
Appendix 2 Public information

This appendix contains lists of:

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

Speeches

Commission Chairman Allan Fels

The Trade Practices Act and the ACCC – the past, the present and the future, Trade Practices and Consumer Law Conference, 27 May 2000

Commission Deputy Chairman Allan Asher

New developments in competition policy: an Australian perspective, Joint Conference of The Australian and New Zealand Society of International Law and the American Society of International Law, 26 June 2000

Commissioner Ross Jones

Dealing with horizontal restraints – the ACCC perspective, Consumer Unity and Trust Society Asia-pacific Workshop on Competition 17 April 2000

Commissioner John Martin

ACCC's role in the franchising code of conduct, Post Office Agents Association Limited, 27 May 2000

Dealing with pricing in the transition to the New Tax System, Australian Business Limited Council Luncheon, 30 June 2000

Media releases

84/00 Pricing guidelines enforceable: ACCC. 2.5.00

85/00 GST price exploitation law enforcement. 2.5.00

86/00 ACCC not to intervene in Alcoa/Reynolds metals merger. 4.5.00

87/00 Refunds for buyers of alternative health therapy devices. 5.5.00

88/00 ACCC seeks comments on proposed changes to SA electricity vesting contracts. 8.5.00

89/00 Federal Court confirms validity of ACCC pay TV declaration. 8.5.00

90/00 ACCC responds to business coalition for tax reform. 9.5.00

91/00 ACCC not to oppose joint venture between ASX and Perpetual Trustees Australia. 9.5.00

92/00 ACCC welcomes budget allocations. 9.5.00

93/00 ACCC issues reports on telecommunications charges in Australia and competitive safeguards. 10.5.00

94/00 Non-compliant novelty phones draw ACCC action. 15.5.00

95/00 Victorian public transport fare increases. 15.5.00

96/00 Free Internet access — but you'll have to wait. 16.5.00

97/00 ACCC takes action to protect small business on GST eve. 22.5.00

98/00 Consumers to be helped by price guide. 23.5.00

99/00 ACCC issues consultancy reports on Sydney Airport's pricing proposals. 24.5.00

- 100/00 ACCC not to oppose acquisition of Commonwealth Paper Company Pty Limited by Spicers Paper Limited. 25.5.00
- 101/00 Consumers' misconceptions follow strong industry campaign: ACCC. 25.5.00
- 102/00 GST. Everyday prices and you: GST pricing information for Aboriginal and Torres Strait Islanders people. 26.5.00
- 103/00 ACCC checks prices in the Northern Territory to prevent GST price exploitation. 25.5.00
- 104/00 ACCC takes court action against Video Ezy and senior managers with first GST price exploitation case. 25.5.00
- 105/00 Australia Post public compliance commitment. 26.5.00
- 106/00 ACCC gives GST price help to small business. 29.5.00
- 107/00 George Weston penalised \$900 000 for attempted price fixing. 30.5.00
- 108/00 BHP signs GST public compliance commitment. 30.5.00
- 109/00 ACCC not to oppose Commonwealth Bank/Colonial Merger. 30.5.00
- 110/00 ACCC not to oppose acquisition of EMAIL Limited by Smorgon Steel Group. 01.6.00
- 111/00 Spanish olives can't be 'Product of Greece' or 'Product of Australia'. 1.6.00
- 112/00 Total Aqua admits its GST claims were wrong. 2.6.00
- 113/00 Forty Winks to remedy GST compliance issues. 2.6.00
- 114/00 WorkCover NSW premium rise. 5.6.00
- 115/00 ACCC investigating frequent flyer schemes. 5.6.00
- 116/00 ACCC issues intercapital transmission capacity discussion paper. 6.6.00
- 117/00 Rentlo under investigation. 6.6.00
- 118/00 ACCC proposes to authorise homeworkers code of practice. 7.6.00
- 119/00 Commonwealth Government's GST advertising. 8.6.00
- 120/00 BLF provides undertakings to ACCC. 8.6.00
- 121/00 ACCC issues draft Snowy Mountains Hydroelectricity Authority transmission network revenue cap. 8.6.00
- 122/00 Microsoft monopoly split. 9.6.00
- 123/00 HPM to offer refunds after misrepresenting the country of origin. 9.6.00
- 124/00 GST. Everyday prices and you: GST pricing information for Australians from non-English speaking backgrounds. 13.6.00
- 125/00 Penalties in QLD fire protection industry reach more than \$8 million. 13.6.00
- 126/00 Trucking prices should fall despite ATA report. 14.6.00
- 127/00 Telstra price rises under investigation. 14.6.00
- 128/00 ACCC launches ACA's choice price watch. 15.6.00
- 129/00 Court declares landlord's conduct unconscionable. 16.6.00
- 130/00 ACCC not to oppose George St cinemas redevelopment. 16.6.00
- 131/00 ACCC price checking on 1 July. 16.6.00
- 132/00 Funeral industry refunds. 16.6.00
- 133/00 ACCC accepts Coca-Cola Amatil (Aust.) public compliance commitment. 19.6.00
- 134/00 ACCC takes electrical centre to court over GST claims. 19.6.00
- 135/00 Paul's 'local milk' campaign illegal. 19.6.00
- 136/00 Health insurer revises commercial. 19.6.00
- 137/00 ACCC appoints new CEO. 20.6.00
- 138/00 Taped threat costs Simsmetal \$2 million. 20.6.00

