



Australian
Competition &
Consumer
Commission

ACCCOUNT

A report of the Australian Competition and
Consumer Commission's activities

1 October to 31 December 2008



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Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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ISBN 978 1 921393 16 7

Contents

Overview	4
1. Enforcement and compliance.....	7
Responding to businesses and consumers.....	7
Enforcing for businesses and consumers	8
2. Communicating with businesses and consumers	22
Liaison education activities.....	22
Codes of conduct.....	24
Product Safety	27
3. Mergers	33
Merger reviews undertaken in the December quarter 2008.....	33
Time taken to assess mergers.....	34
Public competition assessments	34
Section 87B undertakings	35
Major matters	35
Litigation.....	39
4. Adjudication	40
Authorisations	40
Exclusive dealing notifications	45
Collective bargaining notifications	46
Communications	47
Australian Energy Regulator.....	54
Price Monitoring	61
Water.....	63
6. International activities.....	71
Bilateral meetings	71
7. Reviews and inquiries	74
Legislative amendments.....	74
Parliamentary inquiries	75
Appendix	76
Speeches.....	76
News releases.....	76
Publications.....	76
Contacts.....	78

Overview

The Australian Competition and Consumer Commission's core business is to ensure compliance with the *Trade Practices Act 1974*. We do this by promoting competition and informed markets, encouraging fair trading and protecting consumers. The ACCC is committed to carrying out its functions in an efficient and professional manner. We manage our regulatory and enforcement processes to achieve effective outcomes maximising the use of ACCC resources.

In December 2008, the ACCC issued its first report on the prices, costs and profits of unleaded petrol in Australia. It follows a direction in December 2007 by the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs, the Hon. Chris Bowen MP, that the ACCC formally monitor petrol prices and report annually for three years. The report has confirmed a number of the key conclusions from the ACCC's 2007 petrol inquiry, in particular that Australian petrol prices had closely followed the price of Singapore Mogas 95, the international indicator benchmark price.

During the past quarter, 11 enforcement litigation proceedings were finalised. The Federal Court penalised Qantas Airways Ltd \$20 million for its involvement in alleged price fixing in relation to fuel surcharges applied to international carriage of air cargo. In a related case British Airways PCL was penalised \$5 million.

In an important case, the Federal Court of Australia sentenced one of Australia's most notorious conmen, Mr Bon Levi, to 10 months' imprisonment, with six months suspended, after the ACCC successfully prosecuted him for five counts of contempt of court. The ACCC will continue to be vigilant, to ensure that the court's authority is upheld and that those acting in contempt of consumer protection court orders are brought to justice. The case was also significant because it protected potential franchisees from bogus franchises and businesses which were sold on the promise of guaranteed future earnings.

Nine enforcement litigation proceedings were commenced in the Federal Court, including two matters of particular interest to small business. The ACCC has commenced proceedings against Bill Express under Part IV and V of the TPA alleging third line forcing; false and misleading or deceptive conduct in relation to the Bill EXPRESS electronic product distribution, promotion, sales and bill payment network. The ACCC also applied for interlocutory relief against Allphones Retail Pty Ltd over franchising matters.

In the first case decided under the Horticulture Code of Conduct, the Federal Court in Darwin declared that a horticulture merchant failed to comply with the code's pricing requirements in its dealings with two Northern Territory mango growers. As a result of this case, Grove and Edgar is required to write to all growers it trades with under the Horticulture Code informing them of its commitment to comply with the code and pay court costs of \$7 500 to the ACCC.

The ACCC took this case to court to ensure that growers have certainty about the price they receive for their produce. While the code has only been in effect for about 18 months, the promulgation of these orders in the manner proposed at this early stage of its operation will only serve to reinforce the need for agents and growers to familiarise themselves with its terms and ensure that they comply with it. The ACCC continues to monitor the industry closely and will assess complaints it receives.

The ACCC has been asked to provide a report on the National Broadband Network proposals to the expert panel and the Department of Broadband, Communications and the Digital Economy by January 2009. The ACCC is working closely with the expert panel in its advisory role in the NBN process. The ACCC continues to provide ongoing advice on the NBN proposals and on those matters set out in the NBN request for proposals document, which includes issues including wholesale access services and prices; access arrangements; proposed legislative or regulatory changes and the likely impact of proposals on pricing, competition and the long-term interests of end-users in the communications sector.

In the area of product safety, the ACCC has developed a Regulation Impact Statement (RIS) making a case for establishing a TPA consumer product safety standard to limit the migration of lead, mercury, selenium, antimony, arsenic, barium, cadmium and chromium in children's toys. The elements are known to have adverse health effects, particularly for children.

The Product Recalls Australia website, www.recalls.gov.au, is currently being upgraded to allow, among other facilities, an enhanced reporting capacity.

Merger activity continued at a high level with a total of 126 confidential and public merger reviews conducted in the December quarter 2008. Major matters decided upon included BHP Billiton Limited's proposed acquisition of Rio Tinto; WPP Group proposed acquisition of Taylor Nelson Sofres; Aurora Energy proposed acquisition of Tamar Valley Power Station and the Commonwealth Bank of Australia Limited's proposed acquisition of the Bank of Western Australia. The acquisition of shares in West Australian Newspaper Holdings by the Seven Network was also reviewed.

Authorisation applications were received for the coal chain management at both Port Waratah and Dalrymple Bay. The ACCC is concerned that the development of long term solutions to address coal chain issues continues to be a protracted process.

The Australian Energy Regulator issued its proposed statement on the weighted average cost of capital (WACC) values and methods it proposes to adopt in future electricity network determinations. The WACC capital represents the cost of debt and equity required by an efficient benchmark electricity network business to supply regulated electricity services.

The ACCC began its public consideration on the regulation of six fixed-line regulated telecommunications services with the issue of a discussion paper on 25

November 2008. The ACCC is undertaking investigations into various price and non-price terms of access and the arbitration of a large number of access disputes. A large litigation program has arisen from appeals against ACCC decisions, including limited merits reviews of two decisions to exempt certain metropolitan areas from regulation and judicial review of 15 determinations made in arbitration.

To assist it to prepare advice for the Minister for Climate Change and Water, the ACCC released a number of discussion papers and sought comment on the water market rules and the water charge rules from a variety of sources, including public meetings,.

A number of legislative amendments were before parliament. The *Trade Practices Legislation Amendment Act 2008*, which contains amendments to Section 46 and other provisions, was passed by parliament. The *Trade Practices Amendment (Clarity in Pricing) Act 2008* which amends s.53C of the TPA – to require the specification of a single-figure price in component price representations to consumers – was passed by parliament. The *Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008* was introduced to parliament. It has been referred to the Senate Economics Committee. The *National Fuelwatch (Empowering Consumers) Bill 2008* was rejected by the Senate.

1. Enforcement and compliance

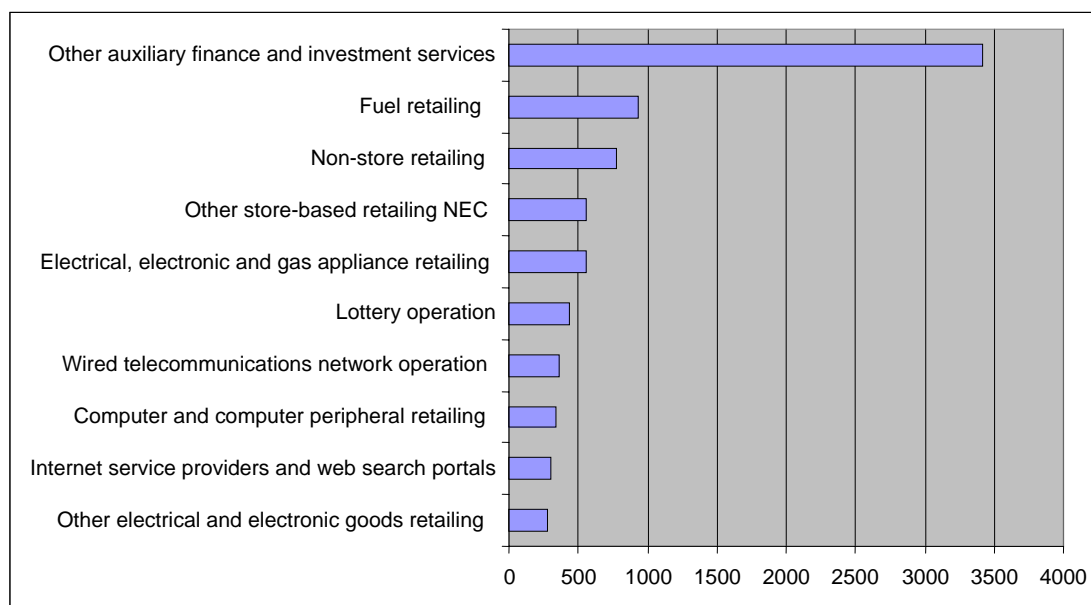
Maintaining and enhancing compliance with the *Trade Practices Act 1974* is a key objective of the ACCC. We do this by promoting competition and informing markets, encouraging fair trading and protecting consumers. The enforcement function of the ACCC, including litigation, is well supported by our liaison, analysis, outreach and compliance arms.

Responding to businesses and consumers

The ACCC Infocentre is a telephone and email information and complaints service for consumers and businesses. It is the initial response centre for all inquiries and complaints to the ACCC on competition and consumer issues in Australia.

During the December quarter 2008, the ACCC Infocentre received 30 877 complaints and inquiries from businesses and consumers (email: 8 816; telephone: 21 524 ; letter correspondence 537). Of this number, 16,613 were entered into the ACCC's database.

The major drivers of these contact levels were the level of concern expressed about fuel pricing and the reporting of scam-based activity. A drop in petrol prices during the quarter did not appear to translate into a corresponding decrease in the number of complaints about fuel pricing. The Infocentre recorded an increase in complaints about the lack of a mirrored fall in the price of diesel. The Infocentre escalated 197 matters to regional offices for assessment in the quarter. Matters that deal with Part IV related allegations are generally escalated to the regional office closest to the caller's location. Part IVA and some complex Part V matters requiring further investigation are also escalated. The ten industries attracting the most complaints during the quarter were:



The top category in the above chart refers primarily to complaints received about advance fee and other financial fraud schemes.

Of the complaints and inquiries entered into the ACCC's database during the period, 76% related to consumer protection matters, which was higher than the 2007 quarterly average of 73%. Competition matters accounted for 4% of contacts, which was the same quarterly average figure reported in 2007. Other matters accounted for 20%, down from the 42% 2007 quarterly average.

Enforcing for businesses and consumers

In undertaking its enforcement activity, the ACCC remains committed to conducting its work in an efficient and professional manner. The ACCC manages its enforcement processes to achieve effective outcomes and use of ACCC resources.

Litigation commenced

Nine enforcement litigation proceedings commenced in the Federal Court during the December quarter 2008.

ACCC v Dukemaster Pty Ltd & Anor

Commenced 2 October 2008 | VID813/2008

Proceedings under Part IVA and Part V for alleged unconscionable conduct, misleading or deceptive conduct and false representations arising from dealings with tenants by the landlord of retail premises.

ACCC v Qantas Airways Ltd

Commenced 28 October 2008 | NSD1694/2008

Proceedings under Part IV for alleged price fixing in relation to fuel surcharges applied to international carriage of air cargo.

ACCC v British Airways PCL

Commenced 28 October 2008 | **NSD1695/2008**

Proceedings under Part IV for alleged price fixing in relation to fuel surcharges applied to international carriage of air cargo.

ACCC v Bill Express Ltd & Ors

Commenced 29 October 2008 | **VID894/2008**

Proceedings under Part IV and Part V for alleged third line forcing, false and misleading or deceptive conduct in relation to the 'Bill EXPRESS' electronic product distribution, promotion, sales and bill payment network.

Allphones Retail Pty Ltd v ACCC

Commenced 31 October 2008 | **NSD1720/2008**

Prediscovery Application (s155AAA).

ACCC v Allphones Retail Pty Ltd

Commenced 3 October 2008 | **NSD1567/2008**

Application by ACCC for urgent interlocutory relief:

- in relation to representations made during mediation of notice of dispute and allegedly unreasonably refusing to allow franchisees to sell their business in contravention of the Franchising Code and s51AD
- from determining, or threatening to determine, which franchisee it supplies stock to from time to time on the basis of whether the franchisee is on an 'old' or 'new' franchise agreement and has signed a deed of settlement and release, in circumstances which the ACCC contends place or are designed to place unconscionable pressure on franchisees to sign a deed of settlement and release and 'new' franchise agreement in contravention of s51AC of the Act.

ACCC v Australialink Pty Ltd

Commenced 3 December 2008 | **QUD406/2008**

Proceedings under Part IVA and V for alleged unconscionable conduct and misleading or deceptive conduct in relation to solicitation for online business directory listings.

ACCC v Aziz Properties and Services

Commenced 18 December 2008 | **VID1057/2008**

Proceedings under Part V for alleged breach of the mandatory product safety standard for bunk beds.

ACCC v Singapore Airlines Cargo Pte Ltd

Commenced 22 December 2008 | **NSD1980/2008**

Proceedings under Part IV for alleged price fixing in relation to fuel surcharges applied to international carriage of air cargo.

Proceedings concluded

Eleven enforcement litigation proceedings were finalised during the December quarter 2008.

ACCC v British Airways PCL

Commenced 28 October 2008 | **concluded** 11 December 2008 | **NSD1695/2008**

Proceedings under Part IV for alleged price fixing in relation to fuel surcharges applied to international carriage of air cargo.

Justice Lindgren | Federal Court, Sydney

Outcome | injunctions, \$5 million pecuniary penalty, costs.

ACCC v Qantas Airways Ltd

Commenced 28 October 2008 | **concluded** 11 December 2008 | **NSD1694/2008**

Proceedings under Part IV for alleged price fixing in relation to fuel surcharges applied to international carriage of air cargo.

Justice Lindgren | Federal Court, Sydney

Outcome | injunctions, \$20 million pecuniary penalty, costs.

ACCC v TMG Asia Pacific Pty Ltd

Commenced 19 August 2008 | **concluded** 1 October 2008 | **NSD1310/2008**

Proceedings under Part V for alleged false, misleading and deceptive conduct regarding television advertisements promoting mobile premium subscription quiz services.

Justice Cowdroy | Federal Court, Sydney

Outcome | declarations, injunctions, corrective advertising, implementation of a trade practices compliance program, costs.

ACCC v Clarus Telecom Pty Ltd

Commenced 28 August 2008 | **concluded** 26 November 2008 | **VID678/2008**

Proceedings under Part V for alleged misleading or deceptive conduct by representing via telemarketers that the company and the services they provide are affiliated or provided on behalf of Telstra Corporation Ltd.

Justice Middleton | Federal Court, Melbourne

Outcome | declarations, corrective advertising, implementation of a trade practices compliance program, costs.

ACCC v Harbin Pty Ltd

Commenced 17 December 2007 | **concluded** 28 November 2008 | **SAD179/2007**

Proceedings under Part V for alleged misleading or deceptive conduct and false or misleading representations in relation to print advertisements of barbecues.

Justice Finn | Federal Court, Adelaide

Outcome | declarations, corrective advertising, the respondent to serve the orders and reasons for judgment on the auditor appointed to conduct its annual compliance program, costs.

ACCC v The Ingles Group Pty Ltd

Commenced 8 September 2008 | **concluded** 7 October 2008 | **QUD284/2008**

Proceedings under Part V for alleged misleading or deceptive representations made to residents and potential purchasers as to the status of the council approval and otherwise to the progress of the construction of the golf course at a residential golf course community.

Acting Chief Justice Spender | Federal Court, Brisbane

Outcome | declarations, injunctions, costs

ACCC v Skins Compression Garments Pty Ltd & Ors

Commenced 28 August 2007 | **concluded** 2 December 2008 | **SAD136/2007**

Proceedings under Part IV and Part V for alleged resale price maintenance and misleading and deceptive conduct in the retail sports goods industry.

Justice Besanko | Federal Court, Adelaide

Outcome | declarations; injunctions; corrective notices; Skins to send a letter about its conduct to its current retailers, agents and distributors; pecuniary penalties (\$134 000 in total) and costs.

ACCC v Richard Alexander Roberson

Commenced 15 August 2008 | **concluded** 4 November 2008 | **NSD1290/2008**

Alleged breach of a s. 87B undertaking. The undertaking was accepted by the ACCC on 2 April 2008 and was offered by Mr Roberson to address concerns that representations made by Mr Roberson were likely to mislead consumers as to the availability, terms and conditions of employment opportunities he claimed existed.

Justice Graham | Federal Court, Sydney

Outcome | declarations; Roberson to notify certain subscribers of their entitlement to a refund of their subscription fee; corrective notices; costs.

