



# the law

## appendix 01

### amendments to the Trade Practices Act

*Statute Law Revision Act 2002*; commenced various times  
number 63 of 2002

*Trade Practices Amendment Act (No. 1) 2002*; commenced 11 December 2002  
number 128 of 2002

*Telecommunications Competition Act 2002*; 19 December 2002  
number 140 of 2002

*Trade Practices Amendment (Liability for Recreational Services) Act 2002*; 19 December 2002  
number 146 of 2002

*Maritime Legislation Amendment Act 2003*; 19 March 2003  
number 7 of 2003

*Industry, Tourism and Resources Legislation Amendment Act 2003*; 12 April 2003  
number 21 of 2003

### regulations introduced under the Act

Trade Practices (Consumer Product Safety Standard) (Baby Walkers) Regulations 2002

Trade Practices (Consumer Product Safety Standard) (Disposable Cigarette Lighters)  
Amendment Regulations 2002 (No.1)

### amendments to the Prices Surveillance Act

*Statute Law Revision Act 2002* taken as commenced 6 November 1995  
number 63 of 2002

### other laws

Additional legislation affecting the work of the ACCC includes:

*Airports Act 1996*; focusing on access, prices and the quality of service at Australia's privatised airports

*Australian Postal Corporation Act 1989*; defining access to the postal network

*Broadcasting Services Act 1922*; covering the payment of TV licences

*Gas Pipeline Access Act 1998*; regulating gas transmission pipelines

*Telecommunications Act 1997*; detailing the telecommunications provisions of the Trade Practices Act

*Telecommunications (Consumer Protection and Service Standards) Act 1999*; detailing the telecommunications provision of the Trade Practices Act

*Trade Marks Act 1995*; governing the approval of a trade mark that certifies that a goods or services are of a particular standard of quality, origin, material or mode of manufacture.

## exceptions under Commonwealth, state and territory legislation

Some Commonwealth, state and territory Acts permit conduct that would normally be an offence under the Trade Practices Act. Section 51(1) of the Trade Practices Act provides that such conduct may be permitted if it is specifically authorised under those other Acts. Below is a list of legislation that allows such conduct.

exceptions under Commonwealth, state and territory legislation

### Commonwealth

*Trade Practices Act 1974: part X, division 5, section 173*  
*Trade Practices Amendment (Country of Origin) Act 1998*  
*Trade Practices Amendment (International Liner Cargo Shipping) Act 2000*  
*Wheat Marketing Act 1989*  
*Australian Postal Corporation Act 1989*  
*Year 2000 Information Disclosure Act 1999*

### New South Wales

*Coal Industry Act 2001*  
*Competition Policy Reform (NSW) Regulation 1996 \**  
*Farm Produce (Repeal) Act 1996*  
*Industrial Relations (Ethical Clothing Trades) Act 2001*  
*Industrial Relations Amendment (Public Vehicles and Carriers) Act 2001*  
*Liquor Act 1982*  
*Marketing of Primary Products Act 1983*  
*Olympic Roads and Transport Authority Act 1998 \**  
*Olympics Arrangements Act 2000 \**  
*Poultry Meat Industry Amendment (Price Determination) Act 2002*  
*Registered Clubs Act 1976*  
*Sydney Organising Committee for the Olympic Games Act 1993 \**  
*Totalizer Act 1997*

### Queensland

*Chicken Meat Industry Committee Act 1976*  
*Competition Policy Reform (Queensland—Dairy Industry Exemptions) Regulation 1998 \**  
*Competition Policy Reform (Queensland—Sugar Industry Exemptions) Regulation 1998 \**  
*Competition Policy Reform (Queensland) Act 1996 \**  
*Competition Policy Reform (Queensland) Public Passenger Service Authorisations Regulation 2000*  
*Forestry Act 1959*  
*Gladstone Power Station Agreement Act 1993*

*Petroleum Act 1923*  
*Sugar Industry Act 1999*  
*Transport Operations (Passenger Transport) Act 1994*  
*Year 2000 Information Disclosure Act 1999 \**

### South Australia

*Authorised Betting Operations Act 2000*  
*Barley Marketing Act 1993*

### Tasmania

*Electricity Supply Industry Act 1995*  
*Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995*