139/00 Pay TV programming access would assist improved telecommunications services in regional areas: ACCC. 21.6.00

140/00 Apollo Blinds GST undertaking. 21.6.00

141/00 ACCC accepts Coles Myer GST public compliance commitment. 22.6.00

142/00 ACCC visits small businesses to assist in GST transition. 22.6.00

143/00 Discount electrical centre directions hearing. 22.6.00

144/00 Rio Tinto Limited bid for North Ltd. 23.6.00

145/00 Shoppers take heed — the GST will affect lay-buys. 26.6.00

146/00 ACCC acts to ensure compliance among holiday destinations. 26.6.00

147/00 ACCC not to oppose acquisition of MLC by National Australia Bank. 26.6.00

148/00 Import monopolies. 28.6.00

149/00 Winner of the ACCC Law/Economics prize. 28.6.00

150/00 ACCC issues draft determination on VoLL code changes. 30.6.00

151/00 ACCC to consider Telstra exemption application from local call resale. 30.6.00

152/00 ACCC resolves misleading GST property claims. 30.6.00

153/00 Australia's top companies commit to pass on cost savings. 30.6.00

154/00 ACCC rejects agreement between three Sydney hospitals. 30.6.00

155/00 ACCC concerned about Telstra's proposed pricing for the unconditioned local loop service. 30.6.00

156/00 \$5 million paid from waterfront trust fund. 30.6.00

157/00 ACCC issues final decision on central west pipeline. 30.6.00

158/00 Bankwest to freeze merchant fee: ACCC. 30.6.00

159/00 Six more major companies commit to pass on savings. 30.6.00

160/00 Everyday supermarket prices remain stable — ACCC. 30.6.00

161/00 ACCC meets demand for business GST pricing help. 30.6.00

162/00 BankWest update. 30.6.00

Media releases are available from the Director Public Relations, Ms Lin Enright on (02) 6243 1108, and from the Commission's Internet website at <<http://www.accc.gov.au>>.

GST-related media releases are also on the Commission's GST website at <<http://gst.accc.gov.au>>.

Public registers

The Commission is required to create and maintain public registers under the legislation it administers: the *Trade Practices Act 1974* and the *Prices Surveillance Act 1983*.

The Commission also maintains a number of 'voluntary' public registers because it considers the information they contain should be available to the public. One of these registers covers the delegated section of the *Australian Securities & Investments Commission Act 1989*.

Through these registers the Commission remains transparent and accountable in its decision-making.

Currently the Commission has more than 20 statutory and voluntary public registers.

The information they contain can vary from a few sentences giving a decision only, through to a comprehensive file of many pages.

Indexes and electronic versions are progressively being made available at the Commission's website <<http://www.accc.gov.au/pubreg/pubreg.htm>>.

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.

Ithaca Ice Works Pty Ltd/ various ice manufacturing businesses in south-east Queensland — market for the production and distribution of ice in south-east Queensland.