ACCC v Bon Levi & Anor

Commenced 27 July 2007 | **concluded** 24 October 2008 | **QUD155/2004**

Alleged contempt of court arising from the sale of businesses in Melbourne, Sydney and Perth in 2006 and 2007 in contravention of orders made against him by Justice Kiefel in the Federal Court on 28 February 2005.

Justice McKerracher | Federal Court, Perth

Outcome | Levi guilty on 5 charges of contempt of court and sentenced Levi to 10 months imprisonment with 6 months suspended for 5 years on the condition that he not advertise, sell, or accept payment for any business opportunity whatsoever, or knowingly participate in any other person doing so.

ACCC v Grove & Edgar Pty Ltd

Commenced 16 June 2008 | **concluded** 19 December 2008 | **NTD11/2008**

Proceedings under Part IVB for alleged contravention of the Horticulture Code of Conduct.

Justice Reeves | Federal Court, Darwin

Outcome | declarations; the respondent to write to growers it currently trades

with under the Horticulture Code and any it commences trading with in the next two years advising those growers that it will comply with the code, in particular its pricing requirements; costs.

ACCC v Prouds Jewellers Pty Ltd

Commenced 8 December 2006 | **concluded** 23 December 2008 | **NSD607/2008**

On 30 April 2008 the ACCC appealed against part of the judgment of Justice Moore dated 10 April 2008. On 22 May 2008 Prouds filed a cross-appeal. Both appeals were dismissed.

Chief Justice Black, Justices Ryan and Gordon | Full Federal Court, Sydney

Outcome | The Full Federal Court rejected ACCC's and Prouds' appeals regarding 'was/now' two-price advertising.

Current Full Federal Court applications

One enforcement matter is currently under appeal to the Full Federal Court:

Ascot Four Pty Ltd | SAD141/2008

Commenced | 20 December 2006

Status | On 18 September 2008 Ascot Four Pty Ltd appealed against the whole of the judgment of Justice Mansfield of the Federal Court dated 21 August 2008.

Current Supreme Court applications

There are no current enforcement Supreme Court applications.

Current High Court applications

There are two current enforcement applications for special leave to appeal to the High Court.

1. Baxter Healthcare Pty Ltd and others

Commenced | 1 November 2002

Proceedings under Part IV for alleged misuse of market power, exclusive dealing in the supply of medical products to certain Australian state and territory health purchasing authorities.

Status | On 11 September 2008 Baxter Healthcare Pty Ltd filed an Application for Special Leave to Appeal to the High Court against the whole of the judgment of the Full Federal Court on 14 August 2008. The High Court will hear Baxter Healthcare's application for special leave to appeal on 13 February 2009.

2. Channel Seven Brisbane Pty Ltd & Ors v ACCC

Commenced | 27 September 2005

Misleading or deceptive conduct in relation to the promotion of millionaire property investment mentoring program 'Wildly Wealthy Women' ('WWW')

background | On 12 October 2007, Justice Bennett of the Federal Court, Sydney made declarations and ordered injunctions, a publication order and costs. On 23 June 2008, the Full Federal Court reversed the finding by Justice Bennett that

Channel Seven had contravened section 52 of the Act during broadcasts of Today Tonight in late 2003 and early 2004 in stories about a property investment program known as 'the Wildly Wealthy Women mentoring program'.

Status | On 17 July 2008, the ACCC filed an Application for Special Leave to Appeal to the High Court against the judgment of the Full Federal Court on 23 June 2008. The High Court will hear this appeal on 10 March 2009.

Section 87B undertakings accepted

The ACCC accepted thirteen enforcement s. 87B undertakings during the December quarter 2008. Undertakings were received from:

1. Atkinson Produce t/a Murray Brothers (Atkinson)

The Horticulture Code of Conduct (Code) is a mandatory industry code under section 51AD of the *Trade Practices Act 1974* (the Act). Atkinson Produce Pty Ltd, trading as Murray Brothers (Atkinson), has admitted to:

- trading as a merchant under horticulture produce agreements and terms of trade that were not Code compliant
- while trading as a merchant, on some occasions failing to agree prices with growers in writing
- in letters to growers, making statements concerning their horticulture produce agreements that may have misled growers to believe that their agreements were in fact Code compliant.

Atkinson Produce has provided court-enforceable undertakings that it will:

- not trade in horticulture produce subject to the Code without having in place Code-compliant horticulture produce agreements
- prepare, publish and make publicly available Code-compliant terms of trade
- write to affected growers advising them of the undertakings to the ACCC and the revisions to the horticulture produce agreements and terms of trade
- conduct a trade practices seminar, focusing on the Code and sections 52 and 53 of the Act, for its directors, company officers and employees authorised to trade in horticulture produce on its behalf, and for growers with whom it trades with who wish to attend.

2. TMG Asia Pacific Pty Ltd & Anor

The Mobile Generation IBV, a Dutch based company and its related Australian based company, TMG Asia Pacific Pty Ltd, have provided an undertaking to address the ACCC's concerns regarding their promotion via an internet pop-up of a Wixawin mobile premium subscription quiz service.

The ACCC's main concerns were:

- the use of the Woolworths logo in the promotion
- that the promotion did not make it clear that residents of the ACT, Victoria and Queensland were ineligible for any prizes, but would still incur charges for participating
- that the other relevant terms and conditions, including cost, were provided as fine print disclaimers.

TMG Asia Pacific Pty Ltd and TMG IBV have provided court-enforceable undertakings that they will:

- clearly communicate in any future promotions who is eligible to enter the competition, the nature of the services provided, who the services are being promoted by, and the terms and conditions (including price) to which consumer's agree when they acquire the services
- implement a trade practices compliance program.

3. Lisat Holdings Pty Ltd

Lisat Holdings Pty Ltd (Lisat Holdings) operates 8 leather lounge retail outlets across Queensland and NSW under the name of Rubelli Designs.

Lisat Holdings advertised extensively from at least January 2007 to March 2008, placing up to 35 advertisements per month in catalogues, newspapers, radio and television across QLD and NSW. Comparative two-price representations were a key feature of Rubelli's advertisements, in the form of: 'Was \$3790 Now \$2799'; 'RRP \$3799 Now \$2499'; and 'RRP \$3699 Rubelli's RRP \$3099 Now \$2699'. Lisat Holdings conceded that it rarely sells furniture items at the RRP, and acknowledged that its conduct is likely to have contravened sections 52 and 53(e) of the ACT.

Lisat Holdings has provided court-enforceable undertakings that it will:

- refrain from using comparative two-price representations where goods have not previously been offered for sale at the higher price for a reasonable period of time prior to the period of commencement of the discount
- display an information notice in all stores for a period of 6 weeks
- establish and implement a trade practices compliance program, and that
- its directors, agents and employees will ensure that all future advertising and other forms of promotion comply with Part V of the ACT.

4. Look Direct International Pty Ltd

In July 2008, as part of marketplace monitoring, the ACCC purchased a Look Direct International product from an Australia The Gift retail outlet located in Perth described on its packaging as ‘Tattoo Gel Pens 6 Pack’.

The product was also sold at Chickenfeed Bargain Stores retail outlets. The product was supplied with a plastic container in the shape of the pens holding the six gel pens inserted into a cardboard sleeve. The ingredients of the product were not listed on the plastic container or on the cardboard sleeve.

By supplying the product without a list of ingredients as required by the mandatory cosmetics standard, Look Direct International has acknowledged that the product breached the mandatory information standard for cosmetics and therefore contravened section 65D of the Act.

Look Direct has provided court-enforceable undertakings that it will:

- not supply the ‘Tattoo Gel Pens 6 Pack’ unless it has the ingredients listed on the packaging
- conduct an audit of its range of products to identify any products that do not comply with the cosmetics standard and, if any products are found, ensure they are immediately withdrawn from sale by the retailer
- cause an information notice to be published in *The Australian* newspaper advising consumers that the product did not comply with the mandatory information standard for cosmetics and that the product should be returned to the retail outlet the product was purchased from for a full refund
- cause an information notice to be displayed at the main service counter of each of the Australia The Gift and Chickenfeed Bargain Stores retail outlets that sold the product advising consumers that the product did not comply with the mandatory information standard for cosmetics and offering consumers a full refund on return of the product
- develop and implement a trade practices compliance program.

5. Australia The Gift Pty Ltd

Australia The Gift Pty Ltd has acknowledged that the product breached the mandatory information standard for cosmetics and therefore contravened section 65D of the TPA.

Australia The Gift Pty Ltd has provided court-enforceable undertakings that it will:

- not supply the ‘Tattoo Gel Pens 6 Pack’ unless it has the ingredients listed on the packaging

- conduct an audit of its range of products to identify any products that do not comply with the cosmetics standard and, if any products are found, ensure they are immediately withdrawn from sale
- cause an information notice to be displayed at the main service counter of each of its retail outlets that sold the product advising consumers that the product did not comply with the mandatory information standard for cosmetics and offering consumers a full refund on return of the product
- develop and implement a trade practices compliance program.

6. Autobarn Pty Ltd

Between 8 and 24 December 2007, Autobarn retailed the AL6000 Lite personal digital breathalyser in its stores nationally. The packaging of the AL6000 Lite represented that the product met an Australian standard for personal alcohol testing devices, when it did not. Autobarn has admitted that the representation was misleading or deceptive, or likely to mislead or deceive.

Autobarn has provided court-enforceable undertakings that it will:

- cease to engage in similar conduct in the future
- publish corrective notices in national newspapers and in-store
- provide refunds to customers in certain circumstances
- establish, implement and maintain a trade practices compliance program for 3 years, to minimise the risk of future breaches of the Act.

7. Sleep City Holdings Ltd

Sleep City Holdings Limited, an importer and retailer of bedroom furniture, has acknowledged engaging in conduct that contravened section 65C of the Act by selling the 'Jessie' (in single and study form), 'London' and 'Trio' models of bunk beds which contravened the mandatory product safety standard.

Contraventions included access openings in the upper bunk guard rail which were substantially wider than the prescribed maximum width, multiple head/limb entrapment hazards, and not displaying the maximum mattress height warning and supplier identification labels on the bed frames.

Sleep City has provided court-enforceable undertakings that it will:

- refrain from supplying bunk beds that do not comply with the mandatory standard
- display recall notices on its website and in its stores
- endeavour to contact all customers who were supplied with any of the bunk beds to repair the product or provide a refund to the customer

- implement a trade practices compliance program.

8. Fantastic Furniture Pty Ltd

Fantastic Furniture Pty Ltd, an importer and retailer of bedroom furniture, has acknowledged that it has contravened s65C of the Act due to its product, the ‘Mikki high sleeper’ bunk bed, not meeting the requirements of the mandatory standard for bunk beds.

The ‘Mikki high sleeper’ has access openings in the guardrail which may cause fall-through hazards, gaps in the guardrail and mattress base which exceeded the maximum allowable widths that could cause an entrapment hazard, and not displaying the maximum mattress height warning and supplier identification labels on the bed frames.

Fantastic Furniture has provided court-enforceable undertakings that it will:

- use its best endeavours to contact and offer a full refund to every customer which it supplied the ‘Mikki high sleeper’
- publish recall notices on its website and at the point of sale in all of its stores
- establish a trade practices compliance program.

9. Jeune International Pty Ltd

Jeune International Pty Ltd has admitted to improperly using the Australian Made Campaign Limited (AMCL) ‘Australia Made’ logo in the supply of cosmetic products to retail outlets throughout Australia and overseas, without obtaining certification from the AMCL do so.

Jeune International has provided court-enforceable undertakings that it will:

- not depict or use the Australian Made logo without certification from AMCL
- implement and maintain trade practices compliance program.

10. Clyde-Apac Automotive Products Pty Ltd

Clyde-Apac Automotive Products Pty Ltd’s (Clyde-Apac) main business activity is the manufacture of vehicle jacks which it supplies to vehicle manufacturers.

Between July and September 2007, Clyde-Apac supplied three vehicle jacks: the model 150 Series (the 150 Series jacks) and the pantograph jack models numbered 100500 and 100501 (the pantograph jacks).

The capacity of the 150 Series jacks was permanently and legibly marked as ‘CAPACITY AT MAX. HEIGHT ...kg’.

The pantograph jacks were:

- marked with the statement ‘Complies with AS/NZS 2693:2007’
- not marked with their nominated capacity as required by the mandatory standard nor as required by the 2007 standard in relation to caravan/trailer jacks
- not marked with certain other information required to be marked on caravan/trailer jacks by the 2007 standard.

Either of AS/NZS 2693:1993 – Vehicle Jacks or AS/NZS 2693:2003 – Vehicle jacks are the prescribed consumer product safety standard for vehicle jacks (mandatory standard) under the Act.

In 2007, a voluntary standard AS/NZS 2693:2007 – Vehicle Jacks (2007 standard) was published by Standards Australia. The 2007 standard specifies different marking requirements for vehicle jacks depending upon their classification as either a ‘specific vehicle’ or ‘caravan/trailer’ jack.

Clyde-Apac believed the 2007 standard was the mandatory standard for vehicle jacks for the purposes of the Act. On Clyde-Apac's interpretation of the 2007 standard the pantograph jacks were specific vehicle jacks and it changed the label information on the pantograph jacks to comply with the relevant marking requirements for specific vehicle jacks as set out in the 2007 standard.

The ACCC is of the view the 150 Series and the pantograph jacks are caravan/trailer jacks and not specific jacks.

The Act prohibits a corporation from engaging in conduct that is misleading or deceptive or is likely to mislead or deceive [section 52] and in connection with the supply of goods falsely representing the goods are of a particular standard – section 53(a).

The Act also prohibits a corporation from supplying certain goods if there is a prescribed consumer product safety standard for the goods and the goods do not comply with that standard – section 65C(1)(a).

The ACCC was concerned Clyde-Apac may have contravened the Act by supplying vehicle jacks which did not comply with the mandatory standard and may have also made a false or misleading representation in relation to the pantograph jacks compliance with the 2007 standard.

In resolution of the matter the ACCC has accepted an undertaking given by Clyde-Apac that includes a trade practices compliance program.

11. Creswick Woollen Mills

Creswick Woollen Mills Pty Ltd (Creswick), supplier of Creswick brand merino wool blankets, has acknowledged the ACCC's view that its 'Australian Made' packaging and labelling claims for its merino wool blankets, including its display of the official Australian Made logo, were false and misleading in contravention of the Act.

The spinning and weaving of Creswick's merino wool blankets was done overseas, predominantly in China, with only the cutting and sewing of the blankets done in Australia.

Accordingly, in the ACCC's view, substantial transformation of the Creswick's merino wool blankets did not take place in Australia as required by the Act where Australian made claims are made for a product.

Creswick has undertaken to amend the packaging and labelling of its merino wool blankets to remove all Australian made claims, to remove from its website and promotional material any representations that make reference to the Australian origin of its merino wool blankets, and to instruct its retailers to remove all Australian made claims from the packaging of Creswick merino wool blankets that the retailers currently have in stock.

Creswick has also undertaken to publish an ACCC approved corrective notice on its website for three months and in major capital city newspapers.

Creswick acknowledges in the corrective notice that by falsely describing its merino wool blankets as being Australian made it may be liable under the Act to compensate consumers who purchased the blankets.

Creswick sales and marketing staff will also undertake a trade practices education and training course designed to ensure that they are aware of their responsibilities under the Act, particularly in relation to country of origin claims.

Creswick Woollen Mills has provided court-enforceable undertakings that it will:

- not represent that its merino wool blankets are made in Australia unless it has first established that the goods meet the test for country of origin claims (s65AB Act)
- amend the packaging and labelling of its merino wool blankets to remove all Australian made claims
- remove from its website and promotional material any representations that make reference to the Australian origin of its merino wool blankets
- instruct its retailers to remove all Australian made claims from the packaging of Creswick merino wool blankets that the retailers currently have in stock.
- publish an ACCC approved corrective notice on its website for three months and in major capital city newspapers

- undertake a trade practices education and training course.

12. Mildon Pty Ltd trading as Challenge International (AUST)

Mildon Pty Ltd, trading as Challenge International (Aust) (Challenge International) is an importer of cosmetic products which it supplies to wholesalers and retail outlets throughout Australia.

During the period from March 2003 to October 2008, Challenge International supplied a range of toothpaste and mouthwash products under the Tri Leaf and Natural Bliss brand names.

Ten such products ('the products') were not labelled in accordance with the cosmetics standard, in that:

- all the ingredients (including colour additives) of the products were not listed on the products or their packaging; and/or
- the ingredients of the products were not listed in correct order by volume or mass on the products or their packaging; and/or
- chemicals were listed as active ingredients on the packaging of the products when the products did not contain those chemicals.

Challenge International has acknowledged that the products failed to comply with the cosmetics standard and that by supplying the products Challenge International is likely to have contravened section 65D of the Act.

