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## Appendix 2 Public information

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This appendix contains lists of:

- speeches by Commissioners;
- media releases; and
- some public register material.

### Speeches

#### **Commission Deputy Chairman Allan Asher**

*A competitive international air transport industry — a simplified anti-trust immunity model*

Presentation to the IATA Legal Symposium 2000, San Diego, California, 7 February 2000

#### **Commissioner Ross Jones**

*The ACCC: Telecommunications and broadcasting regulation*

Presentation to MBA students from Finland, 11 February 2000

#### **Commissioner Sitesh Bhojani**

*The professions and whistleblower protections*

Australian Institute of Criminology conference, Crime in the Professions, 22 February 2000

For copies of speeches please contact John Rothwell on ph. (02) 6243 1133

### Media releases

1/00 ACCC's consumer checklist for Y2K problems. 4.1.00

2/00 Home building industry focus of ACCC price watch. 5.1.00

3/00 Telecommunications Access Dispute. 5.1.00

4/00 Telstra/Ozemail. 10.1.00

5/00 ACCC stops builder's GST misrepresentations. 13.1.00

6/00 Mobile Long-Distance Services Final Report. 14.1.00

7/00 Eastern Gas Pipeline – regulatory oversight, joint media release ACCC/NCC. 21.1.00

8/00 ACCC institutes against rubber giant for consumer compensation for latex allergy allegedly caused through Ansell brand gloves. 24.1.00

9/00 Telecommunications access dispute. 25.1.00

10/00 Qantas adjusts frequent flyer price change. 25.1.00

11/00 Banks warned of GST price watch. 25.1.00

12/00 ACCC to investigate Avis's increase in car hire rates. 27.1.00

13/00 Telstra/Ozemail preliminary advice. 28.1.00

14/00 'Please explain' for seven insurance companies. 30.1.00

15/00 ACCC decision on NSW, ACT electricity transmission revenue caps. 1.2.00

16/00 Consumers to win from copyright law amendment: many consumers products affected by removal of import monopolies. 1.2.00

17/00 Small businesses benefit from ACCC court settlement. 3.2.00

18/00 AAT upholds ACCC on Telstra FOI refusal. 7.2.00

19/00 ACCC not to intervene in BOC Australia acquisition. 9.2.00

20/00 ACCC working in .... 14.2.00

21/00 eisa's proposed acquisition of Ozemail. 15.2.00

- 22/00 GST claims misleading. 15.2.00
- 23/00 Big W withdraws dual tickets. 16.2.00
- 24/00 Accor questioned on 10 per cent rise. 17.2.00
- 25/00 ACCC releases discussion paper on peering in ISP industry. 17.2.00
- 26/00 New labels to correct country of origin claims. 18.2.00
- 27/00 Planet Earth ends resale price maintenance. 18.2.00
- 28/00 ACCC issues draft pricing principles for mobile number portability. 18.2.00
- 29/00 ACCC not to intervene in proposed ACTEW-AGL multi-utility partnership. 22.2.00
- 30/00 ACCC and Telstra reach agreement on commercial churn. 23.2.00
- 31/00 ACCC not to intervene in eisa's acquisition of Ozemail. 24.2.00
- 32/00 ACCC welcomes fall in local telephone call charges. 26.2.00
- 33/00 ACCC not to intervene in Brisbane private hospital acquisition. 29.2.00
- 34/00 Zurich refunds \$50 000 after GST Hotline complaint. 29.2.00

## 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 recently.*

*The list of non-confidential mergers examined by the Commission is periodically updated on a public register held at the Commission.*

### **BOC Gases, Air Liquide SA and Air Products and Chemicals Inc. —**

manufacture and distribution of industrial and related gases in Australia.

On 2 July 1999 Air Liquide and Air Products entered into an agreement under which they could bid for all of the shares of the BOC Group. Once the acquisition is completed, it is proposed that the assets of the BOC business around the world will be divided between the companies.

BOC Australia (a subsidiary of the BOC Group) is a major Australian supplier of industrial and medical gases, and welding equipment. Air Liquide is a French multinational engaging in primarily the same businesses, with a significant presence in Australia. Air Products is an American multinational and is also a major industrial gas supplier, but currently has no representation in the industrial and related gas businesses in Australia.

