
Pricing

The current role of the ACCC in prices surveillance and monitoring

In 1994, 51 enterprises covering 19 industries were declared under the Prices Surveillance Act. Today there are a handful.

On the surface this would appear to be evidence of a recent radical change in direction. Rather, it reflects an evolution in thinking which has occurred over the last decade. It reflects the practical experience drawn from a decade of prices surveillance activities. It also fundamentally reflects the significant changes that have occurred in the functioning of the economy over the last decade as well as the renewed emphasis in economic theory upon the centrality of the market place.

The Prices Surveillance Authority was initially set up to administer one wing of the Hawke Government's Prices and Income Policy. Price restraint overseen by Government was seen to be a necessary accompaniment to wage restraint. *The Prices Surveillance Act 1983* became the governing legislation. With the election of a new Government the Accord process was set aside. However, even within the Accord framework the role of price oversight had been changing.

With the amalgamation of the Trade Practice Commission with the Prices Surveillance Authority to the ACCC the changes to a more light handed and less interventionist approach were confirmed and made more explicit. The Treasurer's press release (19 September 1996) was yet another step in recasting the role of price oversight.

Enhancing competition was highlighted as the best means to lower prices and improve choice for consumers. Alternatively, the burden to business of regulation and compliance costs was noted. While the Prices Surveillance Act was retained the Treasurer indicated that price surveillance would only be used in markets where competitive pressures were not sufficient to achieve efficient prices and protect consumers. It is the role of prices oversight to provide some pressure otherwise provided by competitive markets.

In practical terms this means that there is a shift in the price oversight function. It is a shift away from intervening in markets where competitive pressures exists (or can be improved through enforcement under the Trade Practices Act). It is a shift towards setting up conditions that will mimic or proxy competitive markets. Put simply, it is a movement away from beer and cigarettes and toward privatised airports. However, as with all transitions, there is a range of functions which are part of both the winding-up of past activities as well as the exploration of future options.

This article maps out these functions and describes current activities. To capture the diversity of these activities the schema on p. 39 is used.

Administration of prices oversight

Price surveillance

Under s. 17(1) the ACCC is able to vet the proposed price rises of any business organisations placed under prices surveillance by the Government. The ACCC's current price surveillance role covers areas of economic activity which have substantial market power or monopoly power. The following areas of

economic activity/organisations are covered currently under surveillance:

harbour towage — operators in Sydney/Botany, Newcastle, Melbourne, Brisbane, Adelaide and Fremantle;

Australia Post — standard letters and all letters weighing up to 250 grams for which the price of carriage is no more than four times the standard letter rate (currently 45 cents) and inward bound international mail;

Airservices Australia — air traffic services, rescue and fire fighting, and search and rescue services;

airports — charges for aeronautical services levied on the Federal Airports Corporation airports, which include all the capital city airports and a number of major regional and general aviation airports. Brisbane, Melbourne and Perth are now in the process of being privatised, through the granting of long term leases and will be under a transition regime (see Airports below). Other airport will remain under price surveillance until they become subject to long term leasing arrangements;

petrol and distillate — Ampol, BP, Mobil and Shell; the ACCC has recommended that the declaration of petrol be revoked in 1997 (see Petroleum products below); and

ACI glass containers — wine bottles and medium to large (300–600ml) food containers. These products have been declared because they are sold into markets where ACI exercises substantial market power and in which effective competition is unlikely to develop. Because the price of these products can affect the competitiveness of other economic activities such as the export of wine, price surveillance is required.

Formal monitoring

Recent amendments (1995) to the Prices Surveillance Act give the ACCC the power to conduct formal monitoring of prices, cost and profits of a business/industry when so directed by the Government.

To date ACI's glass containers are the only products under formal monitoring. For ACI

monitoring is an adjunct to surveillance and covers all glass containers not just those specified for surveillance. Formal monitoring is seen as a way to enhance price transparency as glass container production shares a number of fixed costs.

