; and from Woolworths, Franklins and Four Square in Bundaberg.

The Commission did not consider that the proposed acquisitions were likely to result in a substantial lessening of competition in the relevant markets.

Kellogg (Aust) Pty Ltd and Day Dawn Pty Ltd — national market for breakfast cereal products and muesli bars. This matter was first raised with the Commission on 4 December 1997.

On 9 February 1998 the Commission announced that it would not take any action on the proposed acquisition by Kellogg (Aust) Pty Ltd of Day Dawn Pty Ltd.

Day Dawn, a Queensland-based maker of breakfast cereal biscuits and muesli bars, operates mainly as a supplier to the generic and housebrand markets.

The Commission considered that the barriers to entry to the industry were not likely to be high, as shown by the recent history of new entry to the industry.

After the acquisition, Kellogg would be the second largest player in the nutritious bar market, substantially smaller than Uncle Toby's. While Kellogg would still be the largest participant in the breakfast cereal market, the share to be acquired in the present acquisition was minimal.

The Commission concluded that the acquisition was unlikely to substantially lessen competition in the markets for either breakfast cereal or nutritious bars.

IGT (Australia) Pty Ltd and Olympic Amusements Pty Ltd — manufacture of gaming machines. This matter was first raised with the Commission on 8 December 1997.

On 23 January 1998 the Commission announced it would not intervene in the proposed acquisition of Olympic Amusements Pty Ltd by IGT (Australia) Pty Ltd.

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Both IGT and Olympic are manufacturers of electronic gaming machines and related systems. IGT is a wholly owned subsidiary of International Game Technology Inc, an American company which is the world's largest gaming machine manufacturer.

Australia's largest gaming machine manufacturer is Aristocrat Leisure Limited. IGT and Olympic are currently the second and third. There are a number of smaller manufacturers, including some which have only recently entered the Australian industry, for example Konami Australia Pty Ltd and BGI Australia Pty Ltd.

The Commission considered that IGT would face continued competition from Aristocrat and the smaller manufacturers.

It decided not to take any action in relation to the proposed acquisition.

Carter Holt Harvey Ltd/International Paper Company — paper product manufacturing. This acquisition was first raised with the Commission on 12 February 1998.

Carter Holt Harvey and International Paper Company proposed to jointly acquire Continental Cup. The market share of the merged entity was unlikely to meet the Commission's market concentration thresholds. Further, import competition was considered sufficiently strong to restrain pricing decisions of manufacturers.

The Commission decided on 18 February 1998 not to take any action in relation to the proposed acquisition.

National Mutual and Lend Lease/MLC. This matter was first raised with the Commission on 9 February 1998.

On 26 February 1998 the Commission announced that it would not oppose the proposed merger of the Australian and New Zealand life insurance and funds management businesses of National Mutual and Lend Lease/MLC.

After examining a number of possible markets in the financial services industry the Commission concluded that, even if narrow market definitions were adopted, the merger would not breach the Commission's merger concentration thresholds.

It concluded that the merger was unlikely to substantially lessen competition in any relevant market.

P&O Nedlloyd — international sea transport. This acquisition was first raised with the Commission on 15 February 1998.

P&O Nedlloyd proposed to acquire the container business of Blue Star Line. The overlap between these two operations was limited to the North Asian route and the Middle East Route. In relation to the North Asian route the proposed acquisition did not cross the Commission's thresholds.

It was unlikely that the proposed acquisition would substantially lessen competition in the Middle East route due to a lack of price and non-price competition between conference members and the external competition facing the conference from transhippers.

The Commission decided on 27 March 1998 not to take any action in relation to the proposed acquisition.

UCB Australia Pty Ltd/Orica Australia Pty Ltd — manufacture of oriented polypropylene film. This acquisition was first raised with the Commission on 14 January 1998.

UCB Australia Pty Ltd proposed to acquire Orica Australia Pty Ltd's oriented polypropylene (OPP) film business. OPP film is used extensively for packaging in the food and tobacco industries and is the plastic used to make Australia's bank notes.

The Commission noted the number of importers capable of selling into the Australian market and the additional domestic capacity being installed by Shorko as well as UCB as it establishes a local manufacturing presence.

It also noted that many OPP film users already imported a wide range of OPP film grades. It considered that the additional capacity coming on-line together with the scope for additional imports should constrain domestic pricing.

The Commission concluded that the acquisition was unlikely to substantially lessen competition. On 2 March 1998 it announced it would not intervene in the acquisition.

National Foods Limited/Pauls Limited — manufacture and distribution of fresh milk and

yogurts and dairy desserts. This acquisition was first raised with the Commission on 16 March 1998.

National Foods Limited proposed to acquire Pauls Limited. NFL and Pauls are Australian-owned food processing companies which specialise in manufacturing and distributing fresh milk and a range of other dairy products.

The Commission was concerned that the proposed acquisition would be likely to lead to a substantial lessening of competition in the market for fresh milk in Victoria and the national market for yogurts and dairy desserts.

On 24 April 1998 the Commission accepted court enforceable undertakings from NFL to:

- divest to a Commission-approved purchaser certain Victorian milk processing assets in the merged entity; and
- relinquish or assign the Danone Licence to produce yogurts and dairy desserts.

The Commission decided not to take any action in relation to the proposed acquisition, on the condition that the undertakings are fulfilled.

BAT Industries/Zurich Australian

Insurance Limited — supply of financial services and insurance products in Australia.

On 20 April 1998 BAT Industries Plc made a submission to the Commission proposing to acquire Zurich Australian Insurance Limited.

On 20 May 1998 the Commission decided not to oppose the proposed acquisition as BAT did not own or hold any interests in any companies in the Australian financial services market. It considered that the merger of BAT and Zurich would not substantially lessen competition in the market for financial services.

