

June 2006

From the Small Business Commissioner

The ACCC has successfully concluded legal proceedings against a scam franchising system which misled prospective franchisees offering high returns that never materialised. The ACCC is about to release its Competing Fairly Forum which includes scenarios and panel discussion underlining the importance of small business investors carrying out due diligence before signing up to such fraudulent schemes.

Other key reports in the *Briefing* cover:

- Merger proposals relating to the Australian Stock Exchange and the Sydney Futures Exchange and the proposed acquisition of paint manufacturer Wattyl by Barloworld.
- ACCC concerns over a notification by Nestle regarding Nestle's refusal to supply their branded products to Aldi unless certain conditions were met in relation to Aldi's stocking of Nescafe branded coffee manufactured in Indonesia and Brazil.
- The reauthorisation of the Australian Dairy Farmers' collective bargaining arrangements.
- The announcement of a nation-wide monitoring of jewellery catalogue and other advertising to test claims that consumers will make 'savings' by paying less than the 'normal' price.

ACCC Chairman, Graeme Samuel, and I will both be speaking at the national Small Business Summit hosted by COSBOA at the end of June. The Chairman will address some of the current challenges facing small business and will outline how the ACCC's role in areas of infrastructure, like transport and telecommunications, are critical to the interests of small business.

John Martin

Small Business Commissioner

NEW DEVELOPMENTS

Compliance guide for small business

The small business sector now has a dedicated guideline to assist it to understand the essential elements of trade practices law compliance programs. The ACCC guide is designed to promote awareness of trade practices compliance issues in the small business sector and offer guidance on how to comply with the TPA. The guide also provides information on what the ACCC is likely to require from a small business should it fail to meet its trade practices obligations.

MR 090/06

Ladder safety alert issued

A 'safety alert' highlighting essential precautions for the use of ladders around the home was launched in Adelaide by ACCC Commissioner John Martin.

At least 83 Australians have died during the past five years after falling from their ladder and thousands more have been seriously injured. A study undertaken at Royal Adelaide Hospital concluded that deaths and injuries resulting from ladder falls have been increasing in recent years. Under the product safety provisions of the TPA, the ACCC is responsible for protecting Australian consumers from unsafe products. While some products, like ladders, are not unsafe in themselves there may be serious risks associated with their incorrect use, and the ACCC will always act to inform consumers about these dangers.

Accident data indicates that the group primarily at risk of death or injury from the incorrect use of ladders are males at or nearing retirement age. The ACCC has produced a guide to educate home 'handymen' about the hazards associated with incorrect ladder usage, and how they can eliminate those risks.

MR 111/06

FRANCHISING

Managing Director deceived small business investors

The Federal Court has declared that Mr Daniel Albert, the Managing Director of Photo Safe Australia, Data Vault Services and ie Networks (all now in liquidation) misled and deceived 37 small business investors in a series of scams which offered prospective franchisees high returns that never materialised.

The court also declared that Mr Greg Zimbulis, sales manager of Photo Safe and Data Vault, engaged in similar conduct in breach of the TPA. The ACCC began legal proceedings against Mr Albert and Mr Zimbulis in April 2005 for their involvement in these franchising scams which the ACCC understands netted more than \$3 million. Franchisees that signed up as Photo Safe or Data Vault distributors for amounts of up to \$160 000, or that paid ie Networks for internet terminals, made small returns or no returns at all.

Mr Albert admitted that he misled and deceived Photo Safe and Data Vault small business investors in breach of sections 52 and 59 of the Act. Mr Zimbulis also admitted to making representations in breach of these sections of the Act.

MR 034/06

Some items in *ACCC briefing* refer to media releases (MR, with number and year shown). These can be found on the ACCC website <www.accc.gov.au>. Most other reports and documentation are also available on the website. Subscribe to *ACCC briefing* by emailing small.business@accc.gov.au. For information on the Trade Practices Act contact—ACCC Infocentre 1300 302 502 or the ACCC small business helpline 1300 302 021

CONSUMER AND SMALL BUSINESS PROTECTION

Nation-wide monitoring of jewellery advertising

Jewellery advertising has come under close scrutiny from Australia's consumer protection agencies. State and territory Offices of Fair Trading and the ACCC are scrutinising catalogue advertising and contacting jewellers to test claims that consumers will make savings by paying less than the normal price. The agencies are concentrating on two-price advertising, such as 'was \$150/now \$100' or '~~\$150~~ \$100'.