Challenge International has also acknowledged that it may have misled and deceived consumers in breach of sections 52 and 53(a) of the Act.

Challenge International has provided court-enforceable undertakings that it will:

- not supply cosmetic products which do not comply with the cosmetics standard
- not supply toothpaste products that do not comply with any applicable prescribed consumer product safety standard or in respect of which a relevant ban applies;
- put in place procedures to ensure that, when supplying cosmetic products, it complies with prescribed consumer product safety standards and prescribed consumer product information standards
- develop and implement a trade practices compliance program which includes trade practices compliance training for relevant staff and a corporate complaints handling system to ensure similar potential breaches of the Act do not occur in the future.

13. Moving Juice

Moving Juice Pty Ltd is a South Australian wine retailer which retails wine, beer and associated products through its outlet in Felixstow, Adelaide and through its website.

During February, March and April 2008, Moving Juice promoted two Coopers beer and Dog Leg wine specials in *The Advertiser* newspaper and its sale catalogue by representing that consumers would receive a 'free' and 'absolutely free' slab of Coopers beer with the purchase of a dozen bottles of Dog Leg wine.

The price of a dozen bottles of Dog Leg wine sold in the specials was increased from its normal price to incorporate most or part of the cost of the beer.

During April 2008, Moving Juice advertised certain varieties of wine on its website using 'Was \$X Now \$Y' representations.

Moving Juice had not offered the wine for sale, nor sold the wine, at a higher 'was' price since before November 2007.

Moving Juice has acknowledged that consumers may have been misled and deceived by the representations in contravention of sections 52 and 53(e) of the Act.

Moving Juice has provided court-enforceable undertakings that it will:

- not engage in similar advertising practices in the future
- publish corrective notices in *The Advertiser*, its sale catalogue and on its website
- publish an information article in a wine industry magazine
- make a donation to a registered youth charity
- implement a trade practices compliance program.

2. Communicating with businesses and consumers

The ACCC's commitment to strong liaison, outreach and advocacy programs continues as evidenced in the wide range of activities undertaken. Industry associations play a key role in helping to disseminate information and draw industry issues to our attention. Our expanded product safety role has seen us active in enforcement, monitoring and standard setting.

Liaison education activities

The ACCC works with other regulators, government departments, businesses and consumer associations to monitor emerging trade practices issues and educate relevant stakeholders.

During the December quarter 2008, the ACCC attended 43 meetings with government and industry representatives, small business operators and consumer groups nationally; participated in seven franchising expos and field days; and conducted 26 presentations to small business operators, industry associations and consumer groups – for example at forums such as the Franchising and Business Opportunities Expo (Melbourne), Backpackers and Adventure Travel Conference (Sydney) and Meet the Buyers expos in Darwin and Alice Springs.

The ACCC also has a strong commitment to the education and protection of disadvantaged and vulnerable consumers. During this quarter it produced a new publication aimed at providing consumers from a non-English speaking background with information on the ACCC's role and how it can assist them. The publication provides information in 15 different languages: Arabic, Chinese, Croatian, Dinka, Greek, Italian, Japanese, Khmer, Korean, Macedonian, Persian, Serbian, Spanish, Turkish and Vietnamese.

The ACCC was also involved in the following areas:

Scams

The ACCC continued its work aimed at protecting Australians from scams. Targeted enforcement and education and information campaigns are included in this strategy, which includes regular SCAMwatch radar alerts sent out to warn people of topical scams. The radar alerts issued during the period include:

- Social network identity theft scams
- Chinese telemarketing scams
- Fake anti-virus alerts.

In addition, three new single-topic fact sheets have also been developed to complement material covered in *The little black book of scams*. The fact sheets are designed to help raise community awareness about the most common scams

targeting consumers and help them to protect themselves from being ripped off by scammers. Topics covered are lotteries, sweepstakes and competition scams, money transfer scams and phishing scams.

The ACCC also continued in its role as the secretariat for and chair of Australasian Consumer Fraud Taskforce. The Taskforce is currently preparing for the 2009 fraud awareness campaign.

Food labelling

The ACCC has been concerned for some time about potential misleading and/or deceptive conduct in the naming /describing (whether by words or pictorial representation) of food and beverage products. The ACCC is working closely with industry to provide guidance on ensuring labels comply with the Act so that consumers can make informed purchasing decisions. The ACCC is also a member of the Standards Australia committee developing an Australian standard for organic produce. The standard will provide greater certainty for consumers looking to purchase organic.

This quarter, the ACCC:

- Accepted eleven 87B court-enforceable undertakings and finalised 21 trade practices compliance program matters.
- Continued its focus on educating prospective small business people and franchisees about their rights and obligations under the Act and the Franchising Code of Conduct, through presence at events such as the National Franchise Convention and the Franchising and Business Opportunities Expo, presentations at educative seminars such as the Australian Defence Force transition seminars and publishing articles in relevant publications such as Business Franchise Magazine.
- Presented to a range of local and state government agencies and procurement officers on the effects of cartel conduct and warning signs that a cartel may be operating in a market.
- Produced the 2008 edition of its annual *Retail Flash* publication, which provides retailers with information on trade practices issues likely to affect the sector (for example, two price advertising, warranties and refunds and product safety). The ACCC also gave a series of presentations around Australia on possible trade practices implications arising from various advertising and selling techniques.
- Met with a range of government agencies, business representatives and industry associations to discuss trade practices issues including amendments to section 53C of the Act (clarity in pricing), cartel conduct, industry codes of conduct, food labelling and scams.

Consultative Committees

The ACCC participated in the following Consultative Committee meetings in the October–December quarter.

Health Sector Consultative Committee (24 October 2008)

The Health Sector Consultative Committee met on 24 October 2008 and discussed a range of trade practices issues including ACCC enforcement activity, advertising practices, collective bargaining and legislative amendments.

Consumer Consultative Committee (7 November 2008)

Topics considered at the most recent meeting of the ACCC's Consumer Consultative Committee included the Australian consumer policy framework, concerns about mobile premium services and strategies for assisting vulnerable and disadvantaged consumers.

Small Business Advisory Group (14 November 2008)

The Small Business Advisory Group discussed a wide range of issues, including amendments to the Act, unconscionable conduct, the collective bargaining notification process and the potential impact of the global financial crisis on the Australian small business environment. Members were also updated on ACCC educative initiatives designed to assist small business, including the provision of more detailed information on unconscionable conduct.

Franchise Consultative Panel (12 December 2008)

The FCP comprises representatives of franchisees and franchisors, along with legal advisors and other government agencies in an observer capacity. Topics covered at the panel's most recent meeting included amendments to the code, the recommendations of the joint Parliamentary Committee's inquiry into the code, unconscionable conduct, and the global financial crisis and possible implications for the franchising sector.

Codes of conduct

Mandatory codes

The ACCC is currently responsible for administering three prescribed industry codes of conduct.

Trade Practices (Industry Codes – Franchising) Regulations 1998

The purpose of this code, which came into effect on 1 July 1998, is to regulate the conduct between franchisors and franchisees. On 1 March 2008, the Australian Government implemented a number of amendments to the Franchising Code. These amendments aim to increase the transparency, quality and timeliness of disclosure to existing and prospective franchisees. The Parliament of Australia Joint Committee on Corporations and Financial Services also released the recommendations arising from its inquiry into the code's operation on 1 December 2008.

During the December quarter 2008, the ACCC:

- continued to educate industry participants about their rights and responsibilities under the Franchising Code by engaging with the franchising sector in educational seminars including:
 - making a presentation at a pre-entry to franchising seminar hosted by the Franchise Council of Australia (FCA)
 - participating in the National Franchise Convention in October, including its legal symposium and various panel discussions.
- Distributed more than 4000 franchising publications to help franchisors and franchisees to understand their rights and responsibilities under the Franchising Code, including disclosure and the process for dispute resolution.
- Continued to expand the Franchising Code Information Network (FCIN) – a free subscription service for those people who wish to be kept up-to-date with developments on the Franchising Code. The service has more than 500 subscribers, who receive regular mail-outs and updates on court outcomes and cases relevant to franchising that the ACCC is pursuing. Eight mail-outs were conducted this quarter, including:
 - information about the Parliament of Australia Joint Committee on Corporations and Financial Services inquiry into the Franchising Code of Conduct
 - details of upcoming franchising seminars where the ACCC would be giving presentations.
- Met with Griffith University to discuss a joint research project to identify the main causes of conflict in franchise systems and to provide a framework for addressing such conflict before it occurs. Griffith University and the ACCC have received an Australian Research Commission grant to assist in funding the research and both the university and the ACCC are also making substantial contributions.

Trade Practices (Industry Codes – Oilcode) Regulations 2006 (the Oilcode)

The Oilcode regulates the conduct of suppliers, distributors and retailers in the downstream petroleum retail industry. It came into effect on 1 March 2007 as a prescribed mandatory code of conduct under the *Trade Practices Act 1974*.

During the December quarter 2008, the ACCC:

- Attended 2 meetings conducted by RET in relation to the Oilcode Review. The ACCC commented on proposed Oilcode amendments:
 - mirroring the Franchising Code of Conduct
 - Terminal Gate Pricing (TGP)
 - the Dispute Resolution Scheme

- Continued to work with industry stakeholders such as petroleum retailers, distributors and industry associations to increase their awareness of the requirements of the Oilcode.
- Continued to maintain the Oilcode Information Network free subscription service, which enables groups including government agencies, industry associations, service stations, distributors and other interested parties to receive up-to-date information on developments relating to the Oilcode. The network currently has 778 subscribers.

Trade Practices (Horticulture Code of Conduct) Regulations 2006 (the Horticulture Code)

The purpose of the Horticulture Code is to regulate the trading of horticulture produce between growers and traders in the horticulture produce industry. It came into effect as a prescribed industry code of conduct under the Trade Practices Act on 14 May 2007.

During the December quarter 2008, the ACCC:

- Continued to work with the Department of Agriculture, Fisheries and Forestry (DAFF) – in particular, discussing the recommended amendments to the Horticulture Code contained in the grocery inquiry report, their potential impact on the horticulture industry and the ACCC's enforcement role. The ACCC also attended the Horticulture Code Committee meeting as an observer to provide guidance on compliance issues.
- Continued to distribute hard and electronic copies of Horticulture Code publications which help growers and traders of horticulture produce to understand their rights and responsibilities under the Horticulture Code.
- Continued to maintain the Horticulture Code Information Network – a free subscription service for those people who wish to be kept up-to-date with developments on the Horticulture Code from the ACCC. The network currently has 659 subscribers, including growers, traders and industry associations.

Voluntary industry codes of conduct

Effective voluntary industry codes serve the purpose of fostering more effective compliance with the Trade Practices Act as well as setting industry best practice standards. In particular, effective industry codes of conduct can play an integral part in preventing misleading or deceptive conduct and unconscionable conduct in business to business and business to consumer transactions.

In particular, the ACCC has provided information and guidance to assist in the development of the Indigenous Australian Art Commercial Code of Conduct. It aims to regulate fair trade in Indigenous Artwork to ensure clarity and transparency of transactions, ensure a fair return to artists, and provide consumers with a means to check authenticity of artwork.

Product Safety

The ACCC is responsible for developing, reviewing and enforcing Trade Practices Act product safety and information standards and product bans. The ACCC develops and reviews the mandatory standards and bans. It provides guidance to staff and suppliers on these standards and bans including supplier and consumer education and compliance activities.

The ACCC receives product recall notifications and enters the recalls on the Product Recalls Australia website. It also provides advice to suppliers on correct recall procedures and monitors emerging safety issues, including the investigation of injury reports.

Liaison activities

During the quarter, the ACCC:

- Attended the OECD Product Safety Round Table discussions and a meeting of the International Consumer Product Safety Caucus (ICPSC) in Paris, in addition to various meetings to develop working relationships with the EU and the Netherlands.
- Helped develop and chair an APEC workshop on capacity building in consumer product safety. The workshop was held at Kuala Lumpur in November and was attended by 13 different APEC economies. The 35 participants identified, prioritised and agreed on the critical issues which need to be addressed, including four key focus areas and developed recommendations to address them.
- Joined with the New Zealand Commerce Commission to commence discussions with China and Hong Kong on future cooperative arrangements for product safety and product testing.
- Delivered a paper at a conference held in Sydney in October by ACCORD, the industry association for consumer, cosmetic, hygiene and specialty care products.
- Worked with Treasury to finalise a paper in preparation for the first meeting of the Product Safety Implementation Working Group and to finalise the first draft of drafting instructions for the non-framework elements of the product safety reforms. The ACCC also used the CPAC forum to discuss State and Territory views on consistent enforcement and other elements of the agreed new regulatory model.
- Continued to liaise with state and territory fair trading/consumer affairs agencies on the following Standing Committee of Officials of Consumer Affairs projects:
 - product safety harmonisation model
 - harmonisation of standards and bans.

- Met with Standards Australia to discuss the priorities alignment for future standards development and review and the ongoing development of horizontal standards for certain industry sectors.
- Attended presentations by the following organisations:
 - National Coroners Information System
 - Standards Australia
 - Australian Bureau of Statistics
 - Stancert.
- Continued to liaise with customs on a variety of product safety issues including mozzie zappers, lead in ceramic dinnerware, toys and enforcement of the prohibited imports regulations.
- Continued to liaise with cosmetic industry stakeholders regarding the Productivity Commission's review of chemicals and plastics regulation.
- Liaised with Standards Australia on the issue of public access to Australian Standards called up by Trade Practices Act mandatory standards (an Administrative Review Committee paper on rulemaking by Commonwealth agencies refers).

Mandatory product safety and information standards

Development of new mandatory standards and bans

Lead in toys

In response to major world wide recalls of toys having excess levels of lead, a Trade Practices Act ban on toys with a lead migration level greater than 90 parts per million was introduced on 19 September 2007 for a period of 18 months. This ban was designed to provide adequate consumer protection while a standard is being developed.

Border protection is already in place, with a Customs (Prohibited Imports) Regulation dealing with levels of lead migration from toys.

The ACCC has developed a Regulation Impact Statement (RIS) making the case for establishing a TPA consumer product safety standard to limit the migration of lead, mercury, selenium, antimony, arsenic, barium, cadmium and chromium in children's toys. These elements are known to have adverse health effects, particularly in children.

The proposed safety standard adopts the safety requirements of parts of the Australian/New Zealand Standard AS/NZS ISO 8124.3, safety of toys Part 3 migration of certain elements, and parts of the Australian Standard AS 8124.7, safety of toys Part 7 finger paints – requirements and test methods, that limit lead and certain elements. The proposal for a mandatory standard was supported in public consultation.

The proposed standard is expected to be finalised in the very near future and will take effect from 1 January 2010. This will provide a reasonable period for suppliers to source certified products where necessary and ensure that all stock complies with the standard.

The current TPA ban on lead in toys will be extended to maintain current requirements until the new standard takes effect.

Treadmills

A draft regulation impact statement making the case for a possible mandatory safety standard for treadmills is currently with the Office of Best Practice Regulation for consideration.

Emerging issues

Phthalates in toys

NICNAS is due to release a series of reports in 2009 examining hazards associated with various phthalate materials. Product Safety will consider the NICNAS reports in relation to the safety of consumer products. If those reports highlight areas of concern with the use of some phthalates in certain children's products, such as toys, the ACCC will consider regulatory action under the Act.

Other issues

The recent high-profile recalls of contaminated dog and cat food highlighted an apparent gap in the regulatory framework. Because the oversight of pet food recalls is not within the jurisdiction of the ACCC, as it does not pose a threat to the safety of *people*, it appears to be unregulated. Treasury will be considering a whole of government response to this issue.

Investigations are continuing into the safety issues associated with formaldehyde in timber, magnets in toys, and cellulosic fibre building insulation.

Reviews of mandatory standards

Reviews of mandatory standards for flotation aids and aquatic toys, vehicle jacks and portable ramps for motor vehicles have been continuing and are expected to be finalised in early 2009.

Reviews of the mandatory standards for bicycle helmets and bunk beds have commenced with draft regulation impact statements to be circulated for stakeholder consultation in early 2009.

Product safety enforcement/compliance outcomes

In the December quarter 2008:

- The ACCC accepted court-enforceable undertakings from Mildon Pty Ltd, trading as Challenge International (Aust), after it acknowledged that a

number of imported toothpaste and mouthwash products it supplied did not comply with the mandatory product information standard for cosmetics. Challenge International cooperated fully with the ACCC and took immediate steps to withdraw the products from sale.

