

May 2005

From the Small Business Commissioner

This edition of briefing highlights two important guides recently launched by the ACCC. The first is on how businesses in the auto industry can avoid advertising cars in a misleading and deceptive way. The second is on how business can avoid cartel behaviour.

Small business needs to be alert against office supply scams. The ACCC has now taken action against several suppliers who made misleading offers or untruthfully claimed orders had been placed or goods delivered to businesses. The latest action by the ACCC, against L&L Supply, is reported on in this edition.

We also report on action the Commission has taken against scam-type franchise operations targeted at inexperienced investors wishing to become franchisees. These seriously breach the Trade Practices Act and the Franchising Code of Conduct and are the subject of a major campaign by the ACCC.

John Martin

NEW DEVELOPMENTS

Guide to car advertising launched

A guideline explaining the law on advertising in the motor vehicle retailing industry has been launched by ACCC Commissioner John Martin. The booklet explains provisions of the Trade Practices Act most relevant to industry, including:

- prohibitions against misleading and deceptive conduct
- price representations
- the use of disclaimers in pricing
- bait advertising.

The guideline is available on the ACCC website, with hard copies available from ACCC offices.

10th March 2005, MR 051/05

Cartels: what business needs to know

A business guide to avoiding cartel behaviour was launched by the ACCC Chairman, Mr Graeme Samuel.

The guide provides information about:

- the behaviour that constitutes a cartel
- how to avoid becoming the victim of a cartel
- what to do if you suspect you are the victim of a cartel

- the penalties attached to cartel conduct
- the ACCC's leniency policy for cartel conduct.

The ACCC also intends to publish cartel information packages specifically targeted at small businesses and consumers.

29th April 2005, MR 103/05

FRANCHISING

'Little Joe' and 'Joey's' businesses declared misleading

The promoters of the 'Little Joe' and 'Joey's' franchises, Bon Levi (aka Ron Frederick) and Craig Cleary, have been declared to have engaged in misleading and deceptive conduct and breaches of the Franchising Code.

The court declared that the promoters contravened the Trade Practices Act by failing to provide disclosure documents and copies of the Franchising Code of Conduct to franchisees. The court also declared, with the consent of Mr Levi, that representations to investors had been misleading, contravening s. 52 of the Act, as Mr Levi had no reasonable grounds for making them.

Several injunctions were ordered. Mr Levi is required to provide prospective investors with a copy of the orders made by the court, and inform them of names he has previously used.

14th March 2005, MR 057/05

Alleged \$3 million franchising scam

The ACCC has begun legal proceedings against Daniel Albert and Greg Zimbulis over their involvement in a series of alleged franchising scams that netted more than \$3 million.

The ACCC has alleged that Mr Albert and Mr Zimbulis, through Photo Safe Australia Pty Ltd, Data Vault Services Pty Ltd and ie Networks Pty Ltd, operated franchising scams which offered prospective franchisees high returns which never materialised.

The ACCC also alleges that franchisees who signed up as Photo Safe or Data Vault distributors, for amounts of up to \$160 000, or paid ie Networks for internet terminals realised small or no returns. The ACCC is seeking various orders against Mr Albert and Mr Zimbulis, including injunctions, declarations, findings of fact, and non-punitive orders.

20th April 2005, MR 095/05

Contact the ACCC



Infocentre: 1300 302 502



Website: www.accc.gov.au

Some items in *ACCC briefing* refer to media releases and their dates e.g. MR 12.2.04. These can be found on the ACCC website <www.accc.gov.au>. Other reports and documentation are also generally available on the website. Subscribe to *ACCC briefing* by emailing small.business@accc.gov.au. **For TPA information - ACCC infocentre 1300 302 502.**

Alleged breaches by computer-cleaning franchises

The ACCC instituted legal proceedings against Office Support Services International Pty Ltd and its sole director, Mr Ian Lesley Scarffe. The ACCC alleges that Office Support Services International has breached the Franchising Code of Conduct by failing to provide a disclosure document or a copy of the Code to franchisees at least 14 days before entering into franchise agreements, and by providing documents that were purportedly disclosure documents but which failed to comply with the requirements of the Code. The ACCC also alleges that Office Support Services International has contravened s. 52 of the Act by making misleading and deceptive representations in the promotion and sale of franchises.