Such advertising implies that consumers will now save by paying less for an item than they would have paid earlier. But if those savings are not real—for example, if the item was never on sale at the 'was' price—such claims are likely to breach fair trading laws.

Two-price advertising is popular in some sections of the jewellery industry. As part of the monitoring the agencies are requesting information from jewellers to support the claims they make about price savings. Responses will be carefully considered to see if any further action is required.

MR 098/06

Incorrect content labelling on socks

CGS Trading Australia, importer, distributor and supplier of *Aussiesox* brand socks, has admitted to incorrectly labelling some of its socks. CGS claimed that a range of socks were 'Pure Cotton' when they were not composed entirely of cotton. CGS also represented that a range of its 'Cotton Rich' socks was composed of 98 or 95 per cent cotton when they were composed of no more than 84.4 per cent cotton.

Mr Won Mo Yoon, director of CGS, also admitted to the incorrect labelling by CGS and acknowledged that he was knowingly concerned in the contraventions.

The ACCC has accepted court enforceable undertakings in relation to this matter.

MR 109/06

Car advertisement fails to include all charges

A Western Australian motor vehicle dealer, Southern Motors—trading as Jason Mazda—has provided court enforceable undertakings to the ACCC to resolve concerns that the company had failed to include dealer delivery charges that were payable in addition to the advertised purchase price. In the ACCC's view, the omission may have contravened the consumer protection provisions of the TPA. Jason Mazda cooperated with the ACCC and immediately took action to ensure such omissions would not occur again.

The action follows the circulation throughout the industry of the ACCC's *Guidelines for Pricing in the Motor Vehicle Industry* and a similar action taken recently by the ACCC against another Perth motor vehicle dealer.

MR 108/06

Refunds for website packages

Stores Online International Inc has offered refunds to some customers who bought its website packages following settlement of an ACCC legal action. The refunds come from over \$650 000 that was previously frozen under a federal Court order.

The settlement of the proceedings was entered into by StoresOnline on the basis that it did not admit that it had engaged in any conduct in breach of the TPA. StoresOnline International Inc and StoresOnline Inc are Utah, USA based companies offering website packages to customers establishing e-commerce businesses.

In reaching the settlement, the ACCC was aware of the importance of getting a practical solution for StoresOnline customers who believe that there were misled. The ACCC believes that the settlement allows disaffected StoresOnline customers to obtain quick redress.

MR 099/06

Beauty products' ingredient labelling

National retailer Priceline Pty Limited will correctly label cosmetics in its stores following an ACCC investigation. The ACCC has accepted court enforceable undertakings from Priceline, a retailer of beauty, health and home products. The company had sold a number of cosmetic product brands that did not comply with the *Trade Practices (Consumer Product Information Standards) (Cosmetics) Regulations 1991*.

The standard requires cosmetic ingredients to be listed on the container, or on the product itself if the product is not packed in a container. Alternatively a list of ingredients should be made available to consumers at the point of sale.

MR 091/06

Car maker employee pricing backfires

The ACCC has accepted court enforceable undertakings offered by GM Holden Ltd in relation to its recent high profile 'You Pay What We Pay' advertising campaign. The promotion ran from October to December 2005 and claimed that 'For the first time ever, all Australians can enjoy the financial benefit of Holden Employee Pricing'.

An investigation revealed that GM Holden employees received discounts that were not available to the general public. These included discounts on factory fitted options and accessories as well as a discounted dealer delivery fee.

GM Holden believed that the inclusion of fine print qualifications regarding options, accessories and dealer delivery fee limited the offer to the baseline price of the vehicle. In the ACCC's view the headline statement 'You Pay What We Pay' was so powerful that no qualification in fine print could undo the message it conveyed to consumers. After being approached by the ACCC GM Holden worked cooperatively with the ACCC to resolve the concerns.

