

ACCC website.

MR 118/08

July 2008

From the Small Business Commissioner

The Government has announced the reappointment of the ACCC Chairman, Graeme Samuel and the appointment of a new Deputy Chair, Michael Schaper, who will have responsibility for small business matters. In future editions of Briefing we will outline arrangements as Michael takes on many of the roles I have previously played with small business.

The Commission is currently concluding a major inquiry into the competitiveness of retail prices for standard groceries in Australia. The ACCC is due to report to the Minister, the Hon Chris Bowen MP on 31 July. Around the same time the ACCC will also be reporting to the Minister on the outcome of a review of fertiliser prices. In conducting such inquiries and reviews the ACCC is able to utilise substantial powers to require parties to provide information. The aim is to ensure maximum transparency in such sensitive areas of competition and consumer interests.

This edition of Briefing includes reference to guidance material ACCC has released on Carbon Offsets Claims and to the strengthened TPA laws to assist small business.

John Martin
Small Business Commissioner

NEW DEVELOPMENTS

Carbon claims guideline

The ACCC launched a suite of guidance materials on carbon offset claims. In January 2008 the ACCC began consultations by inviting interested parties to respond to an ACCC issues paper: *The Trade Practices and carbon offset claims*.

Carbon claims and the Trade Practice Act is a guide for businesses and industry. It is intended to educate businesses about their obligations under the Act and to alert them to potentially problematic areas.

MR184/08

DVD helps keep babies safe

The ACCC launched *Keeping baby safe*, an educational DVD for new and prospective parents and carers, at Kidsafe House, Sydney. The DVD provides important information about infant's and children's products to help parents and carers make and keep their home environment safe and prevent injury to children.

Keeping baby safe DVD is available at no cost from the ACCC by calling the ACCC Infocentre or online at the

MANDATORY CODES OF CONDUCT

Horticulture Code issues paper

The ACCC released an issues paper on the Horticulture Code of Conduct as part of its inquiry into grocery prices. Under the inquiry the government has instructed the ACCC take into consideration all aspects of the supply chain in the grocery industry including the nature of competition at the supply, wholesale, and retail levels of the grocery industry to ensure consumers are getting a fair deal.

MR 134/08

Horticulture code breaches

The ACCC began proceedings in the Federal Court, Darwin, against Grove & Edgar, a horticulture produce trader based at the Sydney Produce Markets, for alleged breaches of the mandatory Horticulture Code of conduct.

The ACCC alleges that during October and November 2007, Grove & Edgar failed to agree in writing the price to be paid for three Northern Territory mango growers' produce, either before or immediately upon delivery of the mangoes.

MR 172/08

In a separate matter

Three Western Australian fruit traders acknowledged they contravened the mandatory Horticulture Code of Conduct. The traders, Karragullen cool Storage Pty Ltd, Scamonte Ventures Pty Ltd trading as Scalzi Produce WA, and Brimcove Pty Ltd trading as Etherington, acknowledged that by trading in horticultural produce without code compliant horticultural produce agreements and by failing to prepare, publish or make publicly available code complaint terms of trade, they contravened the code.

The ACCC accepted court enforceable undertakings.

MR 151/08

CONSUMER AND SMALL BUSINESS PROTECTION

Strengthened TPA laws to assist small business

Small businesses will soon enjoy greater protection against predatory pricing and misuse of market power as a result of proposed changes to the law.

The federal government is preparing to remove blockages in the law that would allow the ACCC to take more effective action on behalf of small businesses. The ACCC has been actively working to assist small business on a number of fronts: protecting them from cartels, bullying conduct,

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 the ACCC Infocentre on 1300 302 502 or the ACCC small business helpline on 1300 302 021.

misleading conduct and scams.

MR 159/08

Removal of 'cash for organs' website

The ACCC secured the removal of the website www.cashfororgans.com.au which claimed to link transplant donors and recipients. The website name intimated that consumers may be able to sell their organs through the site. There are legislative restrictions which preclude the sale of organs.

The site was closed after the ACCC contacted parties involved.

The ACCC continues to investigate the nature and extent of the organisation's activities.