The ACCC is seeking declarations, injunctions, compliance training for Mr Scarffe, findings of fact and costs.

4th March 2005, MR 042/05

CONSUMER AND SMALL BUSINESS PROTECTION

Refunds to consumers over oil claims

The ACCC accepted court enforceable undertakings from Guthy-Renker Australia Pty Limited, in relation to an infomercial advertising Motor Up 'No Oil Change' Engine Oil. The infomercial included representations that the oil prevents corrosion in engines, reduces engine wear and tear by up to 50 per cent, and protects against engine wear even without motor oil. Guthy-Renker provided undertakings not to make the representations, and to write to 130 persons who bought the oil as a result of the infomercial with an offer to refund the full purchase price.

14th March 2005, MR 059/05

Termite protection claims

The ACCC has accepted court enforceable undertakings from Termico Pest Management Pty Ltd over misleading claims about its termite protection warranty.

Termico Pest Management installs and maintains termite barrier systems in homes in Western Australia. An ACCC investigation found that Termico had represented to new homeowners that its 'New Home Termite Protection Warranty' lasted for 10 years when, in fact, it was an annual warranty that could be renewed on payment of a fee.

Termico provided court enforceable undertakings that it will:

- not make the same representations in future
- write to warranty holders to explain the effect of its conduct
- implement and maintain a trade practices compliance program.

28th April 2005, MR 098/05

Cosmetics fail mandatory standard

Cosmetics sold in Victoria, NSW and Queensland have been found to have failed the mandatory standard for listing ingredients, and to mislead as to the country of origin.

The outlets sold various cosmetic products without a list of ingredients on their containers. All three companies have undertaken to refrain from selling any cosmetic product that may be misleading or deceptive as to its place of origin, or which does not meet the mandatory standards for cosmetic product labelling.

5th April 2005, MR 082/05

Misleading washing machine claims corrected

LG Electronics Australia will correct misleading representations it made over four models of their washing machines. The ACCC found that between May and August 2004, LG Australia released certain washing machines for sale, claiming they were '4A Rated' by Water Services Association of Australia (WSAA).

The machines had not been certified at the time of sale. Further, such certification would have allowed consumers who bought the machines to claim a \$150 Waterwise Rebate through the WA Water Corporation. LG Australia has given the ACCC court enforceable undertakings and will write to all retailers who were supplied with the machines to explain the effect of its conduct. A corrective notice will also appear on the LG Australia website.

8th April 2005, MR 084/05

Real estate agent found to have misled buyers

A Federal Court decision should caution all Australian real estate agents not to mislead prospective buyers over price projections.

The court found that Gary Peer & Associates Pty Ltd engaged in misleading conduct in the way it advertised a Victorian property which it advertised as 'price guide \$600,000 plus buyers should inspect' and later 'price guide \$650,000 plus buyers should inspect'. The court also found that Gary Peer & Associates Pty Ltd did not have reasonable grounds to make the representations.

13th April 2005, MR 086/05

Pet futon claims corrected

The ACCC has accepted a court enforceable undertaking from Snooza Pet Products Pty Ltd in relation to its pet futon, a mattress for pets, primarily dogs and cats.

The futon was labelled as '100% Australian Wool' and 'All Natural Product', but when tested was found to contain an average of only 30% to 50% wool. The balance of the filling was polyester. As part of the undertaking given to the ACCC, Snooza Pet Products will refrain from making similar representations about the futon, offer a full refund of the price of the futon to consumers who believe they have been misled and implement a trade practices compliance program.

7th March 2005, MR 045/05

Alleged international office supply scam stopped

The ACCC obtained an order from the Federal Court to freeze the funds in L&L Supply Pty Limited's Australian bank account over an alleged office supply scam. The ACCC alleges that L&L Supply operates an offshore call centre that targets Australian business consumers with an offer to supply them with packing tape either free or extremely cheap, misleading the consumers into thinking that the order has already been approved by a senior member of their own organisation.

