

---

# Appendix 1 Continuing matters

---

## Enforcement

*The following is a list of enforcement matters before the Courts — in addition to the new and recently concluded matters reported in the Enforcement section.*

## Anti-competitive practices

**IMB Group Pty Ltd, Logan Lions Ltd & ors**, ss 47(6), 52. Alleged third line forcing and misleading or deceptive conduct in relation to financial planning and property development. Interlocutory proceedings commenced 6.9.93. Proceedings withdrawn 17.9.93. Proceedings recommenced 20.9.93.

Federal Court consolidated this and *ACCC v National Mutual Life Association of Australasia Ltd* (QG No. 77 of 1994) on 12.3.96.

National Mutual admitted that certain conduct alleged in the statement of claim contravened s. 52 of the Act and that it was indirectly involved in the conduct through its agent. National Mutual and the Commission agreed to a settlement. ACCC discontinued proceedings against National Mutual on 3.6.96.

Action against the agents, IMB Group Pty Ltd, and against Logan Lions Ltd and certain individuals continues. Trial in this matter began 7.9.98 and was adjourned on 24.9.98. Trial recommenced on 22.2.99 and was further adjourned on 24.3.99 to resume on 13.9.99. Directions hearing held 16.6.99 to hear argument on the number and relevance of witnesses called by the respondents, and on the application of s. 51A.

17.6.99 Drummond J declared that in this particular case the ACCC (applicant) had the persuasive burden of proof in regard to representations made by the respondents about future events. 24.6.99 ACCC filed and served

a notice of motion to appeal this decision. A date for a directions hearing on the notice of motion is pending. Trial is to resume on 13.9.99.

**CC (New South Wales) Pty Ltd, Holland Stolte Pty Ltd, Multiplex Constructions Pty Ltd, Leighton Contractors Pty Ltd, Australian Federation of Construction Contractors (AFCC) & ors**, ss 45, 52, 53, 55A. Alleged collusive tendering practices in relation to the building project known as the Commonwealth Offices Haymarket project. Proceedings instituted 30.8.94. Directions hearing 29.9.94 — Mr Russell Richmond, a former National Executive Director of the AFCC, announced that he would not defend the proceedings brought against him and consented to the entry of a judgment against him. On the same day AFCC informed the court that it did not propose to take further part in the proceedings. 24.11.94 the court imposed a penalty of \$10 000 on Mr Richmond.

5.5.95 Holland Stolte Pty Limited and Mr Graham Duff, a former Managing Director of Holland Stolte Pty Limited, withdrew their defences and consented to judgment. Penalties totalling \$400 000 were imposed against Holland Stolte, and \$50 000 against Mr Duff.

8.9.95 Lindgren J in the Federal Court imposed on Leighton Contractors Pty Ltd and Multiplex Constructions Pty Ltd the (previous) maximum penalty of \$250 000 for each of two offences and ordered each company to pay \$75 000 costs. Personal penalties were imposed on Mr Leonard Dixon, a chief estimator for Leighton (\$25 000) and Mr Geoffrey Thomas Palmer, a retired director of Multiplex (\$50 000). The penalties followed the withdrawal of defences by Leighton, Multiplex, Dixon and Palmer. The companies also made full restitution to the Australian Government of the \$750 000 'unsuccessful tenderers fee' which each had received from the successful tenderer, Holland Stolte.

Trial against CC (NSW) Pty Ltd was held in Sydney on 6–8.10.98. Lindgren J has reserved his decision.

**J McPhee & Son (Australia) et al.**, s. 45. Alleged price fixing, and attempted price fixing, arrangements in relation to transport services. Proceedings instituted in the Federal Court Melbourne 20.12.95. 2.2.98 Federal Court found that J McPhee & Son (Australia) Pty Ltd and three of its employees had attempted to have a competitor enter into a collusive agreement in tendering express freight services to a McPhee client. It also found that the company had entered into a price fixing arrangement with a competitor in relation to prices quoted to another McPhee customer. 27.3.98 Heerey J imposed penalties of \$4 million on J McPhee & Son and four executives for price fixing. Respondents have appealed the decision. Appeal heard in February 1999 and decision reserved.

**Shell Company of Australia**, ss 51AA, 53. Alleged misrepresentations regarding the nature of tenure under a Shell franchise agreement. Proceedings instituted 11.11.96. ACCC taking representative action, seeking compensation for loss or damages, injunctions and declarations. 18.12.96 Shell applied to strike out proceedings. 7.2.97 Justice Drummond refused the strike-out application but determined that the ACCC's representative action was to be made by Notice of Motion following findings of contraventions of the Act.

21.8.98 consent order by Cooper J that the parties participate in a mediation conference. 13.11.98 mediation conference. Negotiations to settle proceedings continuing.

