



Australian
Competition &
Consumer
Commission

ACCCOUNT

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

1 April to 30 June 2010

Australian Competition and Consumer Commission

23 Marcus Clarke Street, Canberra, Australian Capital Territory 2601

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ACCC 07/2010

www.accc.gov.au

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Overview

The Australian Competition and Consumer Commission, through securing compliance with the *Trade Practices Act 1974*, enhances the welfare of all Australians by promoting competition and fair trading and protecting consumers from unscrupulous business practices.

In meeting these objectives, the ACCC ensures that its processes are efficient, transparent and fair, and that outcomes achieved are communicated to the Australian public. In the June 2010 quarter, the ACCC undertook a range of activities that benefited both businesses and consumers.

New laws which came into force on 1 July 2010 greatly expanded the ACCC's ability to provide greater protection to both consumers and potential franchisees. The Trade Practices Amendment (Australian Consumer Law) Bill (No. 1) 2010 strengthened protection against unfair terms in standard form contracts, and changes to the Franchise Code mean prospective franchisees will have more relevant information to help them make more informed decisions before entering an agreement.

The ACCC's ability to communicate with both suppliers and consumers was significantly enhanced in the June 2010 quarter by the launch of its product safety Twitter account—which reached more than 100 000 people in the first two days alone. The ACCC also developed a product safety recalls 'widget', which is an application that can be placed on other websites and allows the ACCC's recalls database to be searched. The publication of the ACCC's first informative video on YouTube and the Product Safety Australia website also helped to expand the ACCC's communication strategies to include more modern and innovative communication media.

The ACCC's ongoing commitment to enforcing the standards enshrined in the Franchising Code of Conduct resulted in three significant outcomes during the June 2010 quarter. The ACCC successfully sought Federal Court orders and declarations in respect of different aspects of the Franchising Code that were contravened by Mailpost Australia Ltd, Allphones Retail Pty Ltd and Seal-a-Fridge Pty Ltd. Allphones and Seal-a-Fridge were also found by the Federal Court to have engaged in unconscionable conduct against their franchisees. The court ordered \$3 million to be distributed among Allphones franchisees by way of compensation.

The Federal Court ordered Admiral Mechanical Services Pty Ltd, along with several other companies and individuals, to pay pecuniary penalties totalling \$9.271 million for involvement in collusive tendering for air conditioning contracts with schools, hospitals and shopping centres in Western Australia. The Federal Court also ordered four foreign-based suppliers of marine hose to pay penalties exceeding \$8.24 million for engaging in cartel conduct. The penalty reflects the highly organised nature of covert cartel conduct that has been engaged in by large multinational companies and that, over extended time periods, has the effect of suppressing and potentially even eliminating competition in Australia and elsewhere.

In total, the ACCC instituted eight litigation proceedings on enforcement matters during the June 2010 quarter. Eight litigation proceedings were also concluded. These matters varied in nature. They included misleading or deceptive conduct in the use of the word 'unlimited' in advertisement of telecommunications plans, non-compliance with prescribed product safety standards, and allegations of price fixing in the market for the international carriage of air cargo.

The June 2010 quarter was also a particularly busy period for the ACCC in its role of reviewing mergers and acquisitions. During this time, the ACCC decided to oppose National Australia Bank Ltd's proposed acquisition of AXA Asia Pacific Holdings Ltd's Australian and New Zealand businesses, and objected to the withdrawal of the section 87B undertakings that related to the Dampier to Bunbury natural gas pipeline. Statements of issues were also issued for Swift Australia Pty Ltd's proposed acquisition of Rockdale Beef Pty Ltd, as well as the proposed acquisition of Warrnambool Cheese and Butter Factory Company Holdings Ltd by Murray Goulburn Co-operative Co. Ltd.

In regulatory matters, the ACCC issued a discussion paper reviewing the pricing of the domestic transmission capacity service, and issued two current cost accounting reports under the accounting separation regime for Telstra. The ACCC also issued 18 final determinations, finalising 19 access disputes between Telstra and various access seekers.

The Australian Energy Regulator released its final decision and distribution determinations for the South Australian and Queensland electricity distributors for the period 1 July 2010 to 30 June 2015 and its draft determination for Victorian electricity distribution businesses for the period 1 January 2011 to 31 December 2015. The AER also continues its regulatory role in gas network matters, where it recently revised and approved two access arrangement decisions in New South Wales and the Australian Capital Territory.