Effem Foods Pty Limited/Kenman Kandy Pty Ltd

— the manufacture of chocolate and sugar confectionary. On 4 May 1998 Effem Foods made a submission to the Commission proposing to acquire Kenman Kandy Pty Ltd.

On 20 May 1998 the Commission decided not to oppose the proposed acquisition as it was unlikely to substantially lessen competition. The Commission considered that the acquisition would only slightly increase the

market share of Effem Foods and that imports were significant.

Rexel SA/Ideal Electrical — wholesale distribution of electrical parts and supplies in Queensland and Victoria. On 7 May 1998 Rexel SA advised the Commission that it proposed to acquire Ideal Electrical, a wholesaler of electrical parts and supplies.

On 20 May 1998 the Commission decided not to oppose the proposed acquisition on the basis that the merger did not cross the concentration thresholds in Victoria, and in Queensland two sizeable competitors remained. It concluded that the merger was unlikely to substantially lessen competition in either Victoria or Queensland.

Travelers Group/Citibank Limited — market for the wholesale financial services in Australia. On 26 May 1998 Travelers Group Inc proposed to acquire Citibank Limited.

The Commission decided on 28 May 1998 not to oppose the proposed acquisition as it was a foreign-to-foreign acquisition and no increase in market share was to occur.

Steggles/Gourmet Poultry — supply of processed chicken products. The Commission decided on 4 June 1998 not to intervene in the acquisition of Adelaide-based Gourmet Poultry by Steggles.

Discussions with chicken producers showed that better packaging and transport had allowed NSW, Victoria, South Australia and Queensland processors to extend supply areas.

Also, the Commission found that the expansion of independent producers had introduced more competition at each stage of production, from chick hatching to producing innovative marinated and smoked products.

Market inquiries also showed that producers were preparing for possible new import competition.

The Commission concluded that the proposed acquisition would not be likely to lead to a substantial lessening of competition in the relevant markets.

Parmalat/Pauls — manufacture and distribution of fresh milk and dairy products.

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On 12 June 1998 the Commission decided not to intervene in the proposed acquisition of Pauls Limited by Parmalat Australia Limited.

Pauls is a Queensland-based food processing company which specialises in manufacturing and distributing fresh milk and a range of other dairy products.

Parmalat Australia is a wholly owned subsidiary of Parmalat Financiarie S.p.A, a large scale Italian-based international food processing company with significant dairy manufacturing and distribution operations in Europe, Canada, the United States and South America.

While Parmalat produces and distributes fresh milk in Victoria, it presently has a small share (about 2 per cent) of the market. The Commission considered that the proposed acquisition of Pauls did not raise any competition concerns in that market or in any other Australian markets.

Kysor Industrial Corporation/Austral Refrigeration Pty Ltd — market for the manufacture, installation and service of refrigerator display cases and refrigerator systems for supermarket and convenience stores.

On 12 June 1998 Kysor Industrial Corporation notified the Commission that Austral Refrigeration Pty Ltd was proposing a share buy back where all current shareholders would be offered the opportunity to sell a maximum of 29.32 per cent of their shares in Austral back to Austral. It was expected that every shareholder, except Kysor, would accept the offer. Therefore, Kysor would increase its percentage of shares relative to other shareholders, and there would be an increase in the percentage of foreign ownership of Austral.

On 18 June 1998 the Commission decided that the proposed acquisition would not substantially lessen competition and therefore would not oppose it.

Sale of spectrum in the 800 MHz and 1.8 GHz bands

On 25 May 1998 the Australian Communications Authority (ACA) concluded the auction for spectrum in the 800 MHz and 1.8 GHz bands, raising approximately \$350 million.

Following the conclusion of the spectrum auction, the Commission examined the acquisitions of the successful applicants to determine whether the outcome of the auction raised issues under s. 50 of the Trade Practices Act. It concluded that the acquisitions were unlikely to raise issues under s. 50.

The Commission decided to take no further action in respect of the outcome of the spectrum auction. However, it will continue to monitor developments in respect of the 800 MHz and 1.8 GHz spectrum.

Sunmix Pty Limited/CSR Limited — manufacture and supply of pre-mixed concrete. On 14 May 1998 CSR Limited advised that it proposed to enter into a tolling arrangement with Sunmix Pty Limited. The parties are manufacturers of pre-mixed concrete in Beaudesert, south-east Queensland.

On 17 June 1998 the Commission found that this arrangement would not be likely to substantially lessen competition. It would, however, consider any possible anti-competitive effects that may arise from widespread rationalisation and co-production agreements in the pre-mixed concrete industry.

Bridge Information Systems/Dow Jones Markets — the supply of real time data for domestic money markets, international money markets, foreign exchange markets, commodities, energy and equities.

On 24 March 1998 Dow Jones advised that it planned to sell its markets division (Telerate) to Bridge Information Systems. Bridge is a provider of news and market information. On 25 June 1998 the Commission decided not to intervene in this acquisition as it does not result in a substantial lessening of competition.

O'Brien Glass/Auto Clear — retail market for the replacement and fitting of windscreens in Victoria. On 18 June 1998 O'Brien Glass advised that it, through its subsidiary Instant Windscreens, is bidding to acquire the assets of Auto Clear in Victoria.

On 24 June 1998 the Commission found that this proposed acquisition does not cross the Commission's merger threshold and there is unlikely to be a substantial lessening of competition in the retail market for the

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replacement and fitting of windscreens in Victoria.

Boral Energy Holdings Limited, Boral Limited, Envestra Limited/Allgas Energy Ltd — distribution and retail of natural gas in south-east Queensland. Boral announced on 30 March 1998 that it proposed to take over Allgas Energy Ltd.