**Australian Safeway Stores Pty Ltd (trading as Safeway) and George Weston Foods Limited (trading as Tip Top Bakeries)**, ss 45, 45A, 46, 47, 48. Alleged price fixing, misuse of market power and resale price maintenance in relation to the sale of bread in Victoria. Proceedings instituted 23.12.96. ACCC seeking penalties and injunctions. 30.5.97 Federal Court imposed penalty of \$1.25 million on George Weston Foods Limited, which admitted the contraventions. Trial of allegations against Safeway began in February 1999 and is continuing.

**Sundaze Australia**, s. 48. Alleged resale price maintenance in relation to Oakley sunglasses. Proceedings instituted 18.6.97. ACCC seeking penalties and injunctions. Directions hearing 17.10.97. 9.7.98 ACCC granted leave to file and serve amended statement of claim. Respondents to file and serve amended defence and affidavits, then parties to advise court registry that matter is ready for further directions. 13.10.98 this matter was before the Deputy Registrar of the Federal Court for case review and the matter is to undergo a mediation process on or before 14.12.98. 10.12.98 parties attended mediation and negotiations are continuing.

**Simsmetal Ltd, Babister & Jaksa**, ss 45, 46, 76. Alleged attempted market sharing arrangement and misuse of market power in the South Australian steel scrap and South Australian foundry steel markets. 22.6.99 by consent respondents ordered to file and serve its list of discovery documents by 28.6.99. Other interlocutory orders were made.

Trial set to begin 27.3.2000 and run for nine weeks.

**Boral Limited and Boral Besser Masonry Ltd**, s. 46. Alleged predatory pricing and misuse of market power in relation to the supply of concrete masonry products. Proceedings instituted 6.3.98. ACCC seeking penalty, declaration, injunctions requiring the companies to implement a corporate compliance program, and findings of fact. Trial commenced 6.7.99 with all the lay evidence now having been presented to the court. Economic evidence presented to the court in 'hot tub forum' on 27.7.99. Closing submissions will be presented to the court on 30.8.99.

**Real Estate Institute of Western Australia Incorporated**, ss 45, 45A. Alleged price fixing agreement in relation to a training course, and alleged anti-competitive rules of practice. Proceedings instituted 17.6.98 against REIWA, its Executive Director, Michael Griffith, and various other parties. ACCC seeking orders and penalties. 10.11.98 case management conference set timetable for discovery and filing of evidence.

22.12.98 directions hearing before French J set down timetable for possible cross claim against fifth respondent and another. Further timetable set down for the filing of documents to be used at trial. French J also raised concerns over width of compliance program contained within consent orders of the third, fourth and fifth respondents.

18.1.99 French J gave reasons for judgment on proposed undertakings and consent orders for third, fourth and fifth respondents.

15.2.99 Registrar Jan set down directions up to trial. Next hearing to be set for a date after 10.6.99.

23.4.99 directions hearing re separate trials for claim and cross-claim. New timetable set down. 25.5.99 French J ordered claim and cross-claim to be heard together and set objections hearing (witness statements) for 22.6.99. Objections hearing adjourned to 3.8.99.

Trial date set for 8.11.99–10.12.99.

**Visy Paper Pty Ltd and the Amcor Printing Papers Group Ltd**, s. 45. Alleged market sharing agreement between Visy Paper Pty Ltd and Amcor Printing Papers Group Ltd; and an alleged attempt by Visy Paper to induce another business to enter into a market sharing agreement in relation to the collection of recyclable waste paper.

Proceedings instituted 4.12.98. ACCC seeking orders, including declarations, injunctions, costs and orders requiring the institution of trade practices compliance programs. It is also seeking penalties against the companies and four senior employees. Next directions hearing 5.8.99.

**George Weston Foods Limited and ors**, s. 45. Alleged attempts to induce price fixing agreement between two Tasmanian retailers in relation to biscuits. ACCC instituted proceedings on 28.10.98 seeking orders including pecuniary penalty, injunctions, declarations and findings of fact. The company has since admitted the contraventions and a penalty hearing is set down for 6.8.99.

**SIP Australia Pty Limited and Baker Bros (Aust) Pty Ltd**, ss 45(2), 45A. Alleged

primary boycott and price fixing in relation to the supply of ABAC compressors. Proceedings instituted 23.4.99 against Baker Bros and two directors, Andrew Baker and Guy Baker. At 5.5.99 directions hearing Baker Bros admitted to the conduct. At 7.5.99 penalty hearing Baker Bros and ACCC presented joint submission seeking injunctions, penalties and a compliance program. 29.6.99 court accepted joint submission and imposed penalties totalling \$60 000 on Baker Bros and two directors. Baker Bros also agreed to offer s. 87B undertaking to implement a trade practices compliance program and pay part of ACCC's costs.

SIP Australia filed its defence on 30.6.99. Further directions hearing set down for 22.9.99.