During an investigation of an alleged price fixing and market sharing arrangement in the ice industry in south-east Queensland, the Commission received a complaint alleging that Ithaca Ice Works Pty Ltd had undertaken a series of acquisitions of small competitors. These acquisitions appeared to cross the Commission's concentration thresholds.

On 13 June 2000 the Commission decided that given the low barriers to entering ice manufacturing and the ability of end-users to install their own ice machine, it appeared unlikely the acquisitions would result in a substantial lessening of competition.

Toyota Automatic Loom Works Ltd/BT Industries AB — national markets for the supply of counterbalanced forklift trucks and warehouse equipment.

The Commission received a submission on 24 May 2000 outlining the proposed acquisition.

The Commission decided on 13 June 2000 it would not oppose the proposed acquisition. While the proposed acquisition will cross the Commission's concentration thresholds in the warehouse equipment market, concentration in the forklift market will not change. It would appear the merged entity is likely to face competition from both the largest competitor in the relevant markets and also the smaller participants in the relevant markets, who will compete with the merged entity on the basis of specific product offerings. Further, it would appear the merged entity is likely to face competitive constraint from the ability of its

competitors to increase their supply to Australia by drawing on their international stocks. Additionally, the used forklift and warehouse equipment market is likely to impose some constraint on the pricing behaviour of the merged entity.

Agip Ventures Plc acquisition of British-Borneo Oil & Gas Plc — market for petroleum exploration and production.

On 29 March 2000 Agip Ventures Plc and their parent company Eni SpA announced a proposal to acquire all the issued share capital in British-Borneo Plc in an offshore takeover.

Both Agip/Eni and British-Borneo have some interests in petroleum exploration and production in the North West Shelf. British-Borneo also has interests in a gas and condensate field in the Timor Sea. Agip/Eni does not have any interests in natural gas but Eni has been associated with providing contracting and oilfield services such as construction of pipelines and engineering services.

The Commission concluded that, based on the information available, there was limited cross-over between the operations of the parties, and while Agip/Eni may increase its interest in oil exploration in Australia, its interest would be small in a market where there were many other players. The Commission thus formed the view the proposed acquisition was unlikely to raise competition issues.

Visy Board Pty Ltd — market for recycling facilities.

Between April 99 and January 2000 Visy made acquisitions of material recycling facilities (MRFs) in Queensland, New South Wales, ACT and Victoria.

In view of the geographic spread of these acquisitions and the presence of other recycling firms including vertically integrated waste collectors, the Commission decided in June 2000 not to intervene in these acquisitions. The Commission has asked Visy to inform the Commission of any future proposed MRF acquisitions that might raise competition concerns under the Act.

Greater Union Organisation/Hoyts Cinemas and Village Roadshow — cinema exhibition market.

In May 2000 the Commission began considering the proposal by Greater Union, Hoyts and Village Roadshow to enter into a joint operations agreement for the George Street cinemas in Sydney.

The parties proposed that the new complex would consist of seventeen screens, with Greater Union and Hoyts each controlling six screens and Village Roadshow controlling the remaining five.

It was proposed that Greater Union, Hoyts and Village Roadshow would continue to compete with each other for patrons by independently acquiring film products, independently programming their screens and independently setting their ticket prices. However, the parties would share a common lobby, box office, candy bar and staff. The cinema complex would be managed on behalf of the group by Hoyts, but the parties would not share information about their individual operating costs.

The Commission conducted market inquiries with film exhibitors and distributors to determine whether the proposed agreement would be likely to have the effect of substantially lessening competition in any market. Based upon the information provided by the parties indicating that they would operate independently as competing businesses, and the particular competitive structure and dynamics of film exhibition in Sydney, the Commission determined that the proposal was unlikely to substantially lessen competition.

The Commission, however, reserved the right to reconsider the arrangement at a later stage if any changes were made which would tend to have competition implications.

The Commission made it clear it intended to look very closely at any future proposals for the joint operation of cinemas by the major film exhibitors, to ensure that they would not have the effect of substantially lessening competition.

Roadshow Entertainment/Warner Home Video — market for film and video distribution.

In March 2000 Roadshow Entertainment and Warner Home Video informed the Commission of their implementation of a 50/50 joint venture in relation to their video sales and sales support services.

