

The New Tax System

Output 1.1.1: The proper administration and enforcement of the *Trade Practices Act 1974*, the *Prices Surveillance Act 1983* and related laws; and

Output 1.1.2: Performance of actions that promote competition and fair trading and enable well-functioning markets.

Year in review

During 2000–01 substantial Commission resources continued to be used to ensure that the benefits of the New Tax System were passed on to consumers and that businesses did not exploit consumers in implementing the tax changes. This involved providing information to business and consumers, liaison with individual businesses and business and consumer organisations, national monitoring of prices and investigating complaints and appropriate enforcement action.

After one year of the GST the Commission found that most businesses have fully complied with its pricing guidelines. Businesses generally acted correctly in adjusting prices to take account of the tax changes. The changes affected prices mostly in the September 2000 quarter and were within the Commission's estimates of their effect. The overall impact on prices was less than forecast by the Commonwealth Treasury and economic commentators generally. Most companies that completed public compliance commitments have advised the Commission they will not increase prices further as a result of the tax changes. Price rises that have occurred since then have generally been consistent with underlying inflation evident before the tax changes were implemented.

From early July 1999 the Commission has investigated potential non-compliance with the pricing guidelines, handling more than 120 000 inquiries (64 000 during 2000–01), including about 40 000 complaints (24 000 during 2000–01). Many were found not to be breaches of the Trade Practices Act and many were multiple complaints about the same business. Since July 1999 the Commission has investigated in detail about 6200 GST-related matters. As a result numerous businesses took corrective action to remedy contraventions related to the tax changes. They have refunded nearly \$10.1 million on behalf of approximately 990 000 consumers.

The Commission's role

PERFORMANCE INDICATOR

- Appropriate action taken to ensure no business takes unfair advantage of the New Tax System.

The Commission's responsibilities under Part VB of the Trade Practices Act require it to issue guidelines on pricing responses to the New Tax System changes, to check prices and take action against businesses that increase prices unreasonably. The law against price exploitation operates until 30 June 2002 and reflects Federal and State Parliaments' desire to address consumers' concerns about the possibility of some businesses taking advantage of the tax changes to charge unreasonably high prices.

Price exploitation carries penalties of up to \$10 million per offence for corporations, and up to \$500 000 per offence for individuals. The provisions also apply to advisers found to be knowingly concerned in, or aiding and abetting, contraventions of the law.

Under the law the Commission can issue a notice to a corporation or person it considers has contravened the prohibition against price exploitation. In any court proceedings for injunction or penalty, a notice constitutes prima facie evidence that the price charged is unreasonably high, and cannot be attributed to the New Tax System changes, supplier's costs, supply and demand conditions or any other relevant matter. If a price exploitation notice is

served, it is up to the corporation or person to show that they did not engage in price exploitation.

A second type of notice can help prevent price exploitation by specifying a maximum price for a supply for a specified period, which may extend to the end of the three-year transition period. A maximum price notice effectively warns the business that a supply above the maximum price specified constitutes price exploitation.

The Commission has additional New Tax System responsibilities in relation to:

- the Commonwealth Fuel Sales Grants Scheme providing a grant, generally of 1 or 2 cents per litre, to fuel retailers and distributors for petrol and diesel sold to consumers in regional and remote areas of Australia;
- the reduction in Commonwealth excise on petrol and diesel from 2 March 2001; and
- the reduction in Commonwealth excise on draught beer from 4 April 2001.

To ensure that the benefits of the grant and excise reductions were passed on to consumers, these measures were prescribed under the price exploitation legislation administered by the Commission.

The Commission's promotion of compliance emphasised the role of informing and educating businesses and consumers about their rights and obligations under the price exploitation provisions of the Act. Its education strategy, which includes wide distribution of the Commission's guidelines on price exploitation, has been highly effective in raising business awareness. It has also increased consumer knowledge about expected price changes.

In its oversight role, the Commission sought to achieve the aims of the legislation cost-effectively. Central to meeting its responsibilities was obtaining information about prices and pricing decisions and providing information to market participants. In assessing price movements the Commission focused on price **changes** as a result of the New Tax System, rather than price levels.

The Commission has investigated many allegations of price exploitation. It addressed offending behaviour and sought to prevent it from occurring again, to ensure consumers received restitution and to instigate court action, if required.

The Commission is required, under Part VB of the Act, to report to the Minister within 28 days after the end of each quarter about the operations of its price exploitation responsibilities in relation to the New Tax System.

Promoting compliance

PERFORMANCE INDICATORS

- Publication of new and amended provisions of the Trade Practices Act and new ACCC procedures.
- ACCC policy and positions formulated — discussion documents and guidelines on competition initiatives and regulatory mechanisms prepared, disseminated and discussions to take place with Government, industry and consumers.

The guidelines

The Commission's price exploitation guidelines give businesses the basic information needed to comply with the New Tax System. Revised guidelines were published in March 2000, as required under Part VB, to provide greater certainty for business in setting prices on the introduction of the New Tax System.

The net dollar margin rule is a fundamental principle of the guidelines. That is, if the New Tax System changes cause taxes and costs to fall by \$1, then prices should fall by at least \$1. If, after taking into account tax and cost reductions resulting from the New Tax System, the costs of a business rise by \$1, then prices may rise by no more than that amount.

Communications strategy

The Commission ran a comprehensive communications strategy to promote compliance with the law during the transition to the New Tax System. The aim was to raise awareness and understanding among consumers and businesses

of their respective rights and obligations under the legislation. This was achieved by providing information through printed publications, radio and print media advertisements, a dedicated website (<http://gst.accc.gov.au>) and the GST Price Line (1300 302 502).