The entire Australian business of BOC will ultimately pass to Air Products. The

Commission determined that this transaction would not substantially affect competition, if adequate assurances could be provided. These guarantees took the form of court enforceable undertakings to the Commission.

The undertakings help ensure that BOC Australia and Air Liquide Australia remain competitive. They also 'quarantine' the operations of BOC Australia during the period when both Air Products and Air Liquide will be the joint indirect owners of BOC Australia.

On 9 February 2000 the Commission announced that it would not oppose the acquisition on the basis of the undertakings provided and noted that the proposal has also been approved in Canada, New Zealand and Europe.

**Pacifica Group Limited/Nulili Pty Ltd** — national market for the supply of plastic and nylon cartridges.

The Commission received a submission on 10 November 1999 outlining the proposed acquisition of Nulili Pty Ltd by Pacifica Group Limited.

After the acquisition, Pacifica's subsidiary, Viscount Plastics, would be the only supplier of plastic and nylon cartridges in Australia. The Commission's market inquiries indicated that barriers to entry were not substantial. Accordingly, on 16 December 1999 the Commission decided not to oppose the acquisition because it appeared that new entry or the threat of new entry would act as a constraint on the merged entity, and therefore the acquisition would not be likely to result in a substantial lessening of competition.

**Allianz AG and PIMCO Advisors** — general insurance and funds management.

On 4 January 2000 the parties advised the Commission of insurer Allianz AG's agreement to acquire a 70 per cent interest in investment manager PIMCO Advisors.

On 20 January 2000 the Commission decided that the proposed acquisition would be unlikely to result in a substantial lessening of competition as the Commission's merger concentration thresholds were not crossed in either market.

**Berwick Ice Supply/South Gippsland Ice/Aussie Ice** — market for production and distribution of ice in metropolitan Melbourne and nearby areas.

The Commission was notified of the proposed merger between three ice manufacturers on 25 October 1999.

The Commission decided on 17 November 1999 not to oppose the merger proposal because barriers to entry do not appear to be substantial and commercial users of ice have the alternative of installing their own ice machines.

**Pioneer Concrete Pty Limited/CSR Limited** — the market for the manufacture and supply of pre-mixed concrete in the Wangaratta region.

The Commission received a submission on 5 August 1999 from Pioneer which outlined their recent agreement with CSR to batch pre-mixed concrete from CSR's plant at Wangaratta in Victoria.

The Mergers Panel decided not to oppose this tolling arrangement between Pioneer and CSR on 1 September 1999.

**Britz Limited/Tourism Holdings Limited** — the market for motorhome rental.

The parties came to the Commission on 6 August 1999 and advised staff of a merger between their motorhome rental companies in Australia. Staff were also advised that a merger between these two companies was planned in New Zealand and South Africa. The acquisition in New Zealand was cleared by the New Zealand Commerce Commission on 16 August 1999.

The Mergers Panel decided not to oppose this acquisition on 25 August 1999.

**CSR Limited and JM Kelly** — the manufacture and supply of pre-mixed concrete.

This proposed tolling arrangement was brought to the attention of staff at the Commission by CSR on 1 October 1999. The parties intend to implement these tolling and supply arrangements by the end of October 1999.

The Commission decided on 3 November 1999 not to oppose the proposed

arrangement, as it is unlikely that it would lead to a substantial lessening of competition for the manufacture and supply of pre-mixed concrete.

**Boral Resources (SA) Ltd/Pioneer Concrete Pty Ltd** — the manufacture and supply of pre-mixed concrete in the South Australian region of Evanston.

The Commission received a submission on 21 July 1999 from Boral, which outlined Boral's proposal to batch pre-mixed concrete from Pioneer at Evanston in South Australia.

The Commission decided not to oppose this tolling arrangement on 1 September 1999 as it was unlikely to lead to a substantial lessening of competition for the manufacture and supply of pre-mixed concrete in the South Australian region of Evanston.

