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# Adjudication

## Authorisations

*The Commission has the function, through the authorisation process, of adjudicating on proposed mergers and certain anti-competitive practices that would otherwise breach the Trade Practices Act.*

*Authorisation provides immunity from court action and is granted if the Commission is satisfied that the practice delivers offsetting public benefits.*

## Determinations

### **Australian Payments Clearing Association Ltd**

*Application for minor variation of authorisations in relation to the High Value Clearing System (HVCS) regulations and procedures (A90617–19)*

- Final determination issued on 10 January 2001.

This determination relates to two applications for minor variation. The first relates to the proposed addition of message types to 'Appendix D — Message Content' of the HVCS procedures. The second relates to proposed amendments to the HVCS regulations to allow APCA to recover from new members the GST payable by it on services supplied to those members, and to allow its members to recover GST payable by them on services supplied to other members.

The Commission considered that the proposed amendments would not affect either the public benefit or the detriment resulting from the authorisations. The authorisations were varied accordingly.

### **Australian Payments Clearing Association Ltd**

*Application for minor variation of authorisations in relation to the High Value Clearing System (HVCS) regulations and procedures (A90617–19)*

- Final determination issued on 28 February 2001.

The applications for minor variation include proposed amendments to:

- the HVCS regulations on the use of an Australian Business Number in place of Australian Company Number or Australian Registered Body Number in certain circumstances;
- the HVCS regulations on changes to the HVCS membership application form, consistent with amendments to the Corporations Law, on when documents may be assumed to be validly executed by a company;
- the HVCS regulations and procedures concerning the admission of CLS Bank International as a participating member;
- the HVCS regulations to remove references to APCA bringing recovery action on behalf of surviving members in the event of a failure to settle; and
- the HVCS procedures on the allocation of liability flowing from errors associated with processing by account number to the sender.

The Commission noted that the proposed amendments either:

- reflected legislative changes;
- facilitated HVCS membership of CLS Bank International which would enable CLS members to utilise real time gross settlement for foreign exchange transactions;

- removed references to APCA bringing recovery action (which it cannot validly do) on behalf of surviving members in the event of a failure to settle; or
- clarified the allocation of liability flowing from errors associated with processing by account number.

The authorisations were varied accordingly.

## Notifications

### Notifications finalised

*The following have been allowed to stand.*

#### **Goldlink/BP Kingaroy (N50119)**

Offering of discounted petrol to customers who acquire goods from Franklins Supermarket (third line forcing).

#### **Buell Distribution Corporation (BDC)**

(N31054) Requiring Buell dealers to purchase Buell products from dealers designated by BDC (third line forcing).

#### **Count Financial Limited (N31053)**

Offering of wealth-e-account to investors who maintain a cash account with BT portfolio (third line forcing).

#### **The Strategist Group Pty Ltd (N31085)**

Trustee Loan Fund requiring trustees of self-managed superannuation funds to hold a Macquarie Bank Cash Management Trust account (third line forcing).

#### **Callaway Golf South Pacific Pty Ltd**

(N40443) Preferred retailers program.

#### **NRMA Insurance Ltd (N90836–8)**

Supplying general insurance and ancillary services to customers of SGIO on condition that the customer will acquire health insurance services directly from NRMA (third line forcing).

#### **Satisfac Direct Credit Union Limited**

(N60030) Offering conditional interest rate discounts on insurance products (third line forcing).

#### **Caltex Australia Petroleum Pty Ltd**

(N31046) Providing rebates to SmartSalary in return for the issue of Caltex fuel cards to employees of SmartSalary clients (third line forcing).

#### **Australasian Conference Association Ltd**

(t/a Avondale Retirement Village (N40442) ARV has entered into an agreement with Bowen's Health Services (BHS) under which BHS will supply prescription pharmaceutical products to those residents of ARV's aged care facilities who cannot self medicate (third line forcing).

#### **Pirelli Tyres Pty Ltd (N31089)**

Reward program (third line forcing).

#### **Western Power Corporation (N70192)**

Exclusive dealing notification from Western Power Corporation in relation to supply of electricity to WPC by Energy Equity (West Kimberly Pty Ltd).

#### **AOT Securities Pty Ltd (N90839)**

Offering of trade services on the ASX to clients on condition they use a clearing participant nominated by the broker (third line forcing).

#### **Tamawood Pty Ltd (N90642)**

Offering certain building work for the construction of dwellings to various independent builders on condition they acquire certain goods or services from certain suppliers (third line forcing).

#### **Henley Arch, Henley Properties (Qld), Henley Properties (NSW), Northridge Homes (N50102–5)**

Engaging contractors to paint houses on condition they use only Taubmans paints (third line forcing).