MR 157/08

Compensation for unsubstantiated environmental claims

Goodyear tyres are offering customers partial refunds as part of a court enforceable undertaking accepted by the ACCC.

During 2007 and 2008 Goodyear tyres made a number of representations regarding the environmental benefits of its new Eagle LS2000 range of tyres. The representations were made in media releases, promotional material and on its website.

Goodyear tyres acknowledged that the environmental benefits claimed could not be substantiated and withdrew all material containing the representations.

MR 181/08

Misleading investment representations appeal upheld

A full bench of the Federal Court reversed an earlier decision by a single judge of the court that Channel Seven had contravened s. 52 of the Trade Practices Act during TV broadcasts of program, Today Tonight.

The stories were about a property investment program known as 'the Wildly Wealthy Woman (WWW) mentoring program'. Channel Seven appealed against the decision that found representations that one of the principles of the WWW mentoring program was a millionaire and the other owned in excess of 60 properties were misleading. It also found that Channel Seven broadcasters were unable to rely on the so-called 'publisher's defence' in s. 65A which would exempt them from the breach of s. 52.

The full court agreed that Justice Bennett was entitled to find that the representations were misleading, however, they found that s. 65A did exempt Channel Seven's conduct from s. 52.

ACCC now lodged an appeal in the High Court in relation to this matter.

MR 175/08

Compensation for misleading telemarketing

Telecommunication provider Gotalk Ltd will offer to compensate consumers who suffered a loss as a result of certain Gotalk telemarketing practices. The ACCC accepted

court enforceable undertakings from Gotalk concerning the conduct of its overseas telemarketing agents.

As part of the undertaking, Gotalk will write to all current customers obtained via telemarketing and place newspaper advertisements to reach current and former customers. Those customers can then contact Gotalk and request an investigation of their circumstances.

MR 169/08

Mortgage advice for home owners

The ACCC published advice on its website to assist home owners experiencing difficulty meeting mortgage repayments. The ACCC is concerned that some businesses may be employing unscrupulous practices to take advantage of vulnerable home owners.

The purpose of the new *Managing your mortgage* web page is to provide practical steps for home owners to take if they are experiencing financial difficulties before they consider selling their home. The new page is located on the *For consumers* section of the ACCC website.

MR 165/08

Action against solariums

The ACCC instituted legal proceedings against Tropical Sun Industries, Body Bronze International and the Australian Tanning Association (ATA) for alleged false, misleading and deceptive conduct.

The ACCC alleges the parties engaged in the contravening conduct by misrepresenting the risks associated with solarium use. The ACCC also commenced proceedings against former President of the ATA and CEO of Body Bronze, Mr Scott Meneilly.

MR 163/08

Undertakings over misleading vacuum cleaner power ratings

The ACCC accepted court enforceable undertakings from Hoover Floorcare Asia Pacific Pty Ltd concerning the overstatement of the power output of two of its vacuum cleaners.

Hoover has acknowledged that the represented power ratings of both vacuum cleaners were potentially misleading and offered to compensate consumers affected by the conduct.

MR 161/08

Undertakings over dual pricing practice

The ACCC accepted court enforceable undertakings from Godfreys Franchise Systems over price representations of its Nilfisk A100 vacuum cleaners.

Godfreys promoted a Nilfisk A100 vacuum cleaner which was new to the Australian market and exclusively sold by Godfreys. It made the representations: '\$124.50, Nilfisk, Half Price' in catalogues, and displayed signs in some Godfreys' stores that read: 'Clean Up Sale! Nilfisk \$249 ½ Price \$124.50'.

Godfreys acknowledged that representing the product for half-price when it had not previously been offered for sale may be misleading and deceptive.

MR 160/08

In another matter

The ACCC accepted court enforceable undertakings from Kerandis Proprietary Limited, trading as Urban Rhythm Furniture, in respect of two-price advertising.

A limited number of directly imported items never previously sold by Urban Rhythm Furniture were discounted from an estimated price based on the likely price Urban Rhythm Furniture believed it would have charged consumers for those items had they been purchased by it from a local wholesale distributor.