After undertaking extensive market inquiries the Commission found that the acquisition was likely to substantially lessen competition. The Commission sought an undertaking from Boral not to proceed with its proposal to acquire Allgas. Subsequently, Energex put in a higher bid for Allgas.

On 29 June 1998 Boral decided to withdraw its bid stating that Energex's offer had gone beyond an amount which Boral had been prepared to bid.

Colonial Mutual Life Assurance Society Ltd/Legal & General Australia Limited — banking and insurance. On 19 June 1998 Colonial Mutual made a submission to the Commission proposing to acquire Legal and General.

The Commission decided on 1 July 1998 that the merger would appear unlikely to substantially lessen competition as the concentration thresholds are not crossed in any possible market.

Qantas Airways Limited/Air Pacific Limited — air services. The Commission received a submission from Qantas outlining that it proposed to acquire an additional 28.5 per cent of Air Pacific, bringing its total to 46.05 per cent.

The Commission decided on 20 May 1998 not to oppose this proposed acquisition.

Wesfarmers Dalgety Limited, Elders Australia Limited/Australian Wool Handlers — wool storage and handling, wool dumping. The Commission received a submission on 5 June 1998 outlining that Wesfarmers Dalgety and Elders Australia were entering a joint venture of wool storage and handling assets, within an existing joint venture for wool dumping assets.

The Commission decided on 13 July 1998 that this joint venture would not raise any competition concerns.

AlSCO Linen Services Pty Ltd, Steiner Corporation/Enhance Systems — textile rentals and laundries. On 27 May 1998 Steiner Corporation acquired the shares of Enhance Systems Pty Ltd.

The Commission conducted market inquiries with a range of competitors and customers in Victoria, New South Wales and Queensland. The Commission decided on 15 July 1998 not to intervene in the acquisition.

South East Queensland Electricity Corporation Limited/Allgas Energy Ltd — gas distribution and retail. The Commission received a confidential submission on 10 June 1998 outlining the proposal that SEQEC, trading as Energex, proposed to take over Allgas.

After Energex announced its bid the Commission undertook extensive inquiries with market participants including end users and other gas/electricity utilities. The Commission found that there was not substantial competition between Energex and Allgas and therefore the merger was not likely to have the effect of substantially lessening competition.

On 27 July 1998 the Commission announced its decision not to oppose the bid by Energex.

Dulux Australia and the Maxwell Retail Group — manufacture and supply of architectural and decorative paint including wood stains and finishes. This matter was first raised with the Commission on 3 June 1998.

On 28 July 1998 the Commission announced it would not intervene in the acquisition by Dulux Australia of the Maxwell Retail Group (MRG).

Dulux is a division of Orica Australia Pty Ltd and is the largest paint manufacturer in Australia involved in the manufacture of architectural and decorative paints, protective coatings, automotive and industrial paints. Dulux markets the Cabots range in the woodstains and finishes market segment.

MRG is a division of Maxwell Chemicals Pty Ltd, which is a subsidiary of Gibson Chemical Industries Limited, a listed Australian chemical

manufacturer. MRG's major product lines include Feast Watson solvent-based timber finishes and stains for DIY users and Intergrain water-based timber finishes for DIY users.

The Commission had previously considered the relevant market definitions for the paint industry during the proposed acquisition by Wattyl of Taubmans. In its determination it defined the relevant market as the national market for the manufacture and supply of architectural and decorative paint. In relation to the acquisition of MRG by Dulux it considered the relevant market to be the same.

In the Commission's view the acquisition of MRG would result in Dulux increasing its market share by a very small degree in the relevant market.

It concluded that the acquisition was unlikely to substantially lessen competition.

Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia. This matter was first raised with the Commission on 23 June 1998.

On 18 August 1998 the Commission announced that it had decided that there were no competition concerns associated with the proposed merger between the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia.

It concluded that a merger between the Society and the Institute was unlikely to substantially lessen competition in any relevant market, including those for the provision of accounting services.

Presently there is no restriction on the use of the term 'accountant' in the selling of accounting services. Members of the two bodies face increasing competition from a range of other service providers including lawyers, book keepers, management consultants and from the sale and use of accounting software packages.

It appeared to the Commission that the unification of the two accounting bodies to form the Institute of Chartered Professional Accountants in Australia should enable the new body to better represent the interests of the Australian accounting profession, both in Australia and internationally.

The Commission considered that this merger, if it proceeded, would simplify the representation and accreditation of a significant group of professional service providers in Australia.

Frito-Lay Australia and The Smiths Snackfood Company Limited — manufacture and supply of salty snack foods. This matter was first raised with the Commission on 19 November 1997.

On 21 August 1998 the Commission announced it would not intervene in the proposed acquisition of The Smiths Snackfood Company Limited by Frito-Lay Australia. This followed the finalisation of the sale of Snack Brands Australia to Dollar Sweet Holdings.

In November 1997 Frito-Lay Australia advised the Commission that its parent, PepsiCo Inc., intended to buy from United Biscuits a number of businesses around the world. These included The Smiths Snackfood Company, the manufacturer of several Australian salty snack food brands such as CC's, Twisties, Cheezels and Smiths Original Potato Chips.

The effect of the acquisition was that the second largest Australian producer of salty snack foods, Frito-Lay Australia, would acquire the largest Australian producer of salty snack foods, The Smiths Snackfood Company.

Frito-Lay informed the Commission that, in order that the acquisition would not result in a substantial lessening of competition in any market, it would agree to divest a package of brands and manufacturing facilities from the Smiths and Frito-Lay businesses. The package, to be called Snack Brands Australia, was to be divested simultaneously with the proposed acquisition.