**Gasgo Pty Ltd**, s. 45. Alleged anti-competitive agreement in relation to gas supply. Proceedings instituted 6.5.99.

## Unconscionable conduct

**Farrington Fayre Shopping Centre**, s. 51AA. Alleged unconscionable conduct in relation to leasing arrangements. Proceedings instituted 6.4.98 with ACCC seeking orders including declarations, injunctions, public apology, institution of a corporate compliance program, and findings of fact.

Mediation conference to be held 17.8.99.

Trial set for 18.10.99.

**Leelee Pty Ltd**, s. 51AC. Alleged unconscionable conduct by a landlord towards one of its tenants. Proceedings instituted 4.2.99 against Leelee Pty Ltd and Pua Hor Ong, Managing Director, for aiding and abetting or being knowingly concerned. ACCC seeking injunctions, declarations that the tenant has suffered loss or damage, findings of fact, and orders for payment of damages. Notice of motion to strike out part of the statement of claim and stay the proceedings heard on 2.7.99. Judgment was reserved.

## Consumer protection

**Venture Industries Pty Limited and Collings Construction Company Pty Limited**, ss 51AB, 52. Alleged misleading, deceptive and unconscionable conduct in relation to building homes. Proceedings instituted 3.9.93 against Collings Construction Co Pty Limited, Wayne Collings, Venture Industries Pty Limited, Harry Kioussis, Penny Kioussis and June Collings. Representative action on behalf of seven families.

16.9.94 matter cross-vested to NSW Supreme Court. 28.9.95 Hunter J adopted report from court-appointed referee. Trial before Hunter J from 9.10.95 to 28.11.95. In December 1995 Venture parties sought to overturn the cross-vesting of the matter from the Federal Court to the NSW Supreme Court. 23.5.96 application refused.

10.12.96 Hunter J found five of the respondents had breached s. 52. Damages of \$1 081 498.55 awarded to seven families represented by ACCC. No findings as to breaches of s. 51AB. No findings and no damages awarded against June Collings.

7.2.97 Hunter J made orders, including interest, against each of the five defendants found liable (effectively joint and several) of between \$1 412 798.92 and \$1 592 927.54, with a total award of \$1 618 507.24. Venture Industries Pty Ltd, Harry Kioussis and Penny Kioussis are generally restrained from holding a pecuniary interest in an organisation offering services which would require a licence under the *Building Services Corporation Act 1989* (NSW). Venture Industries Pty, Harry Kioussis and Penny Kioussis sought a stay through the Court of Appeal, which was refused 17.3.97. Each of the five defendants found liable appealed the decision to Court of Appeal. Appeal dismissed 3.3.98. Venture Industries, Harry Kioussis and Penny Kioussis have sought special leave to appeal the decision to the High Court.

The High Court refused special leave to appeal the decision of the Court of Appeal on 20.11.98.

Recovery proceedings are ongoing. Collings Construction Co Pty Ltd (now called CAN 000

443 176 Pty Ltd) has been placed in voluntary administration. Wayne Collings has been placed into bankruptcy (24.3.98) as have Harry Kioussis and Penny Kioussis (both on 10.7.98).

Venture Industries was placed into liquidation 20.7.98.

**Stephen Gregory Wyer, Optell Pty Ltd, Geoffrey Allan Beckett, Clinton Wade Andela**, ss 52, 53(aa), (bb), (c), (d), (f), 64. Alleged misleading and deceptive conduct in relation to business registers and consultancies. 9.8.96 proceedings instituted. 15.8.96 Finn J granted consent orders against Mr Wyer restraining him from carrying on the OSA and SAR schemes, freezing moneys obtained through the schemes and ordering him to forward any moneys obtained through the schemes to the ACCC or to the court. 26.8.96 Finn J made interlocutory orders against Optell and others preventing them from carrying on the register and consultancy businesses, and ordering them to forward to the ACCC moneys received in relation to the businesses. ACCC seeking permanent injunctions and other orders for corrective action.

6.9.96 proceeding transferred to Brisbane. Hearing for future conduct of proceedings 19.1.98. Final hearing 26–27.3.98. Judgment for the plaintiff handed down by O'Loughlin J on 3.6.98. Injunctions granted against Andela and Beckett. Draft orders filed 1.7.98. Awaiting final orders.

**Top Snack Foods Pty Limited**, ss 52, 59. Alleged misleading conduct in relation to selling franchises for the distribution of confectionery. 23.9.96 proceedings instituted in the Federal Court Sydney against Top Snack Foods Pty Limited, one of its directors and two of its employees. 7.11.97 the court granted leave to the ACCC to join two further parties to the action, Nick Kritharas Holdings Pty Limited and Adway Holdings Pty Limited. It also granted the ACCC a mareva injunction against Gatsios Holdings Pty Ltd and Nick Kritharas Holdings Pty Limited which prevents either party from dealing with or removing certain property from the jurisdiction without first giving the ACCC 14 days notice in writing. ACCC has withdrawn its action against the fourth respondent, Selina Manera. Hearing held 15–26.3.99. Tamblyn J reserved his decision.

