Law Council of Australia
37th Competition & Consumer Law Workshop

***Looking back, looking forward – the ACCC's approach to making markets work for Australian consumers*.**

Rod Sims, Chairman

25 August 2012, Canberra

Last year at this time I gave my first speech as Chairman of the Australian Competition and Consumer Commission (ACCC), outlining some perspectives and future directions. These annual events are a great opportunity both to reflect, and share thoughts on the future, with one of the ACCC's most important audiences.

Last year I said that the ACCC would be strategic and proactive; we would take on more cases where the outcome is less certain; we would make full use of the Australian Consumer Law (ACL); we would take a whole-of -ACCC approach, particularly in relation to energy and communications; we would closely examine mergers that substantially lessen competition, including mergers in local markets; and I said that we would communicate clearly what we are doing and why.

We have indeed worked according to these themes and perspectives. You will find an ACCC that says what it will do, and does what it says. Consistency can be quite boring, but it is, I believe, an important characteristic of a regulator.

Today I will cover the following and explain how:

1. We have taken a strategic approach to enforcement
2. We will deepen and broaden our approach to the ACL, and seek to make more room for competition cases.
3. We recognise timing issues in relation to mergers and are taking some steps to address concerns, and
4. We are increasingly engaged internationally, and more of our focus will go to the Asian region.

1. WE HAVE TAKEN A STRATEGIC APPROACH TO ENFORCEMENT

A strategic approach to enforcement is important for two reasons.

First, we are not resourced to investigate all potential breaches of the *Competition and Consumer Act 2010* (CCA), so choices must be made. With the current reductions in the ACCC's staffing, this is even more the case.

Second, a strategic approach means you have a better idea of what you are looking for with an earlier focus on the relevant theories of harm, so that it is more likely that the time spent on the investigation will yield a fruitful result and

in the areas that matter the most.

Late last year we completed our strategic review. This saw us engaging with state and territory fair trading agencies and consumer and industry representative groups and others in the Australian community. Our priorities were set having regard to our overarching goal to serve the long term interests of consumers through enforcing compliance with the *Competition and Consumer Act 2010.* We sought to identify those areas which we consider are likely to involve substantial detriment to competition or consumers. We have not prioritised areas where we considered other agencies are likely to be better placed to manage an issue.

I can announce that we now have more than half of our investigation and enforcement resources directed to work in relation to the specific priorities that we identified. To remind you these are:

1. Consumer protection in the telecommunications and energy sectors
2. Conduct that may impede emerging competition involving online traders
3. Competition issues in highly concentrated sectors, for example in the supermarket and fuel sectors
4. Continuing our focus on cartels
5. Carbon pricing representations
6. Consumer protection issues affecting vulnerable consumers

We don't, of course, confine ourselves to these priorities as it is vital that the Commission is always able to act where we see conduct that warrants the intervention of the national regulator.

As an overarching goal we sought to make full use of the profound changes brought about by the Australian Consumer Law (ACL), including by working more closely with state and territory fair trading agencies. I will say more on this later.

Our investigation and litigation case load coupled with our integrated compliance initiatives is now heavily weighted towards our priorities. I want to give you a sense of some of the outcomes achieved, and what we are in the process of achieving in these areas.

1. We have achieved significant outcomes in consumer protection in the telecommunications and energy sectors in the last year

These include:

- Apple 4G ipad - $2.25 million in penalties, and refunds for misled consumers
- Energywatch – around $2 million in penalties
- Optus think bigger – 3.6 million in penalties
- In the last year we have not hesitated to take on major players and their subsidiaries in the energy sector where we allege there is extremely poor conduct in door to door selling of energy products. Some of these

cases have and will involve testing provisions of the law which have never been litigated.

2. We have a project team which is working on seeking to understand online competition problems and referring issues to our investigation and enforcement teams.

