

## What's news

### ACCC enters oil and petroleum industry company sites

The ACCC entered eight oil and petrol company sites on 23 April, to inspect and copy documents. The ACCC acted after receiving information from a whistleblower that led the ACCC to believe that the companies may have engaged in price fixing conduct which breached the *Trade Practices Act 1974*.

The sites visited included the premises of major oil companies Caltex, Mobil and Shell. More than 90 ACCC officers, including legal staff and IT specialists were involved in the visit. This was the largest operation of this type that the ACCC has undertaken, and the first time the ACCC has undertaken a multi-site exercise.

The ACCC will now analyse the information in the documents copied in the visits. This process will take some time, it is expected that the ACCC will announce the results of the investigation at its conclusion. The ACCC may also look for further information, and possibly conduct a number of interviews, for further fact finding.

More information: [MR 90/02, 24 April 2002](#)

### Consumer groups meet with ACCC

The ACCC Consumer Consultative Committee met again on 16 April to discuss current issues of concern to consumers groups.

The committee first met in November 2000. Representatives from a number of major consumer groups attended (for a detailed list of those groups represented, see the November 2001 edition of *ACCC consumer express*).

Issues discussed at the meeting included:

- telecommunications;
- elements of consumer contracts;
- the issues and problems that surrounded the collapse of Ansett and the current problem with rural services; and
- public liability insurance and its effect on a range of activities, including voluntary work.

The committee is particularly important as it gives the ACCC access to different views on consumer issues.

The next meeting of the committee is scheduled for late July 2002.

Your views as a consumer are important to the ACCC. Is there an article you would like to see in *ACCC consumer express*? If so, please contact the Consumer Express team at [express@acc.gov.au](mailto:express@acc.gov.au)

### Tobacco decision: ACCC investigates

The ACCC will investigate whether British American Tobacco (BAT) and Clayton Utz participated in misleading, deceptive or unconscionable conduct in breach of the Trade Practices Act, following a recent Victorian Supreme Court decision.

Justice Eames concluded that BAT and Claytons engaged in a process of document destruction intending to withhold information relevant to possible litigation; a strategy enabling BAT to destroy documents harmful to its smoking and health litigation defence.

ACCC Chairman, Professor Allan Fels said 'The ACCC is concerned that these matters raise very considerable matters of public interest. Compliance by all businesses including the legal profession with the requirements of the Trade Practices Act is a matter of significant importance'.

Other ACCC regulatory activity focusing on the tobacco industry includes an investigation into complaints that the labelling of tobacco products as 'light' or 'mild' may be misleading.

The ACCC has just submitted a report to the Senate on whether, and to what extent, conduct by tobacco companies may be breaching trade practices law.

More information: [MR 76/02 12 April 2002](#)

### ACCC alleges No-Gap rip-off

The ACCC has instituted proceedings against three specialist obstetricians providing private in-hospital obstetrics services in Rockhampton alleging they agreed to boycott 'No-Gap' billing arrangements offered by a number of private health insurance funds.

The ACCC alleges Drs Mark Leyden, Stephen Robson and Paul Khoo made arrangements in December 2000 and January 2001 that they would not provide private in-hospital obstetrics services to their patients on a 'No-Gap' billing basis.

The ACCC alleges that this amounted to an exclusionary provision (primary boycott) in breach of the Trade Practices Act. Because of this arrangement, the ACCC also alleges that about 200 women in the Rockhampton region incurred out-of-pocket-expenses (gap) for private in-hospital obstetrics services that would otherwise have been covered by their health funds. It is alleged that many rural/regional

patients paid up to about \$700 more than they would have if the agreement had not existed.

The ACCC is seeking court orders including:

- declarations that the obstetricians contravened the Act and the Queensland Competition Code
- reimbursement of the expense incurred by patients in covering the gap
- the publication of information notices in the local media
- injunctions restraining each obstetrician from engaging in such conduct in the future
- findings of fact, and costs.

