
Adjudication

Authorisations

The Commission has the function, through the authorisation process, of adjudicating on proposed mergers and certain anti-competitive practices that would otherwise breach the Trade Practices Act.

Authorisation provides immunity from court action and is granted if the Commission is satisfied that the practice delivers offsetting public benefits.

Determinations

The full report of the following determinations can be obtained from the ACCC website at: <<http://www.accc.gov.au>>.

Inghams Enterprises Pty Limited

In relation to continuation of collective negotiations between growers and Inghams—extension to A90595, expiring 30 June 2002 (A90825)

17.4.02 Interim authorisation granted.

4.12.02 Draft determination issued.

22.1.03 Final determination issued.

The Commission has issued a final determination granting authorisation to Inghams Pty Ltd to continue to conduct collective contract negotiations with its chicken growers in South Australia. Inghams sought authorisation to conduct collective negotiations on contract terms and conditions (including for chicken growing fees) in accordance with a code of practice and minimum contract guidelines. The Commission had previously granted authorisation to Inghams in South Australia in similar terms, but that authorisation had expired.

In granting authorisation for five years, subject to conditions, the Commission noted that the South Australian Parliament is expected to debate new legislation to regulate the industry and allow for collective bargaining between chicken growers and processors in SA early this year.

The Commission considered that the arrangements are likely to result in benefits to the public. They

include a measure of certainty and continuity with collective bargaining, and some savings in adjustment costs to Inghams and its growers in light of the likely transition to a regulated industry in South Australia.

It was of the view that the public benefits outweigh the possible anti-competitive effect of the proposed arrangements, which is limited because of the nature of the proposed arrangements and the structure of the poultry meat industry.

Health Purchasing Victoria (HPV)

Authorisation granted, subject to conditions, for agreements between HPV and Victorian public health services for the exclusive award of tender to nursing agencies (A90811-2)

27.6.02 Draft determination issued.

4.12.02 Final determination issued.

20.12.02 Appealed to the Australian Competition Tribunal.

The Commission granted authorisation, subject to conditions, to a proposal for public health services (and one private health service) in Melbourne and Geelong to jointly tender for agency nursing services.

HPV's application was originally intended to limit the rising cost of agency nurses resulting from the general nursing shortage. However, on 1 March 2002, the Victorian Department of Human Services (the DHS) chose to address this issue by issuing a direction to public health services capping the rate at which they could pay agency nurses, and limiting the instances in which agency nurses could be employed.

The Commission therefore assessed HPV's application in the light of the direction issued by the DHS. The Commission considered that, in this context, the impact of the collective tender process would be minimal. In particular, the Commission considered that there was unlikely to be a significant reduction in agency nurses' remuneration as a result of the collective tender process.

The Commission further considered that the proposed collective tender process would generate

administrative cost savings that would allow more funds to be devoted to improving patient care.

The Commission decided that these cost savings were a benefit to the public that outweighed the minimal detriment likely to flow from the proposed collective tender process, and accordingly granted authorisation to the application (subject to conditions).

The Commission's decision is now the subject of an application for review to the Australian Competition Tribunal.

Royal Australian College of General Practitioners

Authorisation granted, subject to conditions to a framework arrangement allowing general practitioners in specified business structures to agree on patient fees (A90795)

19.9.01 Interim authorisation granted.

20.6.02 Draft determination issued.

19.12.02 Final determination issued.

The Commission issued a final determination granting authorisation, subject to conditions, to allow GPs in certain associateships (and partnerships) to agree on fees.

Associateships are groups of GPs who wish to remain independent while co-locating to obtain certain advantages (such as shared rent and administrative costs).

The Commission considered that allowing associateships that function as one medical entity to agree on fees would help to facilitate a team approach to patient care, thereby improving quality. However, this authorisation does not allow fee agreements between doctors in different general practices.

The Commission noted that authorisation allows GPs who meet the criteria specified in the determination to agree on fees, but does not compel them to do so.

Resource NSW

Application for minor variation of authorisation A30204 in relation to a proposed collective tender process between councils in southern Sydney for the sorting and disposal of their dry recyclable material

6.11.02 Final determination issued.

The Commission granted an application from Resource NSW for the minor variation of authorisation A30204. A30204 authorised 11 local councils in the southern Sydney region to collectively tender for materials recycling facilities operators with a view to appointing one such operator to sort and dispose of their dry recyclable material for a period of 10 years.

The minor variation granted was a change to one of the conditions of the tender process. Resource NSW applied to remove the condition that the successful tenderer must build a recycling facility in the region and replace it with a condition that the successful tenderer must build such a facility in the region only if it did not already have one or in an area adjacent to it.