This strategy also targeted businesses owned and run by people from non-English-speaking backgrounds. Aboriginal and Torres Strait Islander business enterprises also received special attention from the Commission. The Commission distributed appropriately tailored information to consumers in these diverse communities.

The Commission's communications strategy involved anticipating issues likely to be of concern or interest to consumers and business. As new issues emerged, explanatory materials were quickly developed and disseminated.

The key elements of the business strategy were:

- small business compliance guide;
- small business cost savings estimator;
- small business retail price adjustor;
- GST News for Business brochures;
- GST Checklist fact sheets;
- a business information network; and
- industry association liaison and presentations.

The key elements of the consumer strategy were:

- blanket distribution of *Australia's Everyday Shopping Guide with the GST* booklet;
- an extensive advertising campaign;
- the National GST Consumer Consultative Group;
- a consumer information network;
- GST Talk fact sheets;
- the consumer newsletter GST Snapshots;
- GST Bulletins; and
- a *How to make a complaint* brochure.

Media activities

The Commission's media activities are a key tool for promoting compliance. Media releases, print and radio advertisements, press articles, question and answer columns and press interviews all provided opportunities to inform large audiences about GST pricing issues as they arose.

Media releases

The Commission issued 64 media releases related to the New Tax System during the year. They promoted compliance by example, illustrating to the wider business community the consequences of possible price exploitation and misleading or deceptive conduct with respect to the New Tax System.

Advertising program

The Commission's advertising program informed customers and small businesses about the likely price impacts of the New Tax System and aimed to raise awareness of the Commission's role.

An eight week print and radio advertising program was launched in June 2000 and continued throughout July. To reach a wide audience, the advertisements were run in the major metropolitan media, rural and regional media, specialised Aboriginal and Torres Strait Islander media and media targeting multicultural communities, as well as magazines and radio for the vision impaired.

The key message was that the Commission intended to prevent price exploitation and to ensure that businesses passed on all cost savings from the tax changes to their customers. The Commission publicised the likely price movements and where people could get further information. Consumers were advised they could call the Commission's GST Price Line in cases of price exploitation and that action would be taken.

The number of calls to the GST Price Line increased substantially during July 2000, demonstrating consumers' interest and willingness to question businesses about price increases.

Press articles

In addition to the series of print advertisements the Commission continued to provide articles and question and answer columns in newspapers throughout the year. These were mainly used in the major metropolitan daily newspapers, but also in industry journals and other publications.

Publications

To date the Commission has produced around 5.7 million GST publications since starting its New Tax System role. This does not include the *Everyday Shopping Guide with the GST*, which was delivered to every household in the country and was also available in newsagencies and post offices.

GST Bulletins

During the year 27 electronic GST Bulletins regularly alerted consumers and businesses to emerging GST pricing issues. They dealt with topical issues identified from calls to the GST Price Line as well as from the Commission's enforcement activities. They were produced quickly and distributed through the GST information network.



GST Talk series

The *GST Talk* fact sheets gave consumers detailed information about issues of public concern that emerged from inquiries and complaints to the GST Price Line and the Commission's other compliance activities. They dealt with issues such as accommodation charges in commercial residential premises (caravan parks etc.) and the abolition of financial institutions duty and stamp duty on quoted marketable securities.

News for Business

These fact sheets addressed specific business and industry topics dealing with such issues as franchise fees, pricing hints for operators of cafés, takeaways and restaurants, commercial and retail property leases, commercial contracts with rent review or price escalation clauses with reference to the CPI, and the abolition of financial institutions duty and stamp duty on quoted marketable securities. They were distributed through relevant business, industry and professional associations.

Poster for the retail sector

In response to continued inquiries about displaying and advertising prices, the Commission produced a poster for the retail sector to reinforce the message that prices should include GST. Over 200 000 were distributed through business and industry groups, local government councils and other agencies and carried the message 'No one likes to be misled — Prices should include GST'. Several organisations inserted the poster into their newsletters or industry journal.

Reports

In addition to publications containing general information, the Commission published quarterly reports for the Minister on its operations under Part VB as required by s. 75AZ of the Trade Practices Act. Three price monitoring survey reports were also published during the year.

GST information network

The GST information network is a Commission database network containing over 1800 consumer and community groups, business organisations, industry associations, libraries and other agencies and groups. The Commission used this network mainly to distribute information about the New Tax System both electronically and in hard copy. This material was also available from the Commission's GST website or by calling the GST Price Line.

During the year over 150 consumer and community organisations, representing around 1.9 million people, received material through this network. Information for businesses was sent to more than 900 business and industry organisations, representing just under two million people. Around 100 libraries and more than 100 government and other agencies also received this information. The members of the network represent around eight million Australians.

Electronic information

GST website

The GST website at <<http://gst.accc.gov.au>> provides easy access to relevant business and consumer publications and answers to frequently asked questions. Reports on retail price changes since the introduction of the New Tax System are also available on the site.

Information is available on the website for Aboriginal and Torres Strait Islanders and in 11 languages other than English: Arabic, Chinese, Greek, Italian, Spanish, Vietnamese, Croatian, Macedonian, Serbian, Russian and Turkish.

Over the year there were almost three million hits, with 160 000 individual sessions. The most popular areas on the site were the publications and the *Pricing kit for small business*.



GST Price Line

The GST Price Line (1300 302 502) — now called the ACCC infocentre — is a telephone information and complaints line for businesses and consumers. GST Price Line staff answered inquiries about the Commission's pricing guidelines and price changes, handled requests for the Commission's GST publications and accepted and logged complaints about possible price exploitation and misleading or deceptive conduct relating to the New Tax System. The Price Line also referred callers to other agencies where appropriate, such as the Australian Tax Office, the GST Start-Up Assistance Office and Centrelink.

