
Appendix 2 Public information

This Appendix contains:

- lists of:
 - current publications;
 - speeches by Commissioners;
 - media releases; and
- some public registers material.

Publications

The following publications are available free from Commission offices unless otherwise indicated. Publications available on the Commission's web site (<http://www.accc.gov.au>) are indicated by an asterisk.

The Commission does not invoice but publications can be purchased by sending a cheque or money order made out to the Australian Competition and Consumer Commission with your order; via a telephone order using MasterCard, Visa or Bankcard; or over the counter at Commission offices.

(Some of the publications listed were published by the Trade Practices Commission, or Prices Surveillance Authority or Federal Bureau of Consumer Affairs.)

Regular publications

ACCC Journal — bi-monthly journal (\$75.00 annual fee, second and following subscriptions to same address \$37.50, \$25.00 student subscription). Six issues per year.

Journal back issues \$10.00 each.

Annual Reports

The first ACCC Annual Report (\$19.95) as well as past Annual Reports of the Trade Practices

Commission and Prices Surveillance Authority are available from Government Info Shops.

Guides to the legislation and ACCC procedures

Best and fairest — compliance training package — January 1996 (\$390.00)

Summaries of the Trade Practices Act and Prices Surveillance Act — November 1995 (\$10.00 or \$7.50 for orders of 10 or more)*

Revised merger guidelines — a guide to the Commission's administration of the merger provisions (ss 50, 50A) of the Trade Practices Act — July 1996 (\$15.00)

Guide to authorisations and notifications — a guide on provisions for exemptions from anti-competitive conduct under the Trade Practices Act — November 1995 (\$10.00)*

Contracted employment services and the Trade Practices Act — September 1997*

Local government and the Trade Practices Act — June 1996*

Small business and the Trade Practices Act — a practical guide for small business — November 1995*

A guide to the Trade Practices Act for the health sector — November 1995 — (\$10.00)*

Access regime — a guide to Part IIIA of the Trade Practices Act — November 1995 (\$10.00)

Access undertakings — a draft guide to access undertakings under Part IIIA of the Trade Practices Act — December 1996

Access undertakings — an overview of Part IIIA of the TPA and the draft undertakings guide — December 1996 (\$10.00 for the two-volume set)

Access pricing principles — telecommunications — a guide — July 1997 (\$10.00)*

Section 87B of the Trade Practices Act — a guideline on the Trade Practices Commission's use of enforceable undertakings — August 1995 (\$10.00)*

Section 155 of the Trade Practices Act — a guide to the administration of the Trade Practices Commission's power to require provision of information — November 1994 (\$10.00)*

When goods are defective — a guide to the product liability provisions of the Trade Practices Act — June 1993 (\$10.00)

Unconscionable conduct in commercial dealings — a guide to section 51AA of the Trade Practices Act (\$5.00 each or \$7.50 per set)
Unconscionable conduct in consumer transactions — a guide to section 51AB of the Trade Practices Act — October 1993 (\$5.00 each or \$7.50 per set)

Misleading job ads — how to handle them (manual for classified advertising staff by TPC, Media Council of Australia and JobWatch) — June 1994. Available from Media Council.

Misuse of market power— Section 46 of the Trade Practices Act — a background paper — February 1990

Business and consumer information sheets and leaflets

Scams — Protect your business from them — May 1997

Refusal to deal — March 1997*

Warranties and refunds — December 1996

Authorisations and notifications — July 1996

Fruit juice labelling — June 1996

Warranties — retailers have rights too — May 1996

Know your credit card — March 1996

Product liability — a guide for business — June 1993

The right to safe goods — June 1993

Hold the phone — read this before you buy a mobile — January 1995 (Published jointly by TPC, TIO, Austel, Optus, Telecom and Vodafone)*

Recycling claims for used consumer plastic packaging — April 1995*

Telefraud — new name for an old scam — don't pay for ads you didn't order — January 1994

Refusal to deal — May 1993

Don't let your suppliers tell you what to charge — resale price maintenance — November 1990

Product safety guides

Consumer product standards and bans — a compliance guide for suppliers — October 1996

Exercise cycles — 1996 (\$10.00)

Children's nightclothes — 1994

Sunglasses and fashion spectacles — 1994

Children's toys — 1994

Cyclists' helmets — 1992

Children's flotation toys and swimming aids — 1992

Ingredient labelling of cosmetics — 1992 (photocopy only)

Care labelling — 1991

Vehicle jacks, trolley jacks, ramps and stands — 1991

Reports and discussion papers

Acquisitions

Acquisitions and the failing company argument — discussion paper by the TPC and the NZ

Commerce Commission — October 1993
(\$3.00)

Airport pricing

Regulation of airport pricing — is the New Zealand approach applicable to Australia? — May 1995 (PSA)

Banking and insurance

ACCC second submission to the Financial System Inquiry — September 1996 (\$25.00)

The social responsibilities of banks — March 1995 (PSA)

Taking advantage — sale of life insurance to Aboriginal people in remote communities — March 1994 (\$10.00) (TPC)

Life insurance and superannuation — information paper on an inquiry by the Trade Practices Commission at the direction of the Minister for Justice and Consumer Affairs — June 1992