As I have said publicly we are examining whether certain current bricks and mortar leading firms are seeking to prevent online competition in ways that breach the CCA. I recently heard a leading bricks and mortar retailer claiming that such firms will dominate online shopping in future and see off completely the new solely online competitors. It would be a missed opportunity for competition if this were to be the inevitable outcome.

One prominent example of our online work is our case against Flight Centre, which commences in the Federal Court next month.

An important court finding late last year was made against Ticketek for a misuse of market power against a small and innovative online player selling discount tickets, with a penalty of $2.5 million. This result ensures that event organisers have more choices in promoting their shows, and that consumers benefit from access to discount tickets.

A related example of our current approach was our decision to appeal the decision of the Federal Court in relation to Google Inc. While this case involves the ACL, it goes to the heart of online competition.

You may remember that the Court at first instance found that although a number of advertisements on the Google website contained misleading or deceptive representations, Google had not made those representations. Rather, the Court held at first instance that Google had merely communicated representations made by the advertiser. On that basis, the Court found that Google had not contravened the Trade Practices Act (now the Competition and Consumer Act).

When we announced our appeal to the Full Federal Court, I made the point that the role of search engine providers as publishers of paid content needs to be closely examined in the online age, and they should be held directly accountable for misleading or deceptive paid search results when they have been closely engaged in facilitating and publishing those results.

In April 2012, the Full Federal Court unanimously upheld the ACCC's appeal and found that Google had made the misleading representations and thereby engaged in conduct that was misleading or deceptive, or likely to mislead or deceive.

Google's conduct comprised responding to users' search queries by displaying advertisements as well as organic search results. Each advertisement appeared to the user as a clickable heading near the URL of the advertiser. Google, by its "Adwords" program, allowed advertisers to insert keywords into the clickable heading that comprised a competitor's name. When a user clicked on the headline, they were taken to the advertiser's website. In upholding the ACCC's appeal, the Full Court concluded that Google created the misleading message through its technology in response to the user's search query and did not merely repeat or pass on a statement by the advertiser.

In June 2012, the High Court of Australia granted special leave to Google to appeal the decision of the Full Federal Court. The appeal is listed for hearing on 11 September 2012. It is very important that the law in this area is clarified and fully understood.

3. ***Australia has many highly concentrated sectors, as a result of history and geography. This is where we are targeting our competition focus, with many issues under examination that, of course, must remain confidential at this stage****.*

We have, however, announced active examinations of three areas in response to the significant public interest in them:

- We are focusing on issues relating to the treatment of suppliers by the major supermarket chains which include competition issues as well as allegations of unconscionable conduct, business-to-business, which we are keen to pursue generally.
- We are investigating the sharing of information about prices in the fuel retailing sector, and
- We are examining the longer term competition implications of the large shopper docket discounts provided between the fuel and supermarket sectors in particular.

4. ***The ACCC, of course, has long had a focus on cartels. This year we have taken a more proactive role by, for example, writing to CEO's to remind them of our laws, sanctions and immunity policy; and undertaking coordinated data analysis of particular sectors. In coming weeks we will be releasing a film and information to publicise the criminal penalties attaching to cartel behaviour; if criminal sanctions are involved we have an obligation to warn people to the fullest extent.***

We do have a number of active cartel investigations and matters currently before the Court. Since the introduction of the immunity policy for cartel conduct, the majority of cartels detected by the ACCC have been detected via applications for immunity under that policy. We have had nearly 100 approaches under our policy since it was put in place in 2003.

On Thursday this week we announced that we have commenced a civil prosecution of two businesses in Sydney, Supagas and Speed-e-gas, and a number of individuals associated with those businesses. We allege that they have been engaged in anti-competitive conduct including cartel conduct in selling liquefied petroleum gas to businesses in the Sydney metropolitan area. This is the most recent cartel case that we have launched; it joins nine other cases currently before the Court involving cartel conduct.