**Consolidated Extrusions and Extruded Metals** — the extruded metals market.

On 29 October 1999 the joint owners of Consolidated Extrusions, the Crane Group Limited and Simsmetal Limited, announced that they had acquired the business and assets of Extruded Metal, intending to merge the company into its Consolidated Extrusions division. Both Consolidated Extrusions and Extruded Metals manufacture brass, copper and copper alloy extruded bar, rod and sections.

The Commission found that imports had captured a sizeable market share in excess of 10 per cent, and pose a significant competitive restraint on the pricing decisions and market conduct of the merged firm.

Based on information supplied by the parties and available to it, the Commission concluded that the merger was unlikely to lead to any substantial lessening of competition.

On 10 November 1999 the Commission decided that it would not oppose the merger between Consolidated Extrusions and Extruded Metals.

**Colonial Mutual Ltd/Trust Bank** — state-based markets for deposits, transaction accounts personal lending, small business banking and credit cards; national market for home loans.

On 12 November 1999 Colonial provided the Commission with a submission in relation to

the proposed acquisition. On 12 November 1999 the Commission decided not to oppose the merger as it did not cross the Commission's market concentration thresholds as Colonial had no market presence in Tasmania.

**Sydney Credit Union Ltd/Media and Publishing Credit Union Ltd** — state-based markets for deposits, transaction accounts and other lending; national market for home loans.

On 16 August 1999 the Australian Prudential Regulation Authority informed the Commission of the proposed acquisition. On 1 September 1999 the Commission decided not to oppose the merger as it did not cross the Commission's market concentration thresholds.

**AMP Employees' and Agents' Credit Union Ltd /GIO Staff Credit Union Ltd** — state-based markets for deposits, transaction accounts and other lending; national market for home loans.

On 16 August 1999 the Australian Prudential Regulation Authority informed the Commission of the proposed acquisition. On 1 September 1999 the Commission decided not to oppose the merger as it did not cross the Commission's market concentration thresholds.

**Bendigo Bank Limited/IOOF Building Society Ltd** — state-based markets for deposits, transaction accounts and other lending; national market for home loans.

On 16 August 1999 the Australian Prudential Regulation Authority informed the Commission of the proposed acquisition. On 1 September 1999 the Commission decided not to oppose the merger as it did not cross the Commission's market concentration thresholds.

**Berri Limited/National Foods Juice Limited** — national market for the production and wholesale supply of chilled and ambient fruit juice and fruit drink.

The Commission received a confidential submission on 1 September 1999. It conducted general market inquiries on the basis of speculated consolidation in the juice industry, with particular reference to the possible sale of National Foods Juice Limited. The acquisition was publicly announced on 25 October 1999. The Commission then commenced another round of market inquiries.

The Commission decided on 10 November 1999 not to oppose the merger. It considered that the acquisition was unlikely to result in a significant reduction in competition in the relevant market given the continued presence of other effective competitors and low barriers to entry.

The merger would be unlikely to have a negative impact on orange growers as juice processors would still seek their produce.

**Suez Lyonnaise des Eaux SA/Nalco Chemical Company** — provision of water treatment chemicals.

On 19 October 1999 Suez Lyonnaise des Eaux notified the Commission of its intention to acquire Nalco Chemical Company, a US-based water treatment chemical company.

On 10 November 1999 the Commission decided not to oppose the proposed acquisition as the parties operate in separate markets, and there appears to be alternative sources of water treatment chemicals available for other water treatment companies.

**British Aerospace Australia Limited/Hunter Aerospace Corporation Pty Limited** — parties submitted the market for defence aircraft support services.

On 29 October 1999 British Aerospace Australia notified the Commission of its proposal to acquire part of the business of Hunter Aerospace Corporation, a military aircraft and helicopter maintenance specialist.

On 10 November 1999 the Commission decided that the acquisition appeared unlikely to substantially lessen competition due to the parties' low combined market share, and the existence of a number of competitors.

**Sonic Healthcare Limited/the Australian pathology businesses of Société Générale de Surveillance** — markets for the provision of pathology services (excluding services to public inpatients) approximating State boundaries.

On 27 September 1999 in response to the Commission's request, Sonic Healthcare Limited submitted information on a proposed acquisition of the Australian pathology businesses of Société Générale de Surveillance (SGS).

