

## What's news

### Trade Practices Act review

On 15 October 2001 the Prime Minister announced that there would be an independent review of the competition provisions of the Trade Practices Act (TPA) and their administration.

The Treasurer announced the terms of reference for the review and the membership of the review committee on 9 May 2002. A copy of the terms of reference can be obtained from the website <http://tpareview.treasury.gov.au> or by phoning the Review Secretariat on (02) 6263 3900 or by fax on (02) 6263 3939.

ACCC Chairman, Professor Allan Fels, commented on the review, saying that 'The ACCC looks forward to working with the Review to enhance the workings of the Trade Practices Act and through it, the Australian economy'.

#### Submissions

To assist its consideration of the competition and authorisation provisions of the TPA, the review committee has invited submissions from interested parties and will consult with key stakeholders.

To assist the committee to meet its reporting date, **submissions are sought by 21 June 2002.**

Submissions can be sent to the following address:

#### email:

[TPAreview@treasury.gov.au](mailto:TPAreview@treasury.gov.au)

#### For printed documents, mail or fax to

The Secretary  
Trade Practices Act Review  
C/- Department of the Treasury  
Langton Crescent  
PARKES ACT 2600

#### Committee Membership

##### Chairman

Sir Daryl Dawson AC KBE CB

##### Members

Ms Jillian Segal

Mr Curt Rendall

The committee will report to the Government by the end of November 2002.

More Information: [MR 114/02 9 May 2002](#)

## In the consumers' interest

### More competition in broadband

A competition notice\* issued to Telstra last September regarding the wholesale price of high speed internet services has been revoked. This follows price reductions of up to 25 per cent and changes to the structure of the wholesale broadband services.

This is good news for consumers. Competitors to Telstra will now have greater incentive to roll out their networks and provide competitive prices for consumers.

\* (The ACCC has the power to issue a competition notice if it has reason to believe that a carrier has engaged in anti-competitive conduct.)

More information: [MR 121/02 16 May 2002](#)

### NAB changes examined

Following a request from the Treasurer, Mr Peter Costello, the ACCC has written to the National Australia Bank querying changes to the National Gold Rewards Program.

The ACCC was concerned that the NAB's change to the redemption rate for Qantas Frequent Flyer points may have misled consumers and misrepresented certain values and characteristics of the rewards scheme. The ACCC has asked NAB a number of questions about the timing and basis of the changes.

NAB has publicly said it will maintain the one for one conversion rate for Qantas Frequent Flyer points earned prior to the July 2002 credit card statement cycle. From July 2002 the conversion rate for new points accrued will be 1.5 National Gold Reward Points to 1 Qantas Frequent Flyer point.

More information: [MR 126/02 21 May 2002](#)

## About the ACCC— e-commerce

The e-commerce section of the ACCC looks at emerging Trade Practices issues in the e-commerce sector. Here are some of the projects the e-commerce section is working on.

### Internet sweepday

In January this year the ACCC coordinated a 'sweep' of the Internet, looking for claims about health products that were likely to mislead consumers. Participants were from 58 agencies in 19 countries.

In Australia, 77 suspicious websites were identified by the ACCC. Of these, eight disappeared within a short time, 12 have provided substantiation for their claims, and 10 have reached 'out-of-court' settlements with the ACCC by removing, altering or qualifying their claims. The others are still under investigation.

### **Domain name registration**

The ACCC is concerned that consumers may have been misled by recent advertising campaigns by sellers of domain name registration and renewal services. An example is the Internet Name Group (ING), who are currently in court with the ACCC over claims made in their marketing.

Consumers should be aware that there are many competing resellers that can register domain names. They should shop around and look for the best service and prices available. Consumers are not obliged to renew their domain with this business. If the solicitation seems misleading, report it to the ACCC on 1300 302 502.

### **Privacy**

The ACCC has noted consumers' concerns about privacy when engaging in e-commerce. This was first raised in the ACCC's E-commerce Conference in November 2001 and has been reinforced in many government and industry reports and papers.

The ACCC has cemented a working relationship with the Office of the Federal Privacy Commissioner through a Memorandum of Understanding. This will allow for referral of matters between the two bodies, and further clarification of the overlap between new privacy legislation and the misleading conduct provisions in the Trade Practices Act.

