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# Guidance and information

## News for small business

### Fair Trading Bill

In May 1997 the House of Representatives Standing Committee on Industry, Science and Technology released a report entitled *Finding a Balance — Towards Fair Trading in Australia* (the Fair Trading Report). The Fair Trading Report found that smaller businesses are particularly vulnerable to exploitation and unfair trading.

In September 1997, in its 'New Deal — Fair Deal' statement, the Government announced its intention to implement many of the reforms suggested in the Fair Trading Report. The Trade Practices Amendment (Fair Trading) Bill 1997, introduced into the House of Representatives on 30 September 1997, incorporates many of the proposed reforms.

The proposed legislation is intended to give small business a better chance of fair dealing in the marketplace and access to effective enforcement mechanisms.

The proposed new laws include the extension of the unconscionable conduct provisions, expansion of the Commission's authority to take representative actions, stronger sanctions against contraventions of the Act, and the prescription of certain industry codes as mandatory. They will generate a new realm of responsibility for the Commission, and in particular for the Small Business Advisory Unit.

(See 'Policy Developments' section for detail on the changes proposed in the Bill.)

### Enforcement

The reforms usher in enhanced protection for small business by strengthening legislation and codes. The amendments bring small business protection more in line with that enjoyed by individual consumers in their dealings with business.

While small business can protect their rights through the court system, it is hoped that the reforms will raise commercial standards of practice rather than necessitate an increase in litigation.

Alternative dispute resolution has been pinpointed as a way for small business to solve disputes quickly and cost effectively. The Commission will work with government to promote alternative dispute resolution methods.

### Banking

The recent Report of the Financial System Inquiry (the Wallis Report) made a series of recommendations to hasten competition and efficiency in the financial services industry.

Small business will be a recipient of the benefits expected to flow from the Wallis recommendations as adopted by government. Small business stands to benefit from better service, product innovation and client protection programs established as a result of the Wallis Report.

Incorporated small businesses will be extended the protection of the existing Code of Banking Practice and Banking Ombudsman scheme, previously available only to unincorporated entities.

It is also intended that government will work with financial institutions to improve methods used by those institutions to assess risk and interest rate premiums applicable to small business clients.

## International Internet Sweep Day

On 16 October 1997 the Commission coordinated an International Internet Sweep Day to identify and send warning messages to Internet sites suspected of operating scams over the Internet.

The Commission estimates that about 108 000 Australians are already shopping via the Net. International experience shows that about 10 per cent of the transactions are fraudulent. US estimates for Internet fraud range up to US\$50 million of consumers' money every week.

More than 30 agencies from around Australia and the world pooled their resources on the Sweep Day to search the Internet for suspect sites via search engines, bulletin boards, classifieds, indexes and other information sources and information technologies.

The agencies involved included the Commission, all State/Territory fair trading and consumer affairs bureaux, plus international agencies from the United States, Britain, South Africa, and most European countries.

The objectives of the sweep included:

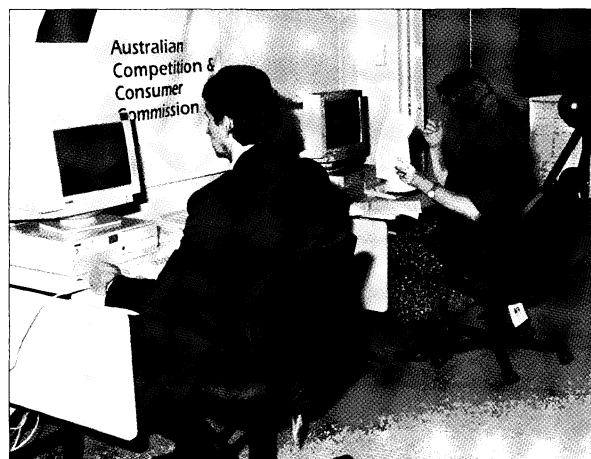
- identification of scams that may affect consumers;
- identification of the operators of those scams using specific software;
- warning consumers about the scams and warning operators of the scams of the international moves to stop their activities and the legal consequences they face;
- increasing international cooperation in this area;
- formal action where appropriate; and

- drawing the Internet community's mind to these consumer and regulatory issues so that the community can develop self-regulatory initiatives.

The agencies will exchange information on suspected scams, track down their originators and, if necessary, move against them.

The Commission has set up a special page on its Internet web site where consumers and businesses can get information about fraudulent get-rich-quick schemes etc. and register complaints about suspect sites.

This is expected to be the first in a series of random sweeps of the Internet.



## New publications

### Advertising and selling guide

The Commission has released a revised edition of *Advertising and Selling*, a plain-English guide to Part V of the Trade Practices Act.