On 26 October 1999 the Commission advised Sonic that it would not intervene. The proposed merger appeared unlikely to result in a substantial lessening of competition because there is apparently no geographical overlap in the pathology operations of Sonic and SGS. Therefore, Sonic and SGS do not operate in the same geographic markets.

**New Holland NV/Case Corporation** — national markets for the supply of tractors, combine harvesters, hay balers, backhoe loaders and skid steer loaders.

On 20 July 1999 the Commission received a submission from New Holland Australia Pty Limited and Case Corporation Pty Limited about the Australian component of the proposed global merger.

On 15 September 1999 the Commission advised the parties of its preliminary concerns about its effect on the dealer distribution channel. The parties made subsequent submissions on this issue.

On 26 October 1999 the Commission advised the parties that it would not intervene. The proposed merger appeared unlikely to substantially lessen competition due to the presence of several vigorous and effective competitors in Australian agricultural and construction equipment markets.

Following completion of the proposed merger the Commission will monitor exclusive arrangements between suppliers and dealers.

**Bristile Limited/Pioneer Building Products assets in Victoria, South Australia and Tasmania** — clay bricks and concrete roof tiles and masonry market.

On 13 October 1999 Pioneer wrote to the Commission to advise that Pioneer was currently negotiating the sale of its building product assets located in Victoria, South Australia and Tasmania to Bristile Limited.

The assets to be sold by Pioneer consist of clay bricks in Victoria, South Australia and Tasmania; clay and concrete roof tiles in Victoria; concrete masonry in Victoria and a sand business in South Australia.

Bristile is a West Australian based company which manufactures bricks and roofing tiles in

Western Australia but has no manufacturing operations in Victoria, South Australia or Tasmania. Therefore, the Commission concluded on 27 October 1999 that the acquisition was unlikely to substantially lessen competition.

**Australian International Carbon Pty Ltd/Char International Pty Ltd** — activated carbon market.

The proposed acquisition by Australian International Carbon Pty Ltd (AIC) of Char International Pty Ltd was announced to the Australian Stock Exchange on 12 October 1999.

AIC and Char are both manufacturers of activated carbon. Activated carbon is used primarily in purification applications such as water treatment, glucose decolourisation and air purification.

Import levels of activated carbon appear to be high and the domestic price is determined by the product's world price. Therefore, it is unlikely that the merged entity could significantly or sustainably increase prices or profit margins above the current levels.

On 27 October 1999 the Commission decided not to take further action at this stage on the proposed acquisition on the basis of the information provided.

**The Asahi Bank Ltd/The Tokai Bank Limited** — the markets for corporate finance, merchant banking and home loans.

On 10 December 1999 the Commission became aware of a proposed merger between the parties, which will result in the first multi-regional Japanese bank. On 22 December 1999 the Commission decided not to oppose the proposed merger between the two banks, as there are no anti-competitive concerns in Australia.

**Celsius AB/Saab AB** — national market for defence electronics.

The Commission received a submission on 17 December 1999 outlining the proposed global acquisition of Celsius by Saab. Both companies are involved in the global defence industry.

The Commission decided on 2 February 2000 not to oppose the merger proposal as it was

unlikely to result in a substantial lessening of competition and because several domestic and international competitors in the defence industry will remain. In addition, the Department of Defence has some countervailing power in the purchase of defence electronics in Australia.

**Smorgon Steel/Metalcorp** — the market for foundry grades of ferrous scrap in New South Wales and Queensland.

Following market inquiries among foundries, scrap generators, scrap collectors and processors, the Commission advised Smorgon in January 2000 that it had concerns about the likely effect of an acquisition by Smorgon of Metalcorp on competition in the markets for the supply of foundry grades of ferrous scrap in New South Wales and Queensland.

In February 2000 Smorgon gave the Commission a court enforceable undertaking pursuant to s. 87B of the Trade Practices Act addressing the Commission's concerns. The undertakings include that it will supply scrap to foundries in Queensland and New South Wales at prices reflecting no greater premium than that paid by Metalcorp's customers in Queensland and New South Wales in 1998 and 1999.