Under this heading I would also like to mention the very positive outcome we achieved in the Woollams case. This reinforced the message that price controlling conduct in tenders through cover pricing is illegal; and was our first cover pricing case.

5. ***In relation to carbon pricing we ran an extensive education campaign in the lead up to its introduction and have quickly pursed some early compliance outcomes.***

   We believe we have achieved the right balance between education and enforcement in the early days of this new law. I will say a little more on our carbon pricing role later.

6. ***Protecting vulnerable consumers must always be an ACCC priority. Two such groups are elderly consumers and indigenous consumers.***

I have already referred to our work on energy door-to-door selling. We have three door-to-door cases currently in court. As I have said repeatedly some of the reports I have personally read of the behaviour of door-to-door sellers is appalling, ranging from misleading to coercive and unconscionable. We have a number of further cases in the pipeline and we will do all we can to ensure this behaviour is eliminated.

We have also focused on indigenous consumers. We have an indigenous consumer protection strategy that seeks to better inform indigenous consumers about their rights, detect breaches of the law at an early stage, enforce the law to stop conduct and, where possible, provide recompense for affected consumers. This has yielded some early results on the enforcement side, for example last week we announced resolution of the G & R Wills Holdings matter with the payment of infringement notices in the sum of $19,800 and the acceptance of an enforceable undertaking which delivers consumer education into remote indigenous communities. This business was supplying unsafe baby walkers and strollers into remote indigenous communities in the Northern Territory.

Another example is our proceeding against Excite Mobile Pty Ltd in which we allege false and misleading conduct and unconscionable conduct by Excite Mobile in marketing mobile phone services aggressively to consumers including those in indigenous communities outside the footprint of the mobile service provider. That matter is before the Court awaiting judgement.

We also have unconscionable conduct allegations in proceedings against Lux Distributors, sellers of expensive vacuum cleaners through door to door marketing. That matter is set down for hearing later in the year.

Last year I said we would be taking on more cases where the outcome may be less certain, but fundamentally important given the potential for consumer detriment. There are also provisions of the Act and the ACL that have yet to be the subject of judicial guidance. I said that our near 100 percent success rate in first instance litigation is too high. Some of the cases and investigations under all the above headings illustrate the beginning of this trend.

2. WE WILL DEEPEN AND BROADEN OUR APPROACH TO THE ACL, AND SEEK TO MAKE MORE ROOM FOR COMPETITION CASES.

I have said on many occasions, including a year ago, that we would make full use of the new ACL. Parliament gave us new powers, improved laws and, most important, the ability to issue infringement notices and seek pecuniary penalties

from the court.

I make no apology for this focus. The new laws had to be welcomed enthusiastically and used, and they were.

We are particularly pleased at the penalties we have achieved as these illustrate to consumers that their rights are being protected, and the effect on corporate behaviour is clear and, at times, profound.

We now have achieved almost $18 million in pecuniary penalties, and six cases in which penalties of more than $1million have been ordered by the Court. It is important to note that the penalties under the ACL framework have set a new and in our judgement a higher benchmark relative to the maximum penalties available than we have previously seen with Part IV cases under the CCA or the Trade Practices Act

While we welcome higher penalties, we particularly welcome the strong and clear messages that the Court has been giving about the need for penalties to be high enough to deter poor conduct which contravenes the law. For example, the Full Court of the Federal Court made the following comments in a Singtel Optus appeal against penalty:

> "..... While one cannot isolate the profits attributable to the campaign, it is necessary and desirable to impose a penalty which is apt to affect in a substantial way the profitability of Optus' misconduct.
>
> Generally speaking, those engaged in trade and commerce must be deterred from the cynical calculation involved in weighing up the risk of penalty against the profits to be made from contravention.
>
> In the present case the sheer magnitude of the advertising campaign, and its likely effect in the market, mean that a penalty which did not substantially affect the profitability of Optus' campaign could not reasonably be countenanced. ....."
>
> Singtel Optus v ACCC [2012] FCAFC 20 @ paragraphs 62 - 64