From 1 May 2001 the GST Price Line became part of the ACCC infocentre, which is the initial response centre for all inquiries and complaints to the Commission on competition and consumer issues throughout Australia. Calls to this 1300 302 502 service can be made from anywhere in the country for the cost of a local call.

During the reporting period 64 030 GST-related complaints and inquiries were logged into the Commission's reporting system. Of these, 40 027 (62.5 per cent) were inquiries and 24 003 (37.5 per cent) were complaints. The 10 industries most commonly referred to were:

COMPLAINTS	PERCENTAGE
<u>Supermarket and grocery stores</u>	<u>9.4</u>
<u>Automotive fuel retailing</u>	<u>8.0</u>
<u>Cafés and restaurants</u>	<u>5.1</u>
<u>Takeaway food retailing</u>	<u>4.7</u>
<u>Telecommunication services</u>	<u>4.3</u>
<u>Retailing (not elsewhere classified)</u>	<u>4.1</u>
<u>Pubs, taverns and bars</u>	<u>2.7</u>
<u>Domestic appliance retailing</u>	<u>2.7</u>
<u>Newspaper, book and stationery retailing</u>	<u>2.5</u>
<u>General insurance</u>	<u>2.0</u>

INQUIRIES	PERCENTAGE
<u>Retailing (not elsewhere classified)</u>	<u>11.1</u>
<u>Supermarket and grocery stores</u>	<u>9.5</u>
<u>Central government administration</u>	<u>8.6</u>
<u>Automotive fuel retailing</u>	<u>5.3</u>
<u>Telecommunication services</u>	<u>3.1</u>
<u>Real estate agents</u>	<u>2.7</u>
<u>Takeaway food retailing</u>	<u>2.6</u>
<u>House construction</u>	<u>2.5</u>
<u>General insurance</u>	<u>2.4</u>
<u>Domestic appliance retailing</u>	<u>2.1</u>

Choice Price Watch website

During the year the Commission continued to provide information and assistance to the Australian Consumers Association (ACA) for its Choice Price Watch website. This included providing the results of the Commission's price surveys.

A special feature of the site was that consumers could record pre- and post-GST prices on it. The ACA monitored these prices and gave the Commission regular reports about the operation and use of the site.

Corresponding with the general trend observed by the Commission, traffic to this site decreased significantly over the course of the year. This indicated that, after the first few months of the GST's introduction, very few consumers were seeking information on the effects of the New Tax System on the prices of goods and services. After consulting with the Commission, the ACA closed the website in June 2001.

Working with consumers

In addition to the media activities, publications and electronic information for consumers generally, the Commission also addressed the needs of those who may have been subject to further disadvantage in the transition to the New Tax System.

Aboriginal and Torres Strait Islander information strategy

In June 2000 the Commission mailed out more than 20 000 specially produced GST information kits to indigenous community organisations and other relevant agencies and groups working with indigenous communities.

Follow-up presentations on GST and general trade practices issues began in September 2000 with visits to indigenous communities in Northern Queensland, Cape York and the Torres Strait and later to communities across northern Western Australia and Central Australia. The visits dealt with GST price changes and issues such as misleading or deceptive conduct, debtor harassment and unconscionable conduct.

The Commission's dedicated ATSI information line (1300 303 143) provided GST-related information to indigenous people and recorded their complaints relating to prices under the New Tax System.

Information strategy for people from non-English-speaking backgrounds

In June 2000 the Commission distributed information kits on GST pricing in Arabic, Chinese, Greek, Italian, Spanish and Vietnamese. They contained the *Everyday Shopping Guide with the GST*, fact sheets, business compliance information, a check list on price displays and a point-of-sale poster for retailers. The kits were mailed to over 10 000 community organisations as well as being available from the Commission's website. Key publications were also translated into Croatian, Macedonian, Russian, Serbian and Turkish and were available from the website.

Following the mailout over 500 community organisations were contacted by phone and letters were sent to another 330 organisations offering further information. As a result, 5000 more GST information kits in the six main languages other than English were sent out. In July an ongoing advertising program was run in each of the six main languages other than English. Major multicultural newspapers carried the advertisements, and the general radio campaign was translated for broadcast on ethnic radio. The Commission also prepared articles on price changes with the GST and the Commission's role for various multicultural community media and journals.

The Commission had staff able to take calls to the GST Price Line in languages other than English. The Commission also used the telephone interpreter service.

Information for the vision impaired

The Commission worked with Vision Australia to provide GST pricing information to those with vision impairment. Various articles on topical and emerging GST pricing issues were provided for broadcast on radio.

National GST Consumer Consultative Group

The National GST Consumer Consultative Group consists of representatives from consumer organisations from each State and Territory.

The group continued to assist the Commission in its consumer protection strategies including providing better access to Commission information for people from NESB and ATSI communities and those with vision impairment. The Commission reported on enforcement and monitoring activities, and received feedback from the group on the effectiveness of the Commission's activities.

Working with business

The Commission continued to work closely with industry and business associations, other government agencies and individual operators to ensure understanding of the New Tax System and compliance with the price exploitation guidelines. The Commission's Small Business Unit continued its outreach program, working with small business operators around the country.

Abolition of financial institution duty and stamp duty on quoted marketable securities

Financial institutions duty (FID) and stamp duty on quoted marketable securities were abolished on 1 July 2001 as part of the New Tax System changes. The Commission ran a comprehensive education campaign to inform consumers and the affected industry sectors of the effect of these tax changes.