1 Enforcement and compliance

Maintaining and enhancing compliance with the Trade Practices Act is a key objective of the ACCC. It does 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 its liaison, analysis, outreach and compliance arms.

Complaints and inquiries

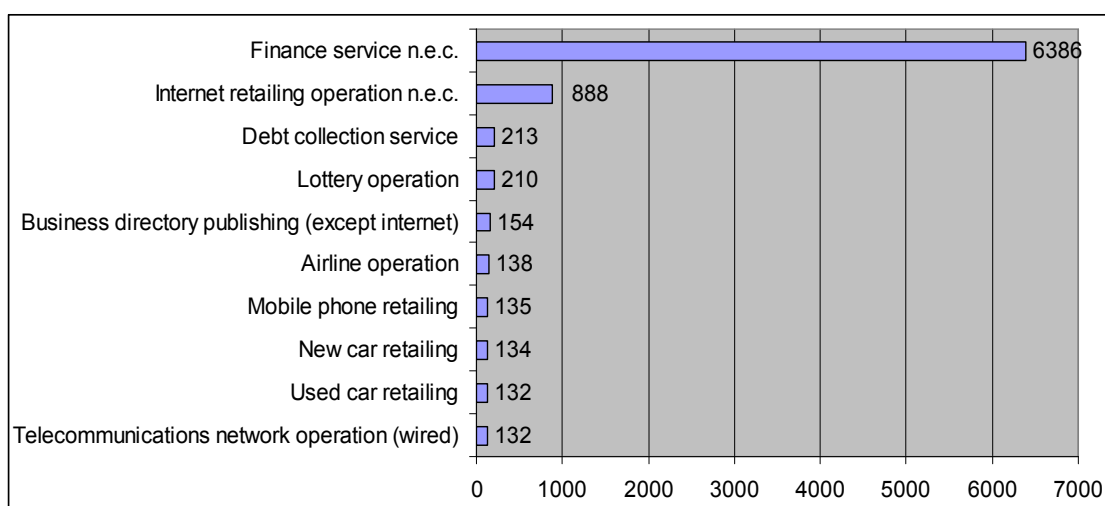
During the June 2010 quarter the ACCC Infocentre responded to 28 374 complaints and inquiries from businesses and consumers:

- email: 7858
- telephone: 20 023
- letter correspondence: 493.

Of these complaints and inquiries, 20 275 (71 per cent) were entered into the ACCC's TRACKIT database.¹

Major drivers of these contact levels include concerns about scam-based activity, requests for warranty and refunds advice, and complaints about the internet retailing sector. The ACCC placed 510 complaints and inquiries into the 'Under assessment' category for further consideration during the June 2010 quarter.

Chart 1.1: The 10 industries attracting the most complaints



The category 'Finance service n.e.c.' in the above chart refers primarily to complaints received about advance fee and other financial fraud schemes.

¹ The ACCC often receives contacts that are unrelated to its operations. These contacts are usually referred to other government or non-government agencies and are not recorded in the TRACKIT database.

Of the complaints and inquiries entered into the ACCC's database during the period, 84 per cent related to consumer protection matters, which was higher than the 2009 average of 79 per cent. Competition matters accounted for 2.6 per cent of contacts, which was lower than the average figure of 5 per cent reported in 2009. Other matters accounted for 13.4 per cent, down from the 16 per cent 2009 average.

Enforcing for businesses and consumers

In undertaking its enforcement activity, the ACCC remains committed to working in an efficient and professional manner. As Australia's national consumer protection and competition agency, the ACCC manages its enforcement processes to achieve effective and efficient outcomes that serve the public interest.

Litigation commenced

The ACCC commenced eight first-instance enforcement litigation proceedings in the Federal Court of Australia during the June 2010 quarter for alleged breaches of the Trade Practices Act.

Malaysian Airline System Berhad and another

Commenced 9 April 2010 | NSD373/2010

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

PB Supplies Pty Ltd

Commenced 16 April 2010 | NSD399/2010

Proceedings under Part V for alleged misrepresentations, misleading or deceptive conduct, and asserting a right to payment in respect of unsolicited goods.

Laulhati Jutsen and others

Commenced 14 May 2010 | NSD529/2010

Proceedings under Part V for alleged pyramid selling in relation to the 'TVI Express' scheme.

