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# GST

## Countdown to the New Tax System: a Commission update

### Introduction

The key elements of the New Tax System are the abolition of indirect taxes and the introduction of a Goods and Services Tax (GST).

The Commission has been given new responsibilities under the Trade Practices Act to ensure that consumers benefit fully from the New Tax System. These new responsibilities revolve around the offence of **price exploitation** — although some businesses have found that the existing provisions of the Act on misleading and deceptive conduct have proved particularly relevant in pre-GST advertising campaigns.

While the Commission will not experience the full impact of its new responsibilities until 1 July 2000, the past eight months have seen a number of milestones.

- In July the Commission released its guidelines on what constitutes price exploitation. These guidelines were the culmination of extensive consultation with business and industry groups.
- On 29 July 1999 the rate of Wholesale Sales Tax (WST) was reduced from 32 per cent to 22 per cent on many electrical goods and some jewellery. Items subject to this reduction include videos, televisions, watches, clocks, cameras, radios, stereos and precious metal goods and plated ware.

The Commission undertook a price survey of these goods, released information on the effect of the changes and received many consumer inquiries.

- On 1 November the method of levying cigarette excise was changed from a weight basis to a per stick basis. The Commission provided information to cigarette manufacturers, retailers and suppliers to ensure that any price increases were a true reflection of the change in excise. Again, the Commission monitored prices and received further inquiries.
- On 27 September 1999 the Commission received, from Qantas, its first public compliance commitment.
- An amendment to the Act was passed by Parliament in mid-December 1999, expanding the Commission's pre-1 July 2000 powers — in particular, to cover unreasonably high anticipatory price rises with the offence of price exploitation.
- The Commission's first report was presented to the Minister under s. 75AZ, which provides details of the framework for the Commission's role in preventing price exploitation under the New Tax System changes.

### Commission activities

The Commission's activities in relation to its New Tax System responsibilities over the past eight months have fallen into five broad categories:

- the development and interpretation of the guidelines
- developing strategies for informing businesses and consumers
- undertaking price monitoring
- developing public compliance commitments
- undertaking enforcement activity.

## **Developing and interpreting the guidelines**

The Commission first released draft preliminary guidelines on 23 April 1999 and these were discussed at an industry round table on 2 June 1999.

In July 1999 the Commission issued the current guidelines, as required by new Part VB of the Act, which spell out the Commission's view about when price exploitation has occurred.

Essentially, price exploitation has occurred if the price for a regulated supply is unreasonably high after taking into account effects of the New Tax System changes so far.

When considering if a price is unreasonably high, supplier's costs, supply and demand conditions and any other relevant matter must be taken into account.

The GST Committee, made up of several Commissioners, including dedicated GST Commissioner, Dr David Cousins, has considered various interpretational issues raised by the guidelines.

The recent introduction of legislative amendments has presented a timely opportunity to update and review the guidelines to identify areas that may benefit from further clarification. These will be available soon.

## **Information**

The Commission has implemented strategies to provide information to business and consumers. These include:

### *GST Hotline*

The Commission set up a GST Hotline (1300 302 502) which allows businesses to seek information on their obligations under the Act and the guidelines, and consumers to report concerns about GST-related pricing practices. The calls received on the hotline range from complaints about the increased cost of shampoo in a particular supermarket through to evidence of substantial Part V or Part VB breaches.

The hotline continues to provide the Commission with market information quickly,

as well as providing a new immediate point of access for the broader community. Our experience already shows that consumers are very watchful of price movements and expect businesses to fully comply with the pricing guidelines.

### *Educating consumers*

The Commission is developing a campaign aimed at raising consumer awareness about the expected impact of the New Tax System on pricing. The Commission is currently undertaking research into the community's attitudes and understanding of the New Tax System to deliver targeted and effective messages.

In December 1999 a significant step forward was made in establishing a price exploitation consumer advisory group to represent consumer interests Australia-wide.

An extensive media campaign is already in place to raise consumer awareness about price exploitation.

### *Assistance to business*

The Commission continues to develop tools and materials for business to facilitate compliance. A user-friendly compliance guide and check lists have been prepared.

The Commission will also draw on its existing links with the business community, and is developing links with state and Commonwealth agencies that are undertaking GST education to incorporate the Commission message into their education material.