The Commission's primary concern was that the divested Snack Brands Australia business would become and remain a vigorous and effective competitor for Frito-Lay in Australia and that there would be no substantial lessening of competition. The divestiture was also the subject of a court enforceable undertaking by the Commission.

Snack Brands Australia was acquired by Dollar Sweets Holdings, a manufacturer of food and confectionary products including Players biscuits and Alexanders Chocolates. Thorney Holdings, the investment arm of the Pratt

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group of companies, had also acquired a substantial shareholding in Dollar Sweets Holdings. The Commission was satisfied that the creation of Snack Brands Australia and its sale to Dollar Sweets would not see a substantial lessening of competition in any market and that Dollar Sweets would remain a vigorous competitor.

Exxon Corporation/Shell Additives — manufacturing and sale of lubricant additives and fuel additives. The Commission was advised that Exxon and Shell had proposed a global joint venture on 29 May 1998 in the Detergent Inhibitors (DI) packages and the divestiture to a third party (Chevron-Oronite) of the Viscosity Index (VI) improvers business.

The Commission found on 22 July 1998 that the divestiture to Chevron in the VI improvers market eliminates the competition concerns. The DI packages and fuel additives markets had no competition concerns.

Lubrizol/Adibis — manufacturing and sale of lubricant additives and fuel additives. The Commission was notified on 8 June 1998 that Lubrizol proposes to acquire Adibis on a global basis.

The Commission decided on 22 July 1998 that this acquisition would not result in a substantial lessening of competition as Adibis is a very small player in the market.

Rexel SA/JR Turk & Sons Pty Ltd — wholesaling of electrical goods. Rexel advised the Commission on 10 July 1998 that it proposes to acquire Ideal Electrical. Both companies are involved in wholesale of electrical parts and supplies.

The Commission decided on 29 July 1998 that while the merger crosses the concentration thresholds in the New South Wales, Victorian and Queensland markets, given the two other major players in the markets the acquisition would be unlikely to substantially lessen competition.

Henkel Australia Pty Ltd/Maxwell Chemicals Pty Ltd — automotive adhesives. The Commission was advised on 20 July 1998 that Henkel Australia proposed to acquire the automotive adhesive business of Maxwell Chemicals.

On 5 August 1998 the Commission decided not to oppose this acquisition.

RGC Limited/Westralian Sands Limited — mineral sands mining. On 8 September 1998 the Commission announced that it would not oppose the merger of mineral sands miners RGC Limited and Westralian Sands Limited.

The companies both mine titanium-rich minerals (ilmenite, rutile and leucosene) and process them into feedstocks used in the manufacture of titanium dioxide pigment. This pigment is used to colour numerous products, predominantly paint, plastics and paper.

The feedstocks are sold to large local and overseas pigment manufacturers including Millennium, Tioxide, DuPont and Kerr-McGee.

The parties also mine zircon which is used primarily in the ceramics industry and for refractories in the steel industry.

Australia is the world's largest producer and exporter of titanium feedstocks and zircon.

While the merger will reduce from two to one the number of non-integrated suppliers of titanium dioxide feedstocks to domestic pigment manufacturers, the Commission took into account that the merged firm will compete in a world market against strong overseas competitors. Potential import competition in both titanium dioxide feedstocks and zircon is likely to provide an effective constraint on the merged firm.

AMP/GIO — life insurance. On 14 September 1998 the Commission announced it would not oppose the proposed acquisition of GIO by AMP.

The acquisition consolidates AMP's number one position in life insurance and elevates it to second in retail investment products and third in general (non-life) insurance. In all of these areas, however, there remains a substantial number of strong competitors and no problems appear in relation to concentration.

In one line of general insurance, namely workers compensation, the acquisition crosses the Commission's merger concentration thresholds in New South Wales. However, premiums in this State are regulated by the State WorkCover Authority in accordance with the Workers Compensation Act 1987.

Portfolio Partners/Norwich Union Financial Services — funds management. On 18 September 1998 the Commission announced it would not intervene in the acquisition of Portfolio Partners by Norwich Union Financial Services.

While the acquisition places Norwich Union near the top 10 Australian funds managers a substantial number of strong competitors remain and there appears to be no problems with concentration.

Australian National Lines/CGM Pty Limited, AUSCAN Self Unloaders Pty Ltd — national market for bulk cargo import and export. The Commission received notification on 27 July 1998 outlining the proposed sale of the Liner division of Australian National Lines to CGM Pty Ltd and the Bulk division of Australian National Lines to AUSCAN Self Loaders Pty Ltd. AUSCAN is a joint venture between Intercontinental Ship Management and the CSL Group.

ANL and CGM did not participate as direct shippers on the same routes. Whilst there is some overlap between ANL's and AUSCAN's bulk operations, the post-acquisition market share was unlikely to exceed the ACCC's merger thresholds. It decided on 8 September 1998 not to oppose the proposed acquisition.

Debden Associates Australia Pty Ltd, APP Ltd/Spicers Paper Ltd — distribution of paper diaries, planners and paper organisers Australia-wide. The Commission received a submission on 25 August 1998 outlining a proposal by Debden Associates Australia Pty Ltd to purchase the distribution assets relating to the distribution of Spicers' 'Collins' brand of diaries, planners, paper organisers, notebooks, and account books. APP Ltd is proposing to purchase the intangible assets relating to Collins, and intends to enter into a licensing arrangement with Debden to allow it to distribute the Collins range of stationery.

On 10 September 1998 the Commission decided not to oppose the proposed acquisitions on the basis that independent import competition is strong within this industry and the concentration of the market post acquisition will not be sufficient to breach the merger concentration thresholds.

PPG Industries Inc./Orica Australia Pty Limited — national markets for the manufacture and supply of heavy duty and industrial coatings. The Commission received a submission on 9 September 1998 in relation to the proposed acquisition by PPG Industries Inc. of the Technical Division of Orica Australia Pty Ltd.