Notifications finalised

The following notifications have been allowed to stand.

Liquorland Pty Ltd and Liquorland (Qld) Pty Ltd (N31176 and N31188) Discount offered to customers who have purchased goods to a particular value from Coles Supermarkets Australia Pty Ltd.

RAC Driver Training Pty Ltd and Royal Automobile Club of WA (RACWA) (N70356-7) RACWA to offer discounts and free membership on condition recipient enters into a franchise agreement with the applicant.

Mistearl Pty Ltd (N91047) Fuel discount offer.

National Australia Bank (N40525) Offer to supply a NAB product on condition that customers acquire one or more Your Prosperity products (third line forcing).

Seekers Australia Pty Ltd (N31197) Discounts offered to customers who purchase products using a MasterCard.

Virgin Mobile (Australia) Pty Ltd (N31198) Discounts offered to customers who purchase goods or services from Community Program Members.

RACV Finance Limited (N40541) Special conditions on loans to customers who purchase a RACV home security system from RACV Sales and Marketing.

Australia and New Zealand Banking Group Ltd (N40542) Discounts offered in conjunction with ANZ Square Retailers, to registered users of ANZ First and ANZ Gold websites.

Timberland Furniture Franchise Systems Pty Ltd (N31200) Requirement for franchisees to purchase furniture from nominated suppliers.

Stockland WA Estates Pty Ltd (N91036) Nominated builders to be Settlers Hills, Baldivis, WA.

HBF Insurance Pty Ltd (N70353) Recommended repairers to use software marketed by Autoquote.

Harley Davidson Motor Company Inc. (N31199) Appointment of nominated authorised distributors and dealers for Harley Davidson products.

Sobane Pty Ltd (N70354) Proposing to enter into a contract of sale with each purchaser of a lot which will require the purchaser to enter into a building contract with Cameera Pty Ltd.

CPS Credit Union (SA) Ltd and CPS Financial Services (Taxation) Pty Ltd (N60035–6) Promotion of financial advice packages Genius First, Genius Plus and Genius Prestige.

Indervon Pty Ltd t/a Caltex Alice Springs (N91056) Fuel discount with proof of purchase from IGA Foodland Alice Springs.

Tourism Queensland (N31203) Discounted holidays on condition MasterCard is used to acquire product.

Surrey Pty Ltd (N91048) Discounted fuel from Shell Kalangur for customers of Kalangur Supermarket.

Monsanto Australia Limited (N40532) Requirement for licence agreement with Monsanto prior to the purchase of Ingard, Bollgard 2, and Roundup Ready cotton seeds.

Myer Stores Limited (N40539) Discounts offered on condition customer purchases wines produced by De Bortoli Wines Pty Ltd from selected outlets.

AMP Bank Limited (N31201) American Express reward points offered to members of the Institute of Chartered Accountants who re-finance a home loan with AMP Bank.

Kmart Australia Ltd (N40540) Discounts offered with proof of purchase from McDonalds Australia Ltd.

BioLab Australia Pty Ltd (N91049) Reduction in franchisees joint marketing fund contribution for purchases of particular value from certain suppliers.

Clake International Pty Ltd (N31202) Discount offered on condition the customer uses MasterCard.

National Australia Bank Limited (N40546) Supply product on condition that customer acquires one or more products from Medfin Australia Pty Ltd.

Western Power Corporation (N70334) Electricity supply agreement with Burns and Roe Worley Developments Pty Ltd, Esperance region WA.

International Management Group of America Pty Ltd (N31204) Discount if MasterCard is used to acquire merchandising products at MasterCard Masters Golf Tournament.

Telstra Corporation Ltd (N31170–1) Re-sell subscription television service together with Telstra's telephony and other telecommunications services.

Printware Australia Pty Ltd (N40538) Franchisees to purchase products from nominated suppliers.

Sun World International Inc (N91042) Sun World will grant 'authorised' fruit growers certain rights (such as the right to lease Sun World plant varieties).

Globe Australia Garrads C Ruddick David Gray & Co (N91043–6) Bayer CropScience Pty Ltd accreditation program for installers of Kordon TMB and Kordon TB (moisture and termite protection in building construction).

McWilliams Wines Pty Ltd, Emap Australia Pty Ltd, Liquorland Australia and Liquorland Queensland (trading as Vintage Cellars) (N91052–5) Arrangement with Emap and McWilliams Wines (sole distributor of Holsten beer) for free beer on presentation of a coupon.

Sensis Pty Ltd (formerly Pacific Access Pty Ltd) (N40545) Supply online listing of Yellow Pages to government agencies and business that acquire a Yellow Pages print display advertisement.