Brothers in arms
or
RIVALROUS SIBLINGS?

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The competition and consumer elements of the Trade Practices Act 1974.

'To control restrictive trade practices and monopolisation and to protect consumers from unfair commercial practices,' was how the Attorney-General, Senator Murphy described the twin objectives of the *Trade Practices Bill 1974*.[1] The language was perhaps not as lofty as that used by President Kennedy in his 1962 'we are all consumers' speech to Congress, but the great achievement of the *Trade Practices Act 1974* (the *TPA*) was that it gave Australia an effective and practical regime protecting both competition and consumers.

This article looks at the sometimes uneasy relationship between the *TPA*'s competition elements (primarily Part IV) and the consumer protection provisions (Part V). In particular, it is argued that the basic difference in purpose of the two elements is sometimes overlooked and that the balance of the Act has often been tilted in favour of the competition function. Following the attention given to the Hilmer reforms, it is now necessary to ensure that the *TPA* continues to adequately protect the rights of individual consumers.

History and outline

Australia has had trade practices legislation since the *Australian Industries Preservation Act 1906*. That Act, and the *Trade Practices Act 1965* which followed, both fell to constitutional challenges relating to the scope of the Commonwealth's corporations power (s.51(xx)).[2] The 1965 Act was quickly replaced by the *Restrictive Trade Practices Act 1971*, which regulated essentially the same matters but was based on the new, broader interpretation of the corporations power.

The 1965 and 1971 Acts dealt only with competition and market concentration and were widely regarded as inadequate to perform the task effectively. The Commissioner was required to maintain a register of restrictive agreements, individually assess them and, in order to have them declared illegal, prove that they were against the public interest. In this sense, there was a presumption that price fixing had little detrimental effect. Furthermore, the enormity of the task of examining individual agreements was clear: at 30 June 1974 the register listed 12,213 agreements, and only 147 had been determined during the year.

The most important improvement, therefore, in the new Act's competition provisions was that the onus of establishing the public interest moved from the Commissioner to the parties to anti-competitive agreements. Another important change was the move away from declaring specific practices examinable, to a more general (yet detailed) approach based around principles of competitive behaviour, similar to the US approach. The major requirements of Part IV are that corporations are not to: enter anti-competitive contracts, arrangements, understandings (s.45) or covenants (s.45B); make anti-competitive use of substantial market power (s.46); engage in anti-competitive exclusive dealing (s.47); engage in resale price maintenance (s.48); or acquire shares or assets which would lead to a substantial lessening of competition in a market (s.50).

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Part V of the *TPA* provided the Commonwealth's first integrated scheme of consumer protection law. In its original form, it covered 'unfair trading practices' (for example, misleading and deceptive conduct, pyramid selling), product safety and implied terms in consumer contracts ('post-sale consumer protection'). Additional elements have been added since, including statutory guarantees enforceable against manufacturers (1978), improved product safety provisions (1986) and a statutory prohibition on unconscionable conduct (1986). A strict product liability regime was added as Part VA in 1992.

Enforcement and compliance with both parts of the Act is dealt with in Part VI. Detailed examination is not possible here[3] but, in brief, civil liability exists for contraventions of both parts of the Act and may be remedied by awards of damages (s.82), injunctions (s.80), or such 'other orders as the court thinks appropriate' (s.87). Civil penalties may be imposed for breaches of Part IV (s.76) and criminal penalties in respect of contraventions of Part V (s.79), except for breaches of s. 52. In addition to these judicial responses to contraventions, the Trade Practices Commission (TPC) can accept court-enforceable undertakings in connection with both Part IV and V matters (s.87B). The cost and time advantages of this 'administrative' enforcement mechanism have made it an important part of the TPC's approach to securing compliance with the Act.

In 1974, the Act was described as 'the most important legislation regulating the conduct of business to have been enacted in Australia'[4] and the accolade was recently endorsed by the current Chairman of the TPC, Professor Allan Fels.[5] Certainly, its effect on business conduct has been profound. Commenting on the 20th anniversary of the Act, Professor Fels said: 'In 1974, price-fixing agreements were the norm ... Most businesses were involved in anti-competitive agreements and the economy was largely cartelised.'[6]

In regard to consumer protection, Murphy pointed out that *caveat emptor* remained the rule in consumer transactions.[7] The cultural change in Australian business towards more open competition and fairer dealing with consumers can be credited in large part to the *TPA*.