**St Andrews War Memorial Hospital** — the markets for the provision of hospital services and facilities to patients, the provision of hospital services and facilities to doctors, and the provision of hospital services and facilities to health funds.

In late January 2000 the Uniting Church of Australia notified the Commission of its desire to transfer the assets of the St Andrews War Memorial Hospital in inner Brisbane into the Uniting Church Property Trust. The Property Trust also operates The Wesley Hospital in inner Brisbane.

The Commission concluded that there was unlikely to be any substantial lessening of competition and on 23 February 2000 decided not to oppose the proposal.

**State Street/Commonwealth Bank** — custody services industry.

In October 1999 the Commission was informed of proposed strategic alliance

between State Street and the Commonwealth Bank of Australia in the custody services industry. The Commonwealth Bank was to provide master custody services and domestic custodianship and State Street was to provide global custodian services.

The Commission decided this would not raise competition issues as the industry contained many industry participants, and relatively low barriers to entry, allowing the entry of new market participants and the ready expansion of existing participants. It also appeared that this industry had a high level of competition between industry players.

**Leighton Holdings Limited/John Holland Group Pty Ltd** — national markets for the supply of non-residential building construction services for large-scale projects (defined as contracts in excess of \$100 million), and civil infrastructure construction services for large-scale projects.

The Commission received a submission on 24 November 1999 outlining the proposed acquisition by Leighton of the Australian operations of the John Holland Group.

The Commission decided on 22 December 1999 not to oppose the proposed acquisition as market inquiries indicated that there would be enough competitors to act as a competitive constraint on the merged firm. In addition to large construction contractors, the merged firm is likely to be challenged by smaller contractors entering into joint ventures or alliances in order to tender for large-scale projects.

**Privatisation of ETSA Utilities and ETA Power by South Australian Government** — markets for supply of electricity distribution services and for retail electricity.

On 12 December 1999 the South Australian Government announced that the consortium of Cheung Kong Infrastructure Holdings and Hongkong Electric International (CKIHEI) had been successful in bidding to acquire ETSA Utilities and ETSA Power, the incumbent South Australian electricity distribution and retail businesses. The Commission did not oppose CKIHEI's bid as it did not previously have any interests in the Australian electricity supply industry.

On 4 January 2000 AGL notified the Commission that it was negotiating with CKIHEI to acquire ETSA Power. The Commission decided on 27 January 2000 not to oppose AGL's acquisition of ETSA Power due to the fact that AGL had, to date, only a very limited presence in retailing electricity in SA. Although AGL had publicly stated that it intended to increase its retailing activities in SA, the Commission took the view that other electricity retailers would also increasingly look to supply into SA, particularly as the vesting contracts between ETSA Power and the SA generators expire.

**GUD Holdings Limited/Dana Australia Pty Ltd** — national markets for the manufacture and supply of automotive air filters, automotive oil filters, automotive fuel filters, heavy duty air filters, heavy duty oil filters and heavy duty fuel filters.

The Commission received a complaint in early 1999 that the acquisition has resulted in GUD becoming the sole Australian manufacturer of a number of filter products.

The Commission decided on 13 December 1999 not to take any action in the acquisition because information provided by GUD showed that imports in each of the relevant markets substantially exceeded the indicative 10 per cent threshold, as set out in the Commission's *Mergers Guidelines*. In the automotive air, oil and fuel filters markets the level of imports exceeded 40 per cent of total sales, while in the heavy duty air, oil and fuel filters markets the level of imports exceeded 80 per cent of total sales.

**Dow Jones and Company Inc/Reuters Group plc** — national market for the provision of near-time online business information and news.

Dow Jones and Reuters proposed to merge a number of their online near-time business information and new services as a joint venture.

On 1 December 1999 the Commission decided not to intervene in the joint venture under ss 45 and 50 of the Act as it was satisfied that there were no exclusive content supply arrangements in place between Dow Jones and the Fairfax Group.

The Commission expressed some residual concerns about the possible existence of exclusive content supply agreements in the market. Accordingly, the Commission decided to monitor the incidence of such agreement in the future and to fully investigate any such agreements of which it becomes aware.