- Look Direct International Pty Ltd, a supplier and retailer of gift products, including cosmetics, also provided court-enforceable undertakings to the ACCC in relation to the supply of tattoo gel pen packs which did not comply with the ingredient listing requirements of the mandatory product information standard for cosmetics. These products were immediately withdrawn from sale by the company.
- A national voluntary recall of certain Indian cosmetic products was implemented by Continental Marketing Pty Ltd after the ACCC raised concerns that these products did not have the correct ingredient labelling to comply with the mandatory standard.
- Two separate court-enforceable undertakings were accepted by the ACCC from bed retail chains Sleep City Holdings Limited and Fantastic Furniture Pty Ltd, in relation to bunk beds which failed to comply with the mandatory safety standard. Both companies recalled these products and offered full refunds to customers.
- Pacific Impexp Services, an eBay trader, conducted a national voluntary recall of two of its bunk bed models after the ACCC raised concerns that the beds did not meet the mandatory product safety standard.
- Three babies' toys were withdrawn from sale after a check of internet sites was conducted by the ACCC during its Christmas toy survey. The ACCC conducted assessments on a range of children's toys purchased from 40 different online traders. The items specifically targeted were those intended to be used by infants. Testing revealed three products which failed to comply with the mandatory safety standard for children's toys and were withdrawn from sale.

Consumer awareness materials

Domestic treadmills

Analysis of emergency room hospital presentations over recent years indicate a significant number of serious friction burn injuries to young children resulting from contact with operating domestic treadmills. More than 100 burn injuries have been identified in NSW, Victoria and Queensland.

The ACCC, in consultation with State Fair Trading agencies, is currently preparing consumer awareness materials alerting parents and carers to the dangers of allowing young children in the vicinity of moving treadmills.

A hazard alert brochure on burn injuries from treadmills was launched in October 2008. As discussed earlier, the ACCC is also examining the case for regulation requiring appropriate hazard warning to be affixed to domestic treadmills.

Warnings about safety issues in toys

The Hon Chris Bowen, Assistant Treasurer and Minister for Competition Policy & Consumer Affairs, held a joint media event with the ACCC on 16 December 2008 to raise the awareness of toy safety in the lead up to Christmas.

The minister and the ACCC issued media releases warning about the safety of some children's toys following the recall of three children's toys supplied by online traders which failed to comply with the prescribed mandatory standard.

The ACCC issued a media release on an important safety recall of Deep Blue and Aqua Spirit flotation devices for infants, urging consumers to cooperate fully with this recall and emphasizing that any consumer who had purchased one of these products should stop using it immediately and return it to the place of purchase for a full refund.

The ACCC issued a media release urging parents and carers to be alert to the dangers associated with blind and curtain cords, following the tragic death of a 13 month old Adelaide boy. The ACCC undertook to work closely with the States and Territories to develop national initiatives to further improve curtain and blind cord safety and awareness.

Product recalls Australia (PRA)

The Product Recalls Australia (PRA) website, which provides consumers and state and territory regulators with up-to-date information on all Australian safety-related recalls, continued to operate effectively. There were 274 new recalls entered on the database during the December quarter 2008, comprising recalls of 66 consumer products, 12 of food products, 147 of therapeutic goods and 48 of motor vehicles.

The ACCC has devoted considerable resources to dealing with complaints and enquiries relating to several high-profile, high-volume recalls including a recall of bathroom heater/fan/light combinations by Chief Kitchenware, a range of dishwashers by both Electrolux and LG and a recall of Brivis air conditioners.

During the reporting period, a number of inquiries were answered about the trade withdrawals of Chinese manufactured products containing melamine, as well as enquiries about Bisphenol A and food packaging.

Product Recalls Australia Website Update

The Product Recalls Australia website (PRA) is currently being upgraded and will, for the first time, include a facility for suppliers and other regulators to submit product recall notifications via a standardised online section 65R notification form. Other changes to the database include:

- an enhanced reporting capacity
- the recalls will be organised by topic to make it easier for consumers to find what they are particularly interested in

- an enhanced advanced search page
- a facility for email alerts and RSS feeds (we have been receiving requests for this from consumers over a long period of time)
- a ‘hot topic’ feature providing information on topical issues. This could be used to advise consumers not only of issues that are within the scope of the ACCC but also issues of particular interest and relevance to consumers, such as the recent pet food recalls. Although we were formally advised of these, we were not able to enter them as recalls notified to the Minister for Competition Policy and Consumer Affairs under section 65R of the Trade Practices Act, since 65R refers to products that will or may cause injury to any person.
- recalls – last 30 days and by year will year will be available
- recalls statistics will still be available, as will our guide for business on how to conduct a product recall.

Recall audits

As part of monitoring the effectiveness of consumer product recalls, the ACCC undertook two onsite supplier recall assessment visits of high-profile recalls during the quarter.

3. Mergers

The ACCC's outputs of ensuring compliance with competition laws, fostering competitive market structures and informed behaviour are supported through its assessment of mergers, acquisitions, and asset sales under s. 50 of the Act.

A total of 126 reviews (including confidential and public merger reviews) were conducted by the ACCC between 1 October and 31 December 2008. Of these, 116 merger proposals were not opposed and another was not opposed subject to court-enforceable undertakings. The ACCC expressed concerns following three confidential review proposals. No variations to existing undertakings were accepted during the quarter. No decision was made on six reviews because either the proposal was withdrawn, or a view could not be formed on a confidential basis.

Merger reviews undertaken in the December quarter 2008

	Confidential	Public	Total
Total reviews undertaken 1 July 08 to 30 Sept 08	85	41	126
This total can be broken down into the following categories:			
Not opposed	77	39	116
Finished – no decision (including withdrawn) ¹	5	1	6
Opposed outright	0	0	0
Confidential review – ACCC concerns expressed	3	0	3
Resolved through undertakings ²	0	1	1
Variation to undertaking accepted	0	0	0
Notes 1 These are matters where no decisions were made. They are not included in the timings in the table below.			
2 Only public matters can be resolved through undertakings.			

Time taken to assess mergers

The following table provides a breakdown of the time taken by the ACCC to assess merger proposals completed during the December quarter 2008. This does not include the six matters where no decisions were made.

Time taken to undertake merger reviews	Number of reviews	Percentage of mergers
Two or fewer weeks	76	63%
Four or fewer weeks	95	79%
Six or fewer weeks	108	90%
Eight or fewer weeks	112	93%
More than eight weeks	8	7%

Statements of issues

Two statements of issues were released during the December quarter:

- Woolworths Limited proposed acquisition of a supermarket lease in Wallaroo SA
- Baiada Poultry Pty Limited proposed acquisition of Bartter Enterprises Pty Ltd.

Public competition assessments

To support the aim of fostering informed markets and provide an enhanced level of transparency in its decision making, the ACCC provides a public competition assessment outlining how a decision is reached on matters of particular public interest or which have important precedence value.

The ACCC issued four public competition assessments relating to the following matters during this quarter:

- Commonwealth Bank of Australia proposed acquisition of BankWest and St Andrew's Australia
- WPP Group proposed acquisition of Taylor Nelson Sofres plc
- Ramsay Health Care Limited proposed acquisition of the Coolenberg Clinic day surgery at Port Macquarie
- BHP Billiton proposed acquisition of Rio Tinto.

Section 87B undertakings

One s. 87B undertaking was accepted on a matter reviewed in the December quarter:

- WPP Group proposed acquisition of Taylor Nelson Sofres.

No variations to existing s. 87B undertakings were made during the December quarter.

Major matters

Major matters decided upon during the December quarter 2008 included:

- BHP Billiton Limited's proposed acquisition of Rio Tinto
- WPP Group's proposed acquisition of Taylor Nelson Sofres
- Seven Network's acquisition of shares in West Australian Newspaper Holdings
- Aurora Energy's proposed acquisition of the Tamar Valley Power Station Project
- Commonwealth Bank of Australia Limited's proposed acquisition of Bank of Western Australia.

The ACCC's merger analysis of these matters is set out below:

BHP Billiton's proposed acquisition of Rio Tinto

Summary | On 1 October 2008, the ACCC decided not to oppose the proposed acquisition.

The proposed acquisition was considered in the context of the global seaborne and national markets for the supply of iron ore lump and iron ore fines. The ACCC also considered the acquisition of iron ore tenements in the Pilbara, WA, the supply of port and rail services in the Pilbara, WA, the supply of metallurgical coal and thermal coal, the supply of coal loading services, the acquisition of coal loading services and rail haulage services in NSW and Qld and the supply of bauxite and alumina.

The focus of the ACCC review was the global seaborne and national supply of iron ore lump and iron ore fines. Based on market inquiries, the ACCC decided the proposed acquisition was unlikely to result in a substantial lessening of competition in the relevant market given:

- iron ore pricing is likely to continue to be based on overall global seaborne supply and demand and the expansion plans of alternative iron ore suppliers would be likely to undermine the incentives of the merged firm to unilaterally restrict output by delaying capacity expansions

- there would be likely to be alternative domestic suppliers of iron ore lump and iron ore fines in Australia such that it would be likely that Australian steelmakers would be able to continue to source iron ore based on export parity pricing.

WPP Group – proposed acquisition of Taylor Nelson Sofres plc

Summary | On 8 October 2008, the ACCC decided not to oppose the proposed acquisition subject to court-enforceable undertakings.

WPP Group (WPP) proposed to acquire Taylor Nelson Sofres (TNS). The ACCC formed the view that the proposed acquisition, absent any undertaking, was likely to raise competition concerns in the national market for the provision of Television Audience Measurement (TAM) services.

The ACCC considered that these concerns were likely to arise because, post acquisition, the merged entity was likely to be the only significant provider capable of providing TAM services in Australia, and barriers to entry were considered to be high.

The proposed acquisition was also reviewed by the European Commission (EC), which provided clearance on the basis of divestiture commitments from WPP (these were similar to, but not the same as, the divestiture undertakings offered to the ACCC).

The ACCC considered that the divestiture undertakings offered by WPP were likely to alleviate its concerns. WPP offered to divest the TAM assets of TNS (which is a potential supplier to Australia) or sell its 50 per cent stake in the AGB Nielsen JV (which is incumbent supplier of TAM services in Australia). The ACCC considered that the divestiture undertakings were likely to create a viable stand-alone competitor able to compete for TAM contracts in Australia, and able to constrain the WPP in its pricing and quality decisions in the provision of TAM services. WPP has since sold its share in the AGB Nielsen JV to the Nielsen Company.

Seven Network Limited – acquisition of West Australian Newspaper Holdings Ltd shares

Summary | On 29 October 2008, the ACCC decided not to oppose the proposed acquisition.

The ACCC formed the view that the acquisitions would be unlikely to result in a substantial lessening of competition irrespective of the market definition employed. However, consistent with the principles set out in a previous ACCC Media Mergers paper, the ACCC considered the acquisitions in relation to three product classes:

- the supply of advertising opportunities to advertisers
- the supply of content to consumers
- the acquisition of content from content providers.

Within each of these product classes, the ACCC considered the likely impact on competition of the acquisitions both where television and newspapers are in separate product markets and where they are in a common product market.

While the issue of the geographic scope of the market was not determinative, the ACCC considered the likely impact of an acquisition on competition in the Perth metropolitan region.

The ACCC decided to conduct an informal merger review of the transaction following the latest acquisition of shares in West Australian Newspapers Holdings Ltd (WAN) by Seven Network Limited (Seven). In particular, given the past pattern of small, incremental acquisitions of shares in WAN by Seven, as well as the recent appointment of Kerry Stokes and Peter Gammell to the WAN board, the ACCC decided that it would be appropriate to conduct an assessment of whether either the recent share acquisitions or a hypothetical acquisition of all the shares in WAN by SNL would be likely to breach section 50 of the TPA.

The ACCC considered that neither the recent share acquisitions nor a hypothetical acquisition by Seven of all the shares in WAN would be likely to result in a substantial lessening of competition in advertising markets, in markets for the supply of content to consumers or in markets for the acquisition of content from content suppliers.

Aurora Energy – acquisition of the Tamar Valley Power Station Project

Summary | After accepting undertakings from Aurora Energy requiring the parties to hold the assets separate in order that a full review could be conducted on 19 August 2008, on 29 October 2008 the ACCC decided not to oppose the proposed acquisition. Aurora Energy acquired the Tamar Valley Power Station Project from Babcock and Brown Power.

The ACCC considered the acquisition in the context of the markets for:

- the wholesale supply of electricity in Tasmania (including flows into Tasmania from Basslink)
- the retail supply of electricity in Tasmania.

The ACCC initially considered that there were potential competition concerns that could arise from the common ownership of Aurora Energy and Hydro Tasmania – that is, all the electricity generators in Tasmania would be owned by the Tasmanian Government.

The ACCC decided that the acquisition was unlikely to result in a substantial lessening of competition in any of the relevant markets. The decision was made after a comprehensive review, including inquiries with market participants. Factors informing this conclusion were:

- the nature and extent of the hedge contract in place between the owner of the Tamar Valley Power Station and Aurora Energy
- the likely counterfactual.

In this matter, a key determinant of the counterfactual (the likely state of competition in the absence of the acquisition) was whether there was a real chance of a privately owned party purchasing the half-built power station in the absence of the Aurora acquisition. The ACCC did not find any compelling evidence to suggest that this would be a likely outcome. The ACCC therefore considered the acquisition according to the likely counterfactual that without the acquisition the construction and commissioning of the power station would be delayed or, at worst, terminated.

Commonwealth Bank of Australia – proposed acquisition of BankWest and St Andrew's Australia

Summary | On 10 December 2008, the ACCC decided not to oppose the proposed acquisition.

A range of interested parties provided responses to the ACCC including competitors, industry and consumer associations, mortgage brokers and interested third parties.

After a comprehensive review, including an examination of internal strategy documents from both BankWest and HBOS, BankWest's UK parent company, the ACCC formed the view that the proposed acquisition was unlikely to substantially lessen competition in the relevant markets. The relevant markets were considered to be:

- national markets for the supply of savings/term products, home loans, personal loans and credit cards
- local markets for the supply of transaction accounts, SME banking and agribusiness banking (with national price competition).

The ACCC's inquiries revealed that BankWest had been a vigorous and effective competitor in some national retail banking markets, particularly the home loan and savings/term products markets. However, after extensive market inquiries and analysis, the ACCC considered that, in the event that the merger did not proceed, it was unlikely that BankWest would continue to be as aggressive in its pricing, product offering and expansion plans. On this basis, it was found that the likely state of competition if the merger occurred would not be substantially lower than the state of competition if the merger did not occur. However, in the absence of the global financial crisis, and the funding difficulties faced by BankWest's overseas parent company, the ACCC's conclusion may have been different regarding these issues.

In transaction account markets, the ACCC found that the key element of competition at the local level was the existence of a physical presence (branches and ATMs). The ACCC therefore explored the impact of the acquisition on consumer choice based on the local markets for transaction accounts. The ACCC found that there was minimal aggregation in local markets outside Western Australia. In metropolitan Perth, the ACCC also found that consumers would retain a number of choices after the acquisition, including ANZ and WesAct, both with a significant branch and ATM presence, and to a lesser extent, NAB

and Bendigo. Similarly, in regional areas, in each of the towns where there is aggregation arising from the transaction, the ACCC noted that there is at least one other major financial institution with a branch and ATM presence.

In SME and agribusiness banking markets, the ACCC considered that a number of other competitors would remain as competitors to the merged entity post-acquisition.

Litigation

ACCC V ABC Learning Centres Limited

Summary | On 19 June 2008, the ACCC commenced proceedings against ABC Learning Centres for breaches of an enforceable undertaking that ABC gave to the ACCC in 2004 when it acquired Peppercorn Management Group, another childcare provider. Those breaches involved the failure of ABC to divest, in accordance with the enforceable undertaking, two childcare centres to alleviate competition concerns arising from its acquisition. Subsequent to the institution of proceedings, the child care centres were sold under the process set out in the undertaking and to the satisfaction of the ACCC. In light of the fact that the centres had been sold and the extraordinary circumstances of ABC entering administration, the ACCC saw no utility in pursuing ABC for further relief and discontinued proceedings against ABC on 11 November 2008.

4. Adjudication

Authorisations

During the December quarter 2008, the ACCC received 15 new authorisation applications, excluding gas and electricity applications, covering nine projects.

The total number of authorisation applications being considered by the ACCC on 31 December 2008, excluding gas and electricity applications, was 19, covering 12 projects.

Matters finalised

CALMS Ltd – A91092

Summary | On 30 June 2008, CALMS Ltd lodged an application for authorisation for the use of a 'not to exceed' fee schedule (capped fee arrangement) for the provision of after hours primary medical care in the ACT.

On 15 October 2008, the ACCC issued a final determination granting authorisation to CALMS Ltd for a period of three years.

Dairy Farmers Milk Co-op & Ors – A91089

Summary | On 22 May 2008, Dairy Farmers Milk Co-operative Limited (DFMC) and Australian Co-operative Foods Limited (ACF) lodged an application for authorisation of back to back milk purchasing and back to back pricing arrangements as set out in clauses 4.4, 4.6.2 and 5.6 of the amended Milk Supply Agreement.