The ACCC was concerned that the use of the same two-price representations for those limited items was misleading to consumers and unfair to other traders because the discount was based on an estimated, rather than an actual historical selling price and this had not been conveyed to consumers. Urban Rhythm Furniture acknowledged that its conduct is likely to have contravened ss. 52 and 53(e) of the TPA.

MR 150/08

The ACCC also accepted court enforceable undertakings from Laura Ashley (Australia) Pty Ltd in respect of two-price advertising.

Laura Ashley adopted a promotional strategy based on establishing a 'regular price' for a product line by launching the product in a limited number of stores for a limited time. Subsequent supply to all other stores Australia-wide and subsequent discounts all relied on the 'regular price' as the starting point for any discounts or sales. The reliance on the 'regular price' continued in some instances for over 12 months, notwithstanding that the product may not have been offered for sale anywhere in Australia at that price for periods of up to 12 months prior.

MR 117/08

Car dealer provides undertakings

An advertisement by a Shepparton car dealer may have mislead consumers by falsely giving the impression it had a bulk deal in respect of certain vehicle models. The ACCC accepted a court enforceable undertaking from Thompsons of Shepparton trading as Thompson Motor Group and its director, Mr Jarrod Thompson. As part of the undertakings, Thompsons will implement and maintain a trade practices law compliance program.

MR 149/08

Video Ezy provides refunds to consumers

Video Ezy is offering partial refunds to consumers as part of court enforceable undertakings accepted by the ACCC. In the lead up to Christmas 2007 Video Ezy's television advertising claimed "the cheapest price in Australia—guaranteed" in relation to the sale of five popular DVD titles. Additionally, over 100 000 text messages containing the misrepresentation

were sent to consumers in respect of two of the DVD titles. Video Ezy has apologised to its consumers and offered partial refunds.

MR 148/08

Court order against misleading rug advertising

Following admissions by Terania Pty Ltd and Australian Rug Expos Pty Ltd, the Federal Court found that the two companies had engaged in false and misleading conduct. Terania and Australian Rug Expos admitted that the 'was' price they used for certain products sold at sales conducted at the Darwin showgrounds and at Exhibition Park In Canberra were false and misleading. The court prohibited the two companies and their agents from engaging in the same conduct in the future and ordered they pay \$50 000 to the ACCC in legal costs.

MR 138/08

Mislead battery consumers compensated

Refunds or replacements will be offered as part of a court-enforceable undertaking offered by Alco Battery Sales to the ACCC.

From July 2006 to December 2007 Alco Battery Sales represented that the Fullriver DCG series batteries it supplied were gel batteries. Testing of the battery showed that it contained only 0.55 per cent silicone dioxide and accordingly it was an absorbed glass mat (AGM) battery.

Additionally, Alco Battery Sales will implement and maintain a trade practices law compliance program.

MR 133/08

Misleading juice claims and labels

Following legal action by the ACCC, the Federal Court declared Nudie Foods Australia made misleading claims about two of its juice products, Rosie Ruby and Rosie Blue, and breached the consumer protection provisions of the Trade Practices Act (TPA).

Nudie represented that the Rosie Ruby juice was solely cloudy cranberry juice and the Rosie Blue juice solely cranberry and blueberry juice, when both the juices predominantly comprised reconstituted apple juice.

The court declared in consent orders that Nudie breached ss. 52, 53(a) and 55 of the TPA. The court also granted an injunction restraining Nudie from repeating the conduct for a period of three years and ordering Nudie to publish a corrective advertisement; establish an education, training and trade practices compliance program; and pay ACCC costs.

MR 174/08

In another matter

Harvey Fresh (1994) Ltd acknowledged the '100% juice' claim on the label of its 250 ml apple and blackcurrant fruit juice product was wrong and may have misled consumers. The small print ingredients list on the reverse side of the label indicated the product consisted of apple concentrate, blackcurrant flavour, grape skin extract and colour 466.

The ACCC accepted court-enforceable undertakings from Harvey Fresh.

MR 122/08

Event management company misled small businesses

The ACCC obtained orders by consent in the Federal Court, Melbourne against The Triumphant Group Pty Ltd for breaches of the Trade Practices Act.