Liaison with industry sectors

Retail industry

The Commission liaised extensively with the retailing industry to ensure compliance with the Commission's pricing guidelines. Particular focus was given during July 2000 to pricing displays, including dual ticketing, grace periods for dual price displays and the scanning code of conduct.

Discussion with the industry covered business practices such as supplier rebates. Before the introduction of the New Tax System, supplier rebates were used to reduce the amount paid

for a good by a retailer — this would lead to a reduction in the Wholesale Sales Tax (WST) that applied to the good. Retailers were concerned that the effect of the rebate before 1 July 2000 (including the WST benefit) should be included when calculating the net dollar margin. The Commission accepted this view and the pricing guidelines were amended to specifically address this issue.

Financial services industry

The Commission held discussions with all national and major regional banks about price changes including proposed broad changes to fees and charges, especially merchant service fees. The Commission sought to ensure that the extent and incidence of any changes to fees and charges were consistent with the price exploitation guidelines and that consumers received the full benefit of any indirect tax reductions.

Commercial and retail leasing

Liaison with representatives of the commercial and retail lease market promoted practical solutions to issues raised. These included long-term contracts and the passing on of cost savings, rentals linked to the consumer price index and the treatment of outgoings. The Commission released two publications: *News for Business 16* and *17*, addressing some of the major issues facing the sector.

Road transport

The road transport industry is one in which significant savings from the New Tax System were expected resulting from direct and indirect tax changes. The Commission was especially concerned that repriced haulage fees reflected cost savings from the introduction of the Diesel and Alternative Fuel Grants Scheme (the on-road scheme).

To ensure compliance with the pricing guidelines, the Commission held discussions with the industry, including the Australian Trucking Association, State-based industry groups and independent trucking operators and sub-contractors. The Commission also produced *News for Business 7 — Pricing issues for the trucking industry* to help operators identify the savings and how to treat them under the pricing guidelines.

Commercial residential accommodation

The amount of GST payable by users of commercial residential accommodation, which includes hotels, motels, hostels, boarding houses, caravan parks and similar premises, depends on whether the stay is short-term or long-term. To help people understand this the Commission produced *GST Talk 9 — Commercial residential premises — accommodation charges*. The Commission also attended industry seminars.

The Commission is currently completing an audit into the pricing structures of caravan parks, mobile home parks and boarding houses to determine whether operators have increased their profit margins as a result of the tax changes.

Government

The Commission liaised with State and Territory Treasury departments to promote compliance with the pricing guidelines in government controlled business activities. The Commission sought commitments from State and Territory governments that New Tax System savings would be monitored on an ongoing basis. When these savings are greater than those adjusted for under the *Intergovernmental Agreement on the Reform of Commonwealth-State Relations*, the benefit of the savings are to be passed on as lower prices to consumers.

Industries subject to pricing regulation

Many industries are subject to Commonwealth or State regulation that affects their ability to alter prices, for example electricity, gas, telecommunications and postal services. The Commission worked closely with State and Territory regulators to ensure that the pricing guidelines were applied to pricing decisions in these industries.

Public transport

Public transport is generally regulated by either State or Territory Departments of Transport or by independent State and Territory regulators. The Commission met with regulators across Australia to ensure that the benefits of the New Tax System and the Diesel Fuel and Alternative Grants Scheme were offset against the GST payable on fares.

Taxis

The Commission worked closely with State and Territory tax regulators to ensure that the guidelines were followed when determining GST-inclusive taxi fares. As a result, price changes were less than 10 per cent in all jurisdictions because of the embedded savings that the taxi industry received following the abolition of WST on vehicles, tyres and parts, and the availability of input tax credits for fuel.

The Commission also participated in the ATO Industry Partnership (taxi industry) and produced *News for Business 4 — taxi industry* which addressed industry specific issues in the context of the New Tax System.

Public compliance commitments

A public compliance commitment (PCC) is a voluntary commitment, signed by the chief executive officer of a corporation, stating that the corporation is committed to complying with the Commission's price exploitation guidelines. It is an important element in the promotion of compliance generally as big business can often influence market prices and provide a lead for smaller businesses.

The statement is the culmination of the company's discussions with the Commission about the application of the pricing guidelines and its re-pricing methodology. This process aimed to identify and address potential problems and increase public confidence that a company's behaviour was consistent with the guidelines.

A PCC establishes an effective liaison and information reporting regime, which minimises a corporation's risk of breaching the price exploitation provisions of the Act. It assures the community and the Commission that no unfair advantage will be taken of the New Tax System changes to increase margins, although a PCC will not indemnify the issuer from enforcement action if circumstances warrant such action.

By the end of July 2000, 35 companies from many industry sectors had public compliance commitments on the Commission's Public Register. The Commission regards this as a major achievement in its efforts to encourage compliance with the New Tax System legislation. Below is the full list and their PCCs can be

viewed on the Commission's website
<<http://www.accc.gov.au>> in the public
register section.

Ansett Holdings Ltd
Australia & New Zealand Banking Group Ltd
Australia Post
Berri Ltd
BOC Gases Australia Ltd
British American Tobacco Australasia Ltd
Burns, Philp & Company Ltd
Cable & Wireless Optus Ltd
Capral Aluminium Ltd
Coca-Cola Amatil Ltd
Coles Myer Ltd
Commonwealth Bank of Australia
David Jones Ltd
Department of Infrastructure — Victoria
Ergon Energy Ltd
Estee Lauder Pty Ltd
GE Australia
Goodman Fielder Ltd
Imperial Tobacco Australia Ltd
Lend Lease Corporation Ltd
National Australia Bank Limited
Qantas Airways Ltd
Rebel Sports Ltd
Strathfield Group Ltd
Stryker Australia Pty Ltd
Sydney Airport Corporation
Telstra Corporation Ltd
The Broken Hill Proprietary Company Ltd
Toll Holdings Ltd
Tricon Restaurants Australia Pty Ltd
Unilever Australia Ltd
United Distillers and Vintners (Aust.) Ltd
Westfield Holdings Ltd
Westpac Banking Corporation
Woolworths Ltd

The commitments generally require the companies to report to the Commission every six months or upon request. Such reports may include independent verification of the information provided.

