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# Policy developments

## Retail inquiry leads to possible amendments

In December 1999 the Federal Government announced it would amend the Trade Practices Act in response to the report of a Joint Select Committee of Parliament, *Fair Market or Market Failure*, which reviewed Australia's retailing sector.

The review examined, among other things, the degree of industry concentration in the retailing sector in Australia, especially the impact of that concentration on the ability of small independent retailers to compete fairly.

The inquiry received mixed views about the sector's competitiveness from major chains, independent retailers, wholesalers, primary producers, consumers and others.

Many complaints were concerned with the sector's vertical relationships, particularly buyer power.

The Federal Government has accepted some but not all of the amendments recommended by the Committee.

Those accepted include:

- The Commission should be given the power to undertake actions on behalf of any business seeking damages for anti-competitive conduct in breach of Part IV of the Act. (This proposal was presented in Bill form by the Federal Government in 1998 but was blocked in the Senate. It fills an obvious gap in the Commission's enforcement powers.)
- An independent Retail Industry Ombudsman should be established as an alternative to costly and lengthy litigation for small and large businesses.

- The Act should be amended to articulate more clearly that, in assessing mergers, the Commission must explicitly look at the effects of competition in regional markets within a particular State (such as south-east Queensland).

The latter amendment is unlikely to bring about any major change to merger administration. In the past, the Commission has commonly focused on competition in regional markets, such as the market for fat cattle in North Queensland, south-east Queensland markets (dairy mergers), and northern NSW markets (dairy).

The regional market recommendation arose from concerns that acquisitions of independent supermarkets by major retailers were somehow escaping the scrutiny of the Commission.

As the merger provision is still concerned with effects on substantial markets in Australia, it probably remains the case that a merger between two competing stores in one country town, for example, will still not be sufficient to attract Commission scrutiny.

## Retail grocery voluntary code of conduct

The Joint Select Committee recommended that the Commission introduce a mandatory retail industry code of conduct covering the supply chain to major retailers. However, the Federal Government has opted instead to support a voluntary code of conduct designed by the industry-funded Retail Grocery Industry Code of Conduct Committee.

The committee includes representatives of large and small retailers, suppliers, consumers and legal advisers. It is developing the voluntary code and will advise on the role of the Ombudsman who will help resolve disputes in supplier/retailer relationships quickly and effectively.