The ACCC is seeking a range of other orders against L&L Supply, including injunctions, declarations, findings of fact, compensation and various non-punitive orders.

14th March 2005, MR 058/05

Catalogue pricing

Sports chain Rowe and Jarman Pty Ltd have responded to ACCC concerns that its catalogue pricing may be misleading consumers.

The company was approached by the ACCC after receiving complaints that it had advertised gym equipment at prices reduced from a higher 'was' price, when in fact those items had not been sold at the higher 'was' price before the sale. The company ceased using the advertising and will introduce an advertising compliance plan to ensure that the savings claimed in future advertising are able to be substantiated.

11th March 2005, MR 054/05

Scheme found to be pyramid selling

Following ACCC action, the Federal Court found the scheme operated by Australian Communications Network Pty Ltd is a pyramid selling scheme.

In the scheme, representatives pay a startup fee, and then sell telecommunications services to consumers. They also have the right to recruit other representatives. Representatives can receive commissions from their personal customers as well as commissions from customers of representatives they have recruited. The court adjourned the matter to a later date to hear submissions on what orders the court might make.

23rd March 2005, MR 072/05

Country of origin claims corrected

Saint-Gobain Abrasives Pty Ltd is changing the labelling on several of its coated abrasive products to remove the words 'Australian Made' after concerns raised by the ACCC. Saint-Gobain imports coated abrasive cloth which is cut into disks and packaged at its Lidcombe, New South Wales plant before sale. Six sanding disks for metal were labelled as 'Australian Made' with a map of Australia.

Saint-Gobain has acknowledged the ACCC's concerns that the work performed in Australia does not constitute a substantial transformation, as required by the Act, and has provided court enforceable undertakings to the ACCC to refrain from making false and misleading representations about the country of origin of its products, publish corrective notices, and offer refunds to affected consumers.

3rd March 2005, MR 040/05

Solarium safety claims found to be misleading

The Federal Court has found claims that solarium treatments were 'safe', or 'the safe alternative to Tassie's sun', were false and misleading, after being presented with medical research results. These linked the ultraviolet light emitted by solariums with an increased risk of skin cancer, melanoma, premature skin aging, eye damage and suppression of the immune system.

The court issued a five-year injunction restraining Aquarius Roman Baths from making safety claims about its solarium service, and ordered that it publish at its own expense a series of corrective advertisements, display a corrective notice at its salon and institute a trade practices compliance training program for its staff.

19th April 2005, MR 093/05

MERGERS AND ACQUISITIONS

ACCC opposed to Pacific Brands Ltd's proposed acquisition of Joyce Corporation Ltd

The ACCC opposed the proposed acquisition by Pacific Brands Ltd of Joyce Corporation Ltd. As part of its investigation, the ACCC completed market inquiries revealing wide ranging and significant competition concerns about the proposed acquisition. The ACCC considers that the proposed merger would be likely to result in a substantial lessening of competition, in contravention of s. 50 of the Trade Practices Act. A statement of reasons for the decision is published on the ACCC website.

2nd March 2005, MR 037/05

Merger of Launceston private hospitals allowed

The ACCC authorised the proposed acquisition of St Vincent's Hospital Launceston by the Little Company of Mary Health Care Ltd. The ACCC accepted that the proposed acquisition is likely to generate cost savings, in particular, by substantially reducing duplication between St Luke's and St Vincent's. The ACCC was also confident that LCMHC is likely to use the cost savings to improve the range and quality of services available to private patients in northern Tasmania. The determination will be available shortly.

11th March 2005, MR 055/05

Salt acquisition not opposed

The ACCC will not oppose the proposed acquisition by Ridley Corporation Limited of the salt operations of Penrice Soda Products Pty Ltd. Ridley is the largest supplier of salt to domestic consumers. Penrice is Australia's only producer of soda ash and sodium bicarbonate, and has salt fields and refining operations in South Australia. Ridley proposes to acquire Penrice's salt operations and enter an exclusive, long-term arrangement for the supply of salt to Penrice.

After making market inquiries among Australian salt suppliers and customers, the ACCC determined that the proposed acquisition is unlikely to substantially lessen competition.

