
International developments

6th Asian and Oceanic Antimonopoly Conference

On 15–16 November 1999 the Commission will host the 6th Asian and Oceanic Antimonopoly Conference in Canberra.

This event has traditionally attracted high ranking officials from competition agencies throughout the Asian and Oceanic region. The conference is an important forum for discussion and dialogue on domestic and international competition policy and law. It aims to foster greater harmony, cooperation and networking between competition agencies and regulators.

Previous conferences hosted by other government agencies in the Asian and Oceanic region include the 4th Conference in New Zealand in 1991 and the 5th Conference in Japan in 1994. This year's conference should attract approximately 60 delegates from 20 countries.

From Canada

\$700 000 fine for sodium gluconate conspiracy

On 23 July 1999 Akzo Nobel Chemicals BV and Glucona BV, two Dutch companies, pleaded guilty to having participated in an international conspiracy to fix prices and share markets for sodium gluconate.

The Federal Court of Canada imposed fines totalling \$700 000 to be paid immediately. In addition, the court imposed a prohibition order on Glucona BV to deter and prohibit any repetition of this offence. Azko is no longer engaged in the sodium gluconate business.

Sodium gluconate is used industrially to clean and treat metal, and to control the setting of concrete. Azko and Glucona's sales of sodium gluconate in Canada were approximately \$2.6 million in the relevant period.

The conspiracy involved American, European and Japanese producers of sodium gluconate who met in Canada and abroad between 1987 and 1995 to fix prices and allocate market shares worldwide.

The conviction resulted from a series of criminal investigations being conducted by the Competition Bureau into international conspiracies to fix prices and allocate market shares among the suppliers of various products in the worldwide food and feed additives industries.

From New Zealand

The following item was extracted from the New Zealand Commerce Commission's newsletter *Fair's Fair*, July 1999.

Exemptions from the Electricity Industry Reform Act

Under the Electricity Industry Reform Act, companies involved in electricity lines businesses and electricity supply businesses are required to separate ownership of the two types of businesses unless exempted from the Act by the Commission.

The Commission has recently made a number of decisions on such exemptions.

Top Energy applied to the Commission for exemption so it could continue to own and operate the Ngawha Power Station. This would

mean that Top Energy would have a cross-involvement with an electricity lines and an electricity supply business. The Commission declined to grant an exemption to Top Energy on the grounds that an exemption would provide Top Energy with incentives or opportunities to cross-subsidise Ngawha Power Station from its electricity lines business. The exemption would also allow a relationship between Top Energy's electricity lines and supply businesses that would not be at arm's length. The Electricity Industry Reform Act permits trust-owned companies to form a mirror trust, if they wish, before 1 April 1999. The Commission granted Top Energy a time extension to form a mirror trust within 90 days of this decision.

BHP New Zealand Steel Limited was granted an exemption subject to conditions. The exemption is for BHP's Glenbrook steel mill. BHP owns an electricity lines network, which it uses to supply electricity to two companies — BOC Gases and Duke Energy — whose businesses are situated on the mill site. BHP does not charge the companies for the use of its network, nor does it charge a margin over its electricity purchase cost. Further, it has no incentive to increase the cost of power to BOC as that would increase the costs of the goods BOC supplies to BHP. The conditions are that BHP notifies the Commission if it supplies electricity or a lines service to any new customers; does not generate electricity for other than its own use; advises the Commission if it changes its electricity charges to BOC or Duke; and does not introduce a lines charge.

Colwall Property Investment Limited was granted a conditional exemption. The decision will allow tenants to buy electricity from their landlords or shop around for better deals from other suppliers. The Commission considers that the definitions in the Electricity Industry Reform Act include wiring in buildings as a lines business and selling electricity to tenants as a supply business.

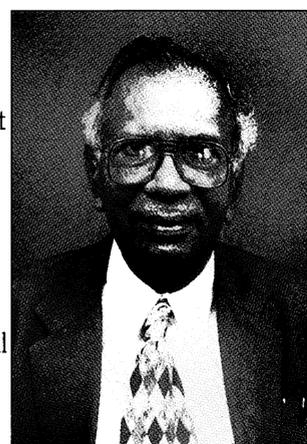
Infrastructure & Utilities NZ Ltd (Infratil), Alliant International New Zealand Ltd and Utility Investments NZ have been granted an exemption until 30 June 2000. The three companies applied to the Commission for exemption to allow them more time to dispose of their involvements in Powerco and

CentralPower. Such sales were made necessary by the companies' ownership of a large part of electricity generator and retailer, TrustPower. The Commission considered that permitting the companies to remain involved in both electricity line and supply businesses for a maximum of one year would not defeat the purposes of the Electricity Industry Reform Act.

Ten companies in the **Fletcher Challenge Group** have been granted an interim exemption until the Commission makes its final decision. The group has wide-ranging electricity interests throughout the country. As the companies are interconnected, it is their total electricity interests that must be looked at.

From Sri Lanka

The following is a condensed version of an article by FDC Wijesinghe, Consultant Economist, and Chairman of the Task Force on the amalgamation of the Fair Trading Commission and the Department of Internal Trade, Sri Lanka, published in *The Independent News*, 17 January 1999.



Sri Lanka's competition policy

Legislation is to be put before the Sri Lankan Parliament to establish a Consumer Protection Authority and a Competition Tribunal, replacing the former Department of Internal Trade and Fair Trading Commission.

The Consumer Protection Authority is to consist of a Chairman, two Vice Chairmen and not more than six other members. It will be appointed by the President.

The Authority's functions include to:

- control or eliminate restrictive agreements or arrangements among enterprises or the acquisition or abuse of dominant positions of market power, which limit access to markets or otherwise unduly restrain competition, adversely affecting domestic or international trade or economic development;
- investigate or inquire into monopolies, mergers and anti-competitive practices;
- maintain and promote effective competition between persons supplying goods and services;
- promote the interests of consumers, purchasers and other users of goods and services in respect of the price, availability and quality of such goods and services and the variety supplied;
- carry out investigations and inquiries in relation to any matter specified in the Act;
- promote competitive prices wherever possible and to regulate prices in markets where competition is less than effective;
- undertake studies, publish reports and provide information to the public relating to market conditions and consumer affairs;
- undertake public sector efficiency studies; and
- promote the exchange of information relating to market conditions and consumer affairs with other institutions.

The Authority can fix the prices of 'specified articles', which means articles of food, drink or merchandise which, in the opinion of the Authority, are not competitively priced.

All judicial or quasi-judicial work is to be transferred to a Competition Tribunal consisting of:

- a retired judge of the Supreme Court or the Court of Appeal;
- a lawyer having wide experience in the field of commercial law; and
- an economist with wide experience in trade practices and consumer affairs.

The constitution of this Tribunal will overcome the factors which make the Fair Trading Commission, as presently constituted, unsuitable to carry out judicial functions — a matter which became evident in the judgment of the Court of Appeal in C.A. No. 932/94 of Dr Ranaraja J. In this case the respondent, Fair Trading Commission, had commenced an inquiry without jurisdiction and declared the agreements between the appellant, Ceylon Oxygen Ltd, and five customers null, void and inoperative without hearing those customers, in breach of the basic rules of natural justice.

The new Act sets up a new structure based on similar institutions abroad. The Task Force, the Parliamentary sub-committee and the Legal Draftsman's Department have done a good job. But the success of the scheme will depend entirely on the calibre of the persons who are appointed to the Boards of the Consumer Protection Authority and the Competition Tribunal.