Electronic funds transfer — report by the Treasury and the Trade Practices Commission on the operation of the EFT code of conduct — July 1990 (\$10.00)

Bar code scanning (computerised checkouts)

Checkout the price — review of the supermarket scanning code — July 1992 (\$10.00) (TPC)

Building

Home building — consumer problems and solutions — final report of the Trade Practices Commission review — November 1993 (\$15.00)

Competition issues

Non-price competition — October 1995 (\$10.00) (PSA)

Market definition and competition issues in commercial broadcast radio — June 1994 (\$10.00) (TPC)

Submission to the National Competition Policy Review (Hilmer) — April 1993 (TPC) (photocopy only)

Global markets

The global enforcement challenge — enforcement of consumer protection laws in a global marketplace — August 1997*

Intellectual property

Application of the Trade Practices Act to intellectual property — July 1991 (\$10.00) (TPC)

Petroleum

Issues paper for the inquiry into the petroleum products declaration — February 1996

Professions

Can the professions survive under a national competition policy? — a joint conference on competition law and the professions — May 1997 (published proceedings \$15.00, audio tapes \$20.00)

Study of the legal profession — March 1994 (full report \$30.00, summary (photocopy only)) (TPC)

Study of the architectural profession — September 1992 (\$10.00) (TPC)

Utilities

National electricity market: Network Pricing Forum (proceedings) — July 1996 (\$35.00)

National electricity market code of conduct — comments and issues arising — June 1996 (photocopy only)

National electricity market code of conduct — issues paper — March 1996

Review of the Victorian electricity industry access arrangements — a report to the Assistant Treasurer — May 1995 (TPC)

Safeguarding the consumer interest in reformed public utilities and complying with the Trade Practices Act — March 1995 (TPC)

Passing on the benefits — Consumers and the reform of Australia's utilities — papers from Trade Practices Commission conference — March 1994 (\$50.00)

Pricing inquiry reports — 1995 and 1996

Petroleum products declaration — August 1996 (\$20.00)

Steel mill products declaration — December 1995 (\$10.00)

Harbour towage declaration — December 1995 (\$10.00)

Welded steel pipes declaration — October 1995 (\$10.00)

Concrete roof tile declaration — June 1995 (\$10.00)

Toothpaste declaration — June 1995 (\$10.00)

Glass container declaration — June 1995 (\$10.00)

Fees and charges imposed on retail accounts by banks and other financial institutions and by retailers on EFTPOS transactions — June 1995 (summary only)

Book prices and parallel imports — April 1995 (\$10.00)

Pricing monitoring reports — 1995 and 1996

Coastal shipping freight rates (no. 3) 1993 and 1994 — December 1995 (\$10.00)

Movements in average air fares 1990-95 — April 1996 (\$10.00)

Movements in average air fares (quarterly reports) — January 1995, May 1995, September 1995, March 1996

Pay TV subscription prices — August 1995 (\$10.00)

Credit card pricing — May 1995 (\$10.00)

Stevedoring costs and charges on terminal handling charges — May 1995 (\$10.00)

Note: A list of earlier PSA monitoring and inquiry reports is available on request.

Speeches

Commission Chairman Allan Fels

Competition in financial services post-Wallis. AIMA Investment Management 1997 — 3 June 1997

Trade Practices Act and local government. Municipal Association of Victoria — 6 June 1997

Competition and deregulatory policies in newly liberalised industries. London Business School — 16 June 1997

New areas of ACCC responsibility. Ord Minnett Luncheon — 30 June 1997

The TPA — What's in it for you? Alice Springs Chamber of Commerce — 7 July 1997

Competition policy reforms and the ACCC. Public Sector Accounting Group — 8 July 1997

The Wallis Report — Implications for the insurance industry. Delloittes — Association of Women in Insurance — 14 July 1997

Commission Deputy Chairman Allan Asher

Explaining the ACCC's business. AIC Regulation and the Regulators — 16 June 1997

ACCC's current investigation into the film industry. NATO (National Association of Theatre Owners) — 17 June 1997

Regulation of the competitive gas industry. AIC Victorian Gas Reform Summit — 2 July 1997

Open access. AMPLA (Aust Mining and Petroleum Law Assoc) Open Access Conference — 24 July 1997

Commissioner Sitesh Bhojani

The ACCC's attitude to trainee selection. Royal Australasian College of Surgeons — 23 June 1997

ACCC's role in NCP and the public benefits test. Public Sector Research Centre — University of NSW — 24 July 1997

Commissioner Rod Shogren

Setting the scene — personal overview of where the industry is coming from and where it is going. Communications Law Centre/ATUG — 30 June 1997

Fostering open competition through access pricing. IIR — Telecommunications — Open Competition — 31 July 1997

Commissioner Rhonda Smith

Understanding the authorisation process. ICM Trade Practices Conference — 16 June 1997

Monitoring competition during the transition into a deregulated market. ICM Petroleum Market Reform — 30 June 1997

Effect of national competition policy on rural areas. Australian Agricultural and Resource Economics Society — 24 July 1997