28th April 2005, MR 100/05

Westfield acquisitions not opposed

The ACCC will not oppose the acquisitions by Westfield of 25 per cent of Sunshine Plaza (Queensland) and 50 per cent of Woden Plaza (ACT) and Penrith Plaza (NSW) from General Property Trust.

After making market inquiries among retailers and landlords, the ACCC decided that the acquisitions are unlikely to substantially lessen competition. A public competition assessment on this matter has been released and is available from the ACCC website.

28th April 2005, MR 097/05

Acquisition of WMC by BHP Billiton not opposed

The ACCC will not oppose the proposed acquisition of WMC Resources Limited by BHP Billiton Limited.

BHP Billiton and WMC's operations overlap in the production of copper, nickel, cobalt, gold and silver. Following market inquiries, the ACCC concluded that the proposed acquisition is unlikely to result in a substantial lessening of competition in the markets for any of these products.

19th April 2005, MR 094/05

Private hospital acquisition

The ACCC will examine the competition effects of an acquisition by Ramsay Health Care of Affinity Health's private hospital network.

The ACCC has not made a decision to clear the transaction, and is yet to undertake market inquiries. However, to facilitate the transaction and enable it to proceed, Ramsay and Affinity have provided undertakings to the ACCC which preserve the Affinity business as a separate and independently viable concern until the ACCC has completed its inquiries.

14th April 2005, MR 088/05

China Light & Power's energy acquisition allowed

The ACCC will not intervene in China Light & Power's proposed acquisition of the Australian non-regulated energy assets of Singapore Power.

The ACCC does not consider that the acquisition is likely to substantially lessen competition in breach of s. 50 of the Trade Practices Act. A public competition assessment outlining the reasons for the decision will be published on the ACCC website.

30th March 2005, MR 077/05

ACCC allows Foster's acquisition of Southcorp

The ACCC will not oppose the proposed acquisition of Southcorp by Foster's, two of the largest producers of alcoholic beverages in Australia. The proposed acquisition will result in Foster's producing the second largest annual volume of wine in Australia and our highest valued wine company. However, the

proposed acquisition will not cross any of the market share thresholds or concentration ratios. The ACCC formed the view that the proposed acquisition is unlikely to substantially lessen competition

8th March 2005, MR 046/05

San Miguel's bid for National Foods allowed

The ACCC will not intervene in the bid by San Miguel Corporation for National Foods Limited. The ACCC noted that there is no overlap between San Miguel's different activities in Australia and hence no change likely to the different markets in which these businesses operate. The ACCC has issued a public competition assessment on this matter.

2nd March 2005, MR 035/05

Polypropylene business acquisition not opposed

The ACCC will not intervene in Basell Australia Pty Ltd's proposed acquisition of the polypropylene business of Qenos Pty Ltd. The acquisition will lead to only one Australian polypropylene producer. However, the level of imported product is significant and there was evidence that the viability of imports was likely to constrain the pricing decisions of the merged entity.

The ACCC therefore determined that a substantial lessening of competition was not likely. A statement of reasons for the decision is published on the ACCC website.

29th March 2005, MR 073/05

ACCC allows fertiliser joint venture

The ACCC will not oppose a proposed fertiliser joint venture between Futuris Ltd and AWB, nor will it oppose the joint venture's acquisition of shares in HiFert Pty Ltd from WMC Resources Ltd.

The ACCC considered several factors including the high level of market share currently held by Incitec Pivot, the presence of other retailers and buying groups and the high level of imports across the range of fertiliser products. It decided that suppliers, retailers and farmers would be able to turn to alternative sources as well as respond competitively to initiatives by either Elders or Landmark resulting from the joint venture.

2nd March 2005, MR 036/05

RESTRICTIVE TRADE PRACTICES

Hydroponic company admits attempt to prevent discounts

A hydroponic equipment manufacturer and importer admitted to trying to prevent retailers from discounting some organic products it supplied. Highlife Pty Ltd sent a letter to its NSW dealers stating that Highlife would 'find it difficult to supply dealers which did not maintain healthy profit margins on its products', alluding to its recommended retail price list.