More information: [MR 78/02 17 April 2002](#)

## In the consumers' interest

### Changes to mobile regulation

The ACCC has announced its decision to include code division multiple access (CDMA) mobile services in the GSM mobile services declaration. Previously, only GSM services were declared as CDMA networks were not in use when the current regulatory regime was introduced.

'The decision brings consistency and greater certainty to the regulation of mobile GSM services', ACCC Chairman, Professor Allan Fels, said.

'The ACCC considers the decision will help to ensure competition continues to increase in the mobile services market.' In reaching its decision, the ACCC considered views expressed by mobile carriers, service providers and other interested parties.

More information: [MR 77/02 12 April 2002](#)

## About the ACCC— Competing Fairly Forum

On Tuesday 21 May 2002 the ACCC, with the support of local convenors and business and consumer organisations, will broadcast its fourth Competing Fairly Forum to over 100 towns across regional, rural and outback Australia.

The forums for 2002 will focus on 'prevention is better than cure' in relation to the Trade Practices Act and broader business activity. Business owners and operators need to know what protection is available through the Act and how to protect themselves and manage conflict. They also need to be aware of their responsibilities to other businesses and consumers.

You are invited to take part in the forum and submit questions to the forum about preventative measures in business practices. For details of dates and locations call the ACCC Infocentre on 1300 302 502 or visit the forum website at <http://www.forums.accc.gov.au>.

## From the Infocentre One year of operations!

The ACCC's Infocentre has now been operating for one year. Calls were previously taken by ACCC officers in the regional offices. Receiving all the calls in one location assists the ACCC in identifying emerging issues among consumers and analysing patterns of conduct.

When the Infocentre was formed it had seven full-time staff and five part-time staff. Now the Infocentre has 15 full-time staff.

In the past year the Infocentre has received over 89 000 calls and responded to over 18 000 e-mails.

Some of the calls that staff have taken include:

- complaints about advertising practices;
- complaints about harassment from debt collection agencies;
- warranties and refund issues;
- complaints about pyramid selling schemes and other scams;
- problems with businesses behaving anti-competitively;
- questions and complaints about franchises; and
- questions about ACCC processes such as authorisations and mergers and much more.

ACCC Infocentre staff take complaints, answer questions, and advise consumers on how to assert their rights, particularly how and when they can obtain refunds and what to do when consumers have been misled. Information on these issues and more is available on the ACCC website at <http://www.accc.gov.au>.

For more information on contact details see the ACCC website or call the Infocentre on 1300 302 502.

## Recent investigations

### No shopfront—no excuse for sloppy net traders

NSW-based bicycle importer and Internet retailer, Easybuy.com.au Pty Ltd, which trades as Bikes Direct, has entered into enforceable undertakings with the ACCC to stop misleading consumers and to recall faulty bikes.

After being approached by the ACCC, Bikes Direct acted promptly to rectify misleading statements on its website about consumers' rights and warranties on its products. Bikes Direct will implement a trade practices compliance program for the next three years.

'Because Internet customers cannot personally inspect goods or services, there is a greater obligation on Internet traders to ensure that their website is accurate', ACCC Chairman, Professor Allan Fels, said.

'Importers should also note that they have a high onus to be vigilant in ensuring that goods they import comply with mandatory Australian requirements such as consumer safety

standards. It turned out that in this instance the defects were not life threatening but the importer was not to know that at the time'.

More information: [MR 74/02 11 April 2002](#)

## Internet trader in contempt

The Federal Court has fined Purple Harmony Plates Pty Ltd \$20 000 and imposed \$10 000 fines on the company directors Helen Therese Glover and Neal Arthur Lyster for contempt. The fines are payable within 60 days and they have also been ordered to pay the ACCC's legal costs.

The court imposed the fines because the respondents failed to implement court orders after breaching the Trade Practices Act last year. The breach related to unsubstantiated health and other claims for products promoted on the Internet.

'Enforcement of the law is a high priority as consumers must be fully and truthfully informed', ACCC Chairman, Professor Allan Fels, said. 'This is especially so in respect of matters involving medical and health issues.

