
International developments

The ACCC, OECD and competition law

An important part of the Commission's international activities is liaising with the Organisation for Economic Cooperation and Development (OECD), in particular contributing to working parties of the OECD Competition Law and Policy Committee and Joint Group on Trade and Competition.

In May 2001 subjects discussed by the committees and working parties included the following.

- Submissions from 19 countries on telecommunications.
- A questionnaire on cartels with the responses prompting the working party to note:
 - the involvement of trade associations in cartel agreements;
 - that it is difficult to quantify the amount of harm cartels cause; and
 - that, although large fines are being imposed by many countries, they may need to be even higher.
- A presentation by the Business and Industry Advisory Committee (BIAC) to the OECD on harmonising merger review procedures.
- International cooperation in merger law.
- A paper on special and differential treatment of less developed countries in their developing of a competition regime.

ACCC Chairman, Professor Allan Fels concluded that the paper on this topic was to be reworked to reflect the differences of opinion on the paper's fundamentals and to include aspects of the debate occurring in other forums.

- E-commerce.

BIAC submitted that there should be no new government restrictions on e-commerce and current ones should be reviewed and removed if appropriate.

Consumers International representative, Allan Asher, stressed the need for complementary work by international bodies on e-commerce to be coordinated. Of particular concern to Consumers International were international telecommunications pricing, access to the local loop, the extent to which digital services will be delivered through, for example, set-top boxes for TV and community digital-divide issues.

- The pros and cons of price transparency. Any reduction in price transparency to reduce collusion may reduce the ability of consumers to make informed purchasing decisions and lower the quality of goods and services.

Information on the role of the Competition Law and Policy Committee, its forums, journal and other publications can be found at <<http://www.oecd.org/daf/clp/aboutus.htm>>.

From the UK

The following items come from the Office of Fair Trading's website <<http://www.offt.gov.uk>> and its magazine, *Fairtrading*.

Funeral industry should do more for bereaved

A recent OFT's report into the £800 million a year funeral industry has called for more to be done to protect consumer interests. A wide-ranging investigation found that, although the bereaved generally see the industry as caring and considerate, they are vulnerable as consumers.

The report recommends that:

- funeral directors should be more open about charges, displaying prices and giving purchasers price lists and written estimates to take away;
- ownership of funeral directors must be clear so that those people who want to shop around do not unknowingly end up in branches of the same business;
- clear, reliable information on the practical aspects of arranging a funeral should be made more easily available;
- local authorities, hospitals and nursing homes should ensure that the funeral directors they use to remove bodies are contractually obliged to provide the bereaved with written information that sets out their right to choose another firm to carry out the funeral; and
- the industry's trade associations should seek to obtain approval for their codes of practice. Under the OFT's new, tougher regime they will need to strengthen their compliance monitoring and complaints systems.

OFT confirms tougher approach to consumer codes

The OFT will go ahead with a challenging regime for consumer codes of practice in the light of responses to its public consultation.

A rigorous approach is seen as creating the best opportunity for self-regulation to enable consumers to find reputable traders and obtain redress when necessary.

Priority sectors for the new approach to codes of practice are: used cars, car repair and servicing, credit (including debt management and credit repair), funerals, travel, estate agents and direct marketing.

The Government has announced that the forthcoming Enterprise Bill will broaden OFT's duties to promote self-regulation through codes of practice.

From the US

The following items come from the Federal Trade Commission's press releases on its website <<http://www.ftc.gov>> and from *Antitrust & Trade Regulation*, published by the Bureau of National Affairs, Inc.

Marketer of dietary supplement agrees to settle FTC charges

Californian company Liverite Products and its principals agreed to settle Federal Trade Commission charges that it made unsubstantiated claims about the ability of Liverite dietary supplement products to treat or prevent a wide range of liver diseases and disorders. The company and its directors have to pay US\$60 000 in redress, and are prohibited from claiming that the Liverite products, or any food, drug or dietary supplement, treats, cures or prevents any disease or disorder, unless they have scientific evidence to support the claims.