The total number of inquiries and complaints relating to these companies during 2000–01 was about 9300. About 5400 of these, or nearly 60 per cent, were received in the September quarter of the year. This was fewer than expected given the size of the companies concerned and the consumer market focus of many of them. Inquiries and complaints have stayed at lower levels since September 2000.

The reports confirmed that the companies had complied with the Commission's price exploitation guidelines and no compliance issues arose from the review of the reports.

A common theme in discussions with the companies was that the tax changes were no longer a factor in their pricing decisions and that pricing had returned to a normal commercial basis. Most indicated that there would be no further price increases for their products as a result of the New Tax System.

The benefits of the public compliance commitments include:

- heightened corporate awareness and understanding of their obligations and responsibilities in relation to pricing under the New Tax System;
- greater overall compliance with the New Tax System price exploitation legislation and the Commission guidelines due to the influential position of the companies in their industries;
- the resolution of emerging issues in a timely and cost-effective manner with a high degree of compliance from participating organisations;
- consistency in the complaints handling process, with a Commission liaison officer appointed to each company with a public compliance commitment; and
- assistance with the Commission's price monitoring role.

Price monitoring

PERFORMANCE INDICATOR

- Appropriate action taken to ensure no business takes unfair advantage of A New Tax System.

The Commission has an extensive price-monitoring program in place. It also draws on many other sources of information about price changes and pricing behaviour. These include the consumer price index (CPI) and Australian Bureau of Statistics' wholesale price indexes, commercially provided price information databases for specific products at the wholesale and retail levels, large corporations with public compliance commitments and the authorities that regulate industries such as electricity, gas and public transport. Complaints by consumers and businesses through the GST Price Line also contributed to the Commission's information on price changes associated with the New Tax System.

Information gathered about price changes and pricing behaviour provided the basis for the Commission's estimates on price movements and helped identify where price exploitation occurred.

The general survey

The Commission undertook several retail price surveys on price changes and trends across a wide range of household goods and services. They also helped identify cases of potential price exploitation.

The general survey involved collecting prices on identical products at different times. The size of the survey was substantial. For example, about 320 000 price comparisons were made between the survey in May 2000 (the pre-GST base) and the latest survey in May 2001. Prices were collected from around 10 000 retail outlets in 115 locations (capital cities, major regional cities and towns) in all States and Territories. The Commission conducted the general survey seven times during the GST transition period, including four during the reporting year — August and October 2000 and February and May 2001.

The results (see table 2.1) indicate that repricing associated with the New Tax System occurred predominantly in the September quarter 2000 and was broadly within the Commission's estimates. Comparing the change in prices between the May and August 2000 surveys provides the best indication of the effects of the tax changes alone as it was long enough to allow retail prices to be adjusted for the tax changes, but not long enough for non-tax factors to have much influence. Nevertheless, other factors were expected to contribute to changes in some product prices during the period.

The weighted average price change over the three months between the May 2000 and August 2000 surveys was +2.6 per cent. Weighted on the same basis, the Commission's estimate of the effects of the New Tax System by the end of 2000 was an increase of 3 per cent. The weighted average price change over 12 months between the May 2000 and May 2001 surveys, by which time non-tax factors were generally determining prices outcomes, was +5.7 per cent.

The 'fresh food' and 'alcohol and tobacco' product groups show the largest price increases since the May 2000 survey. Prices of fresh food products — untaxed under both the WST and the GST — increased by 13.4 per cent on average from May 2000 to May 2001. Factors unrelated to tax changes affected the supply prices of fresh food products, including floods in growing areas during November 2000, extreme heat conditions over summer 2000–01 creating poor growing conditions for many crops, and increased domestic meat prices following strong export demand.

The prices of alcohol and tobacco products in the survey increased by 11.9 per cent on average from May 2000 to May 2001, mainly reflecting the initial price increases associated with the tax changes and the impact of the August 2000 and February 2001 excise indexation adjustments.

Table 2.1. Average price changes, May 2000 to August 2000 and to May 2001

Product group	Estimated New Tax System-effect on prices by end 2000	Survey's average 3 months	Change 12 months
	%	%	%
Clothing and footwear	7.5	3.2	5.7
Fresh/unprocessed food	-1.1	3.2	13.4
Household furnishings and equipment	2.2	1.5	3.4
Household services and operation	2.2	2.3	4.9
Personal care	1.5	-1.3	1.2
Recreation — audio visual	-3.6	-5.0	-7.1
Recreation — other	3.2	2.2	1.4
Processed food and beverages	-0.3	0.2	3.4
Meals out and takeaway food	9.2	7.9	10.2
Miscellaneous goods and services	3.6	3.1	6.4
Medical and health	5.4	5.4	7.8
Motor vehicle expenses	1.9	1.0	7.2
Alcohol and tobacco products	6.0	7.1	11.9
All groups weighted average	3.0	2.6	5.7

The samples in the general survey are large enough to analyse differences in price changes between metropolitan (capital city) and regional areas. The data indicates that price changes resulting from the New Tax System were fairly consistent across geographical locations even though price levels may be quite different. The results also showed no substantial differences in the average price changes between the States and Territories, although again prices may be at different levels.