In an increasingly globalised business world multinational corporations must take account of Australian competition and consumer law when devising their global marketing campaigns if they wish to do business in Australia. We welcome the point recently made by the Court in our proceedings against Apple Pty Ltd. Justice Bromberg explained:

> "Multi-national corporations who (through their subsidiaries or otherwise) operate in and profit from the Australian market, must respect that market and the laws which serve to regulate it and protect its participants. Those who design global campaigns, and those in Australia who adopt them, need to be attuned to the understandings and perceptions of Australian consumers and ensure that representations made by such campaigns will not serve to mislead. The penalty imposed in this case, needs to make that message clear."
>
> ACCC v Apple [2012] FCA 646 @ paragraph 31

We don't see the clear dichotomy between consumer protection and competition law that overseas commentators sometimes describe. While wrestling with complex theories of harm can be more intellectually stimulating

under competition law, in our view the competition and consumer laws are about regulating the way in which traders operate in markets – ultimately for the benefit of consumers. Indeed, we look forward to our work with penalties under the ACL cross fertilising and enhancing the outcomes in the cases that we bring which have a competition law focus.

We must continue our strong focus on the ACL and at the same time bring an increased focus on our many important competition investigations. Our strategy to do this is two-fold.

First, we will use a range of approaches for our ACL cases, as follows.

- We have made and can make even more use of infringement notices. In the next few weeks we will publish our revised Infringement Notice guidelines which explain the way in which we will use this power. This power is there to help us to resolve less serious matters in an expeditious and efficient manner. In the last financial year thirty four infringement notices have been paid bringing total penalties to over half a million dollars.
- We have been continuing to accept enforceable undertakings, a powerful and flexible tool to resolve problems and improve trader compliance.
- We have found that administrative resolutions can send powerful messages. Behind the scenes and without publicity we deal with many first time offenders where a warning letter or another administrative solution will significantly enhance their future CCA compliance. For example, we recently announced that five leading audiovisual manufacturers have agreed to amend their promotional material after the ACCC raised concerns about the use of the terms 'WiFi Ready' and 'Wireless LAN Ready' without informing consumers about the need to purchase an additional WiFi adaptor. We reached this arrangement following an assessment of the various representations made in the marketplace, and discussions with the five major producers, Sony, LG, Panasonic, Samsung and Sharp. Those companies cooperated positively with the ACCC and changed their marketing practices to make sure they fully inform consumers about the WiFi accessibility of their products. This was done expeditiously without the need for formal enforcement action.
- We have exchanged our priorities with our state colleagues and other agencies so that we have a better joint understanding of which entity will pursue which investigation. Single state issues in areas of state priority will increasingly be referred to the state consumer bodies and sometimes the relevant ombudsmen services.
- We will make more use of compliance and consumer education. Our consumer guarantees campaign was very successful, as has been our work on scams. You will see more of these initiatives – the most recent being in relation to door to door marketing.

A good example of the broad range of approaches in action is our work on carbon pricing. Collectively our ACL enforcement tools have enabled us to send exactly the right set of messages efficiently and expeditiously to the business community and to Australians more generally about compliance with the ACL in the context of the carbon price. Since the beginning of July we have obtained administrative outcomes from four traders, accepted enforceable undertakings from one trader and Infringement Notices from another trader. Average daily complaint figures have dropped substantially - we see this as a measure of business compliance and of the success of our compliance approach in this area.

The second leg of our strategy is to take a continuing proactive approach to our competition cases so that we are sure they focus on important theories of harm and produce the most beneficial outcomes for competition and consumers.

We currently have an impressive list of competition cases either under investigation or before the courts.