For copies of speeches, please contact Ms Jennifer Moore on ph. (02) 6264 3521

Media releases

64/97 ACCC acts on alleged sunglasses resale price maintenance — 18.6.97

65/97 Telecommunications *Competition Notice Guidelines*: final consultation — 19.6.97

66/97 ACCC not to intervene in chemical industry acquisition — 20.6.97

67/97 ACCC acts against Club 63 Pty Ltd on alleged pyramid selling — 20.6.97

68/97 ACCC not to intervene in Australian Newsprint Mills acquisition — 25.6.97

69/97 ACCC issues pricing determination for interconnection with Telstra's network — 24.6.97

70/97 ACCC moves against weight loss, health claims promotions — 25.6.97

71/97 ACCC moves against weight loss promotions — 26.6.97

72/97 Optus and Foxtel settle with ACCC — 26.6.97

73/97 ACCC issues its statement of deemed declared services for telecommunication access — 30.6.97

74/97 Airports additional focus for ACCC — 30.6.97

75/97 ACCC issues *Competition Notice Guidelines* for telecommunication industry — 30.6.97

76/97 ACCC takes action in computer industry — 1.7.97

77/97 \$250 000 in penalties for Alice Springs price fix — 2.7.97

78/97 Call to reform SA, Victoria gas arrangements — 3.7.97

79/97 ACCC seeks views on Telstra 50c directory assistance proposal — 8.7.97

80/97 ACCC 013 inquiry opens in Melbourne — 10.7.97

81/97 ACCC unlikely to oppose new paint merger — 11.7.97

82/97 ACCC 013 inquiry in Sydney — 14.7.97

83/97 ACCC 013 inquiry in Dubbo — 14.7.97

84/97 Consent injunctions from Fosseys for Brisbane price fix — 15.7.97

- 85/97 ACCC 013 inquiry in Adelaide — 15.7.97
- 86/97 ACCC 013 inquiry in Perth — 17.7.97
- 87/97 Nestle' corrects misleading Vitari labelling — 18.7.97
- 88/97 ACCC not to oppose Air New Zealand's acquisition of Jetset — 18.7.97
- 89/97 Access pricing principles guide for telecommunications — 22.7.97
- 90/97 Court orders against Tasmania Distillery for misleading origin claims — 23.7.97
- 91/97 AAPT corrects ads — 24.7.97
- 92/97 ACCC not to oppose Westpac/Bank of Melbourne merger — 25.7.97
- 93/97 ACCC to review Foxtel/Australis Media proposal — 25.7.97
- 94/97 Mail order house and director injunctioned from misleading advertising — 29.7.97
- 95/97 ACCC not to intervene in proposed sugar refining joint venture — 30.7.97
- 96/97 ACCC issues declaration of telecommunications services information paper — 31.7.97
- 97/97 ACCC not to oppose heavy machinery industry acquisition — 11.8.97
- 98/97 Alice Springs car rental price fix costs companies and managers \$1.5 million — 12.8.97
- 99/97 Pet food industry revises its guidelines — 13.8.97
- 100/97 Petrol retailing and 'third line forcing': the facts — 14.8.97
- 101/97 ACCC informs \$1.7 billion employment services market — 19.8.97
- 102/97 ACCC enforces court action against Transport Workers' Union in Queensland — 22.8.97
- 103/97 ACCC issues draft determinations for National Electricity Code and National Electricity Market access code — 29.8.97
- 104/97 ACCC not to oppose computer modem acquisition — 1.9.97
- 105/97 Global market consumer challenge — 2.9.97
- 106/97 ACCC 'light-handed' not 'hands-off' telecoms regulator — 2.9.97
- 107/97 ACCC not to oppose Perth radio acquisitions — 2.9.97
- 108/97 ATM/EFTPOS clearing rules cleared — 5.9.97
- 109/97 Mobile phone advertisement draws ACCC action — 5.9.97
- 110/97 ACCC not to oppose acquisition of Port of Hastings — 8.9.97
- 111/97 Court agrees 'ex-tax' advertisement not good enough — 10.9.97
- 112/97 ACCC seeks court orders against supplier of jacks — 12.9.97
- 113/97 ACCC mandates number portability — 22.9.97

Media releases are available from the Media Liaison Officer, Ms Lin Enright on ph. (02) 6264 2808, and from the Commission's home page at <http://www.accc.gov.au>

Public registers

Mergers examined under s. 50

ICI Australia Operations Pty Ltd/Auseon Ltd — PVC and plastic resins. This joint venture was first raised with the Commission on a confidential basis in October 1996.

Plastic resins are generally traded as commodities. There are substantial Australian imports of PVC, and it is likely that imports act

as a constraint on domestic pricing. The competitiveness of imports has been further improved since July 1996 when tariffs were reduced to 5 per cent.

The Commission decided in October 1996 that the joint venture was unlikely to substantially lessen competition. The parties proceeded with the joint venture and made the matter public in May 1997.

Westfield Holdings Limited/Chermside Shopping Centre — regional shopping centres in Brisbane. This acquisition was raised with the Commission in December 1996.

Prior to the acquisition, Westfield owned Toombul Shopping Centre, Strathpine Shopping Centre and Indooroopilly Shopping Centre, all in Brisbane's northern suburbs. In addition to Chermside, there are five other regional shopping centres in Brisbane's metropolitan area.