MR 087/06

Just Squeezed fruit juices changes branding

The Just Squeezed Group will stop manufacturing fruit juice under the brand name just Squeezed fruit juices after the ACCC raised concerns that the labelling misrepresented the contents of its products. The Just Squeezed Group manufactures and supplies fruit juice products to most states and territories in Australia. Of these products only just Squeezed orange juice contains fresh juice—ranging from 25 per cent to 75 per cent depending on seasonal factors. The rest of the just Squeezed range of fruit juices contain only reconstituted juice.

In the ACCC's view the prominence of the words 'just Squeezed' on the labels, together with images of fruit and words such as 'Orange Juice' and 'Apple Juice', created an overall impression that each product was made directly from the fruit shown on the labels and did not contain reconstituted juice.

The ACCC has accepted court enforceable undertakings to address concerns that the Just Squeezed Group may have breached sections 52, 53(a) and 55 of the TPA. These sections prohibit misleading or deceptive conduct and the making of false representation in relation to the composition, nature and manufacturing process of goods.

MR 077/06

PRODUCT SAFETY

Action against jack supplier

The ACCC has instituted legal proceedings against Trade Quip Pty Ltd and one of its directors, Mr Bruce Yarwood, for allegedly supplying a non-compliant hydraulic trolley jack and making false, misleading or deceptive representations.

Specifically, the ACCC alleges that the company supplied a hydraulic trolley jack that did not comply with the mandatory consumer safety standard for trolley jacks. The ACCC further alleges that Trade Quip and Mr Yarwood represented that certain Australian Standards were applicable to a range of its automotive engineering products and that those products had been fully tested to comply with standards when this was not the case.

MR 072/06

Actions against baby goods suppliers

The ACCC has instituted criminal proceedings in the Federal Court, Melbourne against Skippy Australia for supplying baby walkers that allegedly did not comply with the mandatory consumer product safety standard.

It is also alleged that false representations were made about the particular standard of one model of cot supplied by Skippy Australia and the availability of refunds in contravention of sections 75AZS(1), 75AZC(1)(a) and 75AZC(1)(k) of the TPA respectively.

In a separate matter, Baby Dynamics Pty Ltd will correctly label the Baby Dynamics 3 in 1 Walker following an ACCC investigation. The ACCC has accepted court enforceable undertakings from Baby Dynamics, which imported and distributed about 280 baby walkers to retailers throughout NSW and the ACT for supply to consumers under the description '3 in 1 Walker'. The 3 in 1 Walker did not comply with the Trade

Practices (Consumer Product Safety Standard) (Baby Walkers) Regulations 2002, as no warning labels were fixed to the product.

The labelling is important information for parents and guardians as it alerts them to potentially life-threatening risks associated with use of the baby walker. The non-compliant baby walker was discovered by ACCC staff during a national product safety survey.

MR 114/06 and 102/06

RESTRICTIVE TRADE PRACTICES

Counselling training services price fix

The ACCC accepted court enforceable undertakings from the Northern Rivers Gestalt Institute Incorporated, trading as the Northern Rivers Gestalt Institute, over an attempt to increase the prices charged by Gestalt institutes across Australia for Gestalt counselling training services.

The ACCC alleged that in December 2005 a director of the Northern Rivers Gestalt Institute sent an email to the directors of eight other Gestalt institutes seeking their agreement to collectively raise fees in contravention of section 45 of the TPA, which prohibits price fixing.

The Northern Rivers Gestalt Institute has cooperated with the ACCC's investigation, admitted the alleged conduct, and offered court enforceable undertakings to address the ACCC's concerns.

MR 117/06

Showmen's Guild boycott

The Showmen's Guild of Australasia will be restrained from discouraging showmen from taking part in 'non-guild' shows following injunctions made by the Federal Court, Sydney.

The court declared that the Showmen's Guild had breached section 45 of the Act and Competition Code of New South Wales by attempting to induce its members to boycott Cessnock County Fair in 1998.