Consumer vs competition law

Consumer protection and competition laws seek to achieve related, but separate goals. For present purposes, consumer laws are taken to be aimed at protecting the four basic consumer rights enumerated by President Kennedy in 1962, namely: the right to safety, to be informed, to choose and to be heard. The aim of competition law is commonly regarded as the promotion of economic efficiency and, consequently, national economic welfare.

As a very general proposition, consumers will fare better in competitive markets[8] and it is this idea which links Part IV and V of the *TPA*. However, competition *per se* will not guarantee pro-consumer outcomes, any more than it will automatically lead to good corporate governance. Indeed, it could be argued that the pressures of 'deliberate and ruthless' competition may encourage some businesses to act in ways that may infringe consumer rights (for example, the right to safety). Another explanation is provided by Professor John Goldring:

> the real reasons for the enactment of a great deal of law dealing with mergers, monopolies and restrictive trade practices would appear to be the prevention of concentration of business power, which has political implications, rather than protecting consumers.[9]

Nevertheless, consumer welfare has long been invoked as the inspiration for competition law and the practice reached new heights following the release of the Report of the Independent Committee of Inquiry, *National Competition Policy* (the Hilmer Report). However, Holmes never said 'Elementary, my dear Watson' and Hilmer doesn't say that consumer interest is the purpose of competition policy. Instead, the Report nominates economic efficiency as a 'fundamental objective' of competition policy, whereas 'the empowerment of consumers' is merely one of a range of goals which 'will often be consistent' with the promotion of competition.[10]

The difference between the economic interests of society as a whole, and the social and legal rights of consumers as individuals, is the important distinction between Parts IV and V of the Act.[11] In practical terms, there will be instances where consumers may suffer the 'unintended adverse 'fall-out' from competition'[12] or may lose when pro-competitive reforms fail (the author, for instance, holds a fully paid Compass Airlines ticket). More significantly though, the very nature of the consumer protection task is different to the maintenance of competition. In this sense the incorporation of the two elements within the same Act may present problems if reforms in one part obscure the need for reform in the other.

It is this imbalance which has often put the *TPA*'s consumer protection provisions at a disadvantage. In the author's opinion, three reasons for this disadvantage have been evident over the past 21 years. First, the constitutional limitations on the Act have a greater impact in relation to consumer protection. Second, the regulatory structure built around the consumer protection provisions is less sophisticated than that which applies to Part IV. Finally, the Trade Practices Commission is necessarily constrained in the assistance it can provide consumers compared with the outcomes it can achieve in the competition field.

Constitutional limitations

The enormous potential scope of trade practices legislation has meant that it has always encountered constitutional problems. Although the decision in *Rocla* established a firm constitutional base, the challenge of ensuring the *TPA* has sufficient reach to achieve its goals continues today, with particular emphasis being given to extending the application to the professions and State government enterprises.

The significant constitutional cases regarding the application of the Act have largely arisen from Part IV, or earlier equivalents. There are a number of reasons for this, including the fact that parties to Part IV actions are comparatively well-resourced litigants (for example, large corporations and the TPC) with enough at stake to justify the cost of constitutional litigation. Also, the States do not have similar regulatory regimes which control restrictive trade practices, so the consequences of particular matters escaping the application of the *TPA* are greater. Similarly, attempts to 'solve' constitutional problems by governments tend to concentrate on Part IV because it has more obvious economic (and therefore political) significance than Part V.

Yet despite the attention given to it, solving constitutional problems in relation to Part IV is neither as difficult nor as urgent as those related to Part V. It can be argued, for instance, that there are fewer constitutional loopholes in relation to Part IV. Organisations which are likely to possess sufficient market power to successfully engage in anti-competitive conduct or mergers will generally be corporations

and therefore subject to the *TPA*. On the other hand, breaches of Part V are perhaps more likely to be committed by small, non-corporate businesses which lack the resources to implement effective compliance strategies or to engage specialist legal assistance. One reason that the search for solutions to Part V constitutional problems is not regarded as more pressing is the perception that, because all the States have legislation which includes similar consumer protection provisions to the *TPA*, the differences are more irksome than substantial.