The orders against Triumphant are in addition to the declarations and orders made by the Federal Court against Imagine Essential Services Limited and Mr Richard Evans on 4 March 2008. The ACCC alleged Triumphant, in its capacity as marketing and promotional agent for Imagine, made false and misleading representations in connection with the sale of Imagine licenses.

MR 089/08

PRODUCT SAFETY

Mandatory prams and strollers standard commences

The ACCC launched a consumer safety alert highlighting the new mandatory standards for prams and strollers which came into effect on 1 July 2008. The new standards draw on critical safety features of the Australian/New Zealand Standard for prams and strollers and was developed following tragic incidents where children were killed or injured when their strollers rolled away from carers.

The safety alert brochure may be found on the ACCC website.

MR 187/08

Hot water bottle safety alert issued

The ACCC launched a consumer safety alert highlighting the dangers associated with the unsafe use of hot water bottles. The safety awareness brochure aims to highlight the dangers of hot water bottles to the 60 plus demographic.

This follows the death of an 82-year-old woman in South Australia who sustained severe burns when her hot water bottle burst. Copies of *Safety Alert: Hot Water Bottles* will be available from all ACCC offices and from the ACCC website.

MR 166/08

Product alert for black and white Link-a-Doos

In response to ACCC concerns about a potential quality issue with black and white Fisher Price Link-a-Doos, Mattel issued a product alert. The ACCC raised the issue with Mattel following a consumer complaint. It was possible that excess white plastic moulding along the edges and seams of some black and white Link-a-Doos could be dislodged, posing an inhalation risk when being mouthed by infants.

The ACCC advises all parents and carers to inspect any black and white Link-a-Doos and to contact Mattel if they have any concerns.

MR 155/08

Baby cot recall by online trader

DVIN Corporation Australia issued a national voluntary recall of three models of baby cots following the ACCC raising concerns about safety. The ACCC was concerned the cots may not comply with the prescribed consumer product safety standards for cots for household use. The cots were imported by DVIN Corporation and sold through online auction websites.

MR 129/08

Non-compliant sunglasses

A retail blitz on two major shopping complexes has targeted sunglasses that fail to comply with the prescribed mandatory product safety standards. As a result, the ACCC accepted four court enforceable undertakings from major retailers and a number of products have been recalled and others re-labelled correctly. Fossil Retail Stores (Australia), Paris Miki Australia, J.L Footwear (licensee of the Nine West store brand) and Chelsea Girl Pty Ltd have provided court enforceable undertakings to the ACCC.

MR 113/08 and 123/08

RESTRICTIVE TRADE PRACTICES

Proposed reforms to the TPA

The proposed reforms to section 46 of the Trade Practices Act (TPA) would provide the ACCC with the tools it needs to vigorously protect competition while ensuring that the basic rights of those affected were not trampled in the process.

The ACCC considers that the balance has been adequately struck between ensuring that businesses are exposed to the rigours of competition, with all the associated economic benefits, while being protected from the possible anti-competitive consequences associated with firms gaining power from that competitive process.

MR 139/08

Criminal prosecution for alleged misleading evidence

The ACCC began criminal proceedings against Mr Richard Pratt for allegedly providing false or misleading evidence in the course of an investigation.

In 2005 the ACCC convened a number of examinations of Visy executives under s. 155 of the Trade Practices Act. These examinations were part of the investigation into alleged cartel conduct in the corrugated fibreboard packaging industry. The investigation culminated in civil proceedings by the ACCC against Visy and certain Visy executives.

MR 171/08

Secondary boycott dismissed by Federal Court

The Federal Court dismissed an application by the ACCC that the Construction, Forestry, Mining and Energy Union and two of its members were accessories to alleged contraventions by Bovis Lend Lease of the secondary boycott provisions of the Trade Practices Act. The ACCC alleged there was a contract, arrangement or understanding between CFMEU and Bovis which stopped Bovis acquiring plasterboard services from a contractor, Bernmar Projects,

during the construction of the Landmark medium density apartments in the Australian Capital Territory.

Justice Finn was not reasonably satisfied that Bovis' conduct towards Bernmar flowed from a contract, arrangement or understanding with the union and dismissed the ACCC's application.

NR 130/08

MERGERS AND ACQUISITIONS

Supermarket acquisition opposed

The ACCC opposed the proposed acquisition of the Karabar Supermarket in Queanbeyan, NSW, by Woolworths Limited.