Philip James Robinson

Commenced 14 May 2010 | SAD67/2010

Criminal proceedings under Part VC for alleged supply of infant sleeping bags that did not have a fire hazard information label, in contravention of the relevant consumer product safety standard.

Air New Zealand Ltd

Commenced 17 May 2010 | NSD534/2010

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

Japan Airlines International Co. Ltd

Commenced 17 May 2010 | NSD535/2010

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

Global Green Plan Ltd and others

Commenced 2 June 2010 | NSD624/2010

Proceedings under Part V for alleged breach of a section 87B undertaking.

Singtel Optus Pty Ltd

Commenced 3 June 2010 | VID434/2010

Proceedings under Part V for alleged misleading or deceptive conduct in the use of the word 'unlimited' in the advertisement of telecommunications plans.

Proceedings concluded

Eight first-instance enforcement litigation proceedings were finalised during the June 2010 quarter.

Admiral Mechanical Services Pty Ltd and others

Commenced 17 December 2004 | Concluded 13 April 2010 | WAD289/2004

Proceedings under Part IV initiated against 17 companies and 22 individuals for involvement in collusive tendering for air conditioning contracts with schools, hospitals and shopping centres in Western Australia.

Justice Gilmour, Federal Court Perth

Outcome: Orders imposed include declarations, injunctions, pecuniary penalties and costs. In total, pecuniary penalties of \$9.271 million were imposed on respondents in these proceedings.

Bridgestone Corporation and others

Commenced 1 June 2009 | Concluded 13 April 2010 | VID407/2009

Proceedings under Part IV for allegedly engaging in price fixing and market sharing conduct in the supply of marine hoses to the Australian oil and gas industry.

Justice Finkelstein, Federal Court Melbourne

Outcome: Declarations, injunctions restraining the respondents from engaging in similar conduct, and costs. Penalties: Trelleborg Industrie SAS: \$3.2 million; Dunlop Oil and Marine: \$2.68 million; Bridgestone Corporation: \$1.6875 million; Parker ITR: \$675 000.

Mailpost Australia Ltd and others

Commenced 23 December 2009 | Concluded 20 April 2010 | NSD1474/2009

Proceedings under Parts IVB and V for alleged failure to comply with the Franchising Code of Conduct and alleged false, misleading or deceptive representations about the Mailpost business.

Justice Foster, Federal Court Sydney

Outcome: Declarations, costs and injunctions restraining the respondents from engaging in similar conduct. Respondents also undertake to provide copies of the court's orders to all franchisees and undergo trade practices compliance training.

Allphones Retail

Commenced 25 March 2008 | Concluded 28 April 2010 | NSD408/2008

Proceedings under Parts IVA, IVB and V for allegedly breaching the Franchising Code of Conduct and engaging in misleading or deceptive conduct and unconscionable conduct.

Justice Foster, Federal Court Sydney

Outcome: \$3 million to be distributed to the franchisees in line with the formulae proposed by the ACCC; and declarations and injunctions against Allphones, by consent, including for systemic unconscionable conduct, breaches of the Franchising Code of Conduct, and misleading and deceptive conduct. Orders were also made against individual respondents knowingly involved in the conduct.

Allphones (representative action)

Commenced 14 August 2009 | Concluded 28 April 2010 | NSD869/2009

Class action proceedings under Parts IVA, IVB and V on behalf of 74 eligible current and former Allphones franchisees seeking damages for alleged unconscionable conduct by Allphones Retail Pty Ltd and three individuals.

Justice Foster, Federal Court Sydney

Outcome: See outcome in Allphones Retail, above.

Storesonline International Inc.

Commenced 5 October 2007 | Concluded 5 May 2010 | NSD1991/2007

Proceedings under Part V for alleged breach of section 87B undertakings provided by the respondents in settlement of earlier legal proceedings against them.

Justice Edmonds, Federal Court Sydney

Outcome: Declarations, costs.

Lift Shop and Leslie Katz

Commenced 26 March 2010 | Concluded 4 May 2010 | NSD318/2010

Proceedings under Part V for alleged misleading or deceptive conduct in connection with the supply of platform lifts.

Justice Nicholas, Federal Court Sydney

Outcome: Declarations; injunctions; Lift Shop to implement a trade practices compliance program and notify the customers affected by the court outcome and maintain a notice in relation to the matter on Lift Shop's website, and implement a trade practices compliance program.