Spammers must destroy information after FTC settlement

Spammers who collected personal information including credit card information by telling consumers they had to supply the data or lose access to the Internet, must destroy the information and are prohibited from making misrepresentations over the Internet in a settlement with the FTC.

Robert Stout and Donald J Lytle of Get Out From Under.com Inc. sent unsolicited emails to Internet news groups falsely asserting that new legislation required Internet access to be terminated unless members could certify their age. The message directed consumers to 'Internet licensing' sites and provided an application form requiring information including names and addresses, and credit card details.

Hewlett-Packard/Compaq merger raises competition concerns

The proposed merger of the US's second and third largest computer manufacturers has sparked US and EU concerns that the union could seriously affect competition.

While the companies claim the deal is pro-consumer and pro-competitive, commentators predict regulatory approval may not be granted unless the Compaq name licence is sold. Furthermore, the companies may have to demonstrate that their market is broader than that for PCs.

Merger commentators suggest the combined companies will create a strong market base for the next generation of devices for Internet access, a

realm where they are currently less dominant than in personal computers.

The EU Competition Commission has to approve any merger for which the combined sales would be worth more than 5 billion euros and EU sales are greater than 250 million euros.

From Canada

The following items come from the Competition Bureau's website at <<http://competition.ic.gc.ca>>.

\$95 000 fine for Canadian multi-level marketing company

Lifestyles Canada Ltd, was recently fined Can\$95 000 after pleading guilty in the Ontario Superior Court of Justice to four criminal charges under the Competition Act's multi-level marketing plan provisions. Lifestyles Canada, which sells health, personal and cleaning products, enticed new recruits by claiming its participants earned hundreds of thousands or even millions of dollars. However, they failed to disclose that typical participant income was between Can\$399 and Can\$2000 per year.

From New Zealand

The following items came from the NZ Commerce Commission's media releases listed on its website at <<http://www.comcom.govt.nz>>.

Advertisers must understand technical terms that they use

Harvey Norman New Zealand was fined NZ\$7500 for making misleading claims about the screens on Compaq Presario 1245 notebook computers. Harvey Norman claimed that the screen technology was new, poorly understood and that their advertising of false technical terms was unwitting. The judge held that advertisers had a responsibility to know their products, including technical features, and must always provide accurate consumer information.

Fines dangerous toy imports

John Monk Trading Co Limited was recently fined NZ\$12 000 for importing 1512 babies' rattles that did not meet the product safety standard for toys for children aged up to three. The rattles broke

apart easily and released pieces that were choking hazards. The court held that New Zealand importers and suppliers bear the responsibility of ensuring that imported goods are safe. This duty cannot be passed to manufacturers or retailers.

From Europe

The following items come from the European Commission's website at <<http://europa.eu.int/rapid/start/egi/guesten.ksh?qry>>.

Competition Commission raises more concerns with Microsoft

The European Commission (EC) raised concerns that the Microsoft Corporation has abused its dominant position in the personal computer operating system market and was illegally tying its Media Player product to the Windows operating system.

This accusation supplements previous EC allegations about Microsoft which suggest:

- the 'interoperability' of Microsoft's operating systems may harm innovation and restrict consumer choice;
- tying Media Player to Windows affects consumers choice, especially as there are no ready technical means to remove the program;
- Microsoft has an obligation to disclose technical information that would enable non-Microsoft server software to operate with Microsoft operating systems. Failure to provide such information effectively eliminates the alternative software market as there is no opportunity to compete with the technical merits of Microsoft's products; and
- Microsoft reinforced its dominance by employing an abusive licensing policy for Windows 2000. Customers who did not choose an all-inclusive Microsoft scenario for PCs and servers were forced to bear a double cost.

The Commission's investigations raise additional concerns to those currently before the US Department of Justice. In these proceedings Microsoft is accused of protecting its dominance in PC operating systems by weakening Netscape's Navigator Internet browser and Sun's Java system.