## **IMSN**

### **The International Marketing Supervision Network**

For some years the ACCC has been aware of the difficulties in gaining redress for consumers, especially when they buy goods and services across international borders. The International Marketing Supervision Network (IMSN) is working towards bringing more joint actions between law enforcement agencies in different countries, and implementing more effective cooperation in providing information to other members.

This year the ACCC is the president of the IMSN, and will be hosting conferences with IMSN members in Australia.

The IMSN has a website where consumers can complain about overseas traders when they cannot obtain refunds, goods do not match the description, or in fact never arrive. Consumers can go to [www.econsumer.gov](http://www.econsumer.gov) to lodge a complaint. IMSN member agencies are assessing these complaints and taking action where appropriate.

## **Recent investigations**

### **Price fixing allegations in court**

Proceedings have begun in court against seven companies and seven individuals alleging petrol price fixing in the Ballarat region. It is alleged that the companies made agreements over the phone to change prices by certain amounts at certain times.

A whistleblower alerted the ACCC of the conduct shortly before Easter 2000. The ACCC is seeking orders, including penalties, costs, injunctions, declarations and the implementation of trade practices compliance programs.

More information: [MR 127/02 23 May 2002](#)

### **Misleading advertising targeted**

#### **Cheap airfares**

Virgin Blue and Qantas have both made court enforceable undertakings to the ACCC that in the future they would advertise all airfares inclusive of taxes, levies and charges.

This change to advertising will avoid confusion as to what the actual cost of an airfare is. The ACCC recognises that a growing number of taxes and levies are included in airline tickets.

ACCC Chairman, Professor Allan Fels said that 'The ACCC is concerned that consumers were responding to the representations of "cheap" headline fares, only to find at the time of booking that the additional taxes, levies and charges added a substantial amount to the total cost of the ticket'.

More information: [MR 117/02 13 May 2002](#)

#### **Collagen ads may be misleading**

The ACCC has instituted proceedings against Collagen Aesthetics Australia Pty Ltd, a company that supplies various collagen and hylaform products. These products are inserted into the skin to reduce wrinkles and/or fill out lips.

It is alleged that Collagen Aesthetics made false and misleading representations in breach of ss. 52, 53(a) and 53(c) about its collagen and hylaform products. The advertisements appeared in several magazines, including *Vogue Australia*, *She* and *Marie Claire*, and contained the following representations:

- because Collagen Aesthetics' products are registered on the Australian Register of Therapeutic Goods, they are safer to use than its competitors' products which are merely listed
- the collagen and hylaform products are safe
- treatment with the collagen products is painless
- the collagen products are natural
- three types of hylaform products are available to be supplied to the public.

The ACCC alleges that these claims are misleading. The ACCC is seeking court orders including declarations, injunctions and costs.

More information: [MR 130/02 27 May 2002](#)

### Job ads alleged to be a misrepresentation

The ACCC instituted proceedings against Channel Ten and Crackerjack Productions in the Federal Court. The ACCC alleges misleading conduct in relation to job advertisements.

Crackerjack Productions placed advertisements in newspapers and with job agencies for a Girl/Boy Friday. The company then filmed applicants' interviews and filmed the two successful applicants. The footage was later used in a television show called Mind Games—a real life adventure.

The ACCC is seeking court orders including declarations that Channel Ten and Crackerjack breached s. 52 and s53B of the Act, injunctions, apologies for the job applicants and costs.

More information: [MR 116/02 13 May 2002](#)

### Abtronic promoters investigated

The ACCC instituted court proceedings against Danoz Direct, the promoters of a health and fitness industry product called Abtronic.

It is alleged that Danoz Direct Pty Ltd and its sole director, Mr Moshe Ozana, engaged in misleading and deceptive conduct while promoting the muscle stimulating machine. The ACCC wants to prevent Danoz from representing that the Abtronic:

- is a brilliant toning and training tool
- can be used to work out and tone different muscle groups
- allows you to just sit and relax and watch your 'abs' tighten, your 'love handles' disappear and your thighs and bottom firm up with no sweating involved
- can flatten your stomach 'once and for all'
- can get you the results of up to 600 sit-ups in just 10 minutes without any effort.

A directions hearing for this matter has been set down for 7 June 2002.