On 29 August 2008, the applicants amended their application for authorisation to account for amendments arising from agreements being entered into for the sale of ACF to National Foods Limited.

On 22 October 2008, the ACCC issued a final determination granting authorisation to the arrangements for five years.

Council of Municipality of Ashfield & Ors – A91096

Summary | On 23 July 2008, the Inner Sydney Waste Management Group of Councils lodged an application for authorisation under which they proposed to jointly tender and contract for the services of a contractor or contractors deemed suitable to provide regional transfer, processing and disposal of food and garden organics, and the marketing and sale of any material or products derived from that transfer or processing in the respective local government areas.

On 29 October 2008, the ACCC issued a final determination granting authorisation to the arrangements until 31 January 2020.

Australian Dental Association – A91094 & A91095

Summary | On 18 July 2008, the Australian Dental Association lodged two applications for authorisation for the making of, or giving effect to, contracts, arrangements or understandings between two or more dentists and/or dental specialists who practice in a shared practice as to fees to be charged for dental services provided in the practice. The agreements relate to the fees to be charged for dental services provided within shared practices which operate as a team and share patient records, common facilities, a common trading name and common policies and procedures.

On 10 December 2008, the ACCC issued a final determination granting authorisation until 28 February 2013.

Australian Medical Association Limited & Ors – A91100

Summary | On 19 August 2008, the Australian Medical Association Limited (AMA) and the AMA state/territory bodies in Victoria, South Australia, Western Australia, Northern Territory, Queensland and Tasmania, lodged an application for authorisation to collectively negotiate with relevant state/territory health departments, the terms of contracts (including fees) for rural general practitioners providing services as visiting medical officers in public hospitals and health facilities in rural and remote areas of Australia (except for New South Wales).

On 10 December 2008, the ACCC decided to grant authorisation to the AMA until 28 February 2014.

Lottery Agents Queensland Ltd – A91101

Summary | On 2 September 2008, Lottery Agents Queensland sought re-authorisation to negotiate on behalf of its members terms and conditions of agency agreements and arrangements with Golden Casket Lottery Corporation.

On 19 November 2008, the ACCC issued a final determination granting authorisation to Lottery Agents Queensland for a period of five years.

Australian Property Institute – A90545

Summary | On 11 September 2008, the Australian Property Institute applied for a minor variation to authorisation A90545. The authorisation relates to the API's code of ethics and accompanying regulations, and certain clauses of its constitution and by-laws.

The minor variation relates to changes to the API's Rules of Conduct. In particular, the changes seek to clarify the rules that govern the conduct of Provisional Members and the requirements of other API members when supervising Provisional Members.

On 12 November 2008, the ACCC issued a determination approving the variations sought by the API.

Australian Hotels Association – A90987

Summary | On 19 September 2008, the Australian Hotels Association Divisions in Victoria, Western Australia, South Australia, the Northern Territory and Tasmania sought to vary authorisation A90987 granted by the ACCC in 2006. The variation sought was to add the New South Wales Division of the AHA and its nominated targets – Tabcorp Holdings Limited and Sky Channel Pty Ltd – to the authorised arrangements.

On 12 November 2008, the ACCC issued a determination approving the variations sought by the AHA.

Draft determinations issued (not otherwise appearing above)**Air New Zealand Limited & Air Canada – A91097 & A91098**

Summary | On 6 August 2008, Air New Zealand and Air Canada lodged two applications for authorisation to give effect to a Cooperation Agreement to jointly promote and sell direct flights between Sydney and Vancouver, and Auckland and Vancouver.

The Applicants propose to pool and share the revenue from specified flights. The Cooperation Agreement also provides for the Applicants to harmonise sales policies, which includes the ability to set specific fare levels or agree to implement occasional tactical fares to stimulate additional demand.

On 20 November 2008, the ACCC issued a draft determination proposing to deny authorisation to the Cooperation Agreement.

Sisters of Charity Health Care Service Limited – A91099

Summary | On 8 August 2008, Sisters of Charity Health Service Limited (SCHS) lodged an application for revocation and substitution. In broad terms, SCHS seeks authorisation for a network of Catholic health facilities, represented by the Catholic Negotiating Alliance (CNA) to:

- collectively bargain with health funds and the Repatriation Commission
- collectively bargain with suppliers of various goods and services
- share particular information for the purpose of benchmarking
- collectively boycott health funds and the Repatriation Commission in the event that collective negotiations fail, or if the health funds do not agree to participate in the information sharing arrangements.

On 26 November 2008, the ACCC issued a draft determination proposing to:

- grant authorisation to the proposed collective bargaining and information sharing arrangements
- deny authorisation to the proposed collective boycott conduct.

Recruitment and Consulting Services Association Limited – A91102

Summary | On 25 September 2008, the Recruitment and Consulting Services Association lodged an application for authorisation of a contract, arrangement or understanding by which participants agree to adhere to a code for professional practice administered in accordance with the RCSA's Constitution and its Disciplinary & Dispute Resolution Procedures. Together, these provide a regime for the imposition upon members of sanctions that may include expulsion, suspension and/or fines, among other things.

On 26 November 2008, the ACCC issued a draft determination proposing to grant authorisation for five years.

AgStewardship Australia Limited – A91105

Summary | On 31 October 2008, AgStewardship Australia lodged an application for authorisation on behalf of the proposed signatories of the Industry Waste Reduction Scheme (IWRS) to impose a four cent levy per litre/kilogram on manufacturers and suppliers of Agricultural and Veterinary (AgVet) chemicals. The IWRS incorporates the drumMUSTER and ChemClear programs, which provide for the collection of unwanted, empty AgVet chemical containers.

On 17 December 2008, the ACCC issued a draft determination proposing to grant authorisation for five years.

Applications lodged (not otherwise appearing above)**Construction, Forestry, Mining and Energy, Industrial Union of Employees, Queensland – A91103**

Summary | On 6 October 2008, the Construction, Forestry, Mining and Energy, Industrial Union of Employees, Queensland (CFMEU) lodged an application for authorisation for its owner driver members to collectively negotiate with earthmoving contractors in relation to the terms, prices and conditions of the earthmoving services provided by the owner drivers to the earthmoving contractors in the commercial and civil construction sectors in south-east Queensland.

The CFMEU's application seeks authorisation for its current and future owner driver members in collective negotiations with current and future acquirers of earthmoving services.

The ACCC has consulted interested parties and the matter is under consideration.

The Real Estate Institute of Western Australia (Inc) – A91026

Summary | On 31 October 2008, the Real Estate Institute of Western Australia applied for minor variation to A91026 relating to amendments to REIWA's Articles of Association, Members' Code of Practice and the REIWA Auction Code of Conduct.

The ACCC has sought further information from the applicant and the matter is under consideration.

Australian College of Cosmetic Surgery – A91106

Summary | On 6 November 2008, the Australian College of Cosmetic Surgery lodged an application for authorisation in relation to its Code of Practice and parts of its bylaws. The Code of Practice and relevant bylaws contain advertising guidelines and guidelines for informed consent as well as processes for dealing with complaints under the Code of Practice.

The ACCC has consulted interested parties and the matter is under consideration.

Anglo Coal Australia Pty Ltd & Ors – A91107–A91109

Summary | On 14 November 2008, eight users of the Dalrymple Bay Coal Terminal applied for authorisation for a maximum six month extension of the authorisation granted by the ACCC in relation to the Queue Management System, which expired on 31 December 2008.

On 10 December 2008, the ACCC denied the applicants' request for interim authorisation. The ACCC has consulted interested parties and the matter is under consideration.

Port Waratah Coal Services Limited & Ors – A91110–A91112

Summary | On 19 November 2008, Port Waratah Coal Services Limited (PWCS) and the Newcastle Coal Infrastructure Group lodged applications for authorisation for arrangements affecting the Hunter Valley coal chain.

The Applicants are seeking authorisation of:

- the PWCS 'Tonnage Allocation Stage 1' (Stage 1 Allocation) and
- any Long Term Terminal Access Protocols (Long Term Protocols) which are developed and agreed in the future by producers, the Applicants and any Hunter Valley coal chain participant. It is proposed that the Applicants will submit to the ACCC a Memorandum of Understanding and associated Terms Sheet (MOU) setting out the likely terms of any Long Term Protocols on or before 31 March 2009. The Applicants then propose to submit the final Long Term Protocols to the ACCC for approval by 30 June 2009.

On 17 December 2008, the ACCC granted conditional interim authorisation to the arrangements. The ACCC is consulting interested parties and the matter is under consideration.

David Jones Limited – A91113

Summary | On 24 November 2008, David Jones sought re-authorisation for Retail Brand Management Businesses operating within its stores to participate in certain promotions. The ACCC previously granted authorisation to these arrangements in 2003.

On 17 December 2008, the ACCC granted interim authorisation to David Jones to continue with the conduct while the ACCC considered the substitution application. The ACCC has consulted interested parties and the matter is under consideration.

Powercor Australia Limited – A91114–A91116

Summary | On 15 December 2008, Powercor Australia, on behalf of Victorian electricity distribution network owners and operators, lodged applications for authorisation of proposed requirements that all civil contractors undertaking network electricity infrastructure works, whether employed by the applicants or third parties, meet accreditation standards set by the applicants.

The ACCC is consulting interested parties and the matter is under consideration.

Queensland Newsagents Federation – A91117

Summary | On 22 December 2008, the Queensland Newsagents Federation lodged an application seeking authorisation on behalf of itself, the Newsagents Association of NSW and ACT (NANA) and the Victorian Newsagents Association (VANA) to collectively negotiate on behalf of their members with newspaper and magazine publishers and distributors. The QNF is also seeking authorisation on behalf of newsagents or groups of newsagents who are not members of the associations but ask to join in any collective bargaining.

The ACCC is currently seeking submissions from interested parties and the matter is under consideration.

Exclusive dealing notifications

During the quarter ending 31 December 2008, the ACCC received 130 new notifications involving 67 new exclusive dealing matters. Notifications of interest considered during the quarter include:

The Sydney Cricket and Sports Ground Trust – N93527

Summary | On 25 July 2008, the Sydney Cricket and Sports Ground Trust lodged a notification under which it proposed to offer customers the ability to purchase food and beverages from outlets located within the Sydney Cricket Ground and the Sydney Football Stadium using a credit or debit card payment facility on condition the credit or debit card is issued by Macquarie Bank.

On 27 November 2008, the ACCC issued a draft revocation notice. The notification was withdrawn by the Sydney Cricket and Sports Ground Trust on 19 December 2008.

Stadium Australia Management Limited – N93500

Summary | On 9 July 2008, Stadium Australia lodged a notification under which it proposed to offer contactless payment services at ANZ Stadium on condition that the individual acquires a Visa contactless payment card.

On 27 November 2008, the ACCC issued a draft revocation notice. Submissions responding to the draft notice have been provided by Stadium Australia and interested parties and the matter is under consideration.

Tabcorp Holdings Limited – N93545

Summary | On 12 August 2008, Tabcorp lodged a notification under which it proposed to supply Tabcorp Venue Goods and Services, including at a particular price, or to give or allow or offer a discount, allowance, rebate or credit in relation to Tabcorp Venue Goods and Services on condition that the person acquires or agrees to acquire Member Services from a Nominated Member Organisation.

The ACCC sought submissions from interested parties and Tabcorp prior to allowing the notification to stand on 10 December 2008.

Collective bargaining notifications

The ACCC received 58 notifications of collective bargaining during the December quarter, involving three collective bargaining proposals.

BFC Stores Pty Ltd & Ors – CB00009–CB00056

Summary | On 7 October 2008, BFC Stores Pty Ltd lodged collective bargaining notifications under which it proposed to negotiate on behalf of BFC owned and franchise owned stores with 48 targets in relation to the price at which the stores can purchase paint and related products for on-supply to Australian consumers.

The ACCC sought submissions from interested parties prior to allowing the notifications to stand on 29 October 2008.

ClubsNSW – CB00057 & CB00058

Summary | On 11 November 2008, ClubsNSW lodged collective bargaining notifications under which it proposed to collectively bargain, on behalf of 332 of its 1400 members, with TabCorp Holdings Limited and Sky Channel Pty Ltd, in relation to the terms and conditions of the supply of wagering and racing broadcast services, including fees.

The ACCC sought submissions from interested parties prior to allowing the notifications to stand on 4 December 2008.

Australian Independent Record Labels Association Ltd – CB00059–CB00066

Summary | On 15 December 2008, Australian Independent Record Labels Association (AIR) lodged collective bargaining notifications under which it proposed to collectively bargain, on behalf of its participating members, with Telstra, Optus, BigPond, Austar, Foxtel, MTV Networks, XYZ Networks and Fuel TV in relation to the licensing of its members' audio and visual rights for public performance and transmission of music videos.

Note: the ACCC sought submissions from interested parties prior to allowing the notifications to stand on 8 January 2009.

5. Regulatory affairs

The ACCC and AER have roles in promoting competition in network industries: communications, energy, post, water and transport. The ACCC is also involved in monitoring prices of selected goods and services. The ACCC and the AER ensure that participants in the regulated industries comply with access obligations, and revenue pricing arrangements that apply to such facilities as gas transmission pipelines, electricity transmission networks, telecommunications networks and airports.

Communications

In the December quarter 2008, the ACCC:

- Announced three public inquiries in accordance with its obligations under the Trade Practices Act 1974 to review:
 - six fixed-line telecommunications service declarations (unconditioned local loop service (ULLS), line sharing service (LSS), public switched telephone network originating and terminating access services (PSTN OTA), local carriage service (LCS), and wholesale line rental service (WLR)
 - domestic transmission capacity service (DTCS) declaration
 - mobile terminating access service (MTAS) declaration.
- Granted Telstra an exemption from its obligations to supply the public switched telephone network originating access (PSTN OA) service in parts of metropolitan Australia.
- Granted Telstra an exemption from its obligations to supply the declared domestic transmission capacity (DTCS) service on various regional routes and service areas (discussed below).
- Rejected Telstra's application for exemption from its obligations to supply regulated fixed line services to Optus within Optus' Hybrid Fibre Coaxial cable (HFC) network.
- Issued draft pricing principles and indicative prices for the mobile termination access service (MTAS) for 2009 to 2011.
- Issued a discussion paper and model documentation to commence a public consultation on a cost model commissioned by the ACCC for regulated fixed network services.
- Issued a draft decision not to accept access undertakings submitted by eight digital radio multiplex transmission licensees.
- Issued a draft decision to reject Telstra's access undertaking for a \$30 ULLS monthly charge for metropolitan areas.

- Accepted withdrawal of eight access disputes (4 relating to public switched telephone network (PSTN) and 4 relating to mobile terminating access service (MTAS)).
- Received a Tribunal decision to confirm that there was an ongoing need for access to Telstra's network and that, in effect, the ACCC had proposed scaling back that regulation too soon.
- Released the second annual joint publication with the Australian Communications and Media Authority (ACMA) titled 'Communications Infrastructure Availability in Australia 2008'.
- Issued two reports (an imputation and non-price terms and conditions report for September quarter 2008 and a current cost accounting report for 2007–08) under the Telstra enhanced accounting separation regime.
- Delivered a communication related speech at the European Competitive Telecommunications Association (ECTA'S) Annual Regulatory Conference.

Declarations

Part XIC of the *Trade Practices Act 1974* (TPA) enables the ACCC to declare telecommunications services. Once declared, the access provider is obliged to supply the services to an access seeker upon request.

Fixed-line service declarations: On 25 November 2008, the ACCC announced a public inquiry to review six fixed-line telecommunications service declarations, in accordance with its obligations under the TPA. The six fixed-line services to be considered in the combined inquiry are:

- unconditioned local loop service (ULLS)
- line sharing service (LSS)
- public switched telephone network originating and terminating access services (PSTN OTA)
- local carriage service (LCS)
- wholesale line rental service (WLR).

These declarations are due to expire on 31 July 2009. The public inquiry is to determine whether the declarations should be remade, extended, revoked, varied or allowed to expire. Submissions are due by 13 March 2009.

Domestic transmission capacity service (DTCS) declaration review: On 25 November 2008, the ACCC announced a public inquiry to review the Domestic Transmission Capacity Service (DTCS) declaration in accordance with its obligations under the *Trade Practices Act 1974*. The purpose of the public inquiry is to determine whether the declaration of the DTCS should be remade, extended, revoked, varied or allowed to expire. The current declaration is due to expire on 31 March 2009.

Submissions were due by 23 December 2008.

Mobile terminating access service (MTAS) declaration review: On 18 December 2008, the ACCC issued a discussion paper commencing a public inquiry to review the domestic mobile terminating access service (MTAS) declaration. The MTAS is a wholesale input, used by providers of calls from fixed-line and mobile networks, in order to complete (terminate) calls to mobile subscribers connected to other networks.