### Victoria

*Barley Marketing Act 1993 \**  
*Competition Policy Reform (Victoria) Act 1995 \**  
*Electricity Industry (Amendment) Act 1996 \**  
*Electricity Industry (Trade Practices) Regulations 1994 \**  
*Gas Industry (Residual Provisions) Act 1994*  
*Gas Industry Act 1994*  
*Gas Industry Act 2001*

### Western Australia

*Grain Marketing Act 2002*  
*North West Gas Development (Woodside) Agreement Act 1979*

### Northern Territory

*Electricity Reform Act 2000*  
*Water Supply and Sewerage Act 2002*  
*Year 2000 Information Disclosure Act 1999 \**  
*Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations*

\* subsection 51(1) exceptions  
 no longer current

# freedom of information

## appendix 02

The ACCC received 23 freedom of information requests including one partial transfer from another agency. The requests were for access to documents generally relating to investigations and complaints. There were eight requests carried over from last year.

In 14 cases access was granted in part. Access was granted in full in two cases and 11 cases were not proceeded with. Four requests had not been finalised by the end of the year. It is ACCC policy to provide information wherever possible. However, it seeks to protect information provided to it in the course of its investigation and inquiries, and treats that information as confidential both to protect the sources and to ensure the flow of information vital to ACCC functions.

There were three requests for internal review and one application was made to the Administrative Appeals Tribunal for review.

### organisation, functions and decision-making

The structure, functions, legal basis, organisation and detailed descriptions of the exercise of powers of the ACCC are set out in detail earlier in this report.

### arrangements for outside participation

The ACCC's functions bring it into frequent contact with private individuals, companies, industry and consumer groups and other state, territory and Commonwealth government agencies. This contact allows interested bodies outside the ACCC to express their opinions and to have them taken into account by the ACCC when it establishes its policies and priorities.

The Trade Practices Act sets out formal procedures for the submission of views and information on adjudication matters and conferences. Less formal arrangements have been established through contact with industry associations and consumer groups. The ACCC convenes a consumer consultative committee four times a year to act as a forum to exchange views and information on trade practices issues. It has expanded its liaison by establishing a small business advisory group that includes representatives from a wide range of business and professional areas. The ACCC has also established, on a trial basis, a rural and regional advisory committee with business and community groups in South Australia. Both advisory groups meet every six months. The ACCC has also established the utility regulators forum which meets three times a year to discuss specific issues in regulated industries. The ACCC also meets with ad hoc consultative committees from time to time.

Under section 31(1) of the Prices Surveillance Act the ACCC is required to conduct its pricing inquiries in public unless the minister directs otherwise. The Trade Practices Amendment Bill 2003, which is currently before Parliament proposes to incorporate the Prices Surveillance Act into the Trade Practices Act, but the amendment would not affect the current intent of section 31(1).

## public registers

The Trade Practices Act and the Prices Surveillance Act require the ACCC to maintain a number of public registers.

### trade practices registers

The ACCC maintains a public register containing the details of authorisation applications, related submissions, the ACCC's decision, reasons for its decision and any conferences held on bans or mandatory recall of defective goods. With respect to its functions under Part IIIA of the Trade Practices Act the ACCC is required to maintain public registers of:

each decision by a Commonwealth minister that a regime established by a state or territory for access to a service is an effective access regime for the service and each declaration of a service, including a declaration that is no longer in force—section 44Q

certain details of registered contracts for access to declared services including the date the contract was made, the parties and the nature of the service—section 44ZW

all access undertakings accepted by the ACCC, including those no longer in force and all variations to access undertakings—section 44ZZC

the details of each determination, the names of the parties, the service to which the determination relates and the date the determination was made—section 44ZZL.

In addition, although it is not obliged to by statute, the ACCC maintains public registers on mergers and undertakings under section 87B of the Trade Practices Act. The purpose of the mergers register is to make available to the public brief details of mergers and acquisitions considered by the ACCC. The details include the names of the target, acquirer and possible acquirer, product description, outline of the matter and the ACCC's decision, including the reasons for that decision.

The undertakings register contains copies of section 87B undertakings, under which enforceable undertakings may be given to the ACCC in connection with a matter in relation to which the ACCC has a power or function other than under Part X. Such undertakings provide for the ACCC to negotiate administrative settlements.