The Commission was also interested in how smaller businesses changed their prices compared with larger retailers and retail chains.

There was some evidence from monitoring the WST rate reduction in 1999 that the level of compliance was higher among large businesses. The Commission responded to this perceived discrepancy with an information campaign and issued the *Pricing kit for small business* to help the sector better understand repricing and comply with the law. The differences in price changes between small businesses and chains in the reporting year were insignificant. This suggests the information campaign was effective in assisting small businesses better understand the pricing implications of the 1 July 2000 tax changes.

Monthly supermarket survey

The Commission conducted monthly surveys of supermarket prices from January 2000, covering more than 300 supermarkets nationwide, with a product basket of over 100 commonly purchased items.

Comparisons were based on changes between prices averaged over two months. This reduced volatility from month to month resulting from changes in supermarkets' price 'specials'. The weighted average price change over the three months between May/June (the pre-GST base) and August/September 2000 was -0.1 per cent. If fresh fruit and vegetable items which have volatile supply and demand characteristics are excluded, the average change was zero. Over the 12 months between May/June 2000 and the last survey of 2000-01 in May/June 2001, the weighted average price change was +6.0 per cent. When prices of fresh fruit and vegetables were removed, the increase was 4.1 per cent. With the passing of time since 1 July 2000 non-tax factors have increasingly determined price changes.

Consumer price index

The Commission analyses official statistics produced by the Australian Bureau of Statistics. In particular, data from the CPI measures price movements in a basket of goods and services consumed by capital city households.

While the methodology used by the ABS to measure CPI price changes is different to that used by the Commission in its retail price surveys, movements in prices of products in the CPI 'basket' have been broadly consistent with the Commission's estimates of the effects of the tax changes on prices. The change in the CPI 'All Groups' in the September 2000 quarter was +3.7 per cent — followed by +0.3 per cent in the December 2000 quarter — consistent with the bulk of the effect of the tax changes occurring in the September quarter. The CPI increased by 6 per cent over the four quarters ending June 2001 by which time non-tax factors were clearly influencing general price outcomes.

General impact of the New Tax System on prices

The results of the Commission's surveys since the September quarter 2000, together with CPI outcomes, confirm that the impact on prices occurred mainly in the first quarter of 2000-01. This is consistent with the Commission's estimates. No evidence of significant opportunistic pricing to increase margins was found.

Although prices have risen since the initial impact during the September 2000 quarter, average increases have generally been in line with inflation trends that existed before the New Tax System. An analysis of CPI data shows that the increase in the CPI 'All Groups excluding Food' index over the three quarters ending June quarter 2001 (after the primary impact of the tax changes) was 1.7 per cent.¹ The average increase in this index over the corresponding three-quarters for the two years before 1 July 2000 was 1.4 per cent and for the previous six years was 1.6 per cent.

Industry-specific monitoring

Motor vehicles

Before the New Tax System, nearly one quarter of all WST revenue came from the sale of new motor vehicles. Accordingly, passing on the abolition of WST on vehicles has been a major monitoring issue. Notices were issued under s. 75AY(2)(a) of the Act to a sample of motor vehicle retailers to obtain data about post-GST pricing and to help assess whether savings were reflected in their prices.

The Commission concluded that NTS savings were reflected in new motor vehicle prices. No evidence of price exploitation in relation to new motor vehicle prices was found.

Road freight transport

The Commission continued to monitor the impact of the New Tax System on the road freight transport industry. It obtained information from major road transport firms on the pricing of services to major customers. Initially this involved an analysis of July 2000

¹ Food is excluded because of the volatility of fresh food prices due to the effects of climatic events and seasonal factors on supply.

pricing structures, which the Commission assessed as reflecting NTS savings. Additional information was sought in November 2000 after several road freight transport businesses had increased or were about to increase charges to customers.

Since July 2000 freight rates have risen because of increases in diesel fuel prices. Analysis of information provided by major firms suggests that NTS savings are still reflected in pricing structures.

Enforcement

PERFORMANCE INDICATORS

- Responded to complaints and inquiries.
- Appropriate action taken to ensure no business takes unfair advantage of A New Tax System.
- Appropriate enforcement action taken and goals achieved, i.e. stopped unlawful conduct, compensation gained for loss or damage, compliance with the Act, pecuniary penalty.

Price exploitation remains a Commission enforcement priority throughout the prescribed transition period for the New Tax System. The principle aim of the Commission's enforcement activities is to promote compliance. During the year the Commission's enforcement work concentrated on the following major areas:

- GST being charged on GST-free items;
- businesses not passing on indirect tax benefits, such as the abolition of WST or the reduction in petrol excise, in full;
- businesses misrepresenting the total price of goods or services (GST-exclusive price display);
- changes in prices outside the Commission's estimates of the effects of the tax changes; and
- increases in prices which reflect the full impact of the tax changes on the CPI where the GST also was previously imposed (CPI-based increases may need to be discounted for the effect of the GST to comply with the Commission's rule that businesses should not increase their net dollar margin as a result of New Tax System changes alone).

The Commission aims to quickly resolve GST-related matters to minimise confusion and consumer losses. The Commission therefore accepted court enforceable undertakings, rather than taking direct court action, when the conduct was not obviously deliberate or blatant. When businesses made inadvertent mistakes and volunteered this information to the Commission, this was taken into account in determining any enforcement action and, if appropriate, the remedies.

Since July 1999 the Commission has investigated over 6200 GST-related matters, obtaining refunds of nearly \$10.1 million on behalf of approximately 990 000 consumers. Since 1 July 2000 the Commission has instituted court proceedings in five GST related matters and has accepted 31 court enforceable undertakings. These matters are reported in detail in the *ACCC Journal* throughout the year. Summaries of major matters are outlined below. Commission staff investigated another 6000 matters, most of which are now resolved with 575 in the process of being resolved.