'It also sends a clear message to businesses that they cannot hide behind the Internet and use it as an excuse to ignore obligations under the Trade Practices Act. Irrespective of the medium, conduct in trade or commerce in Australia is subject to the Act'.

More information: [MR 75/02 11 April 2002](#)

## Latest developments

### ACCC institutes against ING

The ACCC has instituted Federal Court proceedings against Internet Name Protection Pty Ltd, trading as Internet Name Group (ING), and its director, Mr Mark Spektor.

The ACCC alleges that ING has made false and misleading representations regarding registration and renewal of Internet domain names. The ACCC issued a general warning about Internet domain renewal in January 2001.

The ACCC is seeking orders including declarations ING breached the Trade Practices Act, injunctions restraining ING from engaging in the same conduct in the future, corrective advertising, refunds and costs.

For more information: [MR 81/02 18 April 2002](#) and [MR 15/01 31 January 2002](#)

### Debt collection agency misled consumers

The Federal Court in Adelaide has declared that the debt collection agency, Waterman Collections Pty Ltd, engaged in misleading and deceptive conduct when attempting to recover debts on behalf of the insurance company NRMA (now known as Insurance Australia Group Ltd). The NRMA was not involved in Waterman's conduct.

'This result sends a message to all debt collection agencies that unfair tactics and misleading conduct in the pursuit of their business will not be tolerated either by the court or the ACCC', said ACCC Chairman, Professor Allan Fels.

The ACCC alleged that between February 2000 and June 2001 Waterman sent letters to more than 850 persons who were involved in accidents with NRMA-insured drivers. The letters claimed that \$3171 was 'overdue' and threatened to carry out 'further action without notice' if the amount was not paid within seven days. However, the figure was not the actual liability because at the time Waterman had no information about the cost of repairs.

Further information on debt collection under the Trade Practices Act is contained in the ACCC guidelines, *Debt Collection and the Trade Practices Act*, available on the ACCC website and from all ACCC offices.

For more information: [MR 83/02 19 April 2002](#)

## Storecharter developed for Indigenous communities

*Storecharter* is a voluntary charter developed and published by the ACCC. Stores that have agreed to cooperate with its principles display the *Storecharter* logo.

It is mainly intended for owners/operators of retail stores serving Indigenous communities in rural and remote areas of Australia. This includes stores owned or operated by Indigenous communities, governments or private businesses (whether operated as a separate business or run as part of another business such as a pastoral lease).

The charter's purpose is to:

- help store owners comply with relevant laws
- encourage higher trading standards
- help to further develop understanding and respect between Indigenous people and store owners, operators and staff.

In launching *Storecharter* on 22 April, Professor Allan Fels said that 'Stores signing up to *Storecharter* are giving a visible commitment to meet acceptable standards of customer service' and that 'customers should feel that stores showing the *Storecharter* symbol will respect their rights'.

*Storecharter* is supported by State and Territory Fair Trading agencies, consumer groups, Indigenous agencies and business organisations. For copies of *Storecharter*, go to the ACCC website at <[www.accc.gov.au](http://www.accc.gov.au)>, contact the ACCC Infocentre on 1300 302 502, or e-mail <[storecharter@accc.gov.au](mailto:storecharter@accc.gov.au)>

More information: [MR 84/02 22 April 2002](#)

## New publications

### Updated 'Little black book of scams' available

A new version of the *Little black book of scams*, published by the Department of Treasury has been released. The publication is a joint work by the state fair trading agencies and national consumer affairs bodies.

The updated version contains more information on the forms scams can take and how to identify them. Some of the scams covered include pyramid schemes, amazing offers, door-to-door scams, investment or financial scams and self-employment scams.

The book tells you what questions to ask when someone is offering what you think might be a scam. It also emphasises the most important trick in avoiding scams—saying **no**.