Roadshow Entertainment and Warner Home Video continue to independently determine prices, products, marketing, promotion and sales strategies, customers and terms of trade. Given the limited nature of the joint venture, the Commission concluded in May 2000 that the arrangement was unlikely to raise significant competition concerns. However, the Commission requested that the parties inform the Commission of any future proposed expansion of the joint venture.

Acquisition of The Healthy Snak People by Kellogg (Aust) Pty Ltd — market for snack food.

On 21 March 2000 the Commission was confidentially informed of a proposal for Kellogg (Aust) Pty Ltd to acquire The Healthy Snak People. On 8 June 2000 the Commission was told it was free to make market inquiries about this matter.

In the course of inquiries of various market participants, it was revealed the snack food sector appears to be a fast-growing and innovative industry, characterised by the presence of a high level of competition. Barriers to entry did not appear to be excessive. The costs of manufacturing nutritious snack foods were not high, although the costs associated with marketing, establishing a recognised brand name and distribution tended to be higher. However, it appeared that these costs were not insurmountable.

On the basis of the information obtained by the Commission, it appeared unlikely this acquisition would substantially lessen competition, and the Commission concluded that it would not intervene in the proposal.

Woolworths Limited/Sixteen 'Booze Bros' Retail Liquor Stores — market for the retail sale of packaged liquor in Adelaide.

On 30 May 2000 the Commission informed Woolworths Limited it would not intervene in the proposed acquisition of 16 Booze Bros liquor stores located in Adelaide. Booze Bros will retain nine hotels in metropolitan Adelaide post acquisition, six of which have bottle shops attached.

Information provided to the Commission indicated its concentration thresholds were not crossed in the relevant market. The lack of availability of new liquor licenses in established areas of Adelaide because of licensing requirements was found to constitute the major barrier to entry. The Commission determined that numerous other competitors, including the current market leader Coles Myer, would impose a constraint on the merged entity post acquisition. It was also considered that Booze Bros would remain a vigorous and effective competitor through its retention of six liquor stores.

Colgate Palmolive/certain soap brands owned by Reckitt Benckiser — the market for the supply of liquid hand soap and bar soap (or the market for liquid hand soaps only) and the market for bath additives.

On 19 April 2000 Colgate Palmolive Pty Ltd advised the Commission of its intention to lodge a bid to acquire from the Australian subsidiaries of Reckitt Benckiser, a liquid soap product marketed under the brand Soft as Soap and children's bubble bath product, Bathmate. On 19 May 2000 the Commission informed Colgate it would not intervene in the proposed acquisition.

The Commission's concentration thresholds would be crossed only in the market for liquid hand soaps and bar soaps. Sales in a market for liquid hand soaps would be particularly concentrated with Colgate's market share increasing from 46.1 per cent to 73.4 per cent if the acquisition proceeds.

Because of vigorous competition between the leading products Soft as Soap and Softwash (currently owned by Colgate) pre-acquisition, the Commission had some concerns that promotional activity in liquid hand soaps may

decrease if Colgate was successful in its bid to acquire Soft as Soap. However, the Commission also found that the prospect of entry (or expansion) from other large companies would constrain an exercise of market power by Colgate. It was also considered that the merged entity may be restrained by the prospect that consumers would switch to bar soaps in the event of an increase in the price of liquid hand soap.

Cussons Pty Limited/certain dishwashing detergent brands owned by Reckitt Benckiser — national market for hand dishwashing detergents.

On 23 May 2000 Cussons advised the Commission that it proposed to lodge a bid to acquire a number of dishwashing detergent brands currently owned by the Australian subsidiaries of Reckitt Benckiser. The brands are Trix, Maaas, Down to Earth and Jade. On 30 May 2000 the Commission informed Cussons it would not intervene in the proposed acquisition.

If the acquisition proceeds, the Commission's concentration thresholds would be crossed in the market for hand dishwashing detergents. However, it was noted that barriers to entry (and expansion) were relatively low. In addition the Commission considered that a number of strong multinational and local companies would impose a constraint on Cussons if it was successful in its bid.

Smorgon Steel Group Limited and Email Limited — metal distribution market.

On 1 June 2000 the Commission announced that it would not oppose Smorgon Steel Group Limited's proposal to acquire Email Limited.

Smorgon and Email are major distributors of metal products in Australia. Together, they account for approximately 50 per cent of all metal products distributed. BHP accounts for another 25 per cent and small, independent distributors the other 25 per cent.