The injunctions are part of a settlement of the ACCC action against the guild, eight members and their associated companies for conduct alleged to breach the TPA and the Competition Code of New South Wales. The guild also provided court enforceable undertakings to the ACCC. The ACCC will continue to monitor the competitiveness of this industry.

MR 100/06

MERGERS AND ACQUISITIONS

Stock Exchange/SFE merger not opposed

The ACCC will not oppose the merger between the Australian Stock Exchange and the Sydney Futures Exchange as it considers the proposed acquisition is unlikely to substantially lessen competition given strong evidence that the ASX and SFE are separate monopolies, to a large extent do not compete already and are unlikely to substantially compete in the future.

Market inquiries raised some concerns about access to the ASX's clearing and settlement facility, CHESS, for clearing equities. However, given that the SFE's clearing and settlement system is unable to clear equities, it was apparent that the merger is not the cause of the concerns about access. Similarly, market inquiries raised some concerns about recent increases in ASX and SFE fees. These increases were unrelated to the merger and further illustrate the lack of competitive constraint between the ASX and SFE.

MR 110/06

Proposed electricity merger

The ACCC released a statement of issues on the proposed acquisition of the South Australian assets of NRG by International Power, seeking further information on market definition and a number of competition issues which the ACCC has identified. The ACCC anticipates making a final decision on the proposed acquisition by 28 June 2006.

MR 104/06

Market inquiries on paint merger proposal

The ACCC will undertake market inquiries on a divestiture proposal that has been offered by Barloworld to address the ACCC's preliminary competition concerns arising from the proposed acquisition of Wattyl.

The proposal contemplates the divestment of Barloworld's Bristol brand, up to 50 of Barloworld's 85 company-owned Bristol stores and the rights to the 35 store Bristol Banner Group franchise. Barloworld also proposes to divest its Glen Waverley manufacturing facility, if required by the purchaser of the divested assets.

The ACCC will consider whether the divestiture proposal would ensure that the proposed acquisition does not substantially lessen competition, taking into account information from market participants. Following its market inquiries, the ACCC may decide to accept the proposal in part or in whole, or reject it and make a final decision opposing the acquisition.

MR 103/06

Childcare centre divestitures accepted

ABC Learning Centres Limited has provided a court enforceable undertaking to divest five child care centres in regional areas in order to obtain ACCC approval for its acquisition of Kids Campus Limited.

The acquisition of long day child care centres can affect competition on a local basis, so the focus of the ACCC's investigation was on those local areas where child care centres were being acquired. The ACCC considers that this undertaking is necessary to ensure that prices for long day child care services in these areas do not rise as a result of the merger and that, in particular, parents in regional areas continue to have a choice of long day child care services for their children.

The ACCC conducted extensive market inquiries and has determined that, subject to the divestitures required by the

undertaking, the acquisition will not lead to a substantial lessening of competition in any relevant market.

MR 101/06

Acquisition of imaging services not opposed

The ACCC will not oppose the acquisition by Lake Imaging of diagnostic imaging practices in Ballarat and Geelong from St John of God Healthcare after receiving court enforceable undertakings from the health care providers. These undertakings address potential competition concerns about the supply of ultrasound services in Ballarat. The undertakings remove possible contractual impediments to certain potential new ultrasound providers commencing practice in Ballarat.

MR 046/06

AUTHORISATIONS AND NOTIFICATIONS

Dairy farmer bargaining arrangements authorised

The ACCC granted conditional authorisation to Australian Dairy Farmers Limited, allowing its dairy farmers to continue to collectively bargain with dairy processors.

Dairy farmers have been able to collectively bargain with their respective dairy processors since 2002. The collective bargaining arrangements have now been reviewed by the ACCC and it has concluded that the arrangements continue to be in the public interest. In particular, the ACCC considers that the arrangements are likely to provide a mechanism through which dairy farmers can have more effective input into their raw milk supply contracts.

The ACCC has accordingly extended the immunity previously granted to dairy farmers until 30 June 2011. Participation in the collective bargaining process remains entirely voluntary for both dairy farmers and processors and the arrangements do not involve collective boycott activity.