- *Cartels and price fixing agreements*: We have a dozen initial cartel investigations including approaches under our immunity policy which are being assessed; importantly we have eight in-depth investigations; and we have ten proceedings before the courts alleging cartel conduct or price agreements between competitors
- *Misuse of market power including predatory pricing*: we have fifteen initial investigations, plus thirteen in depth investigations primarily involving misuse of market power, including predatory pricing, and one proceeding currently before the courts.
- *Other competition issues*: We have over a dozen other initial and 10 in-depth investigations that primarily relate to anticompetitive conduct, arrangements or agreements. There is also one matter before the Courts.

We all know that the usual funnel process will only see a minority of the investigations get to court. We believe, however, that our strategic approach will increasingly give us a higher return than previously on the resources we have invested in investigation. Only time will tell. I hope to indicate next year how we are progressing.

Before finishing on enforcement issues I want to address some of the issues I suspect may arise in the last session of this workshop.

Private enforcement of the CCA can complement public enforcement and arguably has the potential to enhance deterrence. The ACCC's position on private litigation has, for some time, been that the ACCC does everything it reasonably can to assist private parties without threatening its own investigations or the administration of its immunity policy. Since 2009, the CCA/TPA has included a regime to protect the confidence of material given to the ACCC where it relates to potential cartel conduct. Such material can be disclosed to third parties but only after the weighing of certain public interest tests; broadly the ability of the ACCC to detect and prosecute cartels and the interests of the administration of justice.

I should say that I am aware that some in the Law Council have been canvassing changes in the law to make private follow on actions easier, although others take exactly the opposite view. I don't wish to say much on this issue. I will say that any change in the law to facilitate private actions would need to be evaluated against whether sufficiently strong incentives remained in place to ensure the continued success of the ACCC in detecting and prosecuting cartel conduct.

The incentive of immunity from prosecution remains the single most important tool for the ACCC in detecting and stopping cartel conduct. Changing the law to make private follow on actions easier to run, or more likely to succeed, may be viewed by business as diminishing the incentives and benefits of approaching the ACCC for immunity or leniency. This could result in a reduction in the number of cartels detected and successfully prosecuted by the ACCC and therefore ironically result in a reduction in private litigation of cartel conduct. The ACCC looks forward to participating in this policy debate.

3. WE RECOGNISE TIMING ISSUES IN RELATION TO MERGERS AND ARE TAKING SOME STEPS TO ADDRESS CONCERNS

You may recall that my speech last year took place the day after the publication of the first instance judgment in the Metcash case. At that time I prudently declined to comment until we had time to review the decision carefully. Since then of course we have also had the decision of the Full Federal Court in that matter.

As I said in December last year following the appeal, the ACCC "agrees that in relation to any acquisition, it must consider the likely effect on competition, based on commercially relevant facts, assessments and evidence and not speculative possibilities".

These comments appeared to be largely welcomed by the trade practices community. However the focus now appears to be turning to whether the Metcash decision has caused the ACCC to become more vigilant in its approach to merger reviews with the flow-on effect that some reviews of contentious matters are taking longer.

I have to admit that, on many occasions, I have played down the impact of the Metcash decision on our merger assessment practices. I now accept, however that, on reflection, it has meant that we have sometimes felt an increased need to be vigilant to ensure that all our decisions are grounded in commercial realities. As a result, we may be taking longer to gather the necessary commercially relevant facts and evidence in some contentious cases.

Not all of the delays, however, reflect a more cautious approach, or more data gathering.

First, it is not uncommon for these large complex matters to also involve negotiation of suitable undertakings; the Foxtel and APA decisions are good examples. Indeed, in the APA case, the offer of undertakings during the course of the review substantially transformed the transaction we were scrutinising, requiring us to undertake additional information gathering.

Second, there has for some time now been repeated calls by the trade practices and business community for increased transparency from, and engagement with, the ACCC during the course of merger reviews. The ACCC welcomes this engagement and has continued to improve its processes in this area. It is important, however, to recognise that such measures may have consequences for the length of the review.