The Commission considered the effect that importers and imported product play in the market, the relatively homogeneous nature of the commodities involved and the barriers to entering the metals distribution market in assessing the likely competitive effects of the acquisition.

Although the Commission considered that the acquisition would result in a high degree of concentration, it concluded that the continued presence of a large, vertically integrated competitor in BHP, together with the existing and potential import competition, was likely to ensure that the merger did not result in a substantial lessening of competition.

Alcoa Inc and Reynolds Metals Company Inc — market for primary aluminium production.

On 4 May 2000 the Commission announced it would not oppose Alcoa Inc's proposal to acquire the Reynolds Metals Company Inc. Both companies are major players in the bauxite, alumina and aluminium markets.

The Commission was concerned the proposed merger may lead to a substantial lessening of competition in the market for alumina. Together, they would account for almost half the world-wide market for untied alumina and would control the lowest cost production sites, which are located in Western Australia.

During its inquiries the Commission liaised with relevant competition authorities in the USA, Canada and the European Union. As a result of concerns held by authorities in the European Union and the USA, the companies offered certain undertakings, including the divestiture of the Worsley bauxite and alumina mine in Western Australia. The Commission accepted that the undertakings given by the companies to the other authorities were sufficient to alleviate the Commission's concerns and found that the probability of the companies not complying with those undertakings was extremely low. It concluded that the merger, as modified by the undertakings, would be unlikely to result in a substantial lessening of competition.

Alcan Aluminium Limited/Alusuisse Lonza Group Limited — markets for bauxite and alumina.

On 11 August 1999 Alcan, Alusuisse and Pechiney announced their intention to merge. In April 2000 the parties advised the Commission that Pechiney was no longer a part of the proposal.

After Pechiney withdrew from the proposed merger the Commission found that the combined Alcan/Alusuisse entity would not breach any of the Commission's concentration thresholds in bauxite, alumina, aluminium or finished products.

The Commission noted that the aluminium industry operates on a global basis, and there are a number of major international companies which compete.

In Australia the only overlap between Alcan and Alusuisse is in the area of alumina refining; however, their combined involvement would not cross the concentration thresholds. Alcan has an interest in the Gladstone refinery and Alusuisse has an interest in the Gove refinery. However, the joint venture rules for each refinery would prevent the merged entity from controlling either facility.

On the basis of the information before it, the Commission concluded that the proposed merger would be unlikely to result in a substantial lessening of competition.

ABB Transmission and Distribution Ltd/certain assets of AEM Australia Pty Ltd — market for the supply of the fusible links used in expulsion drop-out fuses.

On 3 May 2000 the Commission informed ABB it would not intervene in its proposal to acquire certain assets of AEM; that is, the design and tooling for the fuselinks used in expulsion drop-out fuses.

Information provided to the Commission indicated that the proposed acquisition would reduce the number of players in the market from three to two. The Australian Standard applying to EDO fuselinks was found to constitute a relatively substantial barrier to entry, as it would be prohibitively expensive for international fuselink manufacturers to meet the standard given the value of the Australian market.

The Commission also found that the users of fuselinks had a considerable degree of countervailing power. It considered that this power was sufficient to ensure that a substantial lessening of competition was unlikely in the relevant market.

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.

Australian Stock Exchange Limited, & ASX Settlement and Transfer Corporation Pty Ltd, s. 50.

8.5.00 undertakings not to significantly discriminate between users of CHES services depending upon whether the user is utilising the share registry services of the joint venture, ASX Perpetual Registrars Limited (APRL); to ensure the relationship between APRL and the ASTC is carried out on an arm's length basis; and to make information about CHES interface requirements, and the CHES Procedure Guidelines readily available to users of CHES and providers of share registry services.

Talbor Pty Ltd trading as Phone Shop, ss 52, 53(c), 53(g).

Misrepresenting performance. 8.5.00 undertakings to cease selling novelty telephones that it claimed could be connected to the Telstra network and which were not labelled to show compliance with the ACA (Australian Communications Authority) standards, offer refunds to consumers, publish a corrective advertisement and institute a trade practices compliance program.

Signal Telecommunications, ss 52, 53(g), 51AB, 51AC.