Part V supports fair and ethical trading by seeking to ensure that relationships between businesses and consumers are even-handed. In instances where consumers are treated unfairly, Part V gives a means of redress. Ethical businesses can also initiate legal proceedings under the Act if they are injured by the unfair conduct of other businesses.

*Advertising and selling* aims to inform consumers and businesses of their rights under Part V and to guide businesses in their dealings with consumers. It covers the following topics: misleading and deceptive conduct, false representations, product safety, warranties and remedies.

The guide contains many illustrative examples to help explain how Part V works in practice. These examples are drawn from court cases and investigations.

*Advertising and selling* is available for \$10 from Commission offices and is also available online on the Commission's web site.

## Guidelines on exports and the Trade Practices Act

The Commission's guidelines on *Exports and the Trade Practices Act* outline its approach to mergers, acquisitions and other collaborative arrangements that aim to enhance exports and the international competitiveness of Australian industry.

These guidelines supplement the Commission's *Merger Guidelines* (revised July 1996) which outline its policy for administering and enforcing provisions of the Trade Practices Act which deal with mergers and related matters.

The Commission's administration of the Act is responsive to the increasingly competitive environment in which firms operate and takes into account international competitiveness issues in assessment of mergers and other collaborative arrangements.

The guidelines outline how the Commission considers international competitiveness factors when it looks at mergers and joint ventures, and suggests a checklist of issues that firms and their advisers should consider when approaching it to discuss mergers and other collaborative arrangements which are export-enhancing. The guidelines also contain a number of illustrative case studies.

They have been developed in consultation with the Supermarket to Asia Council's Working

Group on Business Competitiveness, whose industry experts provided invaluable comments when the guidelines were being drafted.

In conjunction with the release of the guidelines, the Commission has nominated an 'export contact officer' in each of its offices, who can be directly contacted by industry to discuss issues relating to the treatment of export issues and the guidelines. At the Commission level, the Commission's Deputy Chairman, Mr Allan Asher, is the nominated Commissioner to handle inquiries relating to export issues and the guidelines.

The guidelines are available for \$10 from Commission offices, and are also available online on the Commission's Internet web site. A leaflet on 'Exports and the Trade Practices Act' is also available free from all Commission offices.

## ACCC's role in regulating telecommunications industry

The Commission has published an outline of its role in regulating the telecommunications industry in accordance with new regulatory arrangements introduced by the Commonwealth Government. The package of legislation, which took effect from 1 July 1997, comprises 11 separate Acts, including substantial amendments to the Trade Practices Act and a new Telecommunications Act.

Under the new arrangements, the Commission has responsibility for competition and economic regulation of telecommunications while technical regulation rests with the Australian Communications Authority.

The outline, titled *Telecommunications industry — ACCC role*, provides an overview of the new legislative and regulatory regime, in so far as it relates to the Commission's new regulatory responsibilities.

It is available for \$10 from Commission offices.

## Telecommunications competition notice guideline

The Commission has published a guideline which sets out the policy goals that will guide it in deciding whether to issue a competition notice under s. 151AL of the Trade Practices Act.

The policy goals will guide the Commission in deciding whether a competition notice is the most appropriate response to anti-competitive conduct in the telecommunications industry.

The Commission may revise this document or issue further guidelines from time to time, as required.

The guideline is available free from Commission offices and also online on the Commission's Internet web site.

## Internet service providers information sheet

In response to a growing number of complaints about advertising by Internet service providers (ISPs), the Commission has published an information sheet to help ISPs to comply with the law.

Complaints have included allegations of overbilling, inadequate detail when billing, failure to supply technical support and other services as represented, failure to connect consumers to the Internet as agreed, and failure to honour requests to disconnect.

'News for business: Internet service providers' provides some useful points for ISPs to consider when planning their advertising, including:

- pricing details — what to include;
- disclaimers, qualifications and 'small print';
- tips for trouble-free comparative advertising;

- third line forcing issues;
- consumers' warranty rights; and
- danger words to avoid.

The information sheet is available free from all Commission offices and is also available online on the Commission's Internet web site.

## Safety standard on disposable cigarette lighters

On 1 October 1997 the Government introduced tight regulations for the supply of disposable and novelty cigarette lighters. This action followed import bans on child-resistant disposable cigarette lighters from 1 March 1997.

The Minister for Customs and Consumer Affairs, Senator Chris Ellison, said that the ban resulted from calls by coroners and fire authorities concerned that the deaths of at least nine children since 1994 could be attributed to non child-resistant disposable cigarette lighters. The ban has been extended to cover cheap, refillable lighters.

The Commission has published a 'News for business' information sheet on disposable cigarette lighters to explain the new regulations to retailers. It explains the requirements of the mandatory consumer product safety standard, including general safety requirements, labelling requirements and child-resistance requirements.

The information sheet is available free from all Commission offices.