
Appendix 2 Public information

This appendix contains:

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

Media releases

29/99 Adelaide Brighton Limited restructuring — 30.3.99

30/99 Telecommunications charges in Australia — 31.3.99

31/99 ACCC opposes cigarettes merger — 31.3.99

32/99 No intervention in Cables acquisition — 31.3.99

33/99 ACCC to investigate milk price — 6.4.99

34/99 Hoyts/Village Roadshow — 8.4.99

35/99 ACCC opposes the Coca-Cola/Schweppes acquisitions — 8.4.99

36/99 Mereenie authorisation determination — 9.4.99

37/99 More ACCC action on Telstra 'commercial churn' — 13.4.99

38/99 ACCC meets NAFI author — 13.4.99

39/99 ACCC/APB steps up pressure on misleading job ads — 15.4.99

40/99 ANF seeks authorisation to hold representative negotiations with individual major publishers/distributors: ACCC grants interim authorisation — 20.4.99

41/99 ACCC institutes against Dimmeys and Starite over bikes — 21.4.99

42/99 'Forest-Friendly' book allegations — 21.4.99

43/99 ACCC issues preliminary draft GST pricing guidelines for consultation — 23.4.99

44/99 ACCC files against compressor suppliers — 23.4.99

45/99 Privatised airports rate strong on quality of service — 27.4.99

46/99 Competition increases in glass container market — 28.4.99

47/99 Global enforcement cooperation — 28.4.99

48/99 More ACCC action on Telstra 'commercial churn' — 28.4.99

49/99 Adelaide Brighton cement authorisation applications declared 'complex' — 29.4.99

50/99 ACCC grants Adelaide Brighton authorisation applications — 30.4.99

51/99 ACCC welcomes HDSL service — 30.4.99

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 pre-decision 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 during the reporting period. The list of non-confidential mergers examined by the Commission is periodically updated on a public register held at the Commission.

British American Tobacco Plc/Rothmans International BV — Australian cigarettes. On 28 January 1999 the British American Tobacco Plc notified the Commission that it proposed to enter into a worldwide merger with Rothmans International BV.

BAT has a 67 per cent interest in the Australian cigarette manufacturer WD & HO Wills Holdings Limited and Rothmans International BV has a 50 per cent interest in the Australian cigarette manufacturer Rothmans Holdings Limited.

The Commission was concerned about the likely impact of the increase in market concentration and the merged group's control of major Australian cigarette brands in a market where import competition is negligible and barriers to new entry are substantial.

The proposed merger would give the merged group a 62 per cent share of the Australian cigarettes market.

On 31 March 1999 the Commission announced that the proposed merger was likely to substantially lessen competition in the Australian cigarettes market.

The Coca-Cola Company/Schweppes — production and wholesale supply of carbonated soft drinks in Australia. In December 1998 The Coca-Cola Company (TCCC) announced that, subject to regulatory approval, it proposed to purchase Schweppes on a global basis. On 16 February 1999 the merger parties made a submission to the Commission on the Australian aspects of the merger.

The acquisition would result in the addition of the pre-eminent Schweppes brand to TCCC's range of international and national brands and Coca-Cola Amatil's regional brands.

The proposed acquisition would see the share of the Coke business move from 65 per cent to around 75 per cent in the carbonated soft drink market.

The Commission was concerned that the merger would create a powerful portfolio of established brands that would threaten the capacity of the remaining and/or new participants to compete in supplying retailers.

Its inquiries indicated that carbonated soft drinks were close substitutes with one another, but that juices, milks and other cold beverages were not.

The Commission noted that the Coke business also has an extensive distribution system.

It was concerned that the removal of the Schweppes international brands as a vigorous, effective and innovative competitor to the Coke business, in a market with high barriers to entry or expansion on a national scale, would be likely to eliminate any real prospect of effective future competition, potentially giving the Coke business control of the carbonated soft drink market in Australia.

The Commission concluded that there would be a substantial lessening of competition in the market for the production and wholesale supply of carbonated soft drinks in Australia.

On 8 April 1999 it announced that the proposed acquisition was likely to breach the merger provisions of the Trade Practices Act. The parties have put to the Commission a

revised proposal, which will be made public in due course.

Pirelli Cables Australia Limited/Metal Manufactures Energy Cables Division — energy cables.

Pirelli Cables Australia Limited proposed to acquire Metal Manufactures Energy Cables Division.

The acquisition will result in two key domestic manufacturers controlling just over 80 per cent of the Australian energy cables market.

The Commission was concerned to discover an agreement between Metal Manufactures Limited and BICC plc (a UK based cable manufacturer with extensive cable manufacturing facilities in the region) which prevented BICC from competing in Australia.

To overcome these competition concerns Metal Manufactures Limited gave the Commission a court enforceable undertaking to formally release BICC plc from the no-compete provisions of the agreement and undertook not to enforce the no-compete obligations (if any) arising from any other arrangements between Metal Manufactures Ltd and BICC.

The Commission still has concerns that the agreement existed in the past and is considering any issues it raises under other parts of the Trade Practices Act.

It was satisfied, however, that the existence of competitor Pacific Dunlop Cables Group and a number of smaller manufacturers/importers, combined with the ability of BICC plc to compete in Australia, was likely to ensure that the merger did not result in a substantial lessening of competition.

On 31 March 1999 the Commission announced that it would not intervene in the proposed acquisition.

Federal-Mogul Pty Ltd/Top Gun Automotive Accessories Pty Ltd — the market for the wholesale supply of ignition leads within Australia.

On 30 March 1999 the Commission was notified that Federal-Mogul was proposing to acquire the ignition lead business of Top Gun Automotive Accessories. On 12 April 1999 the Commission decided that the asset sale was

unlikely to result in a substantial lessening of competition in the market for the supply of ignition leads.

Sydney Aquarium Limited/Manly Ocean World — market for the supply of leisure and tourist 'destination entertainment' in the Sydney metropolitan region. On 6 January 1999 the Commission was notified that Sydney Aquarium Limited, which owns the aquarium at Darling Harbour, was proposing to purchase Sydney's other aquarium at Manly.

On 20 January 1999 the Commission decided that, on the basis of information provided by the parties, it was unlikely the merged firm would be able to exploit market power in the relevant market. Market concentration is low, barriers to new entry are low for some activities (other activities have high capital costs of entry) and profitability in the tourist industry in Sydney is currently marginal.

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 Journal lists s. 87B matters placed on the public register in the reporting period. (The register was first listed in the Trade Practices Commission *Bulletin* 74, February 1994.)

There were no undertakings to be listed for this period.

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

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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

Year 2000 Information Disclosure Act 1999

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

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