Misrepresenting performance. 16.5.00 undertakings to provide potential customers with a copy of the terms and conditions of the application for mobile services before obtaining the signature of the potential customer. It will also write to affected customers and offer them the opportunity of rescinding their contracts; review all operating procedures to ensure that customers are given a full copy of the terms

and conditions; review its trade practices compliance program; and join the Australian Communications Industry Forum's code on customer information on prices, terms and conditions.

GoConnect Limited and GoConnect Australia, s. 52.

Misleading and deceptive conduct. 15.5.00 undertaking to remedy alleged promoting of its free Internet access service, to place corrective advertisements and advise consumers of the likelihood of substantial delays with connections and of limitations on where the service will be made available.

Moore Talk Communications, ss 51AB, 51AC, 52, 53(e), 53(g), 53C, 54.

Misrepresenting terms and conditions, misleading or deceptive conduct, unconscionable conduct. 16.5.00 undertakings that it will ensure potential customers are provided with a copy of the terms and conditions attaching to the application for mobile services before obtaining their signature. It will also conduct an internal review to ensure all relevant documentation complies with the requirements of the undertaking and the Act and that all staff are aware of the requirements of the undertaking; register participation in the Australian Communications Industry Forum's industry code on customer information on prices, terms and conditions; and implement a trade practices compliance program to be audited by a qualified professional.

Galaxy Imports (NSW) Pty Ltd, ss 52, 53(eb).

Misrepresenting place of origin. 20.5.00 undertakings to recall relevant packaged processed olives from warehouses and over-label stock on the shelves, publish a corrective notice in a daily newspaper in each of the four States in which it trades and in four nominated Greek language newspapers, send a letter to all its customers advising them of the matter, and offer refunds to consumers who were misled. It will also implement a trade practices compliance program including an audit of country of origin claims of all its 300 products, a checking system for country of origin labelling and annual training session for three years.

Builders Labourers' Federation (Qld Branch), s. 45D.

Secondary boycott. 17.5.00 undertakings not to engage in any conduct in Queensland from which any person is hindered or prevented, or threatened to be hindered or prevented from acquiring or supplying mobile crane hire services for the reason that that person does not have an enterprise bargaining agreement with the BLF or any other union. The BLF also undertook to use its best endeavours to ensure that its employees and members do not cause or procure damage to any person for or on account of that person having assisted the Commission in its inquiries. The BLF has also undertaken to establish a trade practices compliance program.

Enterprise Fire Protection Pty Ltd and Enterprise Fire Protection Electrics Pty Ltd, Michael Wild, Steven Spurr, Clint Prickett and Ian Taylor, ss 45(2)(a)(ii), 45(2)(b)(ii).

Price fixing and market sharing. 24.5.00 undertakings to implement a trade practices compliance program and code of conduct for tendering to prevent future contraventions of the Act by company officers, employees or agents. Undertakings by company personnel to use best endeavours to enable the companies to pay the pecuniary penalties.

Canterbury City Council, s. 47

Exclusive dealing. 24.5.00 undertakings to vary, amend or terminate contracts that are in breach of the Act. It would also not enter a contract, arrangement or understanding in breach of the Act and create and maintain a trade practices compliance program which would be independently audited each year.

HPM Industries Pty Ltd, ss 52, 53(eb).

Misrepresenting place of origin. 28.5.00 undertaking to correct labelling of HPM's fluorescent light starters and to offer refunds.

Commonwealth Bank of Australia, s. 50.

Merger or acquisition that could substantially lessen competition. 26.5.00 undertakings to provide access to its EFTPOS and ATM networks, on reasonable commercial terms and conditions, to new and small financial institutions entering or expanding their operations in Tasmania and regional New South Wales. Undertakings were also given on

vacating of banking sites in Tasmania and regional New South Wales and on information technology and telecommunications systems support and processing support for new entrants and small financial institutions; on expanding operations in Tasmania and regional New South Wales; on price, service quality and product range to customers in Tasmania and regional New South Wales; and on providing for the appointment of an independent monitor.

Total Aqua Pty Ltd, ss 52, 53(e).

Misleading or deceptive conduct, misrepresenting price after GST introduction. 31.5.00 undertakings to not engage in the conduct in the future, and to offer refunds or other appropriate compensation to any consumer misled by the representation — and to publish a corrective advertisement and implement a trade practices compliance program.