### prices surveillance register

Although it is not obliged to do so by the statute, the ACCC maintains a public register on prices surveillance matters showing price notifications, the ACCC's deliberations, the outcome and the reasons for the outcome.

## guidance

The ACCC consults with outside groups in the development of its guidance publications. The minister can request the ACCC to examine and report on any aspect of laws relating to the protection of consumers, and it must publicly invite submissions from interested parties. It may not submit its report until interested people have had a reasonable opportunity to express their views.

## categories of documents

The ACCC maintains the following categories of documents: particulars of agreements furnished to the Commissioner of Trade Practices under previous Acts; court, adjudication and legal material; library material; organisation matters; publications, speeches and media releases; personnel records; working documents including staff investigations, reports, analyses, recommendations, correspondence and complaints; public registers and confidential material excluded from public registers, and ACCC papers; relating to parliamentary committees and questions; relating to meetings of the ACCC with government and non-government bodies; relating to new and amending legislation; general correspondence with members of the public.

## facilities for access

ACCC publications may be inspected at any of the ACCC's offices at the contact addresses shown at the end of this report. Most publications are available from any of the ACCC's offices and on the ACCC's website [www.accc.gov.au](http://www.accc.gov.au). Documents on the public register may be examined and photocopies bought at any of the ACCC's offices during business hours. Prior notice is advisable as not all documents are held in each office. Information about facilities available to help people with a disability gain access to documents may also be obtained from ACCC offices. If necessary, special arrangements can be made to overcome any difficulties with physical access.

## procedures and contact officers

The freedom of information contact officer in each state is the regional director, and in the national office, Canberra, the freedom of information officer, legal group. The contact officer will help applicants to identify the particular documents they seek. Access to documents may not always be available because of disclosure restrictions imposed by the Trade Practices Act and the Privacy Act as well as exemptions set out under the Freedom of Information Act; for example, confidentiality of some public register material kept under sections 89(3) and 95(2) of the Trade Practices Act, disclosure in certain adjudication or compliance work (section 157(1)) and the secrecy of documents provided to the Commissioner of Trade Practices before the start of the current Act.

If a request is refused on the grounds set out in section 15(2) or section 24(1) of the Freedom of Information Act (insufficient information or unreasonable diversion of resources), applicants will be notified and given the opportunity for consultation. The officer authorised to deny access to documents is the chairman of the ACCC, who has delegated that power to certain specified senior officers, including the chief executive officer, general manager legal group, the general manager, electricity group. Requests for access under the Freedom of Information Act should be submitted in writing to any of the ACCC's offices. All requests will be dealt with in national office, Canberra. Access will be provided through the office that received the request and in the manner requested by the applicant (unless this is not practicable). If an applicant lives some distance from the place where access is normally provided, alternative arrangements will be considered.

Inquiries about access to documents or other matters on freedom of information should be directed to the contact officers in business hours.

# publications

## appendix 03

The ACCC's publications—print, electronic and audio visual—are produced to provide guidance to business and the community, disseminate information to them, and inform them about the ACCC's functions and objectives. The range of publications include technical reports, parliamentary reports and papers, guides to legislation, consumer leaflets and magazines, product safety brochures, small business booklets and videos. The list below is for the current year only. A full list of publications is available on the website [www.accc.gov.au](http://www.accc.gov.au) or in the *ACCC Journal*.

### regular publications

ACCC Journal: bi-monthly magazine

ACCC update: quarterly newsletter—subjects covered: ACCC an account; health; Trade Practices Act review; small business; consumers and market reform

consumer express: free electronic newsletter

### fair trading and consumer protection

Are you being harassed about debts?

Competition and consumer issues for Indigenous Australians;  
A report to the ACCC by the Centre for Aboriginal Economic Policy Research

Complementary health care industry—  
country of origin guidelines to the Trade Practices Act

Consumer product standards and bans: a compliance guide for suppliers

Debit and credit card schemes in Australia—a study of interchange fees and access; a joint report by the Reserve Bank of Australia and the ACCC

Electronic funds transfer: report by the Treasury and the ACCC on the operation of the code of conduct

Fair and square—  
a guide to the Trade Practices Act for the real estate industry

Food and beverage industry—  
country of origin guidelines to the Trade Practices Act