The Commission decided on 22 September 1998 not to oppose this proposed acquisition as it effectively represents new entry by PPG into the Australian markets.

Compagnie de Saint Gobain/Flexovit International NV — national markets for the manufacture and supply of coated abrasives, cut off or thin wheels and bonded abrasives. The Commission received a submission on 9 September 1998 outlining the proposed acquisition by Saint Gobain of Flexovit International NV.

The Commission concluded on 17 September 1998 that competitors to the merged firm would appear able to increase their level of imports if the merged firm were to attempt to increase prices and therefore would not oppose the proposed acquisition.

Canberra Imaging Group/Brindabella Radiology — the market for the supply of diagnostic radiology services to outpatients in a geographic area no greater than the Canberra area. The Commission received a submission on 22 July 1998 outlining the proposal by Canberra Imaging Group and Brindabella Radiology to merge their operations.

The Commission decided on 3 September 1998 that the remaining private radiology practices and the Canberra Hospital would continue to be significant competitors of the merged firm and therefore it would not oppose the merger.

Orica Australia Pty Limited, Auseon Ltd/Improdex Pty Ltd — market for the compounding of PVC resin. The Commission received a submission on 9 April 1998 in relation to the proposal by Orica Australia Pty Limited and Auseon Ltd to acquire Improdex Pty Ltd.

The Commission concluded on 12 October 1998 that the market concentration, post acquisition, would be significantly below the

merger guideline thresholds and therefore it would not oppose the proposed acquisition.

Namoi Cotton Co-operative Limited Cotton Trading Corporation Pty Ltd — the national market for cotton marketing. The Commission received a submission on 21 September 1998 regarding the proposed merger of Namoi Cotton Co-operative Limited and Cotton Trading Corporation Pty Ltd.

The Commission decided on 16 October 1998 not to oppose the proposed merger because there is alternative domestic cotton marketing organisations within the market for the provision of cotton marketing services and lint cotton is an internationally traded commodity.

Wesfarmers Limited/SGIO Insurance Limited — the national general insurance market.

Wesfarmers Limited announced its takeover bid for SGIO Insurance Limited on 10 September 1998. The Commission decided on 24 September 1998 that the acquisition does not cross the merger thresholds in the national market and therefore that it would not oppose the proposed acquisition.

Bonlac Foods Limited/United Milk Tasmania Pty Ltd — national market for bulk milk, national market for manufactured dairy products and market milk. The Commission received a submission on 29 October 1998 outlining the proposed merger of the entire dairy product manufacturing operations of Bonlac and United Milk Tasmania.

The Commission decided on 14 November 1998 not to oppose the merger proposal as it did not cross the Commission's concentration thresholds in the national bulk milk market, nor any of the national sub-markets for the various manufactured dairy product sectors.

Citibank Limited/Diners Club International — State-based market for credit cards. The Commission was notified on 13 October 1998 that Citibank or a related entity proposed to purchase Diners Club Limited. On 17 November 1998 the Commission was informed that Diners Club International, a Citibank related entity, planned to purchase all shares in Diners Club Limited which it did not already own.

The Commission decided on 18 November 1998 that the acquisition by Citibank or its related entity, Diners Club International, was unlikely to cross the Commission's concentration thresholds and therefore did not oppose the proposed acquisition.

Sigma Company Limited/Allied Master Chemists of Australia Limited (AMCAL) — State markets for the wholesale supply and distribution of ethical pharmaceuticals and over-the-counter (OTC) general health and beauty products to pharmacies and grocery outlets. The Commission was notified on 29 June 1998 that Sigma proposed to serve formal conditional Part A documents on AMCAL to 'pursue a common view of AMCAL's value and construct a funding package to underwrite the costs associated with the new AMCAL program'.

On 19 November 1998 the Commission decided that the proposed acquisition was likely to substantially lessen competition if AMCAL members were required to acquire pharmaceutical products and services exclusively from Sigma as this would prevent other pharmaceutical wholesalers from competing in Victoria. To avoid this problem, Sigma provided an undertaking to ensure that AMCAL member pharmacies were not prevented from acquiring pharmaceutical goods or services from either wholesalers or directly from manufacturers for three years.

Allianz AG/MMI Limited — the market for general insurance. The Commission was notified on 17 November 1998 that Allianz would become the sole shareholder and would have an option to purchase additional shares in MMI.

The Commission decided on 19 November 1998 not to oppose the proposed acquisition because it would not cross the Commission's concentration thresholds.

United Medical Protection Limited/UK Medical Defence Union — national market for the provision of discretionary and insurance based professional indemnity cover for medical practitioners. On 21 October 1998 the Commission received a submission outlining that UMP was proposing to merge with UK Medical Defence.

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The Commission decided on 25 November 1998 not to oppose the proposed merger on the grounds that it appeared that the medical protection industry was moving from discretionary cover to insurance products for medical professional indemnity. Such a change was likely to lead to greater direct competition between existing MDOs and commercial insurers in the future. The Commission also decided that there were significant benefits arising from the merger in terms of reducing the overall cost of reinsurance, which is a significant factor in determining subscription rates.

The Commission also sought assurances from the merger parties that the accrued benefits of MDU UK members would not be affected by the merger and that there would be no obstacles to members of either organisation switching to competing MDOs or commercial insurers if they chose.

Southcorp Australia Pty Ltd/Amcor Limited — market for Australian rigid plastics manufacturing. On 1 October 1998 the Commission received notification that Southcorp proposed to acquire Amcor's rigid plastics manufacturing assets.

Market inquiries indicated that there was currently a small number of manufacturers producing HDPE plastic bottles, but it appeared that manufacturers of other blow-moulded plastic could begin manufacturing the relevant packaging.