The Commission found that the ownership of Brisbane regional shopping centres was highly concentrated. The acquisition would leave Westfield with four out of the nine Brisbane regional shopping centres. However, there is significant planned expansion of other Brisbane shopping centres and there is immediate competition to Westfield from Brookside Shopping Centre in Brisbane's northern suburbs.

The Commission decided in May 1997 to take no action in relation to the acquisition.

Queensland X-Ray Services/practice of Queensland Diagnostics Pty Ltd at Mater Hospital Townsville — radiology services in Townsville. The acquisition was first raised with the Commission in January 1997.

The Commission considered that private and public radiology practices appeared to compete for both private and public out-patients and also private in-patients (in certain circumstances). There was also evidence of direct competition between private and public radiology practices, particularly in Brisbane, and the potential for greater competition in Townsville between QXS and the Townsville General Hospital.

The Commission decided in February 1997 not to oppose the acquisition.

Novus Petroleum Limited/Santos Ltd/Gas field interest owned by WMC Resources Limited — extraction of natural gas in Western Australia. This acquisition was first raised with the Commission in February 1997.

WMC proposed to sell its 30 per cent interest in the East Spar gas field to Novus Petroleum, subject to preferential purchasing rights held by existing joint venture partners, Ampolex, Apache Oil and Santos.

In the context of the limited market share of the East Spar joint venture and the parties' existing gas interests, the Commission considered that an acquisition of WMC's gas assets by Novus or any of the preferential purchasers would be unlikely to substantially lessen competition in the market for the supply of gas in Western Australia.

The Commission decided in March 1997 not to oppose the acquisition. Santos subsequently exercised this right and acquired WMC's 30 per cent interest in East Spar, as well as some other gas assets.

NRG Australia Limited/part interest in Energy Developments Limited — environmentally sound electricity generation. This acquisition of shares was first raised with the Commission in February 1997.

NRG was already a minority shareholder in EDL and the acquisition would take its interest to only 35 per cent. The generation capacity of EDL is small and the generation capacity of NRG cannot readily compete with other large Eastern States' generators.

The Commission decided in March 1997 that it would not oppose the acquisition.

Purity Supermarkets/Caterers Market Pty Ltd — wholesale supply of bulk food. This acquisition was first raised with the Commission in February 1997.

Caterers Market was a small but active wholesale supplier of bulk dryfood packs to the foodservice industry in southern Tasmania,

providing a full delivery service. Purity operated a cash & carry outlet in Hobart but was active in the area of general food service and supply. In southern Tasmania, Caterers Market was the second largest of some nine suppliers, the largest (Allfoods) having 45 to 50 per cent of the market, and was likely to provide a substantial competitive constraint on Purity.

The Commission decided in May 1997 not to oppose the acquisition.

Austrim Limited/Calum Group — textiles. This proposed acquisition was first raised with the Commission in February 1997.

The acquisition of two companies in the Calum Group would leave Austrim as a major supplier of car upholstery in Australia. However, inquiries indicated that there were other suppliers of automotive fabrics, and there were a number of firms which were capable of commission laminating imported fabrics.

The Commission decided in May 1997 not to oppose the acquisition.

NRG Australia Limited/CMS Energy/Macquarie Bank Limited/Loy Yang Power — electricity in Victoria. This privatisation was first raised with the Commission in February 1997.

The Commission considered the proposed acquisition of Loy Yang Power by a consortium consisting of CMS Energy, NRG Energy and the Macquarie Bank. Loy Yang Power is the largest coal-fired electricity generator in Victoria. The Commission considered whether NRG's participation in the consortium would have any competition implications, given its existing electricity generation interests in Queensland. The Commission took the view that, as a major proportion of the output of NRG's generation units in Queensland was contracted to a particular user, it would not oppose NRG's acquisition of an interest in the Victorian generator at this time. Nevertheless, the Commission reserved the right to consider the implications of inter-regional ownership linkages between generators further when the national grid is established.

The Commission advised the Victorian Government in March 1997 that it would not oppose the sale of Loy Yang Power to this consortium.

Legrand Australia Pty Ltd/Minitronics Pty Ltd — emergency lighting. This acquisition was first raised with the Commission in March 1997.

The proposed acquisition was effectively a new entry by Legrand into the market for the manufacture and supply of emergency lighting. Legrand had a negligible market share whilst Minitronics appeared to be the market leader.

The Commission decided in March 1997 not to oppose the acquisition.

Medical Defence Union/Medical Defence Society of Queensland/Medical Protection Society of NSW — medical profession indemnity. This proposed merger was first raised with the Commission in March 1997.

The Commission did not oppose the acquisition for the following reasons.

Barriers to entry to the medical defence industry did not appear to be substantial. The only possible source of barriers to entry would be the loyalty of doctors to a particular medical defence organisation (MDO). However, the services provided by the parties could be provided easily by other MDOs.

Neither the Medical Provident Society nor the Medical Defence Society of Queensland offered claims-based insurance previously. It was unlikely that the acquisition would remove any vigorous or effective competitors from the market.