Court cases and undertakings

Video Ezy and ors

On 25 May 2001 the Commission instituted proceedings in the Federal Court, Sydney, against Video Ezy Australasia Pty Ltd, alleging that it had engaged in price exploitation and had made misleading representations about the introduction of the GST. The Commission also joined an associated company and various directors and senior managers to the action. On 27 April 2001 the Commission and Video Ezy settled these proceedings. Video Ezy consented to Federal Court orders in which the court made declarations, granted permanent injunctions, ordered Video Ezy to offer discounts and refunds in Townsville, implement a trade practices compliance program and contribute to the Commission's costs. The Commission agreed to discontinue its price exploitation claims.

Clarendon Homes (NSW) Pty Ltd

The Commission received several complaints from customers of Clarendon Homes (NSW) that sales staff had advised them in mid-1999 to early 2000 that their contracts for the construction of new homes were GST-inclusive.

The customers alleged Clarendon subsequently invoiced them for an additional GST amount. The Commission was concerned that such conduct may be misleading or deceptive and raised its concerns with Clarendon. The company agreed to waive the charges totalling about \$1.09 million for 208 new homebuyers. Clarendon provided the Commission with a court enforceable undertaking to write to affected customers advising them that their GST charges had been waived and that it would enter into a trade practices education program.

Gift deductible entities

Following a revision by the ATO of the means for assessing the application of GST to supplies by several charities and gift deductible entities (GDEs), it was found they had collected GST on supplies that were subsequently deemed GST-free.

The Commission established guidelines for these entities to adopt when managing the refund process. Refunds of over \$2.5 million have been disbursed including approximately \$218 000 by the Victorian Museum and \$393 000 by the Victorian Zoo.

Franklins Supermarkets

Franklins offered discounts valued at more than \$150 000 after inadvertently charging GST on 17 GST-free goods, including No-frills orange juice.

Franklins agreed to discount the normal retail prices of the relevant products by 11 per cent for three weeks, which was equal to the period of the overcharge. Franklins also agreed to provide a full refund of the GST incorrectly charged to all consumers who had retained receipts for their purchases of these products.

Gateway Pty Ltd

Gateway Pty Ltd provided refunds totalling \$27 900 to consumers who bought certain Gateway personal computers in early May 2000, after the Commission raised concerns about pre-GST advertising.

In May 2000 Gateway ran a newspaper promotion for personal computers which offered savings 'before the GST'. The Commission believed that consumers may have been misled that prices would be higher after the GST.

Oasis Credits Pty Ltd

Oasis Credits Pty Ltd (trading as Holdfast Finance Corporation) provided court enforceable undertakings after charging GST on hire purchase contracts entered into before 1 July 2000. Under ATO tax provisions such contracts are GST-free as the GST liability arises on the supply of the physical goods. Therefore, payments made after 1 July under these agreements do not attract GST.

In providing the undertaking Oasis Credits refunded or credited over \$30 000 to 170 customers and agreed to implement a trade practices compliance program.

Goldy Motors

The Commission instituted proceedings in the Federal Court of Australia alleging misrepresentations and false and misleading conduct after Goldy Motors ran an advertisement encouraging consumers to buy vehicles before 30 June 2000 because it was their 'Last chance to buy ... GST FREE !!'. The Commission believed this advertisement may have misled consumers because the price of new vehicles was expected to, and subsequently did, fall with the introduction of the GST on 1 July 2000.

The Federal Court found in favour of the Commission and granted orders including declarations that Goldy Motors had breached the Act; injunctions preventing Goldy Motors from engaging in similar conduct in the future; corrective advertising; refunds or an alternative form of appropriate compensation for consumers induced by the advertisement into purchasing a car and/or applying for finance before 30 June 2000 as a result of the advertisement; and costs against Goldy Motors.

The Commission also received court enforceable undertakings for similar 'Beat the GST!' motor vehicle campaigns from Lennock Phillip Pty Ltd, Werribee Motor Traders Pty Ltd, Relyt Pty Ltd and S&S Thomson Investments Pty Ltd. The Commission also accepted an administrative settlement from Lander Toyota after the company miscalculated the effect of the abolition of WST, resulting in consumer refunds and other compensation of \$40 000.

Electrodry Carpet Dry Cleaning

The Commission instituted proceedings against A Whistle and Co (1979) Pty Ltd, trading as Electrodry Carpet Dry Cleaning, alleging misrepresentations and false and misleading conduct under ss. 52 and 53(e) of the Trade Practices Act.

The allegations concerned a brochure distributed by Electrodry in Queensland, New South Wales, Victoria, South Australia and Western Australia, promoting the GST-exclusive component of the price in very large prominent print with the total price including GST in much smaller print. The Commission alleged that the brochure was likely to mislead consumers about the total price payable for Electrodry Carpet Dry Cleaning services.

The Commission obtained consent orders providing declarations, corrective advertising, injunctions preventing future similar conduct, and an injunction directing Electrodry to implement a trade practices compliance program.

Australian Leisure & Hospitality Group

Between 1 July 2000 and 28 July 2000 the Australian Leisure & Hospitality Group (ALH Group) incorrectly applied the Wine Equalisation Tax to approximately 20 alcohol products, resulting in consumers being overcharged.

In accordance with its trade practices compliance program, the ALH Group immediately notified the Commission of the conduct and confirmed that it had removed all affected products from sale. ALH Group undertook to provide a full compensation package and a four-week discount period during which the affected products were marked down by 15 per cent. The total cost of the conduct for the 28-day period to consumers was \$12 322. The direct benefit to consumers of the settlement was estimated to be more than \$30 000.