The Commission decided on 2 December 1998 not to oppose the proposed acquisition.

Illawarra Mutual Building Society (IMB)/First Australian Building Society — State-based deposits and national home loans markets. The Commission received notification on 11 November 1998 that IMB and First Australian planned to merge to form a building society with assets totalling \$2.464 billion.

The Commission decided on 2 December 1998 not to oppose the proposed merger as it did not appear to cross the Commission's concentration thresholds.

Deutsche bank AG/Bankers Trust Corporation — wholesale and retail funds management and stockbroking. The

Commission received notification on 23 November 1998 that Deutsche Bank was expected to acquire BP worldwide.

On 2 December 1998 the Commission decided not to oppose the proposed acquisition as it would not cross the Commission's concentration thresholds.

Marsh and McLennan Companies Inc/Sedgwick Group plc — market for various services in Australia, including the distribution of Insurance. On 18 September 1998 the Foreign Investment Review Board informed the Commission of this multinational acquisition.

On 11 December 1998 the Commission decided that the proposed acquisition was unlikely to cross its concentration thresholds and the acquisition was not opposed.

The British Petroleum Company plc/Amoco Corporation — national market for Solar Photovoltaic Modules.

On 17 December 1998 the Commission decided not to take any action with regard to the proposed worldwide merger between British Petroleum and Amoco.

Amoco does not have substantial operations within Australia. The only area of operations where both companies compete in Australia is the sale and supply of Solar Photovoltaic Modules.

The Commission formed the view that, although the merged entity would have a large share of the market for the sale and supply of Modules, there should be sufficient competitive forces present to prevent the merger from substantially lessening competition. In particular, imports appear to be at a significant level and there is strong growth within this industry sector.

Goodman Fielder and Bunge — manufacture and supply of flour in each of south-east Australia, Queensland, New South Wales and Western Australia; various regional markets for the manufacture and supply of bread. This matter was first raised with the Commission on 25 June 1998.

On 23 November 1998 the Commission noted that Goodman Fielder Limited had signed an

agreement to purchase the Australian milling and baking assets of Bunge International Limited. This proposal was put to the Commission some time ago.

The Commission advised Goodman Fielder and Bunge that it did not intend to oppose the sale, provided Goodman Fielder entered into enforceable undertakings to divest certain milling assets to ensure the relevant flour markets remained competitive.

Details of the proposed undertakings are, at this stage, commercially confidential.

PBL and Foxtel — On 3 December 1998 the Commission announced it would not intervene in PBL's acquisition of a 25 per cent interest in Foxtel.

In its analysis of the broadcasting industry, the Commission has taken the view that the entry of PBL into Foxtel will not in itself lead to a substantial lessening of competition in any market.

However, it would be concerned if the alliance of the interests of PBL, News and Telstra in pay TV were used to lessen competition in pay TV and related broadcasting and telecommunications markets in the future. It is particularly concerned about the acquisition of programming rights, especially sports programming rights, for both pay TV and free-to-air broadcasting.

The Commission will therefore closely monitor any cooperative behaviour flowing from this acquisition.

1999

James N Kirby Pty Ltd/Email Limited — national market for the manufacture of coils, national market for the manufacture and assembly of coil related products. On 9 October 1998 the Commission was notified of the proposal by James N Kirby Pty Ltd to acquire the non-automotive business of F Muller, a division of Email Limited.

The Commission decided on 5 January 1999 not to intervene in the proposed acquisition because barriers to entry were relatively low and there appeared to be scope for supply substitutability between different coil sizes.

Service Corporation International Australia P/L/Mark Carey Funerals — market for the provision of funeral direction services in Melbourne. The Commission was notified on 17 December 1998 that Service Corporation International Australia P/L was proposing to acquire Mark Carey Funerals in Melbourne.

The Commission decided on 8 January 1999 that the proposed acquisition would not be likely to substantially lessen competition because it did not exceed the Commission's thresholds as set out in the merger guidelines.

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 the complete list of s. 87B matters placed on the 1998 public register, and the list of s. 87B matters placed so far on the 1999 register. (The register was first listed in the Trade Practices Commission Bulletin 74, February 1994.)

1998

Franklin Mint Pty Limited, s. 52. Misleading advertising in relation to a promotion of limited edition collector plates.

14.1.98 undertaking to offer refunds to consumers if a survey identifies them as being affected consumers; alter the wording of its limited edition advertisements; implement a trade practices compliance program.

DirectLink Communications Pty Limited, ss 57, 61(1). Referral and pyramid selling schemes in relation to long distance telecommunications services.

21.1.98 undertaking to stop offering recruitment bonuses to consumers before they become dealers; offer refunds to affected consumers; implement a trade practices compliance program.

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Seven Network Limited, ss 45, 47.

Exclusive agreement in relation to program supply.

2.2.98 undertaking to supply programs to a new licensee for the regional WA broadcast area.

Golden West Network Pty Limited, ss 45, 47. Exclusive agreement in relation to program supply.

2.2.98 undertaking to not interfere with the undertaking by Seven Network to supply programs to a new licensee for the regional WA broadcast area; to not object to Nine supplying programs to the new licensee if Golden West does not intend to broadcast those programs itself.

Anythoughts Pty Ltd (formerly known as Votel Pty Ltd), ss 53. Misleading television advertising in relation to a mobile phone promotion.

3.2.98 undertaking to broadcast corrective notices; implement a trade practices compliance program.

GIO General Limited and GIO Australia Limited, ss 52, 53(c), 55A.

Misrepresentations about availability of benefits, in GIO documents and on the GIO website.