It was also unlikely that prices would rise appreciably because of the relatively low barriers to entry and the availability of substitute MDOs.

The Commission stated in June 1997 that it would not oppose the merger.

Adelaide Brighton Ltd/Barro Group Pty Ltd/Independent Cement & Lime Pty Ltd — bulk cement market in the Eastern States.

This acquisition of shares was first raised with the Commission in April 1997.

There were two elements to this proposal. One was a purchase of the minority interests in Independent Cement and Lime and the other was a supply arrangement whereby Independent Cement and Lime would be the only distributor of Adelaide Brighton Cement in Victoria and southern New South Wales. Consequently Adelaide Brighton Cement would withdraw from the distribution of cement in these areas.

The acquisition would raise the Barro and Adelaide Brighton interests from about 46 per cent and 38 per cent to 50 per cent each. This is unlikely to substantially lessen competition because the two companies already control Independent Cement and Lime.

The Commission announced that it would not oppose the proposal after it conducted market inquiries during May 1997.

Smorgon Steel Pty Ltd/Welded Mesh Pty Ltd — reinforced steel and mesh products. This acquisition was first raised with the Commission in April 1997.

While the proposed acquisition would increase the level of concentration in State markets, there were a number of constraints that would operate on Smorgon post-acquisition.

The opportunity for market participants to import cheap steel feedstock has significant influence on prices in the market. Import opportunities also diminish the capacity for BHP and Smorgon Steel to exercise market power associated with their vertical integration as domestic manufacturers of feedstock.

With regard to barriers to entry, set-up costs are low, and access to the necessary machinery not limited. Some market participants expressed concern that they were denied access to competitive supplies of domestic feedstock by the divisional transfer policies of BHP and Smorgon, the two largest steel producers. However, these difficulties are somewhat tempered by the establishment of minimills by ANI's Comsteel and Albion Steel, and the ready availability of imports.

There is also a high degree of substitution with the products in the relevant market, including structural steel, manufactured in Australia by BHP and increasingly imported. Large customers, which account for 50 per cent of sales by the parties, are increasingly multi-national construction companies, with the knowledge and contacts to import their steel reinforcement requirements, or to adapt their construction techniques to incorporate alternative materials. Neither they, nor other market participants, expressed any concerns that Smorgon Steel would be in a position to increase prices or profits post-acquisition.

The Commission decided not to oppose the acquisition in May 1997.

Clariant/Hoechst Australia — specialty chemicals. This merger was first raised with the Commission in April 1997.

The parties proposed to merge their speciality chemical operations. Clariant Australia and Hoechst Australia both supplied speciality chemicals, including masterbatches. Masterbatches are used by manufacturers of plastic products to give their products certain desired properties, such as colour.

The merged entity would be a substantial supplier of masterbatches. However, inquiries indicated that there were other suppliers of masterbatches and barriers to entry were not high.

The Commission decided in April 1997 that it would not oppose the acquisition.

Polymer Corporation (Aust) Pty Ltd/Full Cycle Plastics Pty Ltd — recycling of HDPE waste products. This proposed merger was first raised with the Commission in April 1997.

Both parties recycled post-consumer HDPE waste, particularly plastic milk bottles. Both also purchased a substantial amount of HDPE milk bottles collected in Australia. Inquiries indicated that the industry was relatively small and that barriers to entry did not appear to be high.

The Commission decided in May 1997 not to oppose the proposed merger.

Australian National Industries Limited/National Castings Pty Ltd — steel and alloy iron cast products. This acquisition was first raised with the Commission in April 1997.

National Castings has foundries in Perth and Launceston. ANI operates a division named ANI Bradken with foundries in Queensland, Victoria, Adelaide and Perth. Both parties manufactured steel and alloy iron cast products for the mining, rail transport, utilities and other industries.

The Commission found that, although ANI Bradken would have a substantial share of the manufacture of steel and alloy iron castings, Australian foundries faced vigorous competition from imports, particularly in terms of prices. This import competition was likely to prevent the merged firm from increasing its prices or margins.

The Commission concluded that the acquisition was unlikely to substantially lessen competition and decided in June 1997 not to oppose the acquisition.

Tecalemit Australasia Pty Ltd/PJ King Pty Ltd — tubular engine components. This acquisition was first raised with the Commission in May 1997.

Although the market appeared to be highly concentrated and the merged entity would have a substantial share of the market, automotive manufacturers also had considerable countervailing power and the acquisition was unlikely to affect prices.

The Commission decided in June 1997 not to oppose the proposed acquisition.

Westpac Banking Corporation/Bank of Melbourne Limited — banking products. This proposed merger was first raised with the Commission in April 1997.

The Commission had concerns that the increased concentration in the transaction accounts market as a result of the merger could result in increased charges in transaction accounts.

On 25 July 1997 the Commission announced it would not oppose the proposed merger, after significant undertakings by the parties.

The undertakings maintain various existing benefits for BML customers, including extended trading hours and certain fee exemptions for BML personal current account holders.

The undertakings make access available on reasonable commercial terms to small and new competitors in Victoria, including interstate based regional banks, building societies and credit unions, so long as they carry on business in Victoria.

On the basis of the undertakings, the Commission decided not to oppose the merger.