MR 094/06

Tribunal says no to collective boycott for chicken growers

The Australian Competition Tribunal issued a decision denying authorisation to members of the Victorian Farmers Federation (VFF), replacing the conditional authorisation which had been granted to the VFF by the ACCC.

The VFF sought authorisation to allow its members to engage in collective bargaining with the processors to whom they provide chicken growing services and to allow each of these groups to collectively withdraw their services (that is, to boycott) their respective processors in certain circumstances. The ACCC granted conditional authorisation to the arrangements in March 2005, considering that under certain, restricted circumstances, the proposed arrangements could result in benefits to the public and that on balance it was appropriate to authorise. The Victorian chicken meat processors subsequently sought review by the Tribunal of the ACCC's decision to authorise the collective boycott arrangements.

The Tribunal was concerned about the outcome of a collective boycott, noting its potential to inflict harm was too uncertain to be able to say whether that outcome could be in the public

interest. Accordingly, the Tribunal has denied authorisation to the VFF's collective boycott arrangements.

MR 092/06

James Hardie withdraws notification

James Hardie withdrew a notification concerning its proposed distribution policy for the supply and re-supply of its fibre cement products. James Hardie lodged a notification with the ACCC on 23 December 2005 as implementation of the policy may constitute exclusive dealing under the TPA.

The policy attempted to restrict the re-supply of James Hardie's fibre cement products to competitor fibre cement manufacturers and associated distributors; and require distributors who sold James Hardie's new technology differentiated products to acquire all of their fibre cement products from James Hardie. The withdrawal follows the release of the draft notice proposing to revoke the notification. The ACCC had formed the preliminary view that the new distribution policy would have the effect of substantially lessening competition and would not result in a public benefit.

MR 081/06 and 106/06

Collective negotiations by container transporters proposed

The ACCC issued a draft determination proposing to authorise the Container Logistics Action Group (CLAG) to engage in collective negotiation with the stevedores at Port Botany. CLAG is a group of container carriers, custom brokers and freight forwarders involved in the transportation of containers to and from Port Botany.

The proposed authorisation will enable CLAG's members to collectively negotiate terms of access to the terminal, as well as the price of a range of services supplied by the stevedores, such as container storage charges. The ACCC assessed CLAG's proposal and considers that any anti-competitive detriment that may flow from it is likely to be minimal as the authorisation will not compel CLAG members or the individual stevedores to participate in the proposed collective bargaining discussions.

MR 105/06

Levy on sales of bricks allowed

The ACCC granted authorisation for manufacturers of clay bricks and concrete masonry products to impose levies on the sales of their product. The funds will be used to promote bricklaying to young people and to provide subsidies to employers of apprentices in order to address a shortage of skilled bricklayers.

The applicants—Australian Brick and Blocklaying Training Foundation, the Clay Brick and Paver Institute, the Concrete Masonry Association of Australia and their members—advised that the levies are likely to add \$16–\$20 to the cost of building an average brick house. However, reduced delays in construction that result from shortages of skilled bricklayers will produce savings for home buyers.

MR 095/06

Interim authorisation granted to Qantas-Orangestar

The ACCC granted conditional interim authorisation to Qantas Airways Ltd to enter into a cooperation agreement to coordinate their flying operations and activities with Orangestar Investment Holdings, the holding company of Jetstar Asia and Valuair.

The ACCC has granted interim authorisation to the arrangements while considering the merits of the substantive application, on condition that Qantas and Orangestar do not reach agreement on allocation of existing capacity or withdrawal of services on overlapping routes, and do not reach agreement not to enter routes to/from Australia.

MR 115/06

Re-authorisation of drug company code of conduct

The ACCC is proposing to authorise a new edition of the code governing drug companies' dealings with doctors for a period of three years.

The code governs the activities of pharmaceutical companies when promoting prescription medicines to doctors. It has been developed by Medicines Australia, the national association representing the industry. The code also regulates matters such as drug company sponsorship of medical conferences, the payment of travel and accommodation expenses of doctors attending such conferences, and the provision of other forms of hospitality.