The inquiry will determine whether the current declaration which is due to expire on 30 June 2009 should be re-made, extended, revoked, varied or allowed to expire. Submissions are due by 30 January 2009.

Telstra exemption applications

Telstra's further wholesale voice exemptions: On 29 October 2008, the ACCC decided to grant Telstra an exemption from its obligations to supply the public switched telephone network originating access (PSTN OA) service in 248 metropolitan exchange service areas in Australia, subject to a number of conditions. PSTN OA is an input into wholesale voice services.

An exemption was also granted in the central business district (CBD) areas of Sydney, Melbourne, Brisbane, Adelaide and Perth – recognising the presence of alternative infrastructure in these areas capable of providing voice services.

Telstra's domestic transmission capacity service (DTCS) exemptions: On 25 November 2008, the ACCC issued a final decision granting Telstra exemptions from its obligations to supply the declared domestic transmission capacity service (DTCS) for:

- capital–regional transmission on nine capital-regional routes
- inter-exchange transmission in 16 CBD exchange service areas
- inter-exchange transmission in 72 metropolitan exchange service areas.

The ACCC did not grant an exemption for the supply of DTCS for tail-end transmission in metropolitan and CBD areas.

ACCC rejects Telstra's 'Optus HFC exemption' application: On 11 November 2008, the ACCC issued a final decision to reject Telstra's application for exemption from its obligations to supply regulated fixed line services to Optus within Optus' HFC cable network footprint.

The ACCC was not satisfied that granting the 'Optus HFC exemption' would promote the long-term interests of end users. The ACCC's final decision highlights two major concerns with the application:

- the singling out of a particular competitor would represent a discriminatory access policy which would be likely to discourage investment and undermine the potential for efficient facilities-based competition in the telecommunications industry

- Telstra's strong position in the pay TV market and control over content, through its interest in Foxtel, would be likely to limit any possible competitive benefits from granting the exemption.

Access pricing – undertakings and disputes

ACCC issues draft MTAS pricing principles determination and indicative prices for 2009–11: On 14 November 2008, the ACCC issued draft pricing principles and indicative prices for the mobile terminating access service (MTAS) for 2009 to 2011. The draft pricing principles adopted a cost-based pricing approach informed by the total service long run incremental cost (TSLRIC+) framework, but also allowing for international cost benchmarking, developments in other markets and data captured under the Regulatory Accounting Framework (RAF).

The draft indicative price for the MTAS during this period is 9 cents per minute which reflects the uncertainties surrounding the actual cost of supplying the MTAS, the significant investments in infrastructure made by mobile network operators (MNOs) and concerns about the absence of substantial reductions in fixed-to-mobile retail prices.

ACCC issues telecommunications fixed services cost model for consultation: On 19 December 2008, the ACCC commenced a public consultation on a cost model commissioned by the ACCC for regulated fixed network services by issuing a discussion paper and model documentation.

The model can estimate a price for access to Telstra's copper wire network by infrastructure based service providers to supply broadband and voice services. The results of this model once finalized, along with other models provided by other parties and benchmarking, are important inputs in the regulatory decision making process. Submissions are due by 20 February 2009.

ACCC proposes to reject Telstra's ULLS undertaking: On 13 November 2008, the ACCC issued a draft decision proposing to reject Telstra's access undertaking for a \$30 ULLS monthly charge for metropolitan areas. The ULLS monthly charge relates to the rent which Telstra charges competitors to access the copper wire from the telephone exchange to a house or office. Access seekers use the ULLS to supply voice and broadband services to end users.

Submissions in response to the issues raised in the draft decision were due by 12 December 2008.

ACCC issues draft decision on digital radio access undertakings: On 18 December 2008, the ACCC issued a draft decision not to accept access undertakings submitted by eight digital radio multiplex transmission licensees. The eight identical undertakings proposed the terms and conditions on which the multiplex licensees will provide access to the digital radio multiplex transmission to broadcasters.

The draft decision reflects various concerns with the proposed access undertakings such as the flexibility that the undertaking provided the multiplex licensees, which could be addressed by the licensees. Following a period of public consultation, the ACCC will decide whether to accept the undertakings. Submissions are due by 23 January 2009.

Access disputes

The ACCC is vested with powers to arbitrate telecommunications access disputes on declared services and to make a final binding determination to resolve a dispute.

Arbitration hearings are private and the ACCC generally does not make any public comment on disputes except to announce when a dispute has been notified or a determination has been made.

In the December quarter 2008, the ACCC was notified of four new access disputes : three in relation to mobile termination access service (MTAS); and one in relation to unconditioned local loop service (ULLS). These access disputes are between:

- Telstra (access seeker) and Optus Networks (MTAS)
- Telstra (access seeker) and Optus Mobile (MTAS)
- Telstra (access seeker) and Hutchison (MTAS)
- Amcom Pty Ltd (access seeker) and Telstra (ULLS).

In the December quarter 2008, eight access disputes (four in relation to public switched telephone network (PSTN) and four in relation to mobile terminating access service (MTAS) were withdrawn. The ACCC continues to arbitrate 32 access disputes. In addition, 15 are under judicial review.

Interim and final determinations

During the December quarter 2008, the ACCC extended the operation of an interim determination made in relation to a dispute over access to the LSS between Chime and Telstra, for another period of 12 months until 31 December 2009. The ACCC did not make any final determinations in the December quarter 2008.

Published determinations

In the December quarter 2008, the ACCC did not publish any determinations made in arbitrations concerning disputes over access to services.

The following table summarises the determinations made in the December quarter 2008 and the active disputes as at 31 December 2008:

	Total
Active disputes at 31 December 2008	34
Decisions subject to Federal Court review	15
New arbitrations commenced in Dec qtr	4
Interim determinations issued in Dec qtr	0

Final determinations issued in Dec qtr	0
Published determinations in Dec qtr	0

Reports

ACMA and ACCC joint annual report on communications infrastructure and services: In the December quarter 2008, the ACMA and the ACCC jointly released the second annual report titled *Communications Infrastructure Availability in Australia 2008*. The report discusses the availability of broadband, fixed voice, mobile voice and mobile data in the community. The key findings include:

- The number of broadband subscribers increased by 1.1 million in the 12 months to June 2008 mainly due to the growth in wireless broadband (47 per cent) and DSL provided on unbundled services (33 per cent).
- Broadband connection speeds are rising with a 25 per cent increase in subscribers using a 1.5 Mbps service and evolution from ADSL1 to ADSL2+ services.
- Mobile services are evolving from second generation (2G) to third generation (3G) with 8.55 million 3G services in operation by June 2008 (an increase of 88 per cent).
- Fixed voice remains a large part of consumers' spend on communications services and the number of fixed lines remained stable in the year to June 2008 at 11 million fixed line services in operation.

In conjunction with this report, the ACCC also published information concerning the number and distribution of services supplied over Telstra's customer access network.

Two reports under Telstra enhanced accounting separation regime: In the December quarter, the ACCC issued two reports under the enhanced accounting separation regime for Telstra: an imputation and non-price terms and conditions report for the September quarter 2008; and a current cost accounting report for 2007–2008. These reports note, among other things, that in the December quarter:

- imputed margins reported for local services and the bundle of fixed line voice services decreased; while margins for ADSL services increased
- wholesale service levels generally improved during the quarter, with all service levels close to or better than those reported for retail services.

Speeches

During December quarter 2008, the ACCC delivered a communications related speech at the European Competitive Telecommunications Association (ECTA's) Annual Regulatory Conference.

Australian Energy Regulator

Electricity matters

Preliminary positions – framework and approach paper – Victorian electricity distribution determination for the period commencing 1 January 2011

On 19 December 2008, the Australian Energy Regulator (AER) published its framework and approach positions paper for the Victorian distribution network service providers' (DNSPs) 2011–15 distribution determination.

The framework and approach will apply to the Victorian DNSPs, Citipower, Powercor, Jemena, SP AusNet and United Energy for the forthcoming regulatory control period.

The preliminary positions paper outlines the AER's likely approach in the application of a service target performance incentive scheme, efficiency benefit sharing scheme and a demand management incentive scheme to the Victorian DNSPs. The paper also sets out the AER's proposed form of control and service classification for regulated services.

Under the Victorian specific transitional arrangements outlined in the National Electricity Rules, the AER is also consulting on its likely approach to the application of the cost allocation guidelines for the Victorian DNSPs.

Submissions on the AER's preliminary positions paper close 6 March 2009.

Draft demand management incentive scheme – Victorian electricity distribution determination for the period commencing 1 January 2011

On 19 December 2008 the AER published its proposed demand management incentive scheme (DMIS) for the Victorian distribution network service providers (DNSPs), for the regulatory control period commencing in 2011.

The role of the scheme is to provide incentives for DNSPs to implement efficient non-network alternatives, or to manage the expected demand for standard control services in some other way. The scheme is designed to complement the existing incentives within the regulatory framework for DNSPs to implement non-network alternatives and manage demand.

The AER proposes to apply the DMIS in the form of a demand management innovation allowance. The demand management innovation allowance aims to encourage DNSPs to undertake efficient broad-based demand management. This can assist in providing long-term benefits to consumers and DNSPs.

Submissions on the development of the proposed DMIS and its application to the Victoria DNSPs close 6 March 2009.

Proposed – Statement of the revised WACC parameters (transmission) and Statement of regulatory intent on the revised WACC parameters (distribution)

On 11 December 2008, the Australian Energy Regulator (AER) published the proposed statement of the revised weighted average cost of capital (WACC) parameters (transmission) and statement of regulatory intent on the revised WACC parameters. The proposed statements and accompanying explanatory statement are available on the AER's website.

The National Electricity Rules (NER) provide that the AER may review the WACC parameters to be adopted in determinations by electricity transmission and distribution network service providers. Reviews are to be conducted every five years with the first review concluded by 31 March 2009, at which time the AER will release its final decision for both transmission and distribution. The outcomes of this review will only apply to electricity transmission and distribution determinations where the proposal is submitted after 31 March 2009 and before the completion of the AER's second review, in 2014.

Submissions on the AER's proposed statements were due by COB Wednesday, 28 January 2009.

ActewAGL distribution determination

On 28 November 2008, the AER released its draft decision on the ActewAGL distribution determination for the period 1 July 2009 to 30 June 2014. The draft decision provides for \$278 million of investment in ActewAGL's electricity distribution and sub-transmission network over the next five years. A total operating and maintenance allowance of over \$296 million is also provided for.

The draft decision approves annual revenue requirements for ActewAGL that increase from \$144 million in 2009–10 to \$183 million in 2013–14. The revenue allowance is based on an opening asset value of around \$588 million and a weighted average cost of capital of 9.82 per cent.

The AER held a pre-determination conference in Canberra on the draft decision on Monday 8 December 2008 to explain the draft decision and receive oral submissions from interested parties.

The AER also invited written submissions, due by Monday 16 February 2009. Issues raised at the pre-determination conference and in submissions will be taken into consideration by the AER when making its final distribution determination.

Documents associated with the draft distribution determination, including the draft decision, consultants' reports and ActewAGL's regulatory proposal are also available on the AER website.

NSW distribution determinations

On 28 November 2008, the AER released its draft decisions on the Country Energy, EnergyAustralia and Integral Energy distribution determinations for the period 1 July 2009 to 30 June 2014. The draft decision approves total revenue

requirements for the NSW distribution network service providers (DNSPs) that increases from:

- \$939 million in 2009–10 to \$1.4 billion in 2013–14 for Country Energy
- \$1.3 billion in 2009–10 to \$2.1 billion in 2013–14 for EnergyAustralia's distribution assets
- \$137 million in 2009–10 to \$273 million in 2013–14 for EnergyAustralia's transmission assets
- \$793 million in 2009–10 to \$1.1 billion in 2013–14 for Integral Energy.

The draft decision provides for investment over the next five years of:

- \$4.0 billion (2008–09) for Country Energy
- \$7.2 billion (2008–09) for EnergyAustralia's distribution assets
- \$1.3 billion (2008–09) for EnergyAustralia's transmission assets
- \$2.9 billion (2008–09) for Integral Energy.

Provision over the regulatory control period is also given for total operating and maintenance allowances of:

- \$2.0 billion (2008–09) for Country Energy
- \$2.5 billion (2008–09) for EnergyAustralia's distribution assets
- \$160 million (2008–09) for EnergyAustralia's transmission assets
- \$1.5 billion (2008–09) for Integral Energy.

The draft decision determined an indicative weighted average cost of capital of 9.72 per cent for the three DNSPs.

The AER held a pre-determination conference on the Country Energy draft decisions in Canberra on Monday 8 December 2008 to explain the draft decision and receive oral submissions from interested parties. A conference for the EnergyAustralia and Integral Energy draft decisions was held in Sydney on Tuesday 9 December 2008.

The AER also invited written submissions, due by Monday 16 February 2009. Issues raised at the pre-determination conference and in submissions will be taken into consideration by the AER in making its final distribution determination.

Documents associated with the draft distribution determination, including the draft decision, consultants' reports and EnergyAustralia's regulatory proposal, are also available on the AER website.

TransGrid transmission determination

On 28 November 2008, the AER released its draft decision on the TransGrid transmission determination for the regulatory control period 1 July 2009 to 30 June 2014. As a result of this draft decision, TransGrid will significantly

increase investment in its transmission network. The draft decision also approves maximum allowed revenues for TransGrid that increase from \$678 million in 2009–10 to \$904 million in 2013–14 or around 4.0 per cent per annum.

The draft decision provides for \$2.55 billion of investment in TransGrid's electricity transmission network over the next five years. A total operating and maintenance allowance of \$765 million is provided for the regulatory control period. The transmission determination also provides for a service target performance incentive scheme to apply to TransGrid, as well as approving TransGrid's negotiating framework and negotiated transmission service criteria.

The AER held a pre-determination conference in Sydney on the draft decision on Tuesday 9 December 2008, to explain the draft decision and receive oral submissions.

The AER also invited written submissions from interested parties. Submissions close on Monday 16 February 2009. Issues raised at the pre-determination conference and in submissions will be taken into consideration by the AER in making its final decision.

AER draft decision on Transend's electricity transmission revenue proposal

On 27 November 2008, the AER published its draft decision on Transend's revenue proposal for the regulatory control period 1 July 2009 to 30 June 2014. Under the National Electricity Rules (NER), the AER is required to make a transmission determination for Transend which will establish network charges for the period 2009–14.

The AER held a pre-determination conference on the draft decision in Hobart on Wednesday 10 December 2008. The conference provided an opportunity for the AER to outline its draft decision and for stakeholders to provide oral submissions.

The AER also invited interested parties to send written submissions in response to the draft decision. Submissions will close on 18 February 2009.

Framework and approach paper for Energex and Ergon Energy

On 27 November 2008, the AER published its final framework and approach paper, regarding the application of schemes for Energex and Ergon Energy in the 2010–15 regulatory control period.

The AER's final framework and approach paper sets out its likely approach to the application of a service target performance incentive scheme, efficiency benefit sharing scheme and demand management incentive scheme to Energex and Ergon Energy in the next regulatory control period. The paper also includes the AER's consideration of other matters raised by the DNSPs.

This paper and the earlier preliminary positions paper and submissions from interested parties are available on the AER website.

Framework and approach paper – ETSA Utilities electricity distribution determination 2010–15

On 26 November 2008, the AER published the framework and approach paper of its 2010–15 distribution determination for ETSA Utilities.

The framework and approach paper states the form of control that will apply to ETSA Utilities' distribution services in the forthcoming regulatory control period, and sets out the likely approach to the classification of services and application of a service target performance incentive scheme, efficiency benefits sharing scheme and demand management incentive scheme.

This paper, the AER's earlier preliminary positions paper and submissions from interested parties during the consultation process are available on the AER website.

AER decision on Transend network support pass-through proposal

On 26 November 2008, the AER allowed a pass-through amount of \$506,732 for network support payments for Transend for 2007–08 and an adjustment amount (including interest) to be applied to network support customers in the 2009–10 financial year.

Documents associated with Transend's network support pass-through can be found on the AER's website.

Demand management incentive scheme applicable to Energex, Ergon Energy and ETSA Utilities

On 17 October 2008, the AER released the final demand management incentive scheme (DMIS) to apply to Energex, Ergon Energy and ETSA Utilities in the 2010–15 regulatory control periods.

The National Electricity Rules allow the AER to develop and publish a DMIS to provide incentives for distribution network service providers to implement efficient non-network alternatives or to manage the expected demand for standard control services in some other way.

National Gas Law guidelines and processes

Annual Compliance Process

The AER made a final decision to make an Annual Compliance Order on the 7 November 2008. This decision was made after consultation with industry participants which commenced in July 2008 and included holding a forum in Sydney on 22 October 2008.