For more information on the US Federal Trade Commission action against the US promoters of Abtronic, see News From Afar on page 4.

More information: [MR 113/02 9 May 2002](#)

### Virgin Mobile in court

The ACCC instituted proceedings against Virgin Mobile Australia Pty Ltd. Virgin Mobile allegedly breached the Trade Practices Act by engaging in misleading and deceptive conduct in nationally advertising several mobile phone packages during the period October 2001 to March 2002.

The advertisements allegedly did not state the full cash price for the packages and also did not inform consumers of the likely termination costs of the contracts.

The ACCC is seeking court orders including declarations, injunctions, corrective advertisements and costs.

More information: [MR 106/02 6 May 2002](#)

### Allans Music

An ACCC investigation has led to the Director of Public Prosecutions instituting prosecution proceedings against the musical instrument retailer Allans Music Group.

The ACCC alleges that Allans advertised musical instruments in a misleading manner in its Christmas 2000 catalogue with 'WAS \$x, NOW \$y' prices, suggesting that a large discount had been made.

Allans Music stopped using this style of advertising when the ACCC brought its concerns to the company's attention. A directions hearing has been listed for 12 June in the Federal Court, Adelaide.

More information: [MR 100/02 2 May 2002](#)

## Competing Fairly Forum

The Competing Fairly Forum was held on 21 May 2002 at venues all across Australia. The theme of the forum was 'Prevention is better than cure'.

Topics covered included compliance programs and industry codes, as well as problem solving methods, such as mediation. The message of the forum was that the Trade Practices Act sets a standard for commercial behaviour, and businesses benefit by adhering to that standard.

A business can have the best intentions, but if staff are not trained properly and they breach the Trade Practices Act, the business may be ultimately responsible.

Consumers should be aware that businesses cannot blame their staff for any representations made. If a representation was made to a consumer, the business may be responsible for that. If you have a problem with a business, you should try to resolve it with the business first, and then attempt other forms of resolution.

Videos of the forum will be available from the ACCC within the next couple of months. The next Competing Fairly Forum will be held in October and will continue on the topic of prevention is better than cure.

More information: [www.forums.accc.gov.au](http://www.forums.accc.gov.au)

## Upcoming events

### Law enforcement conference

A Competition and Consumer Protection Law Enforcement Conference will be held on 4–5 July 2002 at the Regent Hotel in Sydney.

The conference will be an opportunity to hear from those enforcing the law, including a feature presentation by ACCC Chairman, Professor Allan Fels, on how the ACCC prioritises its enforcement work and its litigation trends.

Topics for debate will include changes to the law to achieve more effective enforcement outcomes. ACCC Commissioner Sitesh Bhojani, will discuss a more comprehensive leniency policy for Australian competition law enforcement.

More information: [www.accc.gov.au](http://www.accc.gov.au) or contact Kirstin Stannard on (02) 6243 1170

## News from afar

### UK phone scam

Hundreds of consumers have been victims of a recent telephone scam in the UK. The scam, which was operating out of Canada, called consumers and advised them that they had been entered into the Canadian National Lottery for free. At a later date the consumers were contacted and told that they had won large amounts of money. The scammers then advised the winners that they needed to pay money for taxes on the win.

The scam had previously targeted consumers in the US and Canada. The UK is the latest target. Any country, including Australia, is a possible target for these types of scams. The scams are normally targeted at people who have been caught by similar operations in the past. A list of names of the people previously caught out is commonly known as a 'suckers' list.

If you have been a victim of an overseas-based scam, you can report it to your local fair trading agency. You can also bring it to the attention of international authorities through a website developed by the IMSN, a body of 30 consumer protection agencies across the world (see the e-commerce article for more details). Log onto [www.econsumer.gov.au](http://www.econsumer.gov.au) to report a scam.

### Abdominal toners under fire

The US Federal Trade Commission has this month filed complaints against the marketers of three electronic abdominal exercise belts, alleging that the belts have been misleadingly advertised.

Canadian authorities are also reported to be investigating claims made about the belts (called the AB Energizer, AbTronic and Fast Abs) which include that users will lose weight and achieve 'six-pack' abdominal muscles without exercising.

As part of a cooperative international enforcement effort the ACCC has also instituted court proceedings in relation to one of the belts, the Abtronic.