Establishing and overseeing transition regimes

Petroleum products — preparing for a transition to a more deregulated environment

The ACCC is involved in a number of activities to put in place a transition to a more deregulated petrol environment:

- the development of monitoring programs by motoring organisations in conjunction with the ACCC to identify excessive prices in rural areas;
- the intensification of enforcement activities in country petrol markets; the Government considers that enforcement of the Trade Practices Act is likely to be a more effective means of protecting consumers than subjecting small country petrol retailers and distributors to formal price monitoring; and
- initiatives to both encourage the oil companies to provide wider access to their terminals and to encourage State and Territory and local governments to free up restrictions on the operation of service stations.

Airports — transition from public ownership to regulated privatisation with the granting of long term leases

A rigorous pricing oversight regime has been developed to come into effect post leasing. Initially the 'phase 1' airports, Melbourne, Brisbane and Sydney, will be subject to the new regime and the other airports will follow. Pricing oversight arrangements are intended to promote efficiency and a commercial manner of operation. At the same time they are to protect users from any abuse of market power which airport operators could potentially

impose because of the natural monopoly characteristics of airports.

The role of the ACCC is to:

- administer under its price surveillance authority the CPI-X price cap for aeronautical charges, including the assessment of any airport operator proposals for aeronautical charging increases outside the price cap;
- monitor and evaluate quality of service at the major airports against performance indicators to establish that the price cap is not being achieved at the expense of quality; and
- for each airport, undertake formal monitoring of those aeronautical related services where operators could exert significant market power.

The first five years of the scheme are viewed essentially as a transition period to allow stakeholders to adjust to the new operating environment. Toward the end of the first five years the ACCC will review the oversight arrangements.

Providing a watching brief

Previously declared companies are to be subject to 12 months internal oversight of compliance with their undertaking to keep price rises below the general inflation rate. This is relevant to the following beer and cigarette companies:

Phillip Morris
Rothmans
WD & HO Wills
Carlton and United Breweries
Lion Nathan

There are also particular product markets where there is evidence of inefficient pricing outcomes and/or public sensitivity that requires the Commission to take an informal oversight role.

- **Bank charges including both bank fees and interest rate charges** — it is envisaged that this watching brief will function as an early warning system,

alerting the Commission to the possibility of pricing anomalies in these markets.

- **Sound recordings, books and computer software** — the importation provisions attached to the Copyright Act which have had the effect of restricting competition and increasing prices have been a focus of attention by the ACCC and its predecessor bodies for a number of years.
- Review of LPG pricing in Geelong.

The Treasurer's press release outlined a role for the ACCC as an observer of market trends so that it could advise Government upon areas of the market where formal monitoring arrangements should be imposed.

Coastal shipping, harbour towage, stevedoring and terminal handling charges have previously been subject to 'informal monitoring' programs. These activities are now being further investigated to determine whether a recommendation should be made to the Government to pursue monitoring under the Prices Surveillance Act.

Other pricing work

The ACCC's work in pricing is growing in other areas. Pricing is an integral part of administering Part IIIA of the Trade Practices Act, either in access undertakings or possible arbitrations where services are declared.

There are also similar provisions under the proposed legislation dealing with access in telecommunications. In the energy sector there are several pricing roles which are either currently in place or are being proposed for the ACCC. These include:

- monitoring and arbitration functions under the *Moomba to Sydney Pipeline System Sale Act 1994*;
- proposed regulation of transmission pricing in electricity under the National Electricity Code; and
- proposed regulation of transmission pricing for some components of the gas transmission network.

Role of the ACCC in prices oversight

<p>Administering prices oversight</p>	<ul style="list-style-type: none"> • Prices surveillance • Monitoring 	<ul style="list-style-type: none"> • harbour towage • Australia Post • ACI Glass Containers • Airservices Australia • FAC airports • petroleum (see below) • ACI Glass Containers
<p>Establishing and overseeing transitional regimes</p>	<ul style="list-style-type: none"> • From regulated to de-regulated • From publicly owned to privately owned and regulated 	<ul style="list-style-type: none"> • petroleum products • selected FAC airports
<p>Providing a watching brief</p>	<ul style="list-style-type: none"> • Transition periods for previously declared companies • Product markets where there may be public sensitivity/or possibly inefficient pricing outcomes • Areas under consideration for possible recommendation for monitoring 	<ul style="list-style-type: none"> • Phillip Morris • Rothmans • WD & HO Wills • Carlton & United Breweries • Lion Nathan • bank charges • sound recordings, books and computer software • LPG pricing (Geelong) • nil at present