The Annual Compliance Process has been established under the National Gas Law (NGL), to obtain information and documentation from service providers of covered transmission or distribution pipelines to ascertain compliance with their general and specific duties primarily under chapter four of the NGL.

The final decision, a summary of submissions and responses, final Annual Compliance Order and final Annual Compliance Guideline were subsequently published on the AER website at www.aer.gov.au. The AER also gave service providers of covered pipelines the final decision and Annual Compliance Order and provided parties who participated in the consultation process with the final decision.

Access Dispute Guideline

On 26 November 2008, the AER released the Access Dispute Guideline. The guideline outlines how the AER will conduct an access dispute hearing under the NGL. Consultation on the draft Access Dispute Guideline closed on 24 October 2008. Two submissions were received.

Draft Access Arrangement Guideline

On 12 December 2008, the AER closed consultation on the Draft Access Arrangement Guideline. The purpose of Draft Access Arrangement Guideline is to provide service providers and other interested parties with an outline of how the AER will undertake an access arrangement review process under the NGL. In addition, it will provide participants in any review process with some guidance on relevant policy considerations as well as some administrative details on how to frame proposals and make submissions.

Gas Matters

Moomba to Sydney Pipeline light regulation coverage determination application

On 19 November 2008, the NCC released its final decision and statement of reasons, approving EAPL's application. The NCC determined that the services provided by the covered portion of the MSP are to be light regulation services.

As the MSP is now subject to light regulation, the current access arrangement ceases to apply. While the MSP will not be required to have its tariff and non-tariff terms and conditions of access approved by the AER, in the event of an access dispute the AER may make an access determination for the tariff and non-tariff conditions of access.

Under the Annual Compliance Process, EAPL will be required to report certain information annually to the AER. EAPL is also required to publish its terms and conditions of its light regulation services, including tariffs, on its website.

Central Ranges Pipeline Tamworth Distribution Access Arrangement Amendment

On 10 October 2008, the AER approved an amendment to the Tamworth Distribution Access Arrangement, to correct for inaccuracies in the amended access arrangement approved in August.

Energy Markets

High wholesale electricity price reports

During the quarter, the AER released two reports on high prices in the wholesale electricity market. The first report related to high prices in Queensland on 20 November 2008. Unplanned reductions in Queensland generator availability together with low import capability into Queensland and higher than forecast demand led to a tight supply/demand situation. Rebidding by Millmerran Energy Trader and Stanwell Corporation shifted low-priced capacity to close to the price cap. A combination of the rebidding and the tight supply/demand saw the spot price exceed \$5000/MWh for the 2:30 pm trading interval.

The second report related to high spot prices in New South Wales on 31 October 2008. High temperatures in Sydney on 31 October saw demand reach its highest level since winter. Furthermore, a 500 MW New South Wales generating unit became unavailable on the day due to an unscheduled outage. Imports from Queensland and Victoria were significantly lower than forecast and were constrained. The National Electricity Market Management Company (NEMMCO) made alterations to allow increased imports into New South Wales.

The higher than forecast demand and lower than forecast supplies resulted in the spot price exceeding \$5000/MWh for seven trading intervals between midday and 3:30 pm.

Moomba Plant outage – Gas Bulletin Board obligations

On 17 October 2008, the AER wrote to Bulletin Board users highlighting the relevant rule requirements and its expectation of how Bulletin Board participants should be promptly updating the Bulletin Board with information relating to gas outages.

This was following a gas plant outage at the Moomba production facility on Sunday 10 August. The production facility was not fully restored until Wednesday 13 August. The AER investigated compliance with the gas Bulletin Board information provision obligations following this outage. In October, the AER published the findings of the investigation. The AER decided not to take enforcement action, noting that the Bulletin Board obligations are relatively new.

Investigation into the de-rating of the Heywood interconnector

In December, the AER issued an investigation report into the de-rating of the Heywood transmission line, the main interconnection between Victoria and South Australia. The South Australian transmission network service provider, ElectraNet, reduced the maximum allowable flow on the Heywood interconnector by around 100 MW or 25 per cent in December 2007. A significant proportion of South Australia's electricity requirements are sourced from generators in Victoria using the Heywood interconnector.

The focus of the investigation was to determine whether ElectraNet complied with relevant obligations under the National Electricity Rules (Rules). While the investigation has not revealed any specific breaches of the Rules by ElectraNet, it identified a number of information quality issues. Poor quality information can

have significant ramifications for other market participants, who rely on operational and planning publications by network operators for the purposes of their operational and investment decisions. The AER requested that ElectraNet commit to improving its planning and information dissemination processes.

Investigation into compliance with dispatch instructions

On 5 November 2009, the AER issued infringement penalties totalling \$60 000 on a Queensland generator, Braemar Power Project Pty Ltd. The penalties related to the alleged failure of Braemar's power station to ensure its offers to supply generation capacity into the National Electricity Market accurately reflected its capability and its alleged failure to follow dispatch instructions issued by the market operator.

Price Monitoring

Grocery monitoring

The Grocerychoice survey results published in December 2008 showed that, on a total grocery basket, Woolworths supermarkets were the cheapest in 45 regions, Coles supermarkets were the cheapest in 15 regions, and Independent supermarkets were the cheapest in one region (Eastern Central Queensland). Where present in a region, ALDI supermarkets were the cheapest for a basket of basic staple products.

On 22 December 2008, the Hon Chris Bowen, Assistant Treasurer and Minister for Competition Policy and Consumer Affairs announced that the consumer organisation CHOICE will take over the management of the Grocerychoice program commencing from 2 February 2009. CHOICE intends to make a number of changes to the Grocerychoice website and will actively seek feedback from the community, through Grocerychoice, Choice.com.au and an industry consultative committee.

Intellectual property – copyright proceedings

Since the amendments to the *Copyright Act 1968* took effect, the ACCC has been party to two proceedings before the Copyright Tribunal. The progress of these proceedings in the September quarter 2008 is as follows.

Reference for 'fitness class' tariffs by the Phonographic Performance Company of Australia

In May 2007, the ACCC was made a party to this reference. The applicant, the Phonographic Performance Company of Australia (PPCA) has filed an amended reference which includes a proposed rate for the use of sound recordings by fitness centres in fitness classes of \$4.54 per member of a fitness centre per month and 99 cents per visit by a casual attendee.

PPCA and Fitness Australia (the First Respondent) have filed their lay and expert evidence. The ACCC filed its expert evidence on 30 July 2008. The matter has been set down for a hearing in March 2009.

Reference for the tariff for 'digital music services' by APRA/AMCOS

The ACCC was made a party to this reference in September 2007. The Australasian Performing Right Association Limited and the Australasian Mechanical Copyright Owners' Society Limited have filed lay and expert evidence. The matter is continuing.

Rail

Part IIIA access undertakings

Australian Rail Track Corporation Ltd interstate rail access undertaking – application for variation

The Australian Rail Track Corporation Ltd (ARTC) was established in 1998 to manage the infrastructure and access to the standard gauge rail network connecting the mainland capital cities (i.e. the interstate rail network).

In 2008, ARTC lodged a voluntary access undertaking application with the ACCC for the interstate rail network. On 30 July 2008, the ACCC released its final decision to accept ARTC's undertaking. The undertaking came into operation on 20 August 2008 and will remain operative until 2018 (unless withdrawn earlier).

On 9 October 2008, ARTC applied to the ACCC for consent to vary the undertaking under Part IIIA of the *Trade Practices Act 1974* (the Act). The variation application relates to the indemnity and loss regime in clause 15 of the Indicative Access Agreement (IAA) of the Undertaking so that the liability of either party to third parties for loss or damage is limited in certain circumstances.

The ACCC released its draft decision on 18 December 2008 to not allow the ARTC to vary its interstate access undertaking.

In summary, the ACCC is of the view that the proposed variation is not justified as currently drafted because the proposed indemnity clause would prevent a rail operator (or ARTC) from being indemnified for loss arising out of a contract between a rail operator and a third party (or ARTC and a third party) in circumstances where ARTC (or the operator) has breached the indicative access agreement and caused an incident which has resulted in loss to that third party.

In addition, the ACCC formed the preliminary view that ARTC has not consulted with rail operators prior to applying to the ACCC seeking the variation as is required by the terms of the 2008 undertaking.

The Australian Rail Track Corporation has advised the Australian Competition and Consumer Commission that it has withdrawn its application to vary its 2008 Interstate Rail Access Undertaking.

In light of the withdrawal of the application, the ACCC will not issue a final decision on the current application.

A copy of the ARTC's application for variation and its letter of withdrawal, the

2008 Interstate Rail Access Undertaking and other supporting documentation will be available on the ACCC website, www.accc.gov.au.

Water

The ACCC has policy development, implementation and enforcement responsibilities in relation to water markets, water trading and water delivery services in the MDB under the *Water Act 2007*.

The ACCC also has responsibilities in relation to third party access to water-related infrastructure under Part IIIA of the *Trades Practices Act 1974*.

The ACCC does not have a role in urban water supplies.

In preparing advice to the minister, the ACCC released a number of discussion papers during the last quarter seeking submissions from stakeholders on the water market rules and water charge rules. The ACCC also held a number of public forums across the MDB to explain the proposed rules as well as seeking comment.

The *Water Amendment Act 2008* came into effect on 15 December 2008. This Act seeks to give effect to the Inter-Governmental Agreement on MDB Reform agreed to by COAG in July 2008, and expands the ACCC's role to include:

- the power to determine or accredit determination arrangements for all regulated charges levied by irrigation infrastructure operators and water planning and management service providers within the MDB
- responsibility for regulating bulk water and irrigation infrastructure operators outside the MDB if the states choose to refer those functions to the Commonwealth
- responsibility for regulating all relevant entities and transactions and not just those that fall within the scope of the Commonwealth's powers.

Water market rules

On 23 December 2008, the ACCC provided its final advice paper and recommended rules on the development of water market rules.

The purpose of the water market rules is to free up the trade of water access rights within the MDB. The rules prevent irrigation infrastructure operators holding a group water access entitlement on behalf of their member irrigators from preventing or unreasonably delaying trade.

The provision of the final advice to the minister ends an extensive public consultation process conducted by the ACCC. The final advice considered stakeholder submissions in response to issues papers, position papers and more recently, draft advice papers. The ACCC also conducted six public forums in regional centres on the draft advice for water market rules which were open to the

public to attend. ACCC staff also held 47 targeted meetings with stakeholders. In total, the ACCC received 130 on the water market rules.

The minister is now reviewing the final advice and recommended rules.

Water charge rules for termination fees

On 23 December 2008, the ACCC provided its final advice paper and recommended rules regarding water charge rules for termination fees.

This advice directly addresses issues relating to fees or charges paid by water users to irrigation infrastructure operators for either terminating access or surrendering a water delivery right.

The advice on water charge rules for termination fees was progressed independently of the remaining water charge rules in order to align timing with the development of advice on water market rules.

The ACCC conducted a comprehensive consultation process to prepare the water charge (termination fee) rules. The final advice considered stakeholder submissions in response to issues papers, position papers and more recently, draft advice papers. The ACCC also conducted six public forums in regional centres on the draft advice for water charge (termination fee) rules which were open to the public to attend. ACCC staff also held 26 targeted meetings with stakeholders. In total, the ACCC received 65 submissions on the water charge (termination fees) rules. These written submissions are available on the ACCC website.

The minister is now reviewing the final advice and recommended rules.

Water charge rules for water planning and management

On 10 October 2008, the ACCC released an issues paper for public consultation on water charge rules relating to water planning and management.

Establishing a set of water charge rules that apply to all MDB jurisdictions' water planning and management charges will improve the transparency and availability of information regarding such charges and will assist the development of water markets by sending clearer pricing signals to water users.

The ACCC requested that submissions be provided by 12 November 2008.

Water charge rules for charges payable to irrigation infrastructure operators and bulk water operators

The ACCC is also currently preparing draft advice on water charge rules for charges payable to irrigation infrastructure operators and bulk water operators.

The deadline for submissions on the position paper ended on 24 November 2008. The position paper presented the ACCC's preliminary positions on water charge rules for irrigation infrastructure operators (access charges) and bulk water operators within the MDB.

Water trading

The *Water Act 2007* requires the Murray–Darling Basin Authority to prepare a strategic plan for the integrated and sustainable management of water resources in the MDB, called the Basin Plan.

The Basin Plan must include rules for the trading or transfer of tradeable water rights relating to MDB water resources, called water trading rules. In the near future the ACCC will provide advice to the Murray–Darling Basin Authority on these rules.

On 14 November 2008, the ACCC issued three new publications to assist irrigators, water brokers and water exchanges to understand their rights and responsibilities under the *Trade Practices Act 1974*.

The publications explain the fair trading obligations of water brokers and exchanges when they are dealing with their customers.

Next steps

In early 2009, the ACCC expects the minister will table the final rules on the water charge rules and the water market rules. The ACCC is developing guidelines to assist irrigators and operators to understand and comply with the water market rules and the water charge (termination fee) rules for release in the first half of 2009. The ACCC will also undertake an education program to explain the rules and help irrigators understand their rights and irrigation operators their obligations.

Fuel monitoring

The ACCC monitors retail prices of petrol, diesel and automotive liquid petroleum gas (LPG) in all capital cities and in around 110 country towns. Movements in international benchmark prices for these fuels are monitored as well as international crude oil prices. The ACCC also closely follows developments in the petroleum industry.

Formal monitoring of petrol – release of 2008 report

On 17 December 2007, the Hon Chris Bowen, Assistant Treasurer and Minister for Competition Policy and Consumer Affairs directed the ACCC to formally monitor the prices, costs and profits of unleaded petrol products for a period of three years. The first of three reports was submitted to the minister on 17 December 2008. The report is available at <http://www.accc.gov.au/content/index.phtml/itemId/854720>.

In preparing the 2008 report, the ACCC gathered information from the major industry stakeholders covering refiner–marketers, (Shell, Caltex, BP and Mobil), supermarket chains (Coles Express and Woolworths), large independent chains, (Gull, United, 7-Eleven and Neumann) and independent wholesalers (Liberty, United, Gull and Neumann).

The ACCC's report showed that movements in petrol prices in Australia are overwhelmingly influenced by international petrol prices. The analysis concluded that Australian petrol prices have closely followed pricing trends in the international price of petrol which is determined by the international price of crude oil. The major contributor to any increases in Australian petrol prices was the higher Singapore Mogas 95 Unleaded benchmark price.

The 2008 report noted that the price of petrol did deviate from the international benchmark price for a short period in December 2007/January 2008 and October 2008. The ACCC found that the deviations were a result of supply issues in NSW, Victoria and Queensland, an increase in international freight costs, and volatility in the price of Singapore Mogas 95 Unleaded and the Australian/US dollar exchange rate.

The analysis in the report showed that the petrol industry remains concentrated at the refining and wholesale levels. However, at the retail level of the petrol industry, price competition is active. Australian petrol prices are also relatively low compared to other OECD countries.

The report noted that the overall profitability of the petrol industry has been somewhat volatile over the past three years. However, profitability did not increase in 2007–08 even though the retail price of petrol increased considerably.

Price movements in the December quarter 2008

Petrol

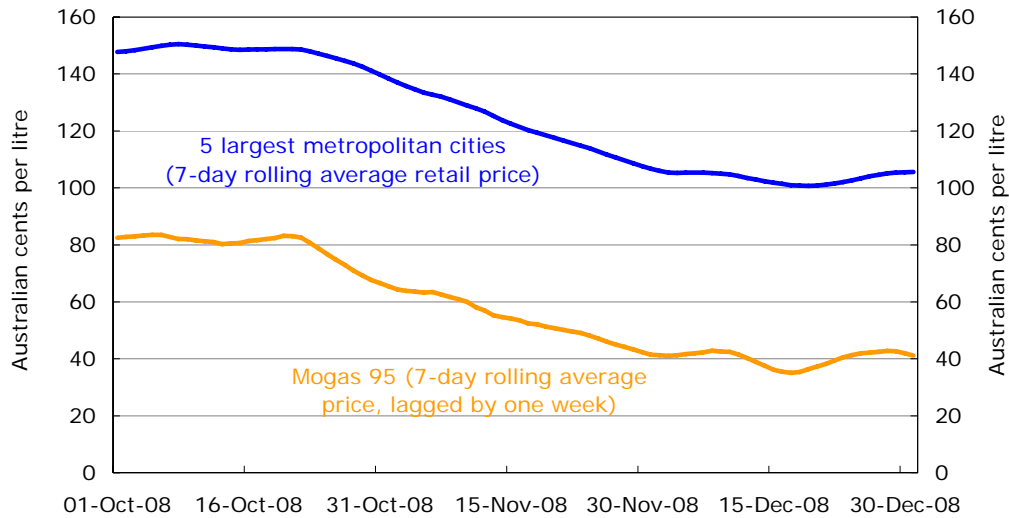
The ACCC examines movements in domestic retail petrol prices compared with movements in international benchmark prices. In the case of unleaded petrol, it examines movements in the seven-day rolling average retail unleaded petrol prices in five largest metropolitan cities (Sydney, Melbourne, Brisbane, Adelaide and Perth) and seven-day rolling average prices for Singapore Mogas 95 Unleaded (lagged one week) in Australian cents per litre (cpl).