4.6.99 Tamblyn J found that Top Snack Foods had engaged in misleading and deceptive conduct and that George Manera, a director and manager of Top Snack Foods, and Nick Kritharas, General Manager, were knowingly concerned. Damages of over \$400 000 were awarded to franchisees of Top Snack Foods.

**Black on White Pty Limited (trading as Australian Early Childhood College)**, ss 51AB, 52. Alleged misleading, deceptive and unconscionable conduct in relation to the accreditation of courses and enforcement of enrolment contracts. Proceedings instituted 1.8.97. 15.8.97 court accepted undertakings from respondents in terms of interlocutory orders sought by the ACCC. Administrator appointed 17.10.97. Validity of appointment being challenged in Supreme Court. At directions hearing 17.10.97 court ordered joinder of fourth respondent. Directions hearing on 21.11.97 set down new timetable for discovery, filing of defences and affidavits. 15.1.98 creditors resolved to wind up company. Proceedings to continue against individual respondents. 26.10.98 notice of motion by fourth respondent to have their conduct tried as a preliminary issue. Motion unsuccessful. 30.11.98 directions hearing regarding timetable for second and third respondents. 30.11.98 directions hearing amending timetable for second and third respondents. 12.3.99 directions hearing. Matter proceeding to trial on a date to be notified by Registrar.

**Internic Technology Pty Ltd**, ss 52, 53. Alleged misleading conduct in relation to the use of a website domain name. Proceedings instituted 1.5.98. ACCC seeking orders including declarations, injunctions and publication of electronic information notices.

**Goldstar Corporation Pty Ltd and Grant Warren Hudson**, ss 52, 53(bb), 60, 64. Alleged misleading and deceptive conduct in relation to their National Federal State & Local Government Advertiser publication. Proceedings instituted 30.6.98. 2.7.98 the respondents gave an undertaking to the Federal Court that they would not engage in certain conduct which the ACCC had alleged was in contravention of the Act. 7.10.98 ACCC filed a statement of charge in the Federal Court alleging that the respondents had failed to

adhere to their undertaking and that they should show cause why they should not be dealt with for contempt of court.

On 2.11.98 the matter was heard and on 6.11.98 the Federal Court found both Goldstar and Hudson were guilty of contempt. Hudson was sentenced to two month's imprisonment, suspended for two years on condition that he did not engage in conduct in breach of Part V of the Act. Injunctions were also issued against Hudson and Goldstar and both parties were ordered to pay the Commission's costs forthwith.

11.12.98 ACCC filed a notice of motion alleging a further contempt by Goldstar. 7.5.99 Kiefel J sentenced Hudson to six months imprisonment for failing to take adequate steps to ensure that Goldstar did not engage in conduct in contempt of court.

Hudson appealed against the severity of the sentence (although not against the finding of contempt itself), arguing that it was manifestly excessive. 2.7.99, in a joint judgment, the Full Federal Court dismissed the appeal with costs, stating that in all the circumstances it was impossible to conclude that the sentence was excessive.

**HRJ Financial Services Pty Ltd**, ss 52, 53(c), 55A, 51AB. Alleged misrepresentations in relation to the provision of personal loans. Proceedings instituted against HRJ and its directors Rowland William Thomas and Helen Elizabeth Lewis on 6.7.98. 10.7.98 court issued restraining orders against HRJ and its directors.

**Austcomm Tele Services Pty Ltd and ors**, ss 51AB, 52, 53(c), 53(d), 64(2A). Alleged misleading and deceptive conduct, unconscionable conduct and assertion of a right to payment without a reasonable belief of a right to payment in relation to the sale and provision of telephony services. Proceedings instituted in Perth on 11.9.98 against Austcomm Tele Services Pty Ltd, Vision Direct (WA) Pty Ltd, Kobra Pty Ltd, Chevillie Corporation Pty Ltd, ADS Marketing Pty Ltd, Aristoteles Aris and Gregory Erskine.

24.9.98 the court, by consent, issued orders and interlocutory injunctions and set down a timetable. An administrator was appointed to

Austcomm Tele Services Pty Ltd on 25.11.98. Next directions 22.7.99.

**Norman Sidney Trayling, director A1 Mobile Radiator Repairs Pty Ltd (in liquidation)**, ss 51A, 52, 59(2). Alleged misrepresentations in relation to the sale of mobile radiator repair franchises in SA, WA and Vic.

6.11.98 proceedings instituted in Federal Court Adelaide against A1 Mobile Radiator Repairs Pty Ltd (in voluntary liquidation from 21.12.98) and its director, Norman Sidney Trayling. Interim orders granted restraining both respondents from making certain representations. Respondent failed to file a defence and so, on 7.7.99, ACCC filed for a default judgment. ACCC seeks declarations as to false and misleading representations, orders as to permanent injunctions regarding representations and assessment and payment of damages. Awaiting judgment.