The ACCC considers that the new edition of the code contains some improvements but remains concerned that it is not always effective in actually regulating drug companies' conduct. It is proposing a condition to improve the level of transparency around companies' provision of benefits to healthcare professionals.

MR 093/06

Changes to Agsafe accreditation allowed

The ACCC issued a final decision authorising a number of minor changes to Agsafe's accreditation scheme for handling and storage of agricultural and veterinary chemicals. Currently, Agsafe has authorisation for its accreditation scheme and Code of Conduct which contains provisions for Agsafe to apply trading sanctions to businesses that fail to meet its accreditation standards.

Agsafe sought to vary its current authorisation to incorporate minor amendments which the ACCC has considered. The ACCC is of the view that the majority of amendments are minor in nature and do not affect the balance of public benefits and public detriments resulting from the current authorisations.

MR 088/06

Draft notice to revoke Nestle notification

The ACCC issued a draft notice proposing to revoke a notification lodged by Nestle Australia on 2 December 2005. Nestle Australia lodged the notification after it learned that ALDI was selling NESCAFE brand instant coffee manufactured in Indonesia and Brazil.

Nestle Australia lodged the notification with the ACCC concerning a refusal by Nestle Australia to supply Nestle branded products and private label products to ALDI stores unless ALDI complied with Nestle Australia's condition on the presentation and advertising of the products. Nestle Australia told the ACCC that it wanted consumers to know that the imported products were not the coffee brands they were familiar with, and that they tasted different. However, the ACCC believes that Nestle Australia went further than was required to sufficiently inform consumers and that the refusal to supply ALDI was likely to have an anticompetitive purpose and effect and does not have public benefits.

MR 075/06

Joint marketing of PNG gas

The ACCC issued a determination authorising the joint marketing in Australia of gas from the PNG Gas Project, a joint venture enterprise involving the production and sale of PNG gas to customers in Australia.

This enables ExxonMobil Group, Oil Search Group, Mineral Resources Development Company Limited Group and the Merlin Petroleum Company to agree on common terms and conditions, including the price at which they will offer gas for sale.

The ACCC considers that the project will generate substantial public benefits but cannot be certain that the benefits will outweigh any potential anti-competitive detriment for the entire life of the project. Accordingly, the ACCC granted authorisation for 16 years.

MR 097/06

REGULATED SERVICES

Guide to resolution of access disputes

The ACCC issued a guide to resolution of disputes involving access to certain monopoly services under Part IIIA of the TPA. Part IIIA sets out rules for businesses regarding access to infrastructure considered to be critical to competition in related markets, for example, railway tracks, water facilities and airport facilities.

The guide is targeted at owners and/or operators of infrastructure and parties seeking access to a declared facility and/or service who are unable to agree on the terms and conditions of access. The guide explains the requirements for an access dispute and the process the ACCC will likely follow adopt in an arbitration.

MR 082/06

Report on Part X investigation

The ACCC issued its report to the Minister for Transport and Regional Services into an alleged breach of Part X of the TPA by the members of the Australia to Europe Liner Association. The ACCC's investigation was in response to a complaint from the Australian Peak Shippers Association that the AELA had contravened negotiation obligations under Part X in relation to the introduction of increased origin terminal handling charges.

The ACCC consulted with interested parties and has reported that grounds do not exist for the Minister to be satisfied that the members of the AELA contravened the negotiation provisions of Part X. The report urges both liners and shipper bodies to develop arrangements to manage confidential information that is necessary to Part X negotiations.

MR 079/06

Broadband connections nears three million

The take-up of broadband services is approaching three million connections, according to the latest ACCC *Snapshot of Broadband Deployment*. Total quarterly growth in broadband was 12.1 per cent for the December 2005 quarter, completing the overall trend of consistent growth in broadband take-up throughout 2005.

MR 073/06

ACCC issues Competition Notice

The ACCC issued a Part A Competition Notice in relation to Telstra's wholesale line rental price increase. In December 2005, Telstra raised the price of its Home Access product. This resulted in Telstra's retail prices for the line rental component for the majority of its fixed voice products being below Telstra's wholesale price for line rental.