After an ACCC investigation, Highlife admitted that it engaged in resale price maintenance. In resolving this matter, Highlife has provided a court enforceable undertaking to the ACCC to not engage in conduct that constitutes resale price maintenance, and to inform its dealers that it cannot control the price at which resellers sell their products.

15th March 2005, MR 061/05

Skincare manufacturer penalised \$250 000 for resale price maintenance

After action by the ACCC, penalties totalling \$250 000 were imposed by the Federal Court on Dermalogica Pty Ltd, a wholesaler of prestige skin care products, for engaging in resale price maintenance.

The ACCC alleged Dermalogica had attempted to stop two retailers discounting Dermalogica products below suggested retail prices on their websites. Staff of the company had also met with the retailers to voice concerns at their practice of discounting Dermalogica products. Additionally, Dermalogica's web guidelines provided that a violation of its pricing policy could result in account termination and legal action.

Further information on the decision can be found on the ACCC website.

10th March 2005, MR 052/05

\$23.3 million in penalties for petrol price fixing

Pecuniary penalties totalling \$23.305 million were ordered by the Federal Court today for price fixing in the Ballarat petrol market. The ACCC instituted proceedings against 16 respondents alleging a number of competitors in the Ballarat region were part of a long-standing arrangement to fix retail petrol prices.

In addition to penalties, the Federal Court also declared the conduct in breach of the Act and ordered injunctions against the respondents prohibiting them from communicating with, or obtaining from competitors the retail price of fuel, for a period of four years and ordered that the respondents pay the ACCC's costs.

17th March 2005, MR 067/05

Dubbo taxi settlement

The ACCC reminded regional taxi companies not to engage in anti-competitive practices after a taxi company provided the ACCC with a court enforceable undertaking to cease various anti-competitive practices.

The ACCC considered that a Dubbo Radio Cabs system, which allocated jobs in excess of 20 kilometres to drivers on set criteria, and its ban on drivers using mobile phones were in breach of the Trade Practices Act. The company has ceased the conduct and provided an undertaking to the ACCC that it will notify all taxi operators of the termination of the system, review all rules and by-laws and develop a trade practices compliance program.

22nd March 2005, MR 070/05

Alleged market sharing by garnet firms

The ACCC instituted proceedings against three companies for alleged market sharing in the supply of alluvial garnet (an abrasive in the preparation of surfaces) in Australia and overseas.

The ACCC alleges that two of the companies breached the Act by entering into an agreement, with another, on who would supply alluvial garnet to certain areas in Australia and elsewhere. The ACCC is seeking declarations and orders including injunctions, pecuniary penalties, findings of fact, trade practice compliance programs and costs against the companies.

17th March 2005, MR 064/05

Penalties for resale price maintenance by supplier

Penalties totalling \$95 000 have been imposed on RM Hall Pty Ltd and its directors for engaging in resale price maintenance in relation to Florence Sculpture D'Arte Armani figurines supplied by the company to a number of dealers throughout Australia.

RM Hall entered into about 120 dealership agreements for the supply of the figurines. Fourteen dealers were issued with catalogues which contained statements of price such that the dealers would be likely to have understood that they could not sell or advertise the figurines below that price. It also sent a letter to a dealer, who discounted the figurines, in which it was critical of the dealer's pricing activity.

The court declared that RM Hall's conduct breached the resale price maintenance provisions of the Act and imposed penalties totalling \$95 000, along with injunctions preventing the conduct in future.

7th April 2005, MR 083/05

AUTHORISATIONS AND NOTIFICATIONS

Taxi authorisations not revoked

The ACCC issued a decision not to revoke authorisations granted to a number of taxi networks across New South Wales, Victoria and South Australia.

The authorised conduct allows taxi networks to suspend taxi operators and drivers from radio booking services, or impose a penalty, if they do not accept certain forms of non-cash payments approved under the Cabcharge account system. After consulting widely, the ACCC formed the view that, with the considerable changes that have occurred in the taxi industry since the authorisations were granted, the public benefits once secured by authorisation have largely diminished. While the ACCC has decided not to revoke the authorisations, concerns remain regarding the processing of card transactions identified by the review.