If you would like a copy of the *Little black book of scams*, contact your local fair trading agency. For more information on scams, see the Scamwatch website at [www.scamwatch.gov.au](http://www.scamwatch.gov.au)

## News from afar

### Canadian consumers benefit from vitamins cartel settlement

Four international drug companies agreed last month to pay CAD\$7.7 million (A\$9.3 million) to settle a class action lawsuit brought by Canadian consumer groups over price fixing of a vitamin food additive.

The settlement is the latest in a series of successful international legal actions brought against pharmaceutical companies for their part in a broader vitamins cartel. Record penalties of more than \$3 billion have already been imposed on participants in the conspiracy, following investigations by enforcement agencies from around the world.

ACCC action against vitamins cartel participants in 2000 resulted in a \$26 million penalty imposed on several companies for their operations in Australia.

## April media releases

- 30 Apr [ACCC and Fiji Commerce Commission: MOU Promotes Cooperation](#)
- 30 Apr [ACCC Obtains Federal Court Orders Against Autobarn for Promotion and Sale of Unsafe Car Ramp](#)
- 30 Apr [ACCC Seeks Comment on Telecommunications Dispute Resolution Processes](#)
- 30 Apr [U.S. Light Cigarette Case Under Close Scrutiny](#)
- 26 Apr [ACCC Points Spotlight on Regional Australia](#)
- 26 Apr [ACCC Puts the Brakes on Misleading Car Ads](#)
- 26 Apr [ACCC to Assess Australia Post's Proposed Price Increases](#)
- 24 Apr [ACCC Welcomes Government Proposals on Telecommunications Competition Reform](#)
- 24 Apr [ACCC Enters Oil Company Sites](#)
- 23 Apr [Issues Paper Reviews Victorian Gas Access Arrangements](#)
- 23 Apr [ACCC's Interim Decision Allows Collective Negotiation of New Contracts for SA Chicken Growers](#)
- 23 Apr [ACCC Builds On New Regional Focus](#)
- 22 Apr [ACCC Calls For Closer Agency Cooperation on Indigenous Consumer Issues](#)
- 22 Apr [Storecharter — A New Approach to Customer Service](#)
- 22 Apr [ACCC Takes Court Action Against Advanced Medical Institute Alleging Misleading Male Impotency Treatment Claims](#)

- 19 Apr [Federal Court Declares Debt Collection Agency Misled Consumers About Debts Owed to Insurance Company](#)
- 19 Apr [ACCC Leans Toward Intervention on Line Sharing, Tells Telstra to Get On With It](#)
- 19 Apr [Federal Court Declares Debt Collection Agency Misled Consumers About Debts Owed to Insurance Company](#)
- 18 Apr [ACCC Alleges Misleading Conduct by Internet Name Group](#)
- 18 Apr [Regulators Push for Greater Consistency](#)
- 17 Apr [ACCC to Oppose API/SIGMA Merger](#)
- 17 Apr [ACCC Alleges Anti-Competitive Boycott Arrangement by Regional Obstetricians to Stop 'No-Gap' Billing](#)
- 12 Apr [Tobacco Decision: ACCC Investigates](#)
- 12 Apr [ACCC Tidies Up Mobile Regulation](#)
- 11 Apr [Federal Court Fines Internet Trader for Contempt](#)
- 11 Apr [No Shopfront - No Excuse for Sloppy Net Traders](#)
- 11 Apr [Victorian Taxi Operators Get Choice on Cameras](#)
- 11 Apr [Advertising Agents Warned of Risks of Breaching Trade Practices Act](#)
- 10 Apr [Company Offers Undertaking for Supplying Non-Compliant Vehicle Jack](#)
- 8 Apr [International Consumer Protection Network Goes After Health Scams to Protect the Health of Global Consumers](#)
- 5 Apr [ACCC Issues Views of Efficient Telecommunications Access Prices](#)
- 4 Apr [ACCC Issues Discussion Paper on Interconnection](#)
- 3 Apr [Better Dispute Resolution for 'E-Consumers' Needed: ACCC](#)

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