A more detailed assessment of the merger, on which the Commission's decision is based, is available from the Commission's Internet home page.

Nautilus Australia/Legend Marine Services Australia Pty Ltd — supply of general ships' provisions to vessels. This merger was first raised with the Commission in April 1997.

This merger was unlikely to breach the Commission's merger concentration thresholds in the relevant market. Furthermore, the barriers to entry, as well as the barriers to expansion by the major wholesalers and retailers, did not appear to be high.

The Commission decided in June 1997 to take no action in relation to the merger.

Australian Provincial Newspapers/Australian Posters — outdoor advertising. This proposed acquisition was raised with the Commission in April 1997.

The acquisition would result in APN being the largest outdoor advertising company but on the basis of a national outdoor market, the acquisition did not cross the Commission's concentration thresholds. The merged company would be constrained by competition from other outdoor companies, substitution from other advertising media, and potential new entry into the market.

The Commission announced in May 1997 that it would not oppose the acquisition.

CSR Limited/Mackay Refined Sugars Pty Limited — refining and supply of refined sugar. The proposed joint venture was first raised with the Commission in May 1997.

The joint venture covered purchasing, refining, storage, distribution and sale of refined sugar domestically and internationally. Milling assets were not part of the joint venture.

In 1993 the Trade Practices Commission refused to grant authorisation to a proposed joint venture between CSR and MRS because it was not satisfied that the joint venture would result in a public benefit substantial enough to outweigh its anti-competitive effect.

In the ACCC's view, significant developments in the industry since 1993 had increased the effectiveness of imports as a competitive constraint on domestic refiners.

CSR and MRS provided the Commission with an enforceable undertaking that the joint venture would make existing import facilities in Western Australia available, at cost, to other Australian refiners and importers.

On 30 July 1997 the Commission announced it would not intervene in the proposed joint venture.

Merck Sharp and Dohme (Australia) Pty Ltd/Rhone Merieux Australia Pty Ltd — animal health products. This matter was first raised with the Commission in May 1997.

The proposal involved the merger of the animal health businesses operated by Merck Sharp and Dohme (Australia) Pty Ltd and Rhone Merieux Australia Pty Ltd. Merck Sharp and Dohme markets a range of broad-spectrum anti-parasite treatments through its Merck AgVet Division.

The Commission concluded that, although the two companies were competitors in the Australian animal health products industry, there was little or no overlap of their respective businesses in market sectors within that industry.

On 13 June 1997 it announced that it would not intervene in the proposed merger.

Allied Colloids (Australia) Pty Ltd/Imdex Limited — supply of synthetic flocculants.

This matter was first raised with the Commission in May 1997. The proposal involved the acquisition of the chemical division of Imdex Limited by Allied Colloids (Australia) Pty Limited.

Allied Colloids and Imdex are involved in the supply of synthetic flocculants to the Australian market. Synthetic flocculants are used extensively in mineral processing, pollution control, paper making, water treatment, crude oil recovery and other industries requiring the separation of solids from liquids.

The Commission formed the view that, although Allied Colloids may have a substantial share of the Australian supply of synthetic flocculants, import competition was likely to prevent the merged firm from increasing its prices or margins.

On 20 June 1997 the Commission announced it would not intervene in the proposed acquisition.

Simplot Australia Pty Limited/I&J Foods Limited — frozen fish and other food for the retail sector and food services sector. This merger was first raised with the Commission in May 1997.

The Commission recognised the high cost of launching a new brand in this industry. However, major retailers are also likely to encourage, and may even facilitate, entry by an independent brand.

In the longer term, relative ease of entry to the generic end of the market, together with the possibility of market entry by a large competitor in response to price increases in branded product, may limit the ability of the merged firm to sustain substantial price increases.

After the merger became public the Commission conducted market inquiries and advised the parties in August 1997 that it would not oppose the merger.

Procter and Gamble Australia Pty Ltd/Tambrands Inc — tampons and sanitary pads. This acquisition was raised with the Commission in June 1997.

As a result of a US merger of parent companies, Procter and Gamble Australia, which distributes sanitary pads, will also distribute Tambrands tampons. There did not appear to be a significant increase in market share as a result of the transaction because of the specialisation of the parties prior to the proposal and the distinct product markets.

The Commission decided in June 1997 not to oppose the merger.

Air New Zealand Limited/Jetset Travel and Technology Holdings Pty Ltd — retail travel agency services. This matter was first raised with the Commission in June 1997. The proposal involved the acquisition by Air New Zealand Limited of a further 50 per cent ownership interest in Jetset Travel and Technology Holdings Pty Ltd.

Jetset is a retail travel agent, tour wholesaler and a consolidator of airline tickets to retail agents. Under the proposed acquisition Air New Zealand will own and control Jetset. The Commission expects that Air New Zealand will maintain its preferred supplier arrangements with both Ansett and Qantas.

The Commission concluded that the proposed acquisition was unlikely to substantially lessen competition.

On 18 July 1997 it announced it would not intervene in the proposed acquisition.

Bucyrus (Australia) Pty Limited/Marion Power Shovel Pty Limited — supply of surface mining equipment. The proposed acquisition was first raised with the Commission in June 1997.