Copies of the determination are available from the ACCC website.

11th March 2005, MR 056/05

Interim approval granted for coal system

The ACCC has granted interim authorisation to the operator of the Dalrymple Bay Coal Terminal to implement a queue management system, which essentially rations the amount of coal each producer can export through the terminal on a pro rata basis.

This move ensures that the overall amount handled by the terminal better matches the amount that can be delivered by the congested coal chain.

29th April 2005, MR 102/05

Coal vessel queue system allowed

The ACCC granted conditional authorisation to a system designed to address the imbalance between the amount of coal that exporters want to export and the capacity of the infrastructure which moves coal from mines in the Hunter Valley onto vessels in Newcastle

The system reduces the amount of coal each producer can export through the port on a pro rata basis so that the overall amount handled by the port better matches the amount that can be delivered by the coal chain. It is estimated that savings under the new scheme will be between US\$106 million to US\$179 million.

15th April 2005, MR 090/05

Joint venture between AWB and GrainCorp allowed

The ACCC has granted authorisation to a joint venture between GrainCorp and the Australian Wheat Board (AWB).

The joint venture arrangements are likely to result in public benefit by reducing costs through better coordination of resources when exporting. These benefits should result in increased returns to grain growers, reduction of demurrage costs and greater transparency in pricing.

In total, the potential public benefits arising from this authorisation are between \$10 and \$30 million per annum, depending on the size of the harvest

15th April 2005, MR 091/05

Sydney councils allowed to collectively tender

The ACCC has authorised a group of councils in the Southern region of Sydney to collectively tender and contract for the provision of waste management services

The ACCC considers that a co-ordinated approach to the council's waste management services will result in service efficiencies which will be reflected in a lower domestic waste management charge to ratepayers. It decided that any anti-competitive detriment that may flow from the proposed arrangements is likely to be minimal.

14th April 2005, MR 087/05

Victorian chicken growers to collectively bargain

The ACCC issued a determination granting Victorian chicken growers authorisation to collectively bargain with their processors. The ACCC has also authorised those Victoria

Farmers Federation member growers to, under certain circumstances, agree to refuse to accept new batches of chicks when negotiations break down.

The ACCC accepted submissions that the arrangements are likely to provide growers with greater input into their contracts with processors leading to more efficient outcomes. The ACCC also considers that transaction cost savings can be achieved. The ACCC was also satisfied that growers – who rely almost entirely on processors for their income – would only consider boycott action as a last resort and that any boycott would be extremely damaging to their business. The arrangements were authorised for five years.

An appeal has been lodged by a number of processors in the Australian Competition Tribunal.

3rd March 2005, MR 038/05

SA milk vendors to collectively bargain with processors

South Australian milk vendors will be able to collectively negotiate the terms and conditions of distribution contracts with milk processors under an authorisation granted by the ACCC.

The Milk Vendors Association (SA) sought authorisation for collective bargaining with National Foods Milk Limited and Dairy Vale Foods Limited.

The ACCC believes that the arrangements will result in public benefit by providing them with the opportunity for more effective input into contract terms and conditions, authorising the arrangements for five years.

28th April 2005, MR 099/05

FCAI allowed to collectively negotiate motor vehicle area hire charges at ports

The ACCC issued a draft decision proposing to authorise the Federal Chamber of Automotive Industries to collectively negotiate the terms and conditions of area hire charges with stevedoring companies on behalf of its members.

The services provided by the stevedores allow car exporters and importers to hold vehicles at the port before export or on import. The ACCC will consult on its draft decision before making a final decision. Parties wishing to make a submission to the ACCC on this issue should contact the ACCC for further details.

29th March 2005, MR 074/05

Proposed authorisation for BHP Billiton joint venture

The ACCC proposed to grant authorisation to agreements between BHP Billiton Minerals Pty Ltd to form a joint venture with four Chinese steel manufacturers for the mining and export of iron ore. The agreements relate to the establishment of a joint venture for the mining, processing and transport of iron ore, which will be sold to purchasers in China, from a site in north Western Australia. More information and a copy of the Draft Determination are available from the ACCC website.