Forty Winks Franchising Pty Ltd, ss 52, 53(e).

Misleading or deceptive conduct, misrepresenting price after GST introduction. 1.6.00 undertakings to provide training material to all franchisees on the impact of the GST; provide a trade practices compliance program to franchisees; run national corrective newspaper advertisements; and establish a telephone hotline for consumers.

Apollo Window Blinds Pty Ltd, ss 52, 53(e).

Misleading or deceptive conduct, misrepresenting price after GST introduction. 19.6.00 undertakings to cease making misleading or deceptive representations as to the effects of the introduction of the GST or WST on prices for blinds and other window coverings; issue corrective advertisements; offer refunds; and develop a trade practices compliance program.

Kevyn Raymond Allen, ss 45(2)(a)(ii), 45(2)(b)(ii).

Price fixing and market sharing in the Queensland fire protection industry. 21.6.00 undertaking to undergo trade practices training and prevent future contraventions of the Act by company officers, employees or agents. He would also use his best endeavours to ensure the company can meet its obligation to pay its pecuniary penalty.

Patrick Fire Protection Pty Ltd and Trevor Patrick, ss 45(2)(a)(ii), 45(2)(b)(ii).

Price fixing and market sharing in the Queensland fire protection industry. 21.6.00 undertakings to implement a trade practices compliance program and for Mr Trevor Patrick to use his best endeavours to ensure the company can meet its obligation to pay its pecuniary penalty.

Independent Fire Sprinklers, Independent Fire Alarms Pty Ltd, Gordon Edmund Day, Geoffrey Allan Murrell, ss 45(2)(a)(ii), 45(2)(b)(ii)

Price fixing and market sharing in the Queensland fire protection industry. 21.6.00 undertakings to implement a trade practices compliance program and for Mr Gordon Edmund Day and Mr Geoffrey Allan Murrell to use their best endeavours to ensure the companies can meet their obligations to pay pecuniary penalties.

Aqua Acts Down Under, ss 52, 53(e).

Misleading or deceptive conduct, misrepresenting price after GST introduction. 21.6.00 undertakings to distribute apology letters, offer refunds and publish corrective advertisements in the local paper.

Golden Miles Pty Ltd, ss 52, 53, 53A, 53C.

Misleading or deceptive conduct, misrepresenting price after GST introduction. 15.6.00 undertakings to refrain from making representations to the effect that the price of property would increase by 10 per cent by July 2000 because of the GST; that GST of 10 per cent would be on property after 1 July 2000 when it was possible it would be less; to comply with the Act; and to implement a trade practices compliance program.

Dimmeys Stores Pty Ltd, ss 52, 53(g).

False or misleading representation on customer refunds. 28.6.00 undertakings to ensure any in-store representations are unlikely to mislead consumers as to their statutory rights under the Act; place a corrective advertisement in the *Townsville Bulletin*; and implement a trade practices compliance program.

Accounting for GST, ss 52, 53(d), 53(e), 53(f).

Misleading or deceptive conduct. 28.6.00 undertakings to offer refunds to customers who may have been misled by various

representations; run corrective advertisements; and implement a trade practices compliance program.

Matthew Old, ss 52, 53(d), 53(e), 53(f).

Misleading or deceptive conduct. Matthew Old is a contracted employee of Accounting for GST. 28.6.00 undertaking to not make various misleading representations in the future and to attend trade practices compliance training.

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

Year 2000 Information Disclosure Act 1999

New South Wales

Sydney Organising Committee for the Olympic Games Amendment Act 1996

Totalizer 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

Competition Policy Reform (New South Wales)
Amendment Regulation 2000

Liquor and Registered Clubs Legislation Further
Amendment Act 1999

Olympic Roads and Transport Authority Act
1998

Queensland

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

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

Primary Industries Legislation Amendment Act
1999, amending the Chicken Meat Industry
Committee Act 1976

Sugar Industry Act 1999

Victoria

Electricity Industry Act 1993

Gas Industry Act 1994

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

South Australia

Dairy Industry Act 1992

Australian Capital Territory

Milk Authority (Amendment) Act 1999 (No. 2
of 1999)