1.4.98 undertaking to refund excess payments and premiums to consumers who may have been misled by representations about benefits attached to various GIO policies; revise its consumer brochures, policy documents and Internet site; review its complaints handling mechanisms and compliance system; and publish a consumer information brochure with advice on purchasing motor vehicle insurance.

Australia Post, s. 52. Misleading promotion of bill-paying competition.

8.4.98 undertaking to ensure that all bill-paying customers are eligible for the prizes; provide extra cash prizes; publish corrective advertising; send written apologies to complainants; review its compliance program; introduce a trade practices clearance procedure of all advertising and promotional material.

Emmanuel John Tischler, ss 52, 61.

Promotion of pyramid selling schemes and misrepresentations of earnings via the Internet.

15.4.98 undertaking to refrain from promoting pyramid selling schemes via the Internet; provide the Commission with contact details of those in his 'upline' and 'downline'; repay fees to those he had induced to join the schemes; send a bulletin to newsgroups to whom he had promoted the schemes.

Korab & Co Pty Ltd, ss 52, 53(c).

Misrepresentations that certain fire door components and other fire safety related products were approved.

19.4.98 undertaking to send a questionnaire to customers it supplied with the fire safety related products; institute a trade practices compliance program.

Garry Wilson, ss 52, 61. Promotion of pyramid selling schemes and misrepresentations of earnings via the Internet.

22.4.98 undertaking to refrain from promoting pyramid selling schemes via the Internet; provide the Commission with contact details of those in his 'upline' and 'downline'; repay fees to those he had induced to join the schemes; send a bulletin to newsgroups to whom he had promoted the schemes; establish and maintain for six months a webpage on his website containing a warning from the ACCC about pyramid selling schemes.

National Foods Limited, s. 50. Proposed acquisition in the markets for the supply of fresh milk and for the supply of yogurts and dairy desserts.

24.4.98 undertaking to divest to a Commission-approved purchaser certain Victorian milk processing assets in the merged entity; relinquish or assign the Danone Licence to produce yogurts and dairy desserts.

Media Monitors Australia Pty Ltd, s. 50.

Proposed acquisition of Quick Clips Pty Limited may have the effect of substantially lessening competition in the relevant markets for media monitoring services.

30.5.98 undertaking to provide monitoring services in respect of the Queensland and WA press and electronic media to other media monitoring businesses in Australia on reasonable commercial terms. This undertaking replaces and expands upon an undertaking executed in May 1997 by Media

Appendix 2

Monitors (WA) Pty Limited in respect of the WA press and electronic media.

Money Maker Scheme, s. 52.

Misrepresentations of earnings via the Internet.

18.6.98 undertaking to cease promoting via the Internet or any other electronic means, the Money Maker or any similar scheme; and to advise all newsgroups to whom bulletins were sent and future contacts of the perils of this and similar schemes.

Mobile Innovations Pty Ltd, s. 52.

Misleading promotional material in relation to mobile phones. This undertaking is to augment the compliance measures of an existing undertaking.

18.6.98 undertaking to intensify existing trade practices compliance program and conduct pre-launch market testing of all new promotional material; ensure staff inform customers who respond to promotional material; conduct a series of seminars; and review compliance program.

Lismore Taxis Co-operative Limited, ss 45, 46. Preventing, restricting or limiting supply of service by taxi drivers.

1.7.98 undertaking not to restrict taxi drivers in the provision of services and to notify all drivers by letter and newsletter of the undertaking; implement a trade practices compliance program carry out a community awareness program; organise an independent audit to be carried out annually for three years.

Nissan Motor Co. (Australia) Pty Ltd, ss 53(a), 53(e). False or misleading advertisements in relation to price and style or model of a Patrol RX Turbo Diesel motor vehicle.

30.7.98 undertaking to compensate \$2000 to each affected customer and implement a trade practices compliance program.

Kong's Aquarium and Pet Supplies Pty Ltd, ss 45A, 48. Price fixing and resale price maintenance in relation to aquarium products.

21.8.98 undertaking not to engage in resale price maintenance and to implement a trade practices compliance program.

Yakka Pty Ltd, ss 52, 53(a).

Misrepresentation of the value of a promotional offer.

3.9.98 undertaking not to repeat similar conduct in the future; to send a letter of apology to affected consumers; offer additional Yakka clothing worth approximately \$100; implement a trade practices compliance program.

Maritime Union of Australia, ss 45D, 45DB. Secondary boycott and boycotts affecting trade or commerce.

8.9.98 Patrick Stevedore Holdings Pty Ltd undertook to:

- comply with the terms of a deed made on 1 September 1998;
- if required by the Commission to enter into a deed with the Trustee; and
- to pay stamp duty on any documents.

Patrick agreed to make payments to expedite settlement arrangements between itself and the MUA and agreed to make payments up to \$7.5m to a trust fund established by the Commission for the purpose of compensating individuals and businesses for losses arising during the waterfront dispute.

On 3 September 1998 North J and Beaumont J accepted consent undertakings from the MUA in relation to the Commission case against the MUA. The MUA provided undertakings which prevent it from taking boycott action against Patrick of three years. Alternative dispute resolution procedures were also established between the Commission and the MUA.

On 7 October 1998 a deed was entered into by the Official Receiver of NSW and the Commission to establish the trust fund and begin making compensation payments.

Darling Downs Bacon Co-operative Association Limited, ss 52, 53(eb), 55.

Misrepresentations that products contained 100 per cent Australian pork.

5.10.98 undertaking not to represent that products are made from 100 per cent Australian pork unless the representations are clearly confined to products which are made from 100 per cent Australian pork or the representations reflect which products are made from 100 per cent Australian pork;

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establish a 1800 freecall or similar service for facilitating refunds and returning purchases; publish corrective advertising in major daily newspapers and provide copies to the Commission; provide to the Commission the names and contact details of consumers who sought refunds; create and maintain a trade practices compliance program compliant with Australian Standard AS-3806.