The parties supply surface mining equipment to coal and iron ore miners for the removal of overburden. Overburden is the earth which covers the mineral being mined.

It appeared to the Commission that the merged firm would face competition from the world

market leader, which would constrain it from exercising market power. The Commission also took into account the fact that second-hand draglines were available to be imported from the United States, and that mining contractors were increasingly using electric shovels rather than draglines for overburden removal.

On 11 August 1997 the Commission announced it would not intervene in the proposed acquisition.

Bradmill Textiles Pty Ltd/Birkmyre Pty Ltd/Brella Pty Ltd — outdoor textiles. This acquisition was first raised with the Commission in June 1997.

In the relevant market, Bradmill claimed to be constrained by imports of outdoor textiles, which amount to 6 per cent annually. The acquirer also claimed that it would be more vulnerable to overseas competition with the reductions in tariffs and that Brella and Birkmyre were not vigorous competitors. Bradmill also emphasised the need to merge to compete internationally with new high volume manufacturers being established in Asia.

After conducting market inquiries, the Commission decided in August 1997 not to oppose the proposed acquisition.

Novartis Crop Protection Australasia Limited/crop protection products business of Merck Sharp & Dohme (Aust) Pty Ltd — crop protection products. This acquisition was first raised with the Commission in June 1997.

Novartis is in the top four crop protection product suppliers in Australia. Merck has less than 1 per cent of the overall market. If crop protection is viewed as a single market, the merger falls below the Commission's merger guideline thresholds. In reality, it is more likely that several discrete markets exist for different types of crop protection products but the two firms have only a small level of overlap in their product range and in any plausible smaller market (e.g. insecticides for cotton) the concentration thresholds would not be breached.

The Commission decided in July 1997 not to take any action in relation to the proposed acquisition.

Phoenix Energy Pty Limited/Woodada gas field of Consolidated Gas Pty Limited — gas extraction. This acquisition was first raised with the Commission in June 1997.

Phoenix Energy, a part of the Devereaux Group which also owns Griffen Coal, proposed to acquire an interest in the Woodada gasfield, which supplies the Perth area via the WA Natural Gas pipeline. The Woodada gasfield provides a very small proportion of the gas in WA.

The Commission decided in August 1997 to take no action in relation to the acquisition.

Radio Canberra Pty Ltd/Radio station 2CA — advertising on commercial broadcast radio in Canberra. This acquisition was first raised with the Commission in July 1997.

Prior to the acquisition, the Austereo/ARN joint venture owned or operated three of the four commercial radio stations in Canberra, in contravention of the Broadcasting Services Act. Radio Canberra previously owned 2CC, the only other AM radio station in Canberra.

The Commission considered that it was necessary to compare the competitive effect of this outcome with the likely effect on competition if 2CA had been acquired by a third party. It was unlikely that these two outcomes would differ greatly in their effects, given the relatively weak position of AM radio. It may even provide greater competition in the market, because with the two AM stations in common ownership the stations may have an incentive to alter their programming to maximise their joint audience. To the extent that this draws listeners away from FM, it would encourage competition with the FM stations. Similarly, the joint venture's announced intention to alter the programming of the two FM stations may bring about greater competition with the AM stations.

Due to the lower prices of Canberra television advertising compared to some other markets, it could be argued that television is a substitute for

radio advertising in Canberra, depending on the target audience.

The Commission considered that the acquisition was unlikely to substantially lessen competition and decided in July 1997 to take no action.

Waterfall Quarries Pty Ltd/Maldon Quarries business of Leech Earthmoving Pty Ltd — crushed rock and aggregates (quarry materials) for road maintenance and construction. This acquisition was first raised with the Commission in July 1997.

The Commission considered that if there was a substantial market wider than the immediate area (central Victoria), then there was likely to be substantial competition from existing participants and the acquisition would not lessen competition.

The Commission decided in August 1997 to take no action in relation to the acquisition.

Du Pont Australia Ltd/Titanium dioxide and polyester film businesses of ICI Plc — titanium dioxide pigments. This acquisition was brought to the Commission's notice in July 1997.

Du Pont and ICI are the two largest producers of titanium dioxide in the world. However, they are minor producers in Australia and the acquisition will have minimal impact on the structure of the industry in Australia.

The Commission considered that the acquisition would be unlikely to substantially lessen competition and decided in August 1997 to take no action.

Mildara Blass Limited/Cellarmasters Pty Ltd — production and sale of bottled wine. The Commission first became aware of this acquisition in August 1997.

The acquisition did not trigger the concentration thresholds in the Commission's *Merger Guidelines*. Although Mildara Blass will be in a strong position in the direct selling segment of the market, the industry is undergoing a period of rationalisation. The Commission concluded that the acquisition was

unlikely to substantially lessen competition but it will continue to monitor the industry.

The Commission decided in August 1997 to take no action.

Netcomm Limited/Banksia Technology Pty Ltd — computer modems. This merger was first raised with the Commission in August 1997.

Netcomm/Banksia will be the leading supplier of modems in Australia with a very substantial market share. However, the Commission found that competition from imported modems was likely to be an effective check on the exercise of market power by the merged entity. In addition, the Australian market is growing rapidly.