Seal-A-Fridge and Nigel John Rooney

Commenced 4 July 2008 | Concluded 4 June 2010 | QUD184/2008

Proceedings under Parts IVA and IVB for alleged unconscionable conduct towards its franchisees and failure to comply with the Franchising Code of Conduct in the mobile refrigeration seal replacement industry.

Justice Logan, Federal Court Brisbane

Outcome: Declarations; injunctions; a publication order; a probation order requiring the implementation and maintenance of a fully documented complaint-handling system for a period of three years, and for the documentary records of the complaint-handling system to be available to the ACCC to be reviewed and copied within 14 days of a written request for those records; an order requiring Nigel Rooney to attend a trade practices compliance program; costs.

Section 87B undertakings accepted

The ACCC accepted two enforcement-related section 87B undertakings during the June 2010 quarter:

Scubapro-Uwatec Australia Pty Ltd provided court enforceable undertakings to the ACCC in relation to alleged retail price maintenance. Scubapro-Uwatec Australia Pty Ltd has undertaken to:

- not induce or attempt to induce a reseller from advertising or selling Scubapro products at a price less than a price specified by Scubapro
- write to all Scubapro dealers informing them that Scubapro does not have a policy on discounting and that there is no obligation to follow the recommended retail price
- provide at least once a year, for a period of three years, all Scubapro officers, employees, sales representatives and sales agents with trade practices training which focuses on Part IV of the Trade Practices Act
- commission a suitably qualified legal practitioner with expertise in trade practices law to prepare a trade practices compliance manual for distribution to each of its officers, sales representatives and sales agents.

Wendy Wu Tours Pty Ltd has provided court enforceable undertakings to the ACCC in relation to an alleged breach of all-inclusive pricing provisions. Wendy Wu Tours Pty Ltd has undertaken to:

- ensure its future advertising would comply with the Trade Practices Act
- establish a trade practices law compliance program.

2 Communicating with businesses and consumers

The ACCC continues its strong commitment to liaise with, consult and inform businesses and consumers about their rights and obligations under the Trade Practices Act.

Liaison and education activities

The ACCC works with other regulators, government departments, businesses, industry associations and consumer associations in monitoring emerging trade practices issues and educating relevant stakeholders.

During the June 2010 quarter, the ACCC:

- attended over 120 meetings with government and industry representatives, small business operators and consumer groups nationally
- participated in over 15 small business and franchising expos and field days
- called for expressions of interest for the membership of both the ACCC's Small Business Consultative Committee and Franchising Consultative Committee. Membership of the committees was finalised, and meetings were held in June 2010.
- undertook its third review of the membership of its Consumer Consultative Committee. The first meeting with new members will be held in early August 2010
- conducted over 50 presentations to small business operators, industry associations and consumer groups on topics including scams, trade practices issues affecting small business, the Franchising Code of Conduct and the Horticulture Code of Conduct
- issued four updates to subscribers of the ACCC's Small Business Information Network on issues such as court outcomes and new publications relevant to small business
- published eight radar alerts on SCAMwatch, including warnings for end-of-financial-year small business scams, soccer world cup ticket scams, and phishing scams targeting Medicare and Centrelink
- published new and revised website content for consumers on telecommunications issues, improving ease of navigation and enhancing the practical relevance of the information to consumers
- met with the Communications Alliance at its stakeholder consultation meeting in May 2010 about the review of its Telecommunications Consumer Protections Industry Code. The ACCC will participate in

the code review steering group and provide ongoing input to the code review process.

Trade Practices Act awareness

The ACCC continues to work with industry associations to address emerging trade practices compliance issues. During this quarter, activities included:

- liaison meetings with major retail groups to encourage compliance with the Trade Practices Act. These meetings included consideration of concerns and trends identified from ACCC contacts, and discussions about component pricing practices and warranty and refund policies.
- participation in the first annual National Law Week in May 2010. National Law Week aims to educate the community about the law, the legal system and the legal profession. The ACCC's participation focused on consumer rights in relation to mobile telephony.
- a new ACCC publication, *Professions and the Trade Practices Act*. This publication is an easy-to-read guide for professional associations and their members. It outlines the obligations of both associations and members, and provides tips on how to avoid breaching the Trade Practices Act. *Professions and the Trade Practices Act* was launched at the Professions Australia AGM on 5 May 2010. The ACCC is working with members of the sector to assist professionals and professional associations in understanding their rights and obligations under the Trade Practices Act.
- activities of the Australasian Consumer Fraud Taskforce (ACFT), which the ACCC chairs. While its annual scam education and awareness campaign in March is the premier event, ACFT activities are ongoing through the year. On 1 June 2010, the ACCC participated in the Global Day of Action—Think Fraud campaign, a worldwide effort by the International Mass Marketing Fraud Working Group to combat advance fee fraud. Mass marketing fraud is the major type of consumer fraud reported to the ACCC, representing 54 per cent of scam reports made to the agency in 2009.
- a survey, to support the Global Day of Action, following up from the ACCC's 2009 Scam Activity Report to look at consumers' experiences with scams. The survey of callers who contacted the ACCC Infocentre during April 2010 about scam-related issues confirmed the sophisticated nature of advance fee fraud scams, which were often disguised in legitimate dating or online shopping sites. The survey will assist the ACCC to further enhance its education activities to increase awareness about the dangers of scams and how consumers can better protect themselves.