**Billbusters Pty Limited**, s. 53. Alleged misrepresentations in relation to the supply of telephone bill-paying services.

Proceedings instituted 13.11.98. ACCC obtained interim restraining orders against Billbusters Pty Limited and its director Miles Kendrick-Smith on 23.11.98, restraining them from making certain representations and dealing with their assets. Next directions hearing 3.2.99.

**Westco Jeans (Aust) Pty Ltd**, ss 52, 53(g). Alleged misleading representations about consumer rights to refunds.

Proceedings first instituted 19.12.97. 13.2.98 Westco consented to orders restraining it from misrepresenting consumers' refund rights, and requiring it to place signs in its stores advising consumers of the circumstances in which refunds would be provided, to print a pamphlet advising consumers of its refund policy, and to implement a trade practices compliance program.

11.12.98 ACCC instituted further action in the Federal Court Melbourne alleging Westco had breached the court orders made on 13.2.98 by misrepresenting consumers' refund rights. 18.12.98 Westco gave undertakings to the court to place corrective advertisements in local

newspapers and to place corrective signs in all Westco factory or clearance outlets. The matter was mediated on 29.1.99 and consent orders were made on 15.2.99.

**Shercind Pty Ltd (trading as Eyetastique)** (in liquidation), s. 65C. Alleged non-compliance with mandatory consumer product safety standard for sunglasses and fashion spectacles. Proceedings instituted 15.10.98. Matter listed for mention on 26.3.99. Set down for trial on 18—19.10.99.

**Pauls Limited**, s. 53. Alleged misleading advertising of its white milk products in NT. Proceedings instituted 25.2.99. 9.3.99 court ordered Pauls not to make certain representations. Orders remain in place until full hearing. ACCC seeking corrective advertising, permanent injunctions and refunds.

**Abel Rent-A-Car**, ss 52, 53, 56. Alleged misleading advertising of car rental services. Proceedings instituted 24.2.99. Interim orders obtained 27.3.99. Further interim orders obtained by consent 5.5.99. Orders varied, and hearing on contempt issues on 24.6.99. Further directions made by consent 25.6.99. Awaiting judgment on contempt issues.

ACCC seeking permanent injunctions, declarations and corrective advertising.

**Instant Document Retrieval Pty Ltd**, ss 52, 59. False representations in relation to distributorships for doctrieve product. Proceedings instituted 13.4.99 against the company, its managing director, Mr Earl Woolley, and Mr William McIntosh. Next directions hearing 8.10.99.

**Dimmeys Stores Pty Ltd and Starite Distributors Pty Ltd**, s. 65C. Alleged non-compliance with mandatory consumer product safety standard for pedal bicycles. Proceedings instituted 21.4.99. Dimmeys and Starite intend pleading to the charges. Hearing regarding penalty set down for 12.8.99.

**MHG Plastic Industries Pty Ltd**, s. 65C. Alleged non-compliance with mandatory consumer product safety standard relating to protective helmets for vehicle users. Proceedings instituted 13.5.99. 15.6.99 Federal Court found that MHG Plastic Industries had manufactured and offered for

sale motor cycle helmets which failed to comply with the relevant mandatory safety standard. 28.6.99 Federal Court Sydney ordered MHG Plastic Industries to conduct a recall of all helmets manufactured by it since 1 July 1996. These orders stayed to argue the mechanics of the recall. 13.7.99 the court ordered the recall and that consumers be given a full cash refund. MHG is expected to lodge an appeal concerning the court's decision and orders on 19.7.99.

## Anti-competitive conduct — telecommunications

**Telstra.** Alleged anti-competitive conduct in relation to its local call transfer process. Proceedings instituted 24.12.98, following the issuing of three competition notices. Two notices the subject of the present proceedings came into force on 9.12.98; the third came into force on 25.1.99.

On 9.4.99 the Commission issued a fourth notice alleging Telstra's package of conduct in relation to churn amounts to a breach of the competition rule. The Commission will shortly institute proceedings against Telstra in relation to the third and fourth notices.

The legislation provides that Telstra may be liable for significant penalties, if it is found to have breached the competition rule, of up to \$10 million for each offence and \$1 million per offence per day for each day that the conduct continues.

## Adjudication

*The following authorisation applications and notifications are under consideration by the Commission. New authorisation and notification matters are discussed in more detail in the Adjudication chapter.*

## Authorisation applications under consideration

### **Delhi Petroleum (A90547)**

Joint venture operations for SA gas supply.

Existing interim authorisation extended until final determination is made.

*Further consideration deferred pending review of AGL authorisation A90424.*

### **Santos Limited (A90559)**

Agreement relating to the sale and marketing of liquid hydrocarbons from natural gas in south-west Queensland.