The ACCC concluded that the acquisition by Woolworths would be likely to substantially lessen competition in the local retail supermarket surrounding the store.

A public competition assessment is available on the ACCC website under Mergers.

MR 178/08

ACCC seeks customers view on bank acquisition

The ACCC began market inquiries on the proposed acquisition of St George Bank Limited by Westpac Banking Corporation. The ACCC would like to obtain a broad range of views from competitors, banking customers and interested parties on this proposed acquisition.

In order to make it easy for banking customers to provide their views, the ACCC issued two surveys –one for personal banking customers and one for business banking customers. In addition to seeking information about their banking habits, the surveys provide an opportunity for banking customers to express their view on the proposed acquisition.

MR 158/08

Proceedings commenced for breaching undertaking

The ACCC commenced proceedings in the Federal Court in Melbourne against ABC Learning Centres Ltd.

The ACCC alleges the company persistently failed to comply with the court enforceable undertakings it gave to the ACCC in December 2004, following its acquisition of the Peppercorn child care group, by not divesting two child care centres as required.

MR 168/08

Review of BHP Billiton's proposed acquisition of Rio Tinto

The ACCC received a submission from BHP Billiton that enables it to commence market inquiries into its proposed acquisition of Rio Tinto Ltd and Rio Tinto plc. The ACCC will assess the proposed acquisition in accordance with its Merger Review Process Guidelines and s. 50 of the Trade Practices Act and invites comment from other participants in the mining industry, their customers and other interested parties.

MR 156/08

Acquisition of ferry business not opposed

The ACCC will not oppose the acquisition by Moreton Island Ferries of certain assets of Stradbroke Ferries Ltd. The sale involves businesses and properties on Moreton Island as well as assets associated with the Combie Trader ferry business, though not the vessel itself.

MR 135/08

Acquisition of chemical company not opposed

The ACCC will not oppose the proposed acquisition of Dyno Nobel Limited by Incitec Pivot Limited. Dyno Nobel Limited manufactures and supplies explosives and has an equity interest in Queensland Nitrates Pty Ltd, an ammonium nitrate producer. Incitec Pivot Limited manufactures and supplies fertiliser products, predominantly in eastern Australia.

The ACCC found that the proposed acquisition was unlikely to remove an actual or potential competitor in the supply of ammonia and ammonium nitrate.

MR 126/08

AUTHORISATIONS AND NOTIFICATIONS

Real estate advertising contract immunity revoked

The ACCC issued a notice revoking a notification concerning real estate advertising contracts with the *Wentworth Courier* in eastern Sydney.

Under the contracts, real estate agents agree to place 75 per cent of their total print display advertising (by centimetre volume) for properties in the eastern suburbs with the *Wentworth Courier*. In return, contracted agents receive significantly discounted advertising rates and an annual volume rebate from the *Wentworth Courier*.

The ACCC is not satisfied that there is a public benefit generated by the requirement. The arrangements have been in place for a number of years. The ACCC's review of the notification followed the receipt of a complaint about the 75 per cent requirement.

MR 144/08

Employment services collective tendering to start

The ACCC proposes to grant authorisation to Job Futures for its collaborative tender arrangements. These arrangements are made on behalf of its members, who are smaller non-profit service providers, for the purposes of bidding for government funding for the provision of employment.

MR 183/08

IATA tariff coordination system to start

The ACCC issued a draft determination proposing to grant authorisation to the International Air Transport Association for its new passenger tariff coordination system. The ACCC is also proposing to extend authorisation to the current system. The ACCC considers that the public benefits of the new system are likely to outweigh the public detriment.

MR 182/08

Authorisation granted for rural doctors

The ACCC issued a determination granting authorisation to a collective bargaining arrangement put forward by the Rural Doctors Association of Australia (RDAA). The RDAA proposes to collectively negotiate with state and territory health departments, the terms of contract for general practitioner visiting medical officers in rural areas, particularly with respect to payments for services provided to public patients and for on-call services. The RDAA does not propose to negotiate on behalf of other medical specialists or with individual hospitals.