The practical problems, however, begin with the differences in application of the various consumer protection acts. The basic definition of 'consumer', while broadly similar, is different in every State and Territory Fair Trading Act. Farmers are 'consumers' when purchasing farm equipment in New South Wales, but lose that status when they move south of the Murray River. In terms of substantive rights, there are also problems because not all *TPA* provisions are included in the Fair Trading acts of all the States. Further, some States have provisions based on Part V of the *TPA* scattered through a number of Acts.[13] In seeking redress, consumers face further obstacles. The Commonwealth cannot confer jurisdiction on courts which are not constituted in accordance with Part III of the Constitution, so *TPA* matters cannot be heard in State consumer claims tribunals (with the exception of the implied guarantees, which become contractual terms). The confusion that results and the costs associated with having to proceed in courts, rather than tribunals, contributes to the limited use consumers make of the *TPA* as a means of enforcing their rights.[14]

The constitutional problem is exacerbated by the difficulties involved in reforming consumer law. When introduced, the State and Territory Fair Trading Acts were similar to the *TPA*. Since that time, a large amount of divergence has taken place, including the lack of statutory product liability schemes at the State level and, despite constant efforts at reform, the inconsistent treatment of 'post-sale' consumer rights. Attempts to reduce the inconsistencies would require the agreement of all State and Territory governments to widespread legislative changes.

Despite these considerations, more attention has been given to Part IV matters. The Hilmer reforms would appear to have removed most important exceptions to the competition provisions of the Act, by the inclusion of Part IV as a 'Competition Code' in State legislation. By contrast, similar co-operative reform has succeeded in only a few consumer law areas. For instance, the States and Territories have agreed to the adoption of a uniform Consumer Credit Code which is enacted by reference to the Queensland 'template' version of the Code. This scheme has the important advantage of simplifying reform in the future. Unfortunately, the majority of Australian consumer law remains shackled by constitutional problems.

The regulatory framework

The regulatory structure supporting Part IV established in the *TPA*, and developed by the TPC, is more sophisticated than that pertaining to Part V. It provides a range of responses to enforcement and compliance and better coverage of a number of elements of an effective regulatory regime.

For the sake of discussion, this 'effective regulatory regime' might be viewed as a continuum of inter-related measures used to achieve compliance with the *TPA*. At the broadest level, a culture of competitive, fair trading should be encouraged through education. Next, the basic principles of market conduct and fair dealing should be established, primarily in legislation. The specific practices that comply with the legislation should be described in guidelines, regulations, codes of practice, and so on which are clear, flexible and up to date. Finally, individual cases will establish precedents which will apply the principles and guidelines to particular facts and may also establish new principles. So, for example, a business culture which values the supply of accurate information to consumers will include a principle that businesses should not 'engage in conduct which is misleading or deceptive', which in the context of investment requires fund managers to accurately inform clients of the manner in which returns are calculated. Following this practice will mean that a particular business will avoid becoming a precedent for others not to follow.

Some elements of the continuum are covered equally well in relation to both competition policy and consumer protection . In regard to culture, 21 years of the *TPA* and the efforts of various government and community organisations have led to broad acceptance of both objectives of the *TPA*.[15] At the other end of the scale, judicial decisions have provided numerous precedents relating to both Parts IV and V. There are also a range of other precedent-setting mechanisms available under the Act, most of which relate to Part IV matters.[16]

The line between principles and practices is perhaps the most difficult to draw. Another view of the distinction is 'hard law' (immutable principles in legislation) as opposed to 'soft law' (practices outlined in Codes of conduct or guidelines which may not be legally enforceable).[17] As discussed above, Part IV of the Act establishes principles of market conduct and allows the provision of guidance through a number of mechanisms (for example, merger guidelines and authorisations). By contrast, Part V relies on far more specific prohibitions on certain practices. The greater detail may be justified because criminal penalties are available for breaches of most Part V provisions, but not in relation to Part IV. However, it has meant that much of the soft law relating to consumer protection has had to be developed without clear policy guidance expressed in legislative principles.[18]

There are important benefits from including soft law within a regulatory package. The soft law may provide a preventative mechanism, by more clearly applying hard law to practical situations. Also, where industry participates directly in the development of codes, for example, it may give a sense of 'ownership' which encourages compliance. Arguably the most important benefit is that soft law provides flexibility. An example of where this approach has been employed is in respect of mergers which substantially lessen competition (s.50), which may be refined to accommodate changes in the economy, without needing to amend the *TPA* itself. By contrast, refinements to s.53, which prohibits the making of certain false representations, require amendments to the *TPA* itself because of the detail included in the original provisions.