*Further consideration deferred pending review of AGL authorisation A90424 and consideration of new application A90568 to address Commission concerns.*

### **Santos Limited (A90560)**

SA Cooper Basin — joint venture — natural gas.

Further consideration deferred pending review of AGL authorisation A90424.

*To be considered with Delhi Petroleum application A90547.*

### **Advertiser Newspapers Limited & ors (A60020—1)**

Contracts and rules for the operation of SA newsagency system.

26.3.97 Interim authorisation extended to three months after the date on which the Commission's review of the NSW/ACT, Queensland and Victoria systems is completed.

12.12.97 Commission's review completed.

*Interim authorisation to dates consistent with Tribunals decision for arrangements in NSW/ACT, Queensland and Victoria.*

**Santos Ltd (A90568)**

Sale of commingled liquid hydrocarbons from Cooper Basin in SA and Qld.

8.2.95 *Interim authorisation granted.*

**Advertiser Newspapers & ors (A60022)**

Agreement regarding newsagency territories and termination of agreement to adopt newsagency administration rules.

**TransGrid and other NSW applicants, VPX and other Victorian applicants (A90601-12)**

Proposed National Electricity Market Stage 1 (NEM1) arrangements (comprising the revised NSW code, the revised VICPool rules, co-extensive rules, aligned provisions and enforcement agreement).

5.3.97 Interim authorisation granted until 'Stage 2'.

10.11.97 VIC Pool Rules revoked — new interim granted for amended pool rules which incorporate the Victorian capacity support program.

19.12.97 Amendment to application received.

24.12.97 VIC Pool Rules revoked and regranted to accommodate new entrants to VIC market.

2.2.98 Revision to amendment to application.

25.2.98 Interim authorisation granted to amend NEM1 codes until either of NEM commencement or 1.7.98.

27.3.98 Amendment to application received.

9.4.98 Amendment to application received.

6.5.98 Interim authorisation granted to amended NEM1 codes until earlier of NEM commencement or 1.7.98.

1.12.98 Amendment to application received.

9.12.98 *Interim authorisation granted to amend NEM1 codes until 180 days after NEM commences.*

**APCA (A30176-7, A90620)**

Consumer Electronic Clearing System regulation and procedures

20.8.97 *Draft determination issued proposing to deny authorisation.*

**Victorian Egg Industry Co-op Ltd (A90621)**

Franchise and marketing agreement.

27.8.97 Interim authorisation granted until 31.3.98.

25.3.98 *Interim extended until final determination issued.*

**Queensland Electricity Transmission Corporation (Powerlink) (A90626-8)**

Proposed Queensland interim electricity arrangements from 1.10.97 until National Electricity Market begins in 1998.

17.9.97 *Interim authorisation granted until 31.12.98 or start of NEM, whichever is earlier.*

**Minister for Mines and Energy (Qld) (A90632-6)**

Queensland electricity vesting contracts between the three major generators and three main retailers from 1998-2001.

14.1.98 *Interim authorisation granted until final determination.*

**Stanwell Corporation (A90634)**

Queensland electricity vesting contracts, proposed hedging contracts between three major generators and three main retailers from 1998-2001.

14.1.98 *Interim authorisation granted until final determination.*

**Tarong Energy (A90635)**

Queensland electricity vesting contracts between three major generators and three main retailers from 1998-2001.

14.1.98 *Interim authorisation granted until final determination.*

**CS Energy Ltd (A90636)**

Queensland electricity vesting contracts between three major generators and three main retailers from 1998-2001.

14.1.98 *Interim authorisation granted until final determination.*

**Moonie Oil Pty Ltd (and seven others) (A90637-45)**

Gas supplies agreement between Mereenie Producers and Gasco Pty Ltd.



12.11.98 Issues paper released.

6.1.99 Draft determination issued.

25.1.99 *Pre-decision conference held.*

**ASX (A90657)**

Proposed ASX business rule for capital liquidity requirements.

30.3.99 Draft determination issued.

28.4.99 *Final determination issued.*

**Bundaberg Associated Friendly Societies (A50019)**

Proposed collective purchasing and negotiating group for private hospitals.

16.12.98 Draft determination issued.

16.2.99 Pre-determination conference held.

29.4.99 *Second draft determination issued.*

**NSW Treasury generators and retailers (A90660)**

Proposed third tranche of vesting contracts between NSW generators and retailers.

22.7.98 Interim authorisation granted to contracts until 31.10.98.

9.12.98 Draft determination issued. Interim authorisation extended until 30.6.99.

16.2.99 *Pre-decision conference adjourned until April.*

**Chevron Niugini Pty Ltd and others (A90667-9)**

Arrangements for marketing of PNG gas, terms of supply to customers.

5.8.98 *Interim authorisation granted subject to certain conditions.*

**NECA and NEMMCO (A90671-3)**

Amendments to National Electricity Code.

16.9.98 – 20.11.98 Various amendments to applications.