**Westfield Group/Carindale Regional Shopping Centre** — Brisbane market for the supply of regional shopping centre retail space (excluding the CBD).

On 5 October 1999 the Commission received a media release from Westfield Group advising of the completed acquisition of the management contract for and proposed acquisition of an interest in Carindale Regional Shopping Centre from Suncorp Metway Limited.

On 16 December 1999 the Commission decided not to intervene in the acquisition, because of the existence of three alternative suppliers and although supply in the short term is inelastic, supply in the medium term is less inelastic due to expansion possibilities. In addition, downstream competition for shoppers, particularly from Garden City Mt Gravatt (and perhaps also from the CBD), may provide a constraint on the exercise of market power by Westfield.

**Volvo AB/Scania AB** — national market for commercial trucks, buses and coaches.

On 19 January 2000 the Commission announced that it would not oppose the acquisition of the Australian operations of Scania AB by Volvo AB.

The acquisition was part of a global acquisition of Scania AB by Volvo AB. Both Scania and Volvo are Swedish companies with subsidiaries worldwide. The merger has also been the subject of an investigation conducted by the European Commission.

The companies manufacture commercial trucks, buses and coaches that are imported fully assembled into Australia.

The Commission considered that the relevant markets were the Australian markets for the supply of heavy-duty commercial trucks and for the supply of commercial buses and coaches. It appeared that in these two markets there is a

significant degree of countervailing power in the hands of the customers, many competitors and high levels of import competition. For these reasons, the Commission considered that the merger was unlikely to result in a substantial lessening of competition.

**Neverfail Springwater Limited/Piccadilly Distribution Services Pty Limited** — market for the supply of bulk bottled water to residential and business customers in South Australia.

On 10 February 2000 the Commission announced that it would not oppose the acquisition of Piccadilly Distribution Services Pty Limited by Neverfail Springwater Limited.

Piccadilly's operations were limited to South Australia where it was the largest spring water supplier and included both the delivery of bulk water and retail sales of smaller bottles, typically 600 ml. The South Australian operations of Neverfail were only that of bulk water delivery and as such the acquisition of the retail bottle operations of Piccadilly represents a new market for Neverfail.

The market has many competitors that would be able to constrain any attempt to increase prices by the merged firm. Refrigerated filter systems, non-filtered water coolers and to a lesser extent tap water would also exercise a degree of competitive constraint on the merged firm.

The Commission concluded that the acquisition was unlikely to result in a substantial lessening of competition.

**P&O Australia Limited/Spotless Services Limited and Eurest (Australia) Pty Limited** — various markets.

On 28 October 1999 the Commission announced that it would not oppose the acquisition of six divisions of P&O Australia Limited by Eurest (Australia) Pty Limited and Spotless Services Limited.

The six divisions offered for sale were P&O Catering and Services, P&O Food Services, Asset Services, New Zealand Services, P&O Berkeley Challenge and P&O Facilities Management. The Commission formed the view that each of the divisions offered for sale by P&O represented a different market.

While Eures't's presence in the national market for the provision of both remote and urban services following the acquisition was significant, the Commission was of the view that this market was characterised by low barriers to entry. The Commission was of the view that the acquisition by Spotless represented new entry to each of the relevant markets. Accordingly, the Commission decided that the acquisitions would not contravene s. 50 of the Act.

**Bass Plc/Southern Pacific Hotels Corporation Group** — the market for branded accommodation.

On 18 January 1999 the Commission announced that it would not oppose the acquisition by Bass Plc of a number of assets from Southern Pacific Hotels Corporation Group. The Australian assets that were the subject of the acquisition included the Parkroyal and Centra brand names, a number of hotel management contracts, the ownership of two hotels and leasehold interests in six other hotels.

Bass Plc, which operates under the Holiday Inn and Inter-Continental brand names, was seeking to expand its Australian operations.

The Commission formed the view that the relevant markets were city-based markets for branded accommodation. The Commission considered that a national market for branded accommodation for corporate clients might also be relevant in considering the acquisition.