Islander's Board of Industry & Service (IBIS)

The Islander's Board of Industry & Service (IBIS) operates 14 general stores in the outer Torres Strait Islands, selling general items including groceries. The Commission was concerned that when implementing the New Tax System changes, IBIS had increased some of its prices more than it should have (up to 22 per cent, including on GST-free items).

IBIS reviewed prices to ensure all tax savings were correctly passed on to its customers. It also undertook to provide refunds to customers, discounts of 5 per cent on all items for one month, corrective apologies in all stores, and to implement a trade practices compliance program.

Rod Turner Consulting Pty Ltd

The Commission instituted legal proceedings on 3 July 2000 in the Federal Court alleging that Rod Turner Consulting Pty Ltd wrote to a client's tenant stating that from 1 July 2000 an extra 10 per cent would be payable on rent but the landlord was including a GST component in the increased rent from 20 June 2000. The firm also represented that water rates for the rented premises would carry a GST cost to the landlord. The Commission alleges these were false or misleading statements about the price of services. It also alleges misleading and deceptive conduct because residential rents and water rates are GST-free.

The Commission seeks declarations that the conduct is unlawful, injunctions restraining the respondents from making similar statements and orders that the respondents take corrective action and apologise to the tenant concerned. This matter is still waiting for a trial date.

Discount Electrical Centre (Australia) Pty Ltd

Discount Electrical placed an advertisement and issued a catalogue containing the statement 'Beat the GST' when the televisions and DVD players in the advertisement and catalogue were previously subject to WST of 22 per cent and the Commission believed prices would decrease as a result of the tax changes.

The Commission instituted proceedings on 16 June 2000 in the Federal Court. On 13 July 2000 Discount Electrical gave undertakings that it would not make representations that the price of televisions and DVD players would increase. The company also agreed to compensate customers who suffered any loss as a result of the representations, to place corrective advertising and to institute a trade practices compliance program. Discount Electrical was ordered to pay the Commission's costs.

Cuisine Courier Pty Limited

On 21 September 2000 Cuisine Courier Pty Limited, a restaurant delivery service operating in Sydney and Melbourne, gave the Commission court enforceable undertakings to stop advertising prices that did not include GST and to carry out other corrective measures such as corrective advertising. In September 2000 some menu booklets still did not contain GST-inclusive prices and associated fees. It also undertook that future advertising and promotional material will contain GST-inclusive menu prices and associated fees and that it would implement a trade practices compliance program.

Sun Imports Pty Ltd

In December 2000 the Commission accepted an s. 87B undertaking from Sun Imports Pty Ltd to amend its post-GST pricing so that it reflected savings resulting from New Tax System changes; to issue new invoices to its wholesale customers with the correct pricing; to ensure that consumers who had paid higher prices were refunded; and to place corrective notices in two of its stores. Sun Imports had increased the price of tanning products by a full 10 per cent despite the removal of a 22 per cent wholesale sales tax which, in the absence of other factors, should have resulted in a reduction in price.

Signature Security Group Pty Limited

Proceedings were instituted on 19 March 2001 in the Federal Court, Sydney, alleging the company advertised prices of security systems excluding GST. The Commission is seeking court orders including injunctions restraining Signature from making similar misrepresentations in the future; compensation for consumers and declarations that Signature contravened the Act. Directions hearings were held on 11 April and 15 June 2001 in the Federal Court, Sydney. The matter is continuing.

Commodore Homes (WA) Pty Ltd

On 5 April 2001 in the Federal Court, Perth, the Commission alleged that in the lead up to the GST, Commodore Homes represented to potential homebuyers that their homes would be built by 1 July 2000 and they would therefore avoid having to pay GST. The Commission also alleges that the manner in which Commodore Homes tried to recover the GST from some of the homebuyers breached the unconscionable conduct provisions of the Act.

The Commission is seeking declarations, orders restraining Commodore Homes from engaging in such conduct in the future, corrective public notices, implementation of a trade practices compliance program, and refunds to those affected.

DCH Legal Group

On 10 July 2000 the Commission accepted enforceable undertakings from DCH Legal Group over advertisements in a Perth newspaper regarding the effect of the New Tax System on legal fees for divorce proceedings. The ads were potentially misleading and deceptive. The undertakings included an acknowledgment the representations may have misled consumers; terms that the group would avoid engaging in similar conduct in the future; corrective notices; compensation to consumers; and implementation of a trade practices compliance program.

Aus-Care Townsville, Aus-Care Cairns, Aus-Care Upper Mt Gravatt, Aus-Care Indooroopilly

On 25 September 2000 the Commission accepted court enforceable undertakings from four medical centres in Queensland. The undertakings provide refunds and apologies to any patients who were charged GST on hepatitis B vaccinations for children in circumstances that meant they should not have been. The four medical centres undertook to ensure that the price of hepatitis B vaccinations would not include a GST component when they should not and to review their billing practices to ensure there is no GST component on any GST-free services.

Ferry Real Estate (Qld) Pty Ltd, Ferry Property Management Pty Ltd, Castorina Investments Pty Ltd

On 30 November 2000 the corporate owners of Ferry Real Estate (Townsville) provided court enforceable undertakings to the Commission after investigations into management fee increases to client landlords in May 2000.

The complaints were about a rise in Ferry's total property management fees from 7.5 per cent to 8.8 per cent. The undertakings included sending corrective letters of apology to landlord clients enclosing credits of amounts equivalent to 1/11 th of the fees paid for the two months before 1 July 2000.