MR 124/08

Draft notice to revoke immunity for eBay's PayPal

The ACCC issued a draft notice proposing to revoke a notification lodged by eBay International A.G. on 11 April 2008. Under the notification, eBay proposed to mandate the use of PayPal for almost all transactions on the eBay site. eBay and interested parties now have time to lodge submissions in response to the draft notice, before the ACCC decides whether to issue a final notice revoking the notification.

eBay have subsequently withdrawn the notification.

MR 164/08

Draft notice to revoke immunity for speedway racing

The ACCC is proposing to revoke third line forcing notifications that would restrict licensees of the National Association of Speedway Racing (NASR) to only racing at NASR approved tracks and venues.

A pre determination conference was subsequently held on this matter.

MR162/08

WA concrete cartage allocation system to be authorised

The ACCC issued a draft determination proposing to authorise a cartage allocation system operated by CEMEX Australia for its concrete carriers in Perth.

The allocation system, known as the equal opportunity of trips system, is designed to ensure that each concrete carrier receives an equal allocation of work from CEMEX for cartage within the Perth metropolitan area.

The ACCC considers that the cartage allocation system is likely to result in the public benefit of continued industrial harmony and some reduced transaction costs.

MR 147/08

Exclusive supply arrangement notification for power tools not opposed

The ACCC issued an assessment not opposing notifications lodged by Techtronic and Bunnings relating to an exclusive supply arrangement for Ryobi products.

Under the notification Bunnings will exclusively supply Ryobi products in its stores. Other hardware stores will no longer be able to supply Ryobi branded power tools or power

garden equipment. Bunnings will also not acquire some power tool and power equipment brands from competitors of Techtronic, which Bunnings considers are the same or duplicate to Ryobi products.

MR 137/08

Joint waste collection tender to be authorised

The ACCC granted interim authorisation to allow the Central Queensland Local Government Association (CQLGA) to run a tender process for the collection and processing of waste and recyclables from all residential premises in the areas of Rockhampton, Gladstone, Central Highlands and Isaac regional councils. Interim authorisation allows the CQLGA to prepare tender documentation and invite tenders from interested parties. It also extends to evaluation of tenders and the negotiation of contracts, pending a final determination by the ACCC on this application.

MR 132/08

REGULATED SERVICES

Australia post price notification

The ACCC issued its preliminary view on Australia Post's draft price notification. Australia Post proposes to increase the basic postal rate for a standard letter from 50c to 55c. It also proposes to increase the price of other reserved services (i.e. those services over which Australia Post has a statutory monopoly) including large letter and pre-sorted mail. The last time prices for reserved postal services were increased was 2003.

MR 173/08

Increase in refrigerant gas levy

The ACCC issued a determination allowing Refrigerant Reclaim Australia (RRA) to increase the industry levy on refrigerant gas imported to and sold in Australia, from \$1.50 to \$2. RRA has had an authorisation in place since 1994 for industry to agree to impose a levy to fund the collection and disposal of ozone depleting substances and synthetic greenhouse gases.

The ACCC considers that the on-going operation of the program, facilitated by the increase in the levy to \$2, will continue to result in both efficiency and environmental benefits.

MR 125/08

Government issues fifth ACCC medical indemnity report

The Australian Government issued the ACCC report monitoring indemnity insurance premiums, *Medical indemnity insurance—fifth monitoring report—April 2008*. The report is the fifth to be produced in response to the Australian Government's announcement in 2002 that the ACCC would monitor medical indemnity premiums to assess whether they are actuarially and commercially justified.

MR 115/08

GasNet revised access arrangement approved

The ACCC issued a further final decision to approve GasNet's amended revised arrangement for the Principle Transmission System. GasNet submitted a revised access arrangement which complied with the requirements of the ACCC's final decision.

MR 179/08

Water charge rules issues paper released

The ACCC released an issues paper seeking submissions on the development of water charge rules for fees and charges payable to irrigation infrastructure operators. The water charge rules form a key component of the *Water Act 2007*, which creates new institutional and governance arrangements to address the sustainability and management of water resources and water infrastructure assets in the Murray Darling Basin.