The ACCC has, for example, been informing the parties in writing of the issues raised in market enquiries prior to making those issues public through the statement of issues (SOI) process. This means that merger parties are better informed and have had the opportunity to make submissions on these issues. This has resulted in fewer surprises at the SOI stage and ultimately in more rigorous and focused SOIs.

The same level of engagement also occurs after the ACCC has considered the market response to the SOI. The ACCC will inform parties in writing of the competition concerns remaining following the post SOI market enquiries. This is a very important stage in the process and ensures that merger parties are as fully informed as possible about the remaining concerns of the ACCC following market enquiries.

Importantly, it affords parties the opportunity to comment on all substantial competition concerns before the ACCC makes its decision. Equally importantly merger parties are again not taken by surprise if those issues are not resolved by the time the ACCC comes to make its decision. This increased level of transparency and engagement may, however, slow the process down.

It is important, however, to continue to improve our processes for progressing and finalising merger reviews where competition concerns are raised.

We will soon begin revising the Informal Merger Process Guidelines and will be consulting with the Law Council and others on the revised draft in due course. This will involve updating the guidelines to reflect process changes that have already become practice, and explaining new processes.

A key example of a past change has been the introduction of pre-assessments in 2010 which has meant that we are dealing with a large proportion of the reviews very quickly. During 2011/12, 250 of the 340 matters considered were cleared without public review on the basis that the SLC risk was considered low; as a result, 87 percent of matters (pre-assessments and reviews) were completed in 8 weeks or less.

There are also a number of other changes that are being implemented or considered. Recognising and accepting that the level of scrutiny required for large complex transactions which raise competition concerns is likely to take time, the ACCC is looking to take a strategic approach, where appropriate, for the balance of reviews with a view to finalising decisions more quickly while still enabling the ACCC to reach a considered view.

One example of this is the proposed protocol we are discussing with the major supermarket chains (the MSCs). Transactions by the MSCs are often single site acquisitions in local markets involving similar issues to past acquisitions. The ACCC is seeking to agree a protocol with the MSCs that will enable decisions to be reached earlier in exchange for notification of certain transactions and the

provision of agreed up front information. This arrangement is still under negotiation, and the initiative may not succeed, but it demonstrates a willingness by the ACCC to explore ways to expedite certain types of reviews.

In addition, where it is clear early in the review that the competition concerns are unlikely to be resolved, the ACCC may decide for some matters that it is appropriate at an early stage of the review to advise the parties of the likelihood that clearance would not be granted. Parties would have the benefit of an early indication of the likely decision, and then have the opportunity to decide whether to abandon the merger or explore possible remedies with the ACCC.

As just stated, we now more than ever actively keep parties informed of likely time frames and are upfront about our timetable. In this context, we are also reviewing the current practice of routinely setting a decision date 4 weeks later when we publish an SOI. Realistically, dealing with submissions on the SOI and following up further information will often take longer than this and we think it better to make this clear at the outset, rather than create expectations that can't or are unlikely to be met.

When compared to the time taken in the EC and US to assess complex matters that go to phase II reviews where statement of objections or second requests are issued, the ACCC timeframes for contentious matters are generally significantly shorter.

While the ACCC is looking to improve its processes, as I have outlined, we believe merger parties and their advisers should be doing likewise. Delays are being caused by some merger parties failing to comply fully and in a timely way to voluntary and compulsory information requests.

In our informal regime with no upfront information requirements, information requests are an important part of the process and allow the ACCC to test the merger parties and third parties on the submissions provided. There will always be scope to refine the nature and extent of information requests, and we will continually seek to do this, but the ACCC does not shy away from their use where appropriate in these circumstances.

This leads me to a key point. We accept that the onus is on the ACCC as the regulator to make our processes as efficient as possible. Our bigger responsibility, however, is to get the decisions right. If there are delays in gaining information then there will be delays in decision making; while we will be as efficient as we can, we will not work to a fixed timetable.