7.10.98 Interim authorisation granted (conditional).

25.11.98 Interim authorisation granted (conditional).

6.1.99 *Interim authorisation granted to remove condition C3.2.*

**Australian Society of Anaesthetists (A030195)**

Australian Society of Anaesthetists agree to undertake anaesthesia service upon such standard and agreed rates and conditions.

**Energy Risk Management Pty Ltd (A90674-5)**

Risk management product for participants in the National Electricity Market.

25.11.98 *Interim authorisation granted.*

**Clay Brick and Paver Association of NSW (A90676)**

The Association's members are proposing a levy of \$1.00 per thousand. Applied to all Association members.

7.4.99 Draft determination issued.

11.5.99 *Determination issued.*

**Tarong Energy Corporation (A90677)**

Coordination of generator output at times of involuntary load shedding in the Queensland electricity market.

2.12.98 *Conditional authorisation granted.*

**Estate Agents Co-operative Ltd (A90678)**

Amendment to EAC by-laws to require residential properties listed for sale to be listed into EAC multilist.

9.12.98 *Interim authorisation refused.*

**Queensland Dairy Authority (A50020)**

Arrangements covering the issue of milk entitlements and administration of dairy supply management scheme in Queensland.

**Master Miseri Cordiae Hospital & ors (A90679)**

Proposed collective negotiating group of private hospitals.

**Australian Direct Marketing Association Ltd (A40077)**

ADMA Code of practice.

7.10.98 Draft determination issued.

26.11.98 *Pre-decision conference held.*

**Agsafe (A90680-81)**

Accreditation scheme code of conduct and sanctions process.

30.3.99 *Interim authorisation granted until final determination issued.*

**Golden Circle Ltd (A50022)**

Seeking authorisation of Constitutional arrangement that deals with acquisition of shares and conditions of a shareholding in the company.

24.2.99 *Interim authorisation granted.*

**Adelaide Brighton Ltd (A90682-3)**

Proposed acquisition of all the issued capital of Cockburn Cement Ltd.

30.4.99 *Determination issued.*

**Australian Newsagents Federation Ltd (A30196)**

Negotiation of trading terms with publishers.

16.4.99 *Interim authorisation granted.*

**The South Australian Oyster Growers Association (A60023)**

Collection of levy for industry development and promotion.

30.6.99 *Interim authorisation granted and draft determination proposing to grant authorisation.*

**APCA (A30197-9)**

Direct debit amendments to BECS regulations and processes.

10.6.99 *Draft determination proposing to grant authorisation.*

**NECA (A906484-6)**

NSW intra-regional loss factor derogation amendment.

**Hertz, Avis, Thrifty, Budget (A90687)**

Collective negotiation with Sydney Airport Corporation.

9.6.99 *Interim authorisation refused.*

**NECA (A90688-90)**

National Electricity Code changes.

**Allgas Energy Ltd (A90691, A50024-5)**

Exclusive dealing for aggregation of gas supply from PNG.

**Treasurer of State of SA and others (A90692-7)**

Electricity vesting contracts.

## Notifications under consideration

**Advertiser Newspapers Ltd (N60023-5)**

Arrangements for supply of newspapers published by Advertiser.

15.4.96 *Consideration in abeyance pending review of authorisation of related conduct.*

**Rhone Merier Australia Pty Ltd (N90385)**

Exclusive dealing for the veterinary Frontline product and terms and conditions of sale.

25.6.97 Allowed to stand.

November 1997 *Commission decided to give full consideration to notification.*

**Amex (N30722)**

Provision of health insurance to members of HCF (third line forcing).

*ADJR action by HBF.*

**Provet Queensland Pty Ltd (N50094)**

Supply of 'Pharmaceutical; vet only' and 'Open seller' product to veterinary surgeons on certain conditions only.

**Ocean Master Australia Pty Limited (N30819)**

The franchisor has entered into a franchise agreement with a number of franchisees. Clauses in the franchise agreement require franchisees to purchase specific types of food, equipment, name tags and uniforms etc. from specific suppliers (third line forcing).

**SOCOG (N90625)**

Supply of tickets to customers from a box office on condition that the customers acquire the credit services of Visa (third line forcing).

**Australian Postal Corporation (N90637)**

Australia Post offer discounts to bulk mail customers on condition that those customers purchase Post approved bulk mail software or develop their own Post approved software (third line forcing).

**Tamawood Pty Ltd (N90642)**

Offer of 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).

**Mobil Oil Australia Ltd (N40327)**  
Proposes to offer a discount from the Mobilcard price in relation to purchases by Toll Transport Pty Ltd of petroleum products from participating stores (third line forcing).

## Australian Competition Tribunal

### **Australasian Performing Right Association**

Arrangements for acquisition rights to music and licensing performances.

3.12.97 Draft determination issued proposing to deny authorisation for input and licensing arrangements.

14.1.98 Determination issued denying authorisation of input, output and distribution arrangements; granting conditional authorisation for overseas arrangements; and revoking the notification relating to input arrangements.