MR 146/08

ACCC issues Telstra accounting separation report

The ACCC issued its report under the enhanced accounting separation regime for Telstra. The report tests whether there is systematic discrimination in the price or non-price terms offered to Telstra's retail and wholesale customers, and so provides general guidance on the potential for competing service providers to supply consumers. The report will be available on the ACCC website.

MR 186/08

Telecommunications reports show lower prices

Two annual statutory reports prepared by the ACCC on telecommunications competitive safeguards and changes in the prices paid for telecommunications services were tabled in parliament. Overall, prices for telecommunication service fell in real terms by 2.7 per cent for the period. Average prices for fixed-line services fell by three per cent and average prices for mobile services fell by 2.3 per cent.

The reports will be available on the ACCCs website.

MR 170/08

Telecommunications access disputes

The ACCC has recently received notification of six telecommunications access disputes under Part XIX of the Trade Practices Act. The disputes relate to the supply of Unconditioned Local Loop Service by Telstra Corporation Limited. The ACCC has commenced arbitration process for these access disputes.

Two access disputes relating to the price paid by two Optus entities to Telstra for the Domestic Mobile Terminating Access Service were also notified. The ACCC has commenced the arbitration process for these access disputes.

MR 185/08 and MR 142/08

Regulation of DDAS and ISDN services to be reduced

The ACCC issued its *Final Report on declaring the Digital Data Access and Integrated Services Data Network Services* (DDAS and ISDN) and accompanying pricing principles with respect to the services. The report concerns regulation of the

DDAS and ISDN services in regional areas and outlines an extension of the declarations of these services until 30 June 2009 or a further 12 months from the expiry date of the current declaration.

The ACCC considers that both the DDAS and ISDN services are becoming outdated, legacy technologies. Since the previous review, their use has declined in regional areas. Extension of the declarations for 12 months will provide an appropriate transition period for users to migrate to alternative technologies or services in regional areas.

MR154/08

ACCC sets local loop indicative prices for 2008–09

The ACCC set final copper local loop indicative prices for 2008–09 and issued a discussion paper on Telstra's ULLS undertaking. The final indicative prices for the ULLS monthly charge to apply from 1 July 2008 to 31 July 2009 increases from the previous period.

The ACCC may seek to review its ULLS indicative prices upon making its final decision on Telstra's ULLS undertaking.

MR 152/08

Consultation on procedural rules

The ACCC began consultation on a set of Procedural Rules to apply to the telecommunications specific regulatory provisions under the Trade Practices Act. The rules will apply to various telecommunications specific processes including access undertakings, access dispute resolution, declaration inquiries, pricing principles inquiries and exemption applications. The rules will enable the ACCC to determine and enforce its own procedures, avoid delays, and respond to changing activities and strategies employed within the industry. In making the rules the ACCC intends to promote timeliness and certainty in its decision making and to create uniform processes for both access providers and access seekers.

MR 136/08

Access to Telstra exchange facility

The ACCC published a draft record-keeping rule it proposes to issue which requires Telstra to keep records and give reports to the ACCC relating to access to Telstra exchange facilities. The ACCC has received a large number of complaints from access seekers regarding difficulties in accessing exchanges to install equipment to provide ADSL2+ services in competition with Telstra.

MR 127/08

Final determinations in two arbitrations for ULLS

The ACCC published the final determinations made in two arbitrations concerning disputes over access to the Unconditioned Local Loop Service. The published final determinations specify certain terms on which Telstra supplies the ULLS to Chime and Optus. A dispute notified by Primus has also been resolved in a manner consistent with and on the same date as the Chime and Optus determinations.

MR 143/08

Digital radio access regime legislative instruments issued

The ACCC issued the legislative instruments, *Digital Radio Multiplex Transmitter Licences (Decision-Making Criteria) Determination 2008* and the *Digital Radio Multiplex Transmitter Licences Procedural Rules 2008* in regard to the access regime that will apply to digital radio.

Digital radio multiplex transmitter licences will be allocated by the Australian Communications and Media Authority to multiplex licensees, who will operate the digital radio transmission equipment in each licence area. Once these digital radio multiplex transmitter licences are allocated, the licensees must lodge –within three months– an access undertaking with the ACCC.

MR 141/08