The Commission therefore concluded that the proposed acquisition was unlikely to substantially lessen competition and decided in August 1997 not to take any action.

Austereo Ltd/PMFM 94.5 FM — commercial radio advertising in Perth. This matter was first raised with the Commission in November 1996.

Austereo proposed to acquire PMFM from JMB. The acquisition would bring Austereo's ownership of commercial radio stations in Perth to three (out of five). To comply with s. 54 of the Broadcasting Services Act, Austereo proposed to sell 6MMM as soon as possible after the acquisition.

Austereo offered the Commission undertakings regarding the prompt sale of 6MMM (within six months of the acquisition). The other two stations are in common ownership (Southern Cross), so the acquisition would not change concentration (measured by the number of licences held), but simply rearrange ownership and bring a third party into the market (because the BSA restriction prevents the other existing licensee in Perth from buying 6MMM). This is provided 6MMM is sold in an 'at arms length' manner.

In this regard, the Commission was concerned that 6MMM should not remain part of the MMM network. Austereo offered, and the

Commission accepted, an undertaking that it would not licence the Triple M trademark to the new owner of 6MMM or any other radio station in the Perth licence area or provide such services as sales representation, programming (except syndicated programs) and promotion to the new owner of 6MMM. Austereo must also require that the new owner of 6MMM change the call sign as a condition of the sale of 6MMM. Austereo must give the Commission seven days notice of any proposal to acquire an interest in 6MMM (after the sale) or any other radio station in Perth.

The Commission accepted Austereo's undertakings and the acquisition proceeded on 1 September 1997.

Section 87B undertakings

Destiny Telecomm International Inc., ss 57, 61. Referral and pyramid selling in relation to promotion of a phonecard scheme.

4.6.97, 2.7.97 and 15.7.97 undertaking by 11 individual respondents to refrain from promoting this scheme or similar schemes; and send all participants of the scheme a newsletter explaining the pyramid selling provisions of the Trade Practices Act.

Fosseys, s. 45A. Price fixing arrangement in relation to sale of soft drinks at retail outlet in Fosseys store.

19.6.97 undertaking to develop and enhance procedures to resolve disputes with suppliers, including small businesses.

Foxtel Management Pty Limited, s. 52. Misleading representations in relation to a special offer for pay TV services.

25.6.97 undertaking to appoint a member of in-house counsel to review all promotions and advertisements for two years; publish corrective advertising and broadcast an educational advertisement on Foxtel channels; implement a trade practices compliance program; and adopt a complaints handling system.

Logic Plus Pty Ltd (trading as Netplus Micro Computers), ss 52, 53(e). Misleading

representations in relation to an offer of a 'free' digital mobile phone.

25.6.97 undertaking to cease distributing the pamphlet; refrain from offering 'free' goods or services which are conditional upon the purchase of additional goods or services and where the conditions are not adequately disclosed; implement a trade practices compliance program; and publish corrective advertising.

Petersville Ltd and Peters Foods Australia Pty Ltd (trading as Nestlé Dairy Products), ss 52, 53(a), 55. Misleading representations in relation to the sugar content of its Vitari products.

26.6.97 undertaking to remove the representations from packaging of Vitari not yet sold by the company; request distributors to withdraw any Vitari bearing the misleading labelling; publish corrective advertising; send letters to diabetic and community organisations advising them of the actual level of sugars contained in the product and, where requested, publish a notice in their publications; implement a trade practices compliance program.

Australian Radio Network Pty Limited and Austereo Limited, s. 50. Proposed joint venture involving acquisition of Canberra commercial radio stations.

30.6.97 undertaking to sell radio station 2CA to a company not related to either Austereo or ARN within six months of the acquisition; and, pending the sale of 2CA, to manage the radio station in a way that will maintain its commercial viability.

Tom Wolkenberg Imports Pty Ltd (trading as Sunchaser Sunglasses), s. 53(a). Misleading representations in relation to the supply of sunglasses.

4.7.97 undertaking to cease the supply of sunglasses which do not comply with the Standard; ask retailers to withdraw the sunglasses from sale; institute a trade practices compliance program; and institute a complaints handling system.

Infratil Australia Limited, s. 50. In relation to acquisition of shares in Port of Portland.

11.7.97 revised undertaking identical to original undertakings dated 22.5.96, but updated to include a reference to Infratil's acquisition of Ascot Investments' 50 per cent shareholding in Port of Portland.

Westpac Banking Corporation and Bank of Melbourne, s. 50. Proposed merger.

25.7.97 undertaking to maintain for three years various existing benefits for BML customers, including extended trading hours and certain fee exemptions for BML personal current account holders; and make access available on reasonable commercial terms to small and new competitors in Victoria, including interstate based regional banks, building societies and credit unions, so long as they carry on business in Victoria.

Mackay Refined Sugars Pty Limited and CSR Limited, s. 50. Proposed joint venture for the purchasing, refining, storage, distribution and sale of refined sugar in Australia and for export.

30.7.97 undertaking to give access to its import facilities on reasonable commercial terms to sugar importers to Western Australia; follow a specific dispute resolution procedure and notify the Commission should an access dispute arise.