The ACCC considers the effect or likely effect of Telstra's pricing includes hindering competition in various areas. The competition notice allows third parties to take action to seek to recover loss or damage for certain anti-competitive conduct that occurs while the notice is in force. It also provides various options for the resolution of the ACCC's competition concerns.

MR 086/06

Telstra accounting separation report issued

The ACCC issued its tenth imputation testing and non-price terms and conditions report under the enhanced accounting separation regime for Telstra. The report presents key performance indicators comparing particular aspects of Telstra's customer support services when supplied to wholesale and retail customers. Key performance indicators for fixed-line telephony and ADSL services are also reported. The report does not reveal any systematic discrimination by Telstra against its wholesale customers.

The report also presents an imputation analysis that compares Telstra's retail prices to the prices of three core telecommunications access services. The analysis is designed to reveal whether there are sufficient margins between Telstra's retail prices and the prices it charges service providers to use the core services to allow efficient firms to compete at the retail level.

The results for fixed-line voice services have been mixed, with increasing margins for fixed-to-mobile calls and declining margins for local services, international long distance and the overall bundle of fixed-line voice services.

MR 080/06

Public consultation begun on Telstra's undertakings

The ACCC issued its discussion paper on Telstra's latest PSTN originating and terminating access and local call service undertakings. These services are used by competitors to provide voice services in competition with Telstra. Telstra's proposed undertakings prices involve a reduction in the LCS prices and an increase in the PSTN prices.

Telstra claims these changes to pricing result from the need to recover costs and from a decline in the use of the traditional fixed network which have led to higher per minute charges. Telstra's proposal involves a substantial restructuring of the pricing structure for fixed network services which will require detailed consideration.

MR 096/06

Telstra undertaking rejected

The ACCC issued a final decision on Telstra's line sharing service (LSS) connection and disconnection charges undertaking. The LSS provides access to part of the basic copper wire of Telstra's customer access copper network, allowing competing carriers to provide their own broadband services to end-users while Telstra continues to provide voice services.

The ACCC rejected the undertaking as it is of the view that the proposed connection and disconnection charges are not reasonable as they are well above the appropriate costs for this service.

MR 074/06

Draft decision to reject undertakings

The ACCC announced a draft decision to reject the access undertakings submitted by Hutchison Telecommunications (Australia) Limited and Hutchison 3G Australia for the supply of the Mobile Terminating Access Service on its second and third generation GSM network.

The undertakings proposed price and non-price terms under which Hutchison offered to supply the MTAS. The ACCC has rejected the series of undertakings because some of the terms and conditions are not reasonable.

MR 089/06

Vodafone undertaking rejected

The ACCC announced its final decision rejecting Vodafone's access undertaking to supply its mobile terminating access service on its second generation GSM. The ACCC rejected this undertaking as it considers that the terms and conditions contained within it are not reasonable.

MR 071/06

Interim determination in Chime-Telstra arbitration

The ACCC published an interim determination in relation to an arbitration between Chime Communications, a subsidiary of iiNet, and Telstra Corporation Limited. The arbitration relates to the terms and conditions of supply of the unconditioned local

loop service (ULLS) from Telstra to Chime. The interim determination sets the annual charge per service to be paid by Chime to Telstra for the ULLS while the ACCC continues to advance this and other ULLS arbitrations.

MR 116/06

Telecommunications access disputes

Optus Networks Pty Limited and Optus Mobile Pty Limited have notified the ACCC of two access disputes under Part XIC of the TPA—one with Hutchison Telecommunications (Australia) Ltd and the other with Hutchison 3G Australia Pty Ltd. The disputes relate to the price paid by Optus for the domestic mobile terminating access service supplied by HTAL and H3GA. The ACCC has commenced the arbitration process.

MR113/06

Gas transmission investment approved

The ACCC issued a draft decision approving a significant gas transmission investment in Victoria, ensuring that GasNet Australia has investment certainty and that Victorian gas users benefit from increased security of gas supply.