Advertisements and infomercials for Abtronic aired repeatedly on Australian television claimed the belt would give users flat stomachs and enable them to lose their 'love handles'—all without exercise.

## Need more information? Want to subscribe?

The ACCC's media releases and other useful information can be found on our website at <http://www.accc.gov.au>. Or call the ACCC Infocentre on 1300 302 502. You can receive *ACCC consumer express* for free or contribute an article or your views by sending an email to [express@accc.gov.au](mailto:express@accc.gov.au). Put 'subscribe' in the subject line and we'll do the rest.

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## May media releases

- 31 May [ACCC Case Against Visy to go to High Court](#)
- 31 May [Shark Challenge 2000 Promoters Settle ACCC Action](#)
- 31 May [ACCC Remains Cautious on Telco Competition: Report](#)
- 31 May [High Court Grants ACCC Leave to Appeal](#)
- 30 May [ACCC Waives 'Ring Fencing' Obligation](#)
- 29 May [ACCC not to Oppose Bayer AG/Aventis Crop Science SA Merger](#)
- 28 May [ACCC Authorises Agvet Chemical Safety Program](#)
- 28 May [ACCC Obtains Federal Court Orders Against Manufacturer of Unsafe Car Ramp](#)
- 27 May [ACCC Institutes Against Collagen Aesthetics Australia Pty Ltd for Alleged Misleading Advertisements](#)
- 24 May [Fire Fighting Enterprises to Provide Compensation for Missed Fire Protection Services](#)
- 23 May [ACCC Not To Oppose Pacific Access Acquisition of Citysearch](#)
- 23 May [ACCC Alleges Petrol Price Fixing in Country Victoria](#)
- 21 May [ACCC to Examine Changes to NAB Rewards Program](#)
- 17 May [ACCC not to Oppose Andersen/Ernst & Young Merger](#)
- 17 May [ACCC Reviews Arrangements Between International Airlines](#)
- 17 May [ACCC's Rural & Regional Program in Western Australia](#)
- 16 May [Professions a High ACCC Priority](#)
- 16 May [Path Cleared For More Broadband Offerings](#)
- 15 May [Prevention Is Better Than Cure: Competing Fairly Forum](#)
- 15 May [Court Penalises Colgate-Palmolive Pty Ltd \\$500,000 for Stopping Discount Advertisements](#)
- 14 May [ACCC Funding: 2002-03 Budget](#)
- 13 May [All Inclusive Price Advertising: Airfares](#)
- 13 May [ACCC Institutes Against Crackerjack Productions Pty Ltd and Network Ten Pty Ltd for Allegedly Misleading Job Seekers](#)
- 10 May [ACCC Welcomes Competition Tribunal's Ruling on the Queensland Gas Pipeline](#)
- 9 May [Trade Practices Act Review 'Major Opportunity': ACCC](#)
- 9 May [ACCC Takes Action Against 'Abtronic' Promoters](#)
- 8 May [ACCC Allows Marketlink Joint Venture](#)
- 8 May [Federal Court Declares Landlord's Conduct Unconscionable, Breached Franchising Code](#)
- 8 May [ACCC Not to Oppose GE Capital/AGC Merger](#)
- 7 May [ACCC Decision Leads to More Efficient Rail Services](#)
- 7 May [ACCC Alleges QANTAS Misused its Market Power in Anti-Competitive Manner](#)
- 6 May [ACCC Takes Action Against Virgin Mobile Australia Pty Ltd for Alleged Misleading Mobile Phone Advertising](#)
- 6 May [Court Gives Reasons For Penalties for Collusion](#)
- 3 May [ACCC Accepts Undertakings From Nufarm and Monsanto](#)
- 3 May [ACCC Institutes Against Kwik Fix Franchisor](#)
- 3 May [ACCC Issues Guidelines for the Negotiation of Discounted Transmission Charges](#)
- 3 May [Federal Court Orders \\$14.5 Million Penalties Against Cartel Participants, and Orders Major Penalties for Managing Directors](#)
- 2 May [ACCC Prosecutes Allans Music for Misleading Prices](#)
- 2 May [ACCC Warns of Mis-Use of 'SPAM'](#)
- 1 May [QANTAS Criticism 'Unfounded': ACCC](#)