Furnishing industry—  
country of origin guidelines to the Trade Practices Act

News for business: merchant pricing for credit card payments

Protecting consumers worldwide; brochure from ICPEN

Real estate agents and the Trade Practices Act

Report to the Senate by the ACCC on prices paid to suppliers by retailers in the Australian grocery industry

Retail flash (published jointly with the Australian Retailers Association)

Travel and tourism—the Trade Practices Act

## effective competition and informed markets

Best and fairest: compliance training package (hard copy, CD-ROM)  
 Competing fairly forum—Geoffrey Robertson hypothetical (video, CD-ROM)  
 Competing fairly forum—prevention is better than cure (video, CD-ROM)  
 Competing fairly forum—future directions (video, CD-ROM)  
 Country of origin claims and the Trade Practices Act  
 Country of origin claims  
 Franchising code of conduct compliance manual  
 GST final report  
 News for business: Commercial unconscionable conduct  
 Primary producers and the Trade Practices Act  
 Retailers and the Trade Practices Act  
 Service industries and the Trade Practices Act  
 Small business: refusal to deal  
 Straight talking—advertising, selling and the Trade Practices Act (video)  
 Access to public registers

## infrastructure service markets

Consumer credit insurance review—final report  
 Container stevedoring—monitoring report  
 Draft greenfields guideline for natural gas transmission pipelines  
 Insurance industry market pricing review  
 National regulatory reporting for electricity distribution and retailing businesses  
 Regional development of natural gas transmission pipelines  
 Regulatory reports on phase II airports 2001–02:  
 Brisbane, Melbourne, Perth, Sydney airports  
 Second insurance industry market pricing review  
 The fair call advertising guide: telecommunications  
 Utility regulators forum discussion papers

## corporate

ACCC annual report 2001–02  
 ACCC cooperation policy for enforcement matters  
 ACCC intervention in private proceedings  
 ACCC leniency policy for cartel conduct (website)  
 ACCC service charter  
 ACCC: role and functions  
 Corporate plan and priorities 2002–03  
 Keeping good company—an insight into the ACCC (video)  
 Rural industry and the Trade Practices Act  
 Section 155 of the Trade Practices Act: information-gathering powers of the ACCC in relation to its enforcement function  
 Submission to the Trade Practices Act review  
 Summary of the Trade Practices Act 1974



# addresses and contact numbers

## appendix 04

### Australian Competition and Consumer Commission

national office  
470 Northbourne Avenue  
Dickson ACT 2602  
PO Box 1199  
Dickson ACT 2602  
telephone: 02 6243 1111  
facsimile: 02 6243 1199

### ACCC infocentre

business and consumer inquiries  
1300 302 502

### ACCC website

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

regional office	regional director	address	telephone facsimile
New South Wales	Rose Webb	Level 7 123 Pitt Street Sydney NSW 2000 GPO Box 3648 Sydney NSW 2001	02 9230 9133 02 9223 1092
Victoria	Tom Fahy	Level 35 The Tower Melbourne Central 360 Elizabeth Street Melbourne VIC 3000 GPO Box 520J Melbourne VIC 3001	03 9290 1800 03 9663 3699
South Australia	Bob Weymouth	Level 14 ANZ House 13 Grenfell Street Adelaide SA 5000 GPO Box 922 Adelaide SA 5001	08 8213 3444 08 8410 4155
Queensland	Alan Ducret	Level 3 AAMI Building 500 Queen Street Brisbane QLD 4000 PO Box 10048 Adelaide Street Post Office Brisbane QLD 4000	07 3835 4666 07 3832 0372
North Queensland	Kim Prowse director	Level 6 Commonwealth Bank Building, Flinders Mall Townsville QLD 4810 PO Box 2016 Townsville QLD 4810	07 4729 2666 07 4721 1538
Western Australia	Sam Di Scerni	Level 3 East Point Plaza 233 Adelaide Terrace Perth WA 6000 PO Box 6381 East Perth WA 6892	08 9325 0600 08 9325 5976
Tasmania	Peter Clemes	Level 3 AMP Building 86 Collins St Hobart TAS 7000 GPO Box 1210 Hobart TAS 7001	03 6215 9333 03 6234 7796
Northern Territory	Derek Farrell	Level 8 National Mutual Centre 9-11 Cavenagh Street Darwin NT 0800 GPO Box 3056 Darwin NT 0801	08 8946 9666 08 8946 9600