The chart below shows movements in these series over the period 1 October to 31 December 2008. It is important to remember that a comparison of these two series is indicative rather than an exact science, and that other factors can influence retail petrol prices in the short run. This caveat also applies to comparisons of movements between retail diesel and automotive LPG prices and their respective benchmarks.

As illustrated in the chart, retail petrol prices broadly tracked movements in the benchmark. However, as noted in the ACCC 2008 petrol monitoring report, in October 2008 a divergence was noted between domestic retail prices and Singapore Mogas 95 Unleaded prices. The ACCC concluded that the key factors for the divergence were the significant volatility in the price of Singapore Mogas 95 Unleaded and the Australian/US dollar exchange rate.

During the period 1 October to 31 December 2008, retail unleaded petrol prices in the five largest metropolitan cities (based on a seven-day rolling average) decreased by 42.1 cpl, from 147.7 cpl to 105.6 cpl. By the middle of December 2008, retail prices were around 101.0 cpl. Singapore Mogas 95 Unleaded prices (on a seven day rolling average basis, lagged by one week) decreased by 41.3 cpl in the December quarter of 2008, with benchmark prices being as low as 35.1 cpl in the middle of December 2008.

**Chart: Movements in unleaded petrol retail prices and the benchmark
– 1 October to 31 December
2008**

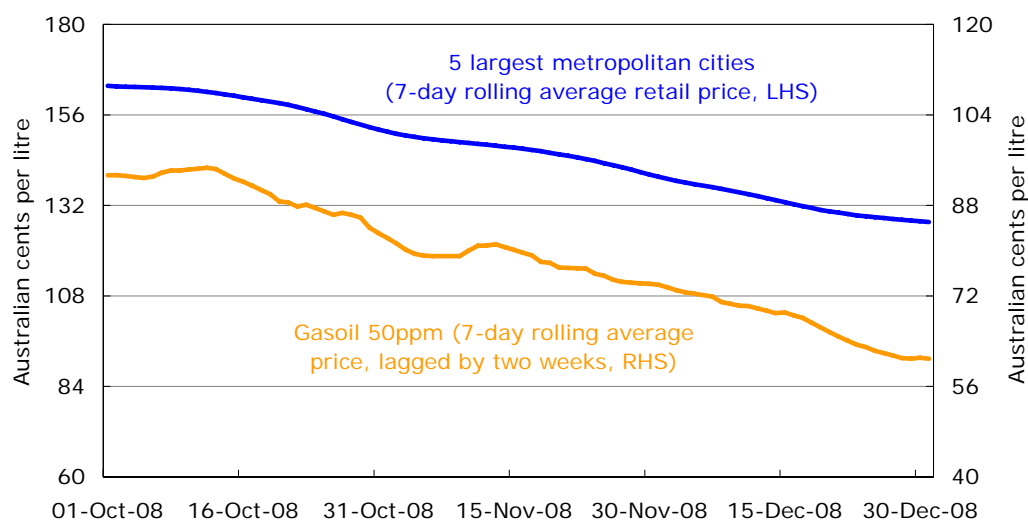


Diesel

The ACCC monitors the movement of diesel retail prices against the spot price of Singapore Gas Oil with 50 parts per million (ppm) sulphur content. In the chart below, diesel retail prices are shown on the left hand side of the chart and Singapore Gas Oil prices are shown on the right hand side. The chart illustrates that retail prices broadly tracked movements in the benchmark price during the period 1 October to 31 December 2008.

Over the December quarter 2008, average retail diesel prices for the five largest metropolitan cities decreased by 36.1 cpl from 163.7 cpl to 127.6 cpl (based on a seven-day rolling average). The substantial decreases in retail diesel prices followed decreases in the international benchmark price for diesel. The Singapore Gas Oil 50 ppm (using a seven-day rolling average, lagged by two weeks) decreased by 32.4 cpl from 93.3 cpl to 60.9 cpl.

**Chart: Movements in diesel retail prices and the benchmark –
1 October to 31 December 2008**

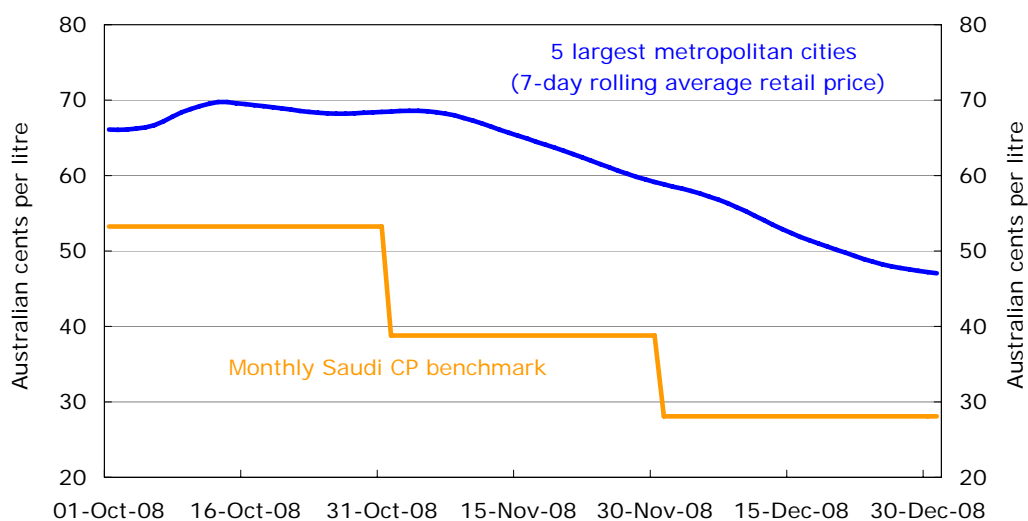


Automotive LPG

The ACCC monitors the movement of automotive LPG retail prices against the average price of Saudi Aramco contract prices for propane and butane, which are issued on the first day of the month. The chart below illustrates that retail prices broadly tracked movements in the benchmark over the December quarter 2008.

During the period 1 October to 31 December 2008, retail automotive LPG prices in the five largest metropolitan cities decreased by 19.1 cpl, from 66.1 cpl to 47.0 cpl. This followed sharp decreases of the Saudi CP benchmarks in November and December 2008. The December 2008 benchmark price of 28.1 cpl was the lowest since the middle of 2005.

**Chart: Movements in automotive LPG retail prices and the benchmark –
1 October to 31 December 2008**



6. International activities

The ACCC's international activities support the work the ACCC by promoting international enforcement assistance and best practice regulation as well as by developing and maintaining effective networks and links with international counterpart agencies. Core activities undertaken include:

- managing the ACCC's involvement at international forums, including the coordination and preparation of contributions on issues of relevance to the ACCC
- coordinating information-sharing and enforcement assistance with counterpart agencies
- managing the ACCC's technical assistance activities with developing economies
- advising the ACCC of various global developments through research, analysis and reporting
- building and sustaining strong links with key international officials and organisations.

Bilateral meetings

The ACCC participates in a variety of international events throughout the year. Attendance at these events:

- advocates the work of the ACCC
- promotes competition and consumer protection in the region
- assists in the ACCC receiving global development updates, information and best practice strategies on enforcement activities from counterpart agencies
- assists in building and sustaining strong links with key international officials and organisations.

During the December quarter 2008, the ACCC:

- attended and presented at the Second International Roundtable on Telecommunications & Antitrust in Canada and held side meetings with Canada's CRTC, UK's Ofcom & the UK Office of the Telecommunications Adjudicator
- attended and presented at the OECD/Korean Regional Centre for Competition seminar on quantitative techniques in horizontal merger analysis
- participated in the OECD Competition Committee and Consumer Policy meetings

- participated in the International Consumer Protection Enforcement Network conference
- participated in the ICN cracking cartels conference and cartel workshop in Portugal
- attended the European Competitive Telecommunications Association's annual Regulatory Conference
- participated in the Melbourne University's conference, 'Unleashing the Tiger – Competition Law in China and Hong Kong'.

Free trade agreements

The ACCC continues to be an active participant in the Free Trade Agreement negotiation rounds contributing to work on competition and consumer protection issues. The ACCC's goal in participating in such negotiations is to promote competition in the region, ensure that the agreements are compatible with Australia's competition regulations, are practical in implementation and that FTAs contain mechanisms to build cooperative arrangements between the relevant enforcement authorities.

Information requests

The ACCC continues to be active in information-sharing with its international counterpart agencies. During the September quarter 2008, the ACCC received requests from Canada, China, Chile, Fiji, Finland, Ireland, Japan, New Zealand, United States, United Kingdom, Taiwan and the European Commission. Examples of shared information included the ACCC's activities regarding market inquiries, best practice processes for investigations, product safety standards, outreach methodology, cross-border marketing fraud and general competition, regulatory and consumer protection processes and law inquiries.

The ACCC made similar requests to its counterparts in Brasil, China, European Commission, Ireland, Japan, Singapore, United Kingdom and United States about merger inquiries, cartel investigations, mass marketing fraud, green claims and online internet businesses, and general inquiries to assist enforcement investigations.

Information exchange meetings and study visits

In conjunction with information requests, the ACCC meets with counterpart authorities to share experiences or to provide ACCC expertise to assist in the development of that authority. The following meetings and study visits took place this quarter:

- met with representatives of the China State Intellectual Property Office to discuss the ACCC's role in enforcing competition law with respect to Intellectual Property
- met with Vietnamese Ministry of Industry and Trade to discuss franchising

- met with delegates from the Vietnamese Central inspection committee to discuss the ACCC role in respect to price monitoring
- met with representatives of the NZ Commerce Commission to discuss options for increased cooperation
- met with the delegates from the Institute for Market and Price Research to discuss the role and functions of AER and ACCC.

Capacity-building activities

The ACCC has an active technical assistance program that is highly regarded internationally. ACCC involvement in technical assistance programs provides staff with valuable experience in training delivery. Capacity-building activities that took place this quarter include:

- Discussions with Indonesian officials from the Commission for the Supervision of Business Competition to discuss a request for technical assistance.
- Discussions with staff from the Vietnam Competition Administration Department to examine options for a comprehensive capacity-building program.
- Participation in an APEC training course on competition policy – challenges for cartel cases in domestic/international market.

Staff Exchange

The ACCC and its counterpart agencies participate in staff exchanges or secondments to assist in developing an increased understanding of the respective jurisdiction and to facilitate cooperation between authorities.

The ACCC and the Taiwan Fair Trade Commission concluded a three month reciprocal staff exchange in December.

7. Reviews and inquiries

Legislative amendments

Trade Practices Legislation Amendment Act 2008

The *Trade Practices Legislation Amendment Act 2008*, which contains a number of amendments to s. 46 and other provisions of the *Trade Practices Act 1974*, was passed by parliament on 10 November 2008 and received Royal Assent on 21 November 2008.

Described below are the amendments contained in the Act:

- amendments to s. 46 to specify that recoupment is not required to be proved in predatory pricing cases under s. 46(1) and to clarify the meaning of ‘take advantage’
- amendments to s. 86(1A) to allow private actions under s. 46 to be taken in the Federal Magistrates Court and to enable the ACCC to take s. 46 and other matters referred to in s. 86(1A) to that court
- amendment of s. 51AC to repeal the monetary threshold (\$10 million) contained in the provision
- amendment of s. 10 to require that at least one deputy chairperson of the ACCC has knowledge of, or experience in, small business matters
- amendment of s. 155 to extend the ACCC’s powers under the provision beyond interlocutory legal proceedings until substantive legal action has commenced.

These amendments commenced on 22 November 2008.

Trade Practices Amendment (Clarity in Pricing) Act 2008

The *Trade Practices Amendment (Clarity in Pricing) Act 2008* was passed by parliament on 11 November 2008 and received Royal Assent on 25 November 2008. The Act amends s. 53C of the *Trade Practices Act 1974* to require the specification of a single-figure price in component price representations to consumers. The amendment will commence on proclamation but not later than 26 May 2009.

This Act also implemented a technical amendment to the product safety provisions of the *Trade Practices Act 1974* to clarify that breach of a notice under s. 65E is a criminal offence. This amendment commenced on 26 November 2008.

Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008

The *Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008*, which seeks to criminalise cartel conduct, was introduced to parliament on

3 December 2008 and was referred to the Senate Economics Committee. The committee is to report by 20 February 2009. Also included in the bill are provisions that (i) extend the ACCC's capacity to conduct search warrants; (ii) set out a new regime to enhance confidentiality of cartel information provided to the ACCC; and (iii) enable the AFP to seek telecommunications interception warrants for cartel offences on behalf of the ACCC.

National Fuelwatch (Empowering Consumers) Bill 2008

The *National Fuelwatch (Empowering Consumers) Bill 2008* was rejected by the Senate on 12 November 2008. The bill sought to create a national scheme requiring petrol retailers to notify the ACCC daily of their petrol prices for the next day and then maintain those prices for 24 hours.

Parliamentary inquiries

Senate inquiry into fertiliser market

On 8 October, the ACCC appeared before the Senate Select Committee on the National Broadband Network.

On 3 November, the ACCC appeared before the Senate Economics Committee's inquiry into the need for a definition of unconscionable conduct in the Trade Practices Act.

On 5 November, the ACCC appeared before the Joint Committee on Corporations and Financial Services inquiry into the Franchising Code of Conduct.

On 14 November 2008, the Chief Executive Officer, Brian Cassidy, and senior ACCC staff appeared before the Senate Select Committee on Agriculture and Related Industries inquiry into pricing and supply arrangements in the Australian and global fertiliser market.

Appendix

Speeches

The Chairman, commissioners and staff gave 53 addresses and presentations in the September quarter 2008. Significant presentations included:

ACCC Chairman

- 26 November 2008, *Consumers and small business: at the very heart of the Trade Practices Act*, Australia and New Zealand School of Government (ANZOG) Public Lecture, Australian National University.

ACCC Commissioners

- Mr John Martin, 8 December 2008, *The ACCC's perspective on the wagering industry*, 4th Annual Horse Racing and Sports Betting Forum.
- Mr Ed Willett, 3 December 2008, *The Australian broadband industry: a regulator's perspective*, Committee for Economic Development of Australia – Australia's Broadband Future.
- Mr John Martin, 24 November 2008, *Outstanding governance practices: staying on top through a vibrant trade practices compliance program*, Mahony Dominic Lawyers – Excellence in Business Awards.
- Dr Michael Schaper, 17 November 2008, *What professionals should know about the Trade Practices Act*, Professions Australia November 2008 meeting.
- Mr Ed Willett, 29 October 2008, *The ACCC and the Murray–Darling Basin*, Australian Water Association NSW Branch – Young Water Professionals' Seminar Series.

News releases

During the December quarter 2008, the ACCC issued 98 news releases and the AER issued seven news releases.

Publications

Publications released from 1 October to 31 December 2009

Corporate

ACCC ejournal, issues 52 to 54

ACCC–AER information policy: the collection, use and disclosure of information

ACCCCount – A report of the Australian Competition and Consumer Commission’s activities, 1 July to 30 September 2008

ACCC annual report 2007–08

ACCC corporate plan 2008–09

ACCC briefing October 2008

ACCC employee collective agreement 2009–10

For consumers

Consumer information in your language, how the ACCC can help you

Domestic treadmills, safety alert

Lotteries, sweepstakes and competition scams, fact sheet

Money transfer scams, fact sheet

Phishing scams, fact sheet

For business

Merger guidelines 2008

Outreach newsletter, December 2008

Retail flash, No 11, 2008

Water brokers and exchanges – Your fair trading obligations

Water trading – A guide to your fair trading rights when using brokers and exchanges

Water trading – An overview of your fair trading rights when using brokers and exchanges

ACCC reports

Container stevedoring: monitoring report no.10

Merger guidelines 2008

Monitoring of the Australian petroleum industry – report of the ACCC into the prices, costs and profits of unleaded petrol in Australia

Regulated industries

Draft water charge (termination fees) rules

Draft water market rules and advice to the minister on the draft water market rules

Network, issue 30

State of the energy market report, 2008

Water charge rules for water planning and management charges, issues paper –
October 2008

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Callers who are deaf or have a hearing or speech impairment can contact the ACCC through the National Relay Service www.relayservice.com.au or 133677.

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