11th March 2005, MR 053/05

Medical indemnity report

The Australian government has issued the second ACCC report monitoring medical indemnity insurance premiums.

The report shows that the premiums written in 2004–05 (2004 in the case of UMP) were considered to be actuarially justified for all five medical indemnity providers. The ACCC also found that, in the current market environment, premiums set by all five providers were considered to be commercially justified.

Copies of the report will be available on the ACCC's website. A copy of the Assistant Treasurer's news release can be found at <http://assistant.treasurer.gov.au>.

16th March 2005, MR 063/05

Report on Telstra's compliance with price controls

The ACCC issued its annual assessment of Telstra's compliance with the price control arrangements. The ACCC is satisfied that Telstra has adequately complied with its price control arrangements. The report can be obtained from the ACCC's website, ACCC offices or by calling 1300 302 502.

17th March 2005, MR 066/05

ACCC final view on future Telstra price controls

The ACCC report on the price control arrangements that should apply to Telstra after 1 July 2005 has been released.

The ACCC's recommendation is that price cap regulation should continue on the services to which it currently applies. However, the ACCC considers that services to businesses with more than five lines should no longer be subject to price controls. The report can be obtained from the ACCC's website, ACCC offices or by calling 1300 302 502.

30th March 2005, MR 076/05

Discussion paper on future local telephone services regulation

The ACCC has issued a discussion paper on the future of local services regulation. The discussion paper marks the start of a full review of local call regulation in Australia. Presently, the local carriage service is a declared wholesale service for end-to-end local calls. It allows entrants to provide local calls without deploying substantial alternative infrastructure.

The discussion paper is available on the ACCC website. Interested parties are asked to make submissions by 3 June 2005.

22nd April 2005, MR 096/05

Reduced telecommunication regulation proposed

The ACCC issued a draft decision proposing to remove some regulations associated with the Digital Data Access (DDAS) and ISDN service declarations. The ACCC concluded there is

effective competition in the market to restrain participants from engaging in anticompetitive behaviour. It expects to issue a final report in June 2005.

18th April 2005, MR 092/05

1.5 million broadband services connected

The take up of broadband services has passed the 1.5 million mark, according to the latest ACCC Snapshot of broadband deployment. The report shows that, as at the end of December 2004, there were 1 548 300 interconnecting broadband services. This represents an increase of 121.6 per cent on the December 2003 take-up figure of 698 700 services connected. Current and previous ACCC Broadband snapshot reports will be available on the ACCC website.

10th March 2005, MR 049/05

Telstra commits to ADSL transfer process

Telstra has established processes to address some of the inconsistencies in ADSL provisioning in response to concerns raised by the ACCC. The new processes will benefit customers attempting to transfer to another ADSL service when technical issues with line quality have been raised by Telstra, yet the customer has been provided a connection with Telstra Bigpond.

Consumers who have experienced difficulties in ADSL provisioning, and wish to have their situation assessed for the applicability of this transfer process, should contact their preferred ADSL provider who will be able to lodge a complaint with Telstra on their behalf.

15th March 2005, MR 060/05

Vodafone mobile terminating access service undertaking

A discussion paper has been issued on a second access undertaking lodged by Vodafone on the mobile terminating access service (MTAS).

The undertaking specifies price and non-price terms and conditions on which it proposes to supply the MTAS on its second generation (2G) and 2.5G mobile networks. Copies of the undertaking and the discussion paper are available from the ACCC's website.

14th April 2005, MR 089/05

Discussion papers on Telstra's ULLS and LSS undertakings

The ACCC issued two papers on Telstra's unconditioned local loop service (ULLS) and its line sharing service (LSS) undertakings.

These services, which allow access to the basic elements of network, are considered key promoters of competition in the Australian telecommunications market. The discussion papers give interested parties the opportunity to comment on the proposed prices and Telstra's arguments justifying them.

9th March 2005, MR 048/05

Telecommunications access disputes

Hutchison Telecommunications (Australia) Limited and Hutchison 3G Australia have notified the ACCC of access disputes with Optus Networks Pty Limited, Optus Mobile Pty Limited and Optus Vision Pty Limited.