The ACCC's draft decision approves \$62.5 million as prudent costs for the construction of the Corio Loop, which provides the potential for increased competition in Victoria through increasing gas flow capability. VENCORP has forecast the need for this project pursuant to its system planner role for the gas industry in Victoria.

MR 076/06

REGIONAL OUTREACH

New South Wales

The ACCC Outreach Program aims to work with business and community organisations to increase awareness of the role of the ACCC and the Trade Practices Act. This role has developed from a small business and consumer focus to include other issues such as product safety.

In NSW over the last few months, this message has been taken to both the Central West and New England regions. There has been particular attention paid to smaller communities and the way in which they access this information.

From this consultation, it has been seen that the audience has particular interest in the area of scams, debt collection and petrol pricing. Information on product safety has also been supplied to a number of community groups in these regions of NSW, as awareness of the role of the ACCC has increased.

The Outreach team in NSW will continue to target other regions in coming months to continue to raise awareness of these important issues.

South Australia

The South Australian office recently took part in the South Australian Franchising Expo. Staff from the ACCC attended a stall in conjunction with the Business Enterprise Centre Network with the aim of providing information and advice to

potential franchisees and franchisors about their rights and obligations under the Trade Practices Act and, more specifically, under the Franchising Code of Conduct. Potential franchisees were keen to ask questions about how the Code applies and were particularly interested in finding out about what information they are entitled to before entering into a franchise agreement.

The Outreach Team in South Australia has also continued to tour the regions, visiting towns such as Ceduna, Broken Hill, the Barossa Valley, Gawler and Kadina to better inform consumers and businesses about their rights and obligations under the TPA.

Queensland

The Outreach Manager for South East Queensland and Northern NSW, Albert Julum, conducted presentations to Chambers of Commerce at Byron Bay and Kyogle. Albert was interviewed by Paradise Radio in Ballina about the ACCC's Rural & Regional program. Albert also hosted a stand at Farmfest Agricultural Field Day just outside Toowoomba, which attracts an audience of approx 70,000 visitors, and he provided information and publications informing both businesses and consumers about their rights and obligations under the Trade Practices Act.

Dave Sutherland has taken on the role as Outreach Manager for North Queensland and travelled to North Queensland in June to continue the liaison work in the region as well as make arrangements for future events.

Northern Territory

Staff from the Northern Territory office attended the Central Australian Expo in Alice Springs for 2 days in early March to increase awareness of the ACCC and the role of the TPA. The Outreach team will continue to visiting other regions and events in coming months with the aim of raising awareness of important Trade Practices issues

Victoria

Victoria's Small Business Festival—Energise Enterprise 2006—took place in June. The ACCC gave presentations at seven small business seminars across Victoria. These were held in Melbourne, Bendigo, Geelong, Ararat, Camperdown, Morwell and Albury-Wodonga.

John Martin, Small Business Commissioner, presented at the inaugural event in Bendigo, which coincided with the launch of the festival.

The Small Business Roundtables, run by Federal Minister for Small Business Fran Bailey, took place in regional Victoria in the second week of June. The ACCC was represented by Melbourne staff at Geelong, Ballarat and Shepparton events.

Tasmania

The Tasmanian Outreach team had a booth at Agfest for 3 days, from 4–6 May. Agfest is Tasmania's largest rural show and is held annually at Carrick, in northern Tasmania.

Western Australia

As part of their Small Business program, the Perth office will have a stand at the upcoming Business Opportunities Expo, held on the 23–25 June at the Burswood Convention Centre.

STATE AND TERRITORY CONTACTS

New South Wales

David Badewitz and Martino Santi

Ph: (02) 9230 9133

South Australia

Rhys Benny

Ph: (08) 8213 3444

Queensland

Albert Julum and David Sutherland

Ph: (07) 3835 4666

Northern Territory

Kerry Leigh Taylor

Ph: (08) 8946 9666

Victoria

Celia Himmelreich

Ph: (03) 9290 1800

Tasmania

Amir Paz

Ph: (03) 6215 9333

Western Australia

Vern Gardam and Bianca Sumner

Ph: (08) 9325 0600