The regulator

A further challenge for Australian consumer protection is to find an administrative 'home'. The body responsible for encouraging compliance with the *TPA* and taking enforcement action is the TPC. In recent times, it has had some spectacular success in pursuing significant cases involving breaches of the *TPA*'s consumer protection provisions. However, as the Commission notes itself, it is necessarily 'selective in choosing enforcement actions'.[19] The TPC was never

intended, and does not have the resources, to pursue matters on behalf of individual consumers. Furthermore, within months of the *TPA* commencing, the Attorney-General had established a separate taskforce within his Department devoted to prosecuting breaches of the consumer protection provisions.[20]

More significantly, the Whitlam Government secured the passage of a Consumer Protection Bill in October 1975, which intended to remove the consumer protection elements from the *TPA* and place them in the new Act. It proposed a new body, the Australian Consumer Protection Authority, which would 'bring together the functions and powers presently exercised by the Trade Practices Commission in relation to the legal aspects of consumer protection as well as the technical functions and activities needed to establish a sound base for consumers to be given accurate and adequate information about consumer goods.'[21] The Bill also contained significant improvements in relation to product safety and hazard warning. However, October 1975 was not a propitious time for new legislation and the Bill was not assented to.

The 21st birthday of the TPC will also be its last. As part of the National Competition Policy reforms, the TPC will merge with the Prices Surveillance Authority (PSA) to form the Australian Competition and Consumer Commission. With the added strain of its new functions and its expanded role as the competition 'super regulator', the possibility of the consumer protection function becoming marginalised may increase. A former member of the Commission, Professor Warren Pengilley recently philosophised on the potential dangers of bringing all the functions of the TPC and the PSA as well as the new 'access to essential facilities' responsibilities under one roof.[22] The article states bluntly, 'The TPC's functions are in relation to competition law' and, tellingly, the place of the consumer protection function is not mentioned.

The point is not that the TPC is unable to cope with both competition and consumer protection functions (in fact, there are some in business who would argue it is too effective). Rather, there is a risk that the TPC will be left without the resources or skills to effectively execute the two very different tasks. The institutional arrangements surrounding the new competition policy is another area where governments have embraced the Hilmer Report's recommendation of establishing new specialised bodies to handle competition issues. It is also an area where the consumer protection function ought not to be overwhelmed by competition reforms.

The way forward

The outlook for Australian consumer protection is not bleak, and there are a number of positive initiatives on foot which help ensure Part V remains effective and relevant.

With regard to the constitutional problems, many (such as jurisdictional problems) are difficult to solve without changes to the Constitution. Alternative solutions in some areas are possible, most importantly in the substance of legislation (for example, the uniform Consumer Credit Code). The recently released Justice Statement also announces that the Commonwealth Government will be 'seeking the development of a national scheme of easily understood consumer protection laws to replace the current overlapping and sometimes inconsistent laws'.

There are also signs of a shift in the structure of Part V of the Act towards more principle-based legislation. In June this year, the Minister for Consumer Affairs released an outline of the 'Culture of Safety' statement. The statement questions the current cumbersome mechanism of compulsory standards and the detrimental effect the approach has had on Australia's international competitiveness. Instead a 'general provision of safety' is proposed, under which risk-specific standards could be adopted. A similar trend is emerging in relation to the development of various codes of practice, particularly in financial services markets. However, it is desirable that such codes operate within an established legal framework so that they don't give consumers rights which are, in the end, unenforceable and therefore illusory.

On the question of institutions charged with protecting consumers, it would be premature to comment on the likely success of the Australian Competition and Consumer Commission. In the author's opinion, however, it will be important that the different demands of competition policy and consumer protection are not overlooked. Equally importantly, the consumer protection function should not be regarded in the broader community as merely an incident of competition reform.

The *TPA* and the TPC have served Australian consumers well for the last 21 years. They have provided a meeting point for competition and consumer regulation and have delivered significant improvements in business practices. To build on this success, it is important that the two elements are appropriately balanced in Australia's post-Hilmer marketplace.