Australian Consumer Law—unfair contract terms guidance for industry and consumers

A guide to the new unfair contract terms law, developed jointly by the ACCC, the Australian Securities and Investments Commission (ASIC) and state and territory consumer protection agencies, was released on 1 June 2010.

To complement the guide, and to help consumers understand the unfair contract terms law, the ACCC developed a flyer, *Consumers and unfair contract terms*. The ACCC also developed *News for business: Unfair contract terms*, which provides an easy-to-read overview of the new provisions for business.

All publications are available from the ACCC website. The guide and the consumer flyer have also been published in audio format.

Australian Consumer Law—memorandum of understanding

Signing of the Australian Consumer Law (ACL) memorandum of understanding (MOU) is now complete.

The parties to the MOU are the ACCC, ASIC and the state and territory consumer protection agencies, as well as the New Zealand Ministry of Consumer Affairs and the New Zealand Commerce Commission to the extent that the matters are relevant to trans-Tasman administration and enforcement of consumer law.

The MOU seeks to establish a framework for communication, cooperation and coordination between the parties so that they can, both collectively and within their own jurisdictions, most effectively protect and empower consumers and promote fair trading under the ACL.

The MOU also incorporates cooperative arrangements between agencies to ensure a more nationally consistent and effective product safety regime, which has also been substantially simplified and streamlined in the new framework.

Codes of conduct

Mandatory codes of conduct

The rights and obligations under the mandatory codes of conduct within the Trade Practices Act—in particular the Franchising Code of Conduct and the Horticulture Code of Conduct—remained the subject of considerable ACCC educative efforts during the quarter. Activities included:

- updating Franchising Code publications to incorporate amendments to the code
- developing a Franchising Code DVD designed for prospective franchisees, existing franchisees and franchisors to gain a better understanding of their rights and responsibilities under the code
- assisting with the development of an ACCC-funded Griffith University pre-entry education program designed to assist prospective franchisees make more informed decisions before entering into a franchise agreement. The program commences on 1 July 2010; as of 30 June 2010 there were more than 270 registrations.
- hosting a meeting of the Franchising Consultative Committee, which was recently reviewed and had new members appointed. This committee assists the ACCC to identify and address compliance issues within the franchise sector.

- participating in the Franchise Forum 2010 in Brisbane, outlining the ACCC's new powers and amendments to the Franchising Code
- publishing numerous articles on franchising in industry magazines, and issuing media releases addressing the Franchising Code amendments and the Griffith University pre-entry education program
- posting eight mail-outs to the Franchising Code Information Network on a number of franchising-related topics, including the development of an essential guide to the Franchising Code of Conduct; and a mail-out to relevant professional advisers (via the Law Council of Australia, CPA Australia and the Institute of Chartered Accountants in Australia) advising of code amendments.

See chapter 7 for further details regarding the amendments to the Trade Practices Act.

Product safety

The ACCC administers and enforces a range of product safety provisions under the Trade Practices Act that aim to protect consumers from unsafe products.

It receives product recall notifications which are recorded on the Product Recalls Australia website (www.recalls.gov.au), assesses and monitors their effectiveness and advises suppliers on correct recall procedures. It identifies emerging hazards and develops and implements product safety strategies to address them.

The ACCC develops and reviews mandatory safety and information standards and bans. It advises suppliers and consumers about them through a national 'one-stop shop', the Product Safety Australia website (www.productsafety.gov.au); and develops and delivers product safety education programs and compliance strategies. The ACCC also works collaboratively with state and territory consumer product safety agencies to address the fragmented administration and enforcement of standards and bans (through a much stronger national approach) to maximise compliance with these regulations.