### *Information to industry*

In addition to our newsletters, the Commission has been busy selling its message to industry groups. For example, Dr David Cousins, the Commission's GST Commissioner, has spoken at a wide variety of industry forums and conferences. In addition, there have been numerous meetings between representatives of industry groups and Commission staff.

## **Price monitoring**

In anticipation of the 29 July 1999 changes to WST the Commission monitored prices extensively in towns and cities across Australia,



with more than 32 000 valid prices being collected. The results indicated a high degree of compliance. The average percentage price change between States did not differ, nor did price movements between city and country regions vary significantly.

Follow-up surveys have shown that retailers generally are continuing to pass on the cost savings from the reduction in WST on 29 July 1999 to consumers.

The Commission has written to retailers whose price changes appear to be unreasonable requesting an explanation, and will take appropriate action if their explanations are unsatisfactory.

Finally, the Commission has engaged consultants to monitor prices in the lead up to and after the New Tax System changes begin on 1 July 2000. Surveys will be comprehensive. They will cover both regional and metropolitan Australia, check thousands of sites, include a full range of products, and demonstrate the Commission's presence in monitoring prices. This should help alleviate consumer fears that prices will increase unreasonably. Some monthly surveys began in December 1999.

### **Public compliance commitments**

An innovative strategy being adopted by the Commission is to seek public compliance commitments from Australia's largest companies (top 100), and major players involved in insurance, building and motor vehicle retailing.

A public compliance commitment is a voluntary commitment, signed by the CEO of a corporation, that the company is committed to complying with the price exploitation guidelines. public compliance commitments provide assurance to the community that no unfair advantage will be taken of the New Tax System changes to increase margins.

A commitment is supported by information to satisfy the Commission that the approach taken by the company to identify cost savings and reflect these savings in pricing decisions will ensure compliance with the guidelines.

A public compliance commitment also provides assurance to companies that the basis for their pricing decisions is sound and, if followed, will minimise the risk of price exploitation. It has benefits for public relations and improved communication with the Commission.

The public compliance commitment, where approved by the Commission, will be placed on the public register.

More than 40 companies, from a broad range of sectors, have so far approached the Commission about public compliance commitments. Discussions are at various stages; some are preliminary whereas others are close to being finalised.

The commitment is a clear statement of a corporation's intent to:

- comply with the principles of Part VB of the Act;
- comply with the price exploitation guidelines;
- pass on to consumers any cost benefits realised as a result of the tax changes;
- advertise and display prices on a GST-inclusive basis in a manner that is not misleading or deceptive; and
- extend its trade practices compliance program to cover the New Tax System changes.

### **Enforcement activity**

#### *Strategy*

The Commission has developed a strategy for dealing with GST enforcement action to allow

for a consistent and coordinated response to any potential contraventions of the Act.

#### *Part VB*

Part VB enforcement action refers to the new statutory offence of price exploitation. The nature of the offence of price exploitation is described above.

Most of the Commission's Part VB investigations and enforcement activity has revolved around the WST reduction that occurred on 29 July 1999. The Commission is pursuing a number of instances of non-compliance and has accepted an enforceable undertaking from a business acting contrary to the guidelines.

Most of the complaints received were about the cost of televisions, stereos, cameras and watches, with watches the subject of the largest number of complaints.

#### *Part V*

In addition to the provisions of Part VB, the Act places clear obligations on businesses to ensure pricing claims not be misleading or deceptive. The guidelines provide examples on what constitutes misleading and deceptive advertising.

Most of the Commission's enforcement activities over the past eight months have related to misleading and deceptive advertising, as there is a potential for businesses to take advantage of consumer confusion over the impact of the GST. The majority of complaints about misleading and deceptive conduct have focused on three industries: insurance, building and motor traders.

### **Conclusion**

The past eight months have been about preparing and laying the foundations to allow a smooth transition to the New Tax System. The excise change on 1 November 1999 and the WST change on 29 July 1999 have allowed the Commission to develop and test systems, to ensure they are ready for the larger changes on 1 July 2000.

The next four months will focus on providing extensive information to business and consumers about the impact of the New Tax System on prices.