References

1. Australia, Senate, *Debates*, 1974 vol. S60 p.540 (*TPA* second reading speech).
2. In constitutional law terms, both Acts went down spectacularly; the former in *Huddart Parker & Co Pty Ltd v Moorehead* (1909) 8 CLR 330, which virtually defined the corporations power until the *TPA* 1965 was ruled invalid in *Strickland v Rocla Concrete Pipes Ltd* (1971) 124 CLR 468. Although the legislation was held invalid in *Rocla*, the case dramatically strengthened the Commonwealth's powers over corporations, allowing future trade practices legislation much greater scope.
3. See Australian Law Reform Commission, *Compliance with the Trade Practices Act 1974*, Report no. 68, AGPS, Canberra, 1994.
4. Taperell, G. Q., Vermeesch, R. B. and Harland, D. J., *Trade Practices and Consumer Protection*, Butterworths, Sydney, 1974, p. vii.
5. Fels, Allan, 'The *Trade Practices Act 1974*—Twenty Years On', (1994) 2 *Competition and Consumer Law Journal* 89, at 91.
6. Macleay, John, 'TPC: The Next Generation', *Australian*, 3.10.94, p.21.
7. *TPA* second reading speech, p.540.
8. The presence of social objectives, for example in the case of utilities, may influence this judgment; see Australian Consumers' Council, *Privatisation of Utilities: How are consumers affected?*, AGPS, Canberra, 1995; TPC, *Passing on the Benefits: Consumers and the Reform of Australia's Utilities*; Nagarajan, Vijaya, 'Reform of Public Utilities: What about the Consumer?' 2 *Competition and Consumer Law Journal* 155.
9. Goldring, John, 'Consumer Law and Legal Theory: Reflections of a Common Lawyer', (1990) 13 *Journal of Consumer Policy* 124.
10. Independent Committee of Inquiry, 'National Competition Policy' (the Hilmer Report), AGPS, Canberra, 1993, pp. 3-5. Senator Murphy also pointed to the macroeconomic impact of the legislation: 'The Bill is especially important because of its relevance to inflation' (*TPA* second reading speech, p.541).
11. From the point of view of Part IV of the Act, the distinction between law and economics is often made in examining the competence of the courts to 'solve' competition problems; see O'Bryan, Michael, 'Section 46: Law or Economics?' (1994) 1 *Competition and Consumer Law Journal* 64. Compare Pengilley, Warren, 'Queensland Wire and its Progeny Decisions: How competent are the Courts to Determine Supply Prices and Trading Conditions?' (1991) 21 *Western Australian Law Review* 225.
12. TPC, *Annual Report 1994-95*, p.2.
13. South Australia, for example, includes *TPA* equivalent provisions in the *Consumer Transactions Act 1972*, the *Fair Trading Act 1987*, the *Manufacturers' Warranties Act 1974*, the *Sale of Goods Act 1895-1982* and the *Trade Standards Act 1979*.

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At the same time, many of the less complex matters have been diverted from the SSAT as a consequence of the process of internal review. Although authorised review officers had been introduced in the DSS with the 1988 legislation, it has only been since the start of 1993 that an internal review has been compulsory before an application can be made to the SSAT. The combined effect of all these external influences on the Tribunal's jurisdiction has been to make the issues before it more varied and more technically difficult.

Despite these complexities, the SSAT has a remarkable record of performance in terms of its timeliness. In the context of the delays prior to 1988, Brian Howe announced the setting of time limits for certain stages of the review process. Some of these subsequently found their way into the legislation. Since then, the previous National Convener and the Senior Members have lead the development of a very strong culture and an internal acceptance of the need to provide an early listing of hearings and a very prompt production of written statements of reasons. For the last two years, the average time from registration of an application to the despatch of a written decision has been 8.7 weeks.

In similar contrast to the early years, there is an insistence on having oral hearings. Reflecting a determination to increase the equality with which applicants are treated, the Tribunal now offers opportunities to attend hearings in some 75 locations outside the capital cities. This determination to meet the goals of access and equity creates cost pressures that remain an ongoing issue for the Tribunal.

Conclusion

The SSAT's role in improving primary decision making and the administration of social security legislation generally has also been recognised. Its annual reports list a range of matters that have been raised directly by the Tribunal with either the Minister or the Secretary of the Department in relation to problems of legislation or practice that have come to its attention in the course of conducting its reviews.[20]

The second and current model of the SSAT has evolved to a mature adulthood. There were concerns early in its history that making it independent and giving it determinative powers would undermine the valuable informality, and therefore accessibility, of its approach. However, the SSAT has been able to retain that quality. It has done so while at the same time achieving a co-ordination of its activities as one national body, strengthening its procedures to provide greater procedural fairness, and increasing the coherence of its systems with the objective of achieving equal treatment of all applicants in similar circumstances.

The next stage of the SSAT will follow the 1995 ARC Report. Whether, in the words of the 1984 Report, the future decided on by government constitutes 'progressive evolution' or 'radical reform' remains to be seen. In any event, it is to be hoped that the maturity now achieved will enable the qualities for which the SSAT has been highly regarded to assert themselves within whatever system is to come.