Product safety reform activities

The ACCC is progressing a range of product safety reforms approved by the Council of Australian Governments that will lead to a more streamlined product safety system. These reforms will be in place in readiness for the implementation of the ACL changes from 1 January 2011.

The ACCC has worked with the state and territory consumer product safety agencies to rationalise 177 different standards and bans into a single set of approximately 58 regulations. This process is almost complete, with a number of bans and standards being approved by the Minister for Competition Policy and Consumer Affairs this quarter. All bans and standards are outlined on the Product Safety Australia website.

The new national one-stop shop for product safety information, the Product Safety Australia website, was launched on 15 April 2010. Developed by the ACCC in conjunction with state and territory product safety regulators, the website makes it easier for consumers to find information about product safety, including registering to receive updates on product categories relevant to them. It also enables suppliers and manufacturers to access information on mandatory safety standards and product bans from a single location.

A clearing-house system enables early identification of emerging product safety hazards. A wide range of national and international injury and hazard data sources are systematically analysed, enabling a rapid response where a safety issue is identified. The clearing-house reporting system was implemented in April/May 2010, with monthly statistics and associated reports being circulated to other product safety regulators.

Following the completion of a report of a major review of recall effectiveness earlier in 2010, an abridged report was released publicly on 27 May 2010. New recall guidelines have been developed and will be finalised and distributed in the coming months. The ACCC has implemented a range of changes to increase recall effectiveness, and is currently developing improved industry guidance while also working on enhanced reporting functionality which will enable better tracking of recalls.

The Product Safety Consultative Committee (PSCC), which advises the Standing Committee on Consumer Affairs (SCOCA) held its first face-to-face meeting in Canberra in May 2010. The PSCC, which is chaired by the ACCC, continues to provide a strong national platform for the coordination of action in relation to emerging hazards and enforcement and compliance with mandatory standards and bans, and the development of a better product safety system generally.

Following the successful passage of the second bill ACL bill through the Senate, work on developing guidance material for suppliers and consumers about changes to the product safety provisions—including mandatory reporting—was progressed.

Recalls and emerging hazards identification

A key component of the ACCC's product safety responsibilities is the identification of emerging hazards and the management of product recalls. During the June quarter there were 44 consumer product recalls in total, down slightly from 50 in the March quarter. As indicated in Chart 2.1 below, the majority of recalls during the June quarter were in the categories of children's products, cars/boats/bikes and industrial products. This is consistent with the year-to-date trend: most consumer product recalls over the past six months have been of children's products (see Chart 2.2 below).

Chart 2.1: Consumer recalls per category for second quarter 2010

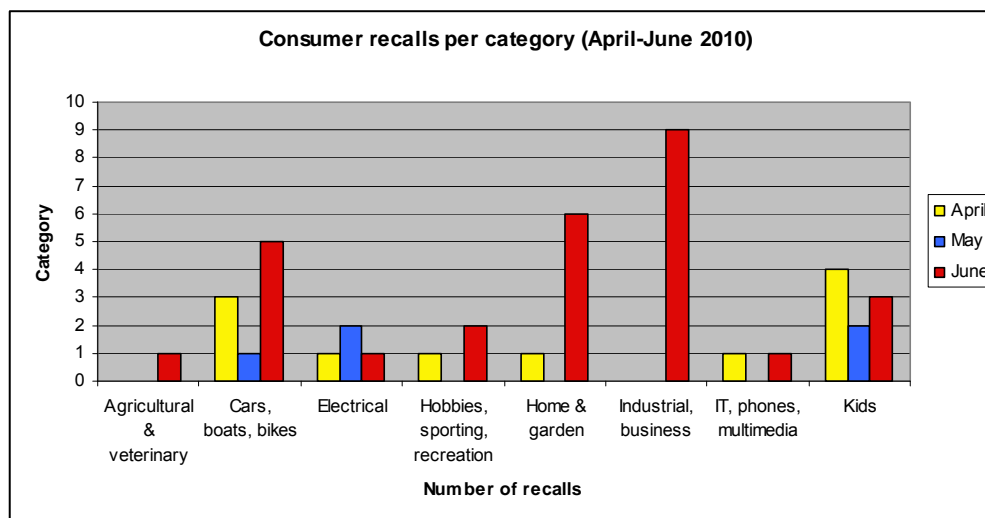