Kenman Kandy Australia Pty Ltd, ss 52, 53(eb). 'Australian owned' labelling in relation to confectionery packaging — products continued to be sold after the Australian company was acquired by an American company.

16.10.98 undertaking to stop distributing additional stock which bear the representations and making 'Australian owned' representations while it is not ultimately Australian owned; publish corrective advertising and provide copies to the Commission; establish and maintain an 1800 freecall service to notify consumers of the change in ownership of Kenman Kandy and to assist consumers in bringing any claims they may have to Kenman Kandy's attention; recall affected stock; provide the Commission with the names and contact details of consumers who make claims; and ensure future trade practices compliance in relation to packaging and labelling, advertising and other consumer communications.

Harris De Pty Limited, ss 52, 53(g). Misleading promotion in relation to Moccona coffee offering prizes of a trip to the set of Friends and 1000 mobile phones.

21.10.98 undertaking to disclose the existence and effect of all material conditions of any gifts, prizes or other offers; ensure any pictorial presentation or written description of gifts or prizes accurately depicts the standard quality, value, style and/or model of the actual gift or prize; write to all prize winners of mobile phones to offer them a choice of three options including a \$100 credit against a mobile phone handset and/or service plan of their choice; revise its trade practices compliance program and have that program independently audited.

Sigma and Allied Master Chemists of Australia Limited (AMCAL), s. 50. Proposed merger likely to substantially lessen competition.

28.10.98 undertaking by Sigma that it would not, for three years, impose any restriction on the ability of AMCAL members to acquire pharmaceutical goods or pharmaceutical services from their preferred wholesaler.

Youngdown Pty Ltd trading as Go-Lo, s. 65C. Failure to meet mandatory cosmetic standard.

30.10.98 undertaking to ensure products sold will be labelled in accordance with the regulations; and to develop and implement a trade practices compliance program.

Quinsite Nominees Pty Ltd (corporate trustees for Moduplay which formerly operated under the name All Parks Equipment), s. 45(2). Anti-competitive market sharing in relation to playground equipment in New South Wales.

30.10.98 undertaking not to enter into any agreement, arrangement or understanding (containing an exclusionary provision) with any other supplier of playground equipment; to develop and implement a trade practices compliance program; and to donate equipment to the value of \$12 000 to Blacktown Council and to the value of \$2000 to Hurstville Council.

Megatory Play Systems Pty Limited, s. 45(2). Anti-competitive market sharing in relation to playground equipment in New South Wales.

30.10.98 undertaking not to enter into any agreement, arrangement or understanding (containing an exclusionary provision) with any other supplier of playground equipment; to develop and implement a trade practices compliance program; and to donate \$18 000 to a council of the Commission's choice.

Kmart Australia Limited, ss 52, 53(e). Misleading representations as to savings to be made on a coffee machine.

8.11.98 undertaking to review its trade practices compliance program.

Golden Circle Limited, ss 52, 53(eb). Country of origin of orange juice.

16.11.98 undertaking — for three years from the date of signing — not to package its goods

with false or misleading representations as to country of origin and/or seasonal availability; not to use representations that would mislead or deceive consumers as to the product's relative percentages of imported and local ingredients; immediately review all product lines' representations and make necessary changes within four months; place corrective advertising in certain major metropolitan newspapers; and create and maintain a trade practices compliance program.

EnergyAustralia, ss 52, 53(g).

Misrepresentations about consumer rights and remedies in relation to the quality of electricity supply.

10.12.98 undertaking to write to its customers informing them of its Guaranteed Customer Service Standards and of their rights to make claims under the Trade Practices Act in relation to the quality of electricity supply; fund an independent review of claims for compensation which are rejected, or where disputes over the amount of compensation arise; review its complaint handling procedure and its compliance program for compliance with the Australian Standards.

Radio Cabs (Wagga) Co-operative Society Ltd, ss 45, 46. Restrictive trade practices in relation to taxi bookings system.

23.12.98 undertaking to refrain from the conduct; implement a trade practices compliance program.

1999

Berri Limited, ss 52, 53. Misleading representations in relation to labelling of one of its fruit juice products.

21.1.99 undertaking to amend the labelling of its 'Fruition' product to accurately reflect its composition; to publish corrective notices in newspapers, acknowledging that consumers may have been misled about the contents and offering refunds; to remove all currently displayed point of sale advertising.

**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.

Commonwealth

Trade Practices Amendment (Country of Origin Representations) Act 1998 Item 1, Schedule 3

Wheat Marketing Legislation Amendment Act 1998

Australian Postal Corporation Act 1989

New South Wales

Sydney Organising Committee for the Olympic Games Amendment Act 1996

Totalizator Legislation Amendment Act 1997 No 151

Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998

Marketing of Primary Products Amendment (Rice Marketing Board) Act 1998

Marketing of Primary Products Amendment (Wine Grapes Marketing Board) Act 1997

Dairy Industry Amendment (Trade Practices Exemption) Act 1998

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Farm Produce (Repeal) Act 1996

Competition Policy Reform (NSW) Amendment
(Waste) Regulation 1998

Competition Policy Reform (NSW) Amendment
(Grain Marketing) Regulation 1998

Competition Policy Reform (NSW) Amendment
(SOCOG and SPOC) Regulation 1998

Queensland

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

Competition Policy Reform (Queensland —
Dairy Industry Exemptions) Regulation 1998

Competition Policy Reform (Queensland —
Chicken Meat Industry Exemptions) Regulation
1998

Victoria

Electricity Industry (Amendment) Act 1996

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

Australian Capital Territory

Milk Authority (Amendment) Act 1998