References

1. Australia, Committee on Administrative Discretions, Final Report, 1973 (The Bland Report) para. 62.
2. Department of Social Security (DSS), 'Social Security Appeals System: Principles and Procedures', December 1974, paragraph 1.
3. DSS, above, para. 4.3.
4. DSS, above, para. 5.
5. Administrative Review Committee (ARC), 'Report to the Attorney-General: Social Security Appeals', AGPS, Canberra, 1981. The report was actually presented in 1980.
6. ARC, above, p.96.
7. ARC, above, p.13.
8. Gardner, J., Neal, D. and Cashman, P., *Legal Resources Book*, Fitzroy Legal Service, April 1977, pp.8-13.
9. Estimates Committee D, Senate Hansard, p.117, 21, September 1976.
10. Statutory Rule 1980 No. 62 made under the *Administrative Appeals Tribunal Act 1975.*
11. ARC, 'The Structure and Form of Social Security Appeals', Report No. 21, 1984, p.14.
12. Carney, T., 'Social Security Review and Appeals in Australia: Atrophy or Growth', (1982) 1(1) *Aust J of Law and Society* 32.
13. ARC, 'The Structure and Form of Social Security Appeals', above, p.13
14. ARC, 'The Structure and Form of Social Security Appeals', above, p.15.
15. Letter from L. Rodopoulos, Chairperson of Combined Tribunals to Senator Grimes, 24 August 1984.
16. As reported in the 'Opinion', (1986) 32 *Social Security Reporter* 401.
17. For an analysis of the role of the welfare members see Huck, J., Proceedings of AIAL Conference on 'Non-legal' Members on Review Bodies, 22 November 1992, p.19.
18. For a description of that tribunal see Gardner, J., 'The Victorian Work-Care Appeals Board — An Investigatory Model', (1993) 1 *TLJ* 154.
19. *Social Security Act 1991, Health Insurance Act 1973, Child Support (Assessment) Act 1989, Farm Household Support Act 1992, Employment Services Act 1994 and Student and Youth Assistance Act 1973.*
20. See also O'Neill, A., 'The Impact of Administrative Law in the Area of Social Security', in J. McMillan (ed.), *Administrative Law: Does the Public Benefit?* AIAL, Canberra, 1992, p.274.

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14. The National Consumer Affairs Advisory Council found that between 1985 and 1987 only 11% of private actions under Part V were initiated by individual consumers. The Committee concluded the major reason was that the amount of loss or damage suffered by consumers did not justify legal action (NCAAC, *Consumer Redress and Part V of the Trade Practices Act 1974*, AGPS, Canberra, 1987, ch. 2).
15. Fels, Allan, 'The Trade Practices Act 1974 — Twenty Years On', (1974) 2 *Competition and Consumer Law Journal* 89 at 91.
16. For example, the Commission may authorise conduct which appears to breach Part IV where there is an overriding public benefit. Section 87B, inserted in 1992, allows the TPC to obtain 'enforceable undertakings' from people in relation to both Part IV or V matters. Negotiated settlements may also have significant value as precedents.
17. Tala, J., 'Soft Law as a Method for Consumer Protection and Consumer Influence. A Review with Special Reference to Nordic Experiences', (1987) 10 *Journal of Consumer Policy* 341.
18. See Goldring, J., 'Privatising Regulation', (1990) 49 *Australian Journal of Public Administration* 419.
19. TPC, *Annual Report 1994-5*, p.11.
20. *Australian Financial Review*, 31.12.74, p.1. The taskforce was responsible for taking the first major Part V case, *Hartnell v Sharp Corporation of Australia* (1975) 5 ALR 493). The TPC itself, in its second *Annual Report*, said 'The Commission is now concentrating its activities on monitoring conduct and on carrying out industry-wide investigations... leaving the great multiplicity of consumer complaints to be handled locally' (p.2).
21. Australia, House of Representatives 1975, *Debates*, vol. HR97, p. 2074 (second reading speech by Minister for Consumer Affairs and Science, Clyde Cameron). There have been other suggestions for specialised consumer protection bodies; for example, the establishment of the Consumer Legal Advocacy Centre (NCAAC, above, pp.35-41).
22. Pengilley, Warren, 'Why one Commission?', (1995) 11 *Australian and New Zealand Trade Practices Law Bulletin* 25.