Prior to the acquisition, Bass owned or managed nine properties Australia-wide. The Commission formed the view that Bass' presence in the Sydney, Melbourne, Perth and Newcastle markets for branded accommodation was not of a level that would contravene s. 50. The Commission also formed the view that for Bass, the acquisition represented new entry to a number of city markets for branded accommodation. The Commission decided that the acquisition would not contravene the Act.

**Pioneer North Queensland Pty Limited/Zappala Sand & Gravel and Zappala Concrete** — quarry, sand and pre-mixed concrete market in the Cairns area.

This matter was brought to the attention of the Commission in June 1999 when Pioneer International Limited advised that Pioneer

North Queensland Pty Ltd (PNQ) was proposing to acquire the Zappala business which operates in the Cairns and Tablelands region. PNQ planned to acquire Zappala Concrete in Portsmith, Zappala Sand and Gravel quarries in Edmonton and Walsh River, Zappala's fine sand reserve at Mareeba and coarse sand reserve at Gordonvale.

The Commission examined the matter closely in relation to the quarry, sand and pre-mixed concrete industry in the Cairns area. On December 1999 the Commission informed PNQ that it did not propose to intervene in the acquisition. However, the parties were informed that the Commission is prepared to review this matter if it becomes aware of evidence of this acquisition having an adverse effect on competition in the Cairns region.

**Pioneer Construction Materials Pty Ltd/Boral Construction Materials Pty Ltd** — the market for fine sand in Brisbane and outer regions within a radius of not more than 100 km.

On 24 February 2000 this matter was brought to the attention of the Commission. Pioneer proposed to close its fine sand dredging and processing plant in Lytton, Queensland with the purpose of producing fine sand at Boral's adjacent Lytton site. The Commission decided not to oppose this joint venture. Market inquiries indicated that users of fine sand have a number of alternative sources from which to obtain fine sand in the greater Brisbane area.

## 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 a s. 87B matters placed on the public register in the reporting period.*

**Planet Earth Design Concepts Pty Ltd,** s. 48.

8.2.2000 undertaking not to engage in the practice of resale price maintenance, to send a

copy of the undertaking to each person to whom it currently supplies products and implement a trade practices compliance program and complaints handling system.

**YBD Pty Ltd**, ss 52, 53(eb).

Misleading representation about product labelling using the words 'Product of Australia'. 8.2.2000 undertaking to change misleading labelling and implement a trade practices compliance program and complaints handling system.

**Air Products and Chemicals Inc/L'Air Liquide**, s. 50.

The Commission determined that the acquisition would not substantially affect competition pending certain guarantees by the parties. 2.8.00 undertakings that BOC Australia business will pass to Air Products after the joint acquisition vehicle has acquired 100 per cent of the issued shared capital in BOC Group and that BOC Australia will conduct its business separately during the transition period.

**Air Products and Chemicals Inc**, s. 50.

The Commission determined that the acquisition would not substantially affect competition pending certain guarantees by the parties. 8.2.00 undertaking to be an active and vigorous competitor to L'Air Liquide and other firms in the relevant Australian markets.

**National Internet Registration, State Resources Pty Ltd, Jeffrey Worboys, Retriever Quick Search**, ss 52, 53(bb), 64(3), 64(2A).

Asserting a right to payment. 10.2.200 undertakings to return all personal, business or company cheques to the sender with a covering letter, advise all clients who have forwarded money for listing on the NIR directory of name change to Retriever Quick Search or fully refund those who do not wish to transfer.

**Stern's Playland Pty Ltd**, ss 52, 53(eb).

15.2.00 undertakings to discontinue selling the three pool models subject to complaint and implement a trade practices compliance program involving a staff education program.

**Independent Fire Sprinklers P/L Independent Fire Alarms P/L**, ss 52, 53(aa).

25.2.00 undertakings to implement proper systems to regularly inspect fire protection equipment in Brisbane, not represent that work

was performed when it wasn't and compensate affected customers.

**Smorgon Steel Group Ltd**, s. 50.

23.2.00 undertakings to supply foundry grades of ferrous scrap to foundries in Queensland and New South Wales at prices reflecting no greater premium over prices for standard grades of ferrous scrap than the premium paid by Metalcorp's customers in Queensland and New South Wales in 1998 and 1999.