While on merger timing I want to comment on transactions involving the sale of a firm which is experiencing financial difficulties, including where administrators and/or receivers and managers have been appointed. Insolvency practitioners and their legal advisers should contact the ACCC early in any sale process and be aware that the ACCC will need access to relevant information in order to make its decision, and that the ACCC merger review process may take some weeks and involve public market inquiries. This will especially be the case where competition concerns are raised, for example, if the firm in difficulty is being sold to its closest competitor in a concentrated market.

The ACCC recognises the timing issues faced by administrators and will use the flexibility of the informal system if there are genuine commercial pressures, but notifying late as a tactic may be to the detriment of your client.

4. WE ARE INCREASINGLY ENGAGED INTERNATIONALLY AND MORE OF OUR FOCUS WILL GO TO THE ASIAN REGION.

With the growth in global commerce competition enforcement agencies need to work more closely together. In fact, even now, there is not a week that goes by without the ACCC having some level of engagement with officials in foreign agencies. It can be regular teleconferences between cartel investigators on international cartels that respective agencies are investigating, or hosting delegations from ASEAN agencies which might be here to share knowledge and experiences with us and learn from our experiences while they develop their own capacity.

Australia is now a party to a number of bilateral free trade agreements which contain competition and/or consumer law provisions designed to enhance cooperation and engagement. It is not widely commented upon or perhaps known, but Australia is now also part of the ASEAN Australia New Zealand Free Trade Area (AANZFTA). Australia is also working for deeper cooperation through APEC and is negotiating as part of the proposed Trans Pacific partnership arrangements. Each of these initiatives has provisions designed to facilitate greater cooperation between the ACCC and our sister agencies in other jurisdictions.

We are particularly pleased to have been invited to join the annual deliberations of the East Asia Top Level Officials on Competition Policy. This brings together the Chairs of all competition agencies in the region.

We are also keen to contribute to developing institutional frameworks for competition policy in the AANZFTA. In that regard we recently hosted a workshop in Sydney which brought together officials from agencies to build the stronger ties and begin developing institutional connections which will serve us well into the future. The week after next the ACCC will also be hosting in Sydney representatives from the Mexican, Chilean, New Zealand and Singapore agencies for discussions on cartel co-operation within the APEC region. In addition, from 27-29 August we, together with FTC and KFTC, are hosting an ASEAN consumer protection conference in Thailand.

On the product safety side, the ACCC has been very active internationally. This year the ACCC has worked with the OECD Committee on Consumer Policy, Consumer Product Safety Working Party. We have also participated in the work of the International Standards Organisation and within the region, with APEC in developing information sharing systems on product safety incidents.

Amongst other things, this activity facilitates the global exchange of consumer product safety information through an extranet. It will enable the ACCC to access information from other jurisdictions. The ACCC is also working with other international agencies to develop a global recall data pool. This will facilitate the identification of product safety emerging issues.

While we are and will continue to be very engaged with ICN, the International

Competition Network, and ICPEN (the International Consumer Protection Enforcement Network), we increasingly wish to build stronger links to agencies in our region. These links can help us to enforce our law and we believe they will also contribute to the development of the capacity of agencies to do their job in each of their countries. In the medium to long term a well developed and well functioning competition law framework in each jurisdiction is in the interests of everyone doing business in the region.

CONCLUSION

As I have said today it is important that the ACCC communicates clearly its direction and the reasons for its actions. Today's presentation is another steps in this process.

We seek to explain our general positions and approaches, as well as particular decisions. For example, we explained the reasons for our Metcash and Google appeals in some detail, and we explained the logic behind our Foxtel decision. We also acknowledged some recent competition investigations that are of wide public interest.

Continuing this theme, I will shortly be publishing an article which seeks to explore the implications of our recent Optus/NBN authorisation.

We will be explaining our role and actions more to a broader audience. This is important as we seek to ensure Australians understand their rights and feel fully involved in our market economy.

Thank you for your time today.