The disputes relate to the price paid by Hutchison for the Domestic Mobile Terminating Access Service supplied by Optus by means of its mobile network. Hutchison Telecommunications (Australia) Limited has also notified the ACCC of a similar access dispute with Vodafone Network Pty Limited.

The ACCC has begun the arbitration process for access disputes. Given that the legislation contemplates that arbitrations be conducted in private, the ACCC will not be making any public comment at this stage.

Primus Telecommunications Pty Ltd also notified the ACCC of an access dispute with Vodafone Network Pty Limited under Part XIC of the Trade Practices Act.

18th March 2005, MR 068/05 // 7th March 2005, MR 043/05

7th March 2005, MR 044/05

Telstra accounting separation reports issued

The ACCC issued the fourth current cost accounting separation report relating to Telstra. The report contains current cost financial information for 'core' telecommunications access services and present day valuations of Telstra's assets.

The ACCC issued its sixth imputation testing and non-price terms and conditions report under the enhanced accounting separation regime for Telstra for the quarter ending 30 December 2004. The report does not reveal any systematic discrimination against Telstra's wholesale customers. The report will be available on the ACCC website.

31st March 2005, MR 078/05 // 29th April 2005, MR 104/05

Options for enhanced broadband competition

The ACCC is considering options available to ensure the expansion of the broadband industry while promoting and protecting competition.

The Commission remains ready to work with all industry participants in the development of more cooperative processes for accessing the infrastructure required.

1st April 2005, MR 080/05

Internet interconnection monitoring

The ACCC issued a record-keeping rule (RKR) and a disclosure direction to 20 leading ISPs as part of a three-year monitoring regime for the internet industry. The program is aimed at identifying how interconnection of internet networks operates, and how it will affect markets that rely on interconnection.

The ACCC will review the operation of the monitoring program after it has received data for the first 12 months. Copies of the regulatory impact statement, record keeping rule and disclosure direction will be available on the ACCC website.

29th March 2005, MR 075/05

Moomba to Sydney gas pipeline

The Australian Competition Tribunal handed down a decision on the regulatory value of the Moomba to Sydney pipeline system. The tribunal has now determined a value for the MSP of \$834.66 million using a new methodology. The tariff to be applied to regulated gas haulage services will be set following further submissions to the tribunal.

18th March 2005, MR 069/05

Regulatory report on electricity networks issued

The ACCC issued its second Electricity Regulatory Report covering the financial and operational performance of transmission network service providers.

The report details the performance of ElectraNet, Powerlink, SPI PowerNet, Transend, TransGrid and VENCORP for the 2003/04 reporting year focusing on the revenue and expenditure performance of the networks.

8th April 2005, MR 085/05

NSW electricity transmission network decisions

The ACCC issued its supplementary draft decisions on the future capital expenditure allowance for TransGrid and EnergyAustralia, transmission network service providers in the NSW and ACT region.

The draft decisions give an upfront allowance of \$1.1 billion and also pave the way for additional large but uncertain projects that might eventuate during this regulatory period. This decision leads to a high and increased level of investment in NSW transmission networks. Thus it allows TransGrid and EnergyAustralia to respond to the forecast increases in demand, while improving the reliability of their transmission networks by replacing ageing assets.

Final revenue cap decisions covering TransGrid and EnergyAustralia were also released, accommodating over \$1.4 billion in new investment in the NSW and ACT transmission network over a five-year period.

Together with the ACCC's previous decisions, investment in NSW and ACT transmission networks will amount to around \$2.6 billion, which more than doubles the value of transmission assets in just ten years. The additional costs to NSW and ACT consumers from these decisions amount to around \$400 million over five years. However, the ACCC has been persuaded that the additional expenditure is necessary.

4th March 2005, MR 041/05

Record keeping rules for Australia Post

The ACCC issued record keeping rules (RKRs) today specifying information to be provided by Australia Post under the *Australian Postal Corporations Act 1989*.

These rules relate to the ACCC's functions of prices surveillance and inquiries into disputes with Australia Post's bulk mail services. These RKRs ensure that Australia Post is not using its monopoly power to the detriment of competition in other markets.

31st March 2005, MR 079/05