4.2.98 APRA filed appeal to Australian Competition Tribunal.

13.11.98 Hearing — decision reserved.

*16.6.99 Tribunal decision proposing to grant authorisation subject to rule amendments, adjourned for nine months. Interim authorisation granted.*

### **Victorian Energy Networks Corporation (Vencorp)**

Market and System Operations Rules (MSOR)

19.8.98 Determination issued granting authorisation subject to a number of amendments.

9.9.98 Application for review lodged by BHP Petroleum Pty Ltd and BHP Petroleum (Bass Strait) Pty Ltd.

23.11.98 Matter stood over to 22.12.98 pending passage of legislation introduced by the Victorian Government to exempt the MSOR from the Trade Practices Act.

1.12.98 Victorian legislation came into force.

22.12.98 Directions hearing adjourned to a date to be set, at which the Tribunal will consider whether it has jurisdiction to hear the review given the existence of the Victorian legislation.

15.3.99 Application for variation of interim to cover rule changes.

*28.5.99 Directions hearing. Tribunal accepted jurisdiction.*

### **Australian Wool Exchange**

In relation to AWEX's business rules.

30.12.98 Determination granting authorisation to AWEX arrangements for the promotion and sale of wool.

14.4.99 Directions hearing.

*27.7.99 Hearing.*

## Certification trade marks

### **Under consideration**

#### **Elicos Association Ltd (CTM 701445)**

Relating to the provision of travel programs and training for overseas students.

#### **The Law Society of Western Australia (CTM 708877)**

Relates to certification of law practices under a Quality Practice Standard.

#### **Australian Vine Improvement Association (CTM 720347)**

Relates to grapevines and cuttings/graftings/cultures of grapevines.

#### **Department of Agriculture WA (CTM 707595)**

Relates to quality systems requirements for the food industry.

#### **Department of Agriculture WA (CTM 707596)**

Relates to quality system requirements for use by primary producers, food manufacturers or food distributors.

**Standards Association of Australia** (CTM 667437)

Relates to a Certified Laboratory Practice Program.

**Consorzio Per La Tutela Del Formaggio Grana Padano** (CTM 732270-1)

Relating to Italian cheeses.

**Australian Owned Companies Association Ltd** (CTM 652664-6)

Relating to the provision of goods and services provided by a wide range of Australian companies.

**Department of Agriculture WA** (CTM 744849)

Relating to quality systems for the food industry.

**Australian Registered Cattle Breeders Association and Beef Improvement Association of Australia Inc.** (CTM 727387)

Relates to the sale of beef cattle seedlot.

**Sheepmeat Council of Australia** (CTM 703607, 704634, 710728)

Live sheep and lambs, processed sheepmeat and products.

**Centre Technique du Bois et de l'Ameublement** (CTM 750620)

Certification of wooden casks and barrels.

**Consorzio del Formaggio Parmigiano Reggiano** (CTM 677876-8)

Certification of Italian dairy cheeses.

**Victorian Conveyancers' Association** (CTM 758563)

Certification of conveyancing services.

**Department of Mines and Energy, Qld and others** (CTM 714440)

Certification of household electrical goods ó assignment and variation to the rules.

**Certifire Pty Ltd** (CTM 750533)

Certification of passive fire protection systems.

**Craft Australia** (CTM 746821)

Certification of Craft products, materials and techniques.

**National Safety Council of Australia Ltd** (CTM 725527)

Certification of audit services of occupational health and safety activities.

**Chrissie Maher** (CTM 712256)

Certification of document standards.

**Waters and Rivers Commission WA** (CTM 716402)

Relating to plumbing and landscaping services.

**Cattle Council of Australia** (CTM 647073, 669943)

Assignment to Cattlerecare Ltd.

**The Bio-dynamics Research Institute** (CTM 704565, 709823)

Relating to clothing and other apparel made from horticultural crops.

**Printsoft Development** (CTM 730216)

Relating to IT software high speed printing.

**Australian Fertiliser Services Association** (CTM 738374)

Relating to fertiliser spreading equipment.

**Recording Industry Association of America** (CTM 704384)

Certification of enhanced CDs, musical sound recordings with accompanying text, graphics and audio-visual images with interactive capabilities.

**Benchmark Certification Pty Ltd** (CTM 764299)

Laboratory standards auditing services.

**Consorzio per la Tutela del Formaggio Grana Padano** (CTMS 731270, 732271)

Italian cheeses.

**Australian New Zealand Food Authority** (CTM 770228)

Relating to health claims on foods and beverage products.

**Seed Industry Association of Australia** (CTM 768023)

Sowing seed quality.

**Standards Association of Australia** (CTM 743608)

Design award program and consultancy services.

**Harris Tweed Authority** (CTM705888)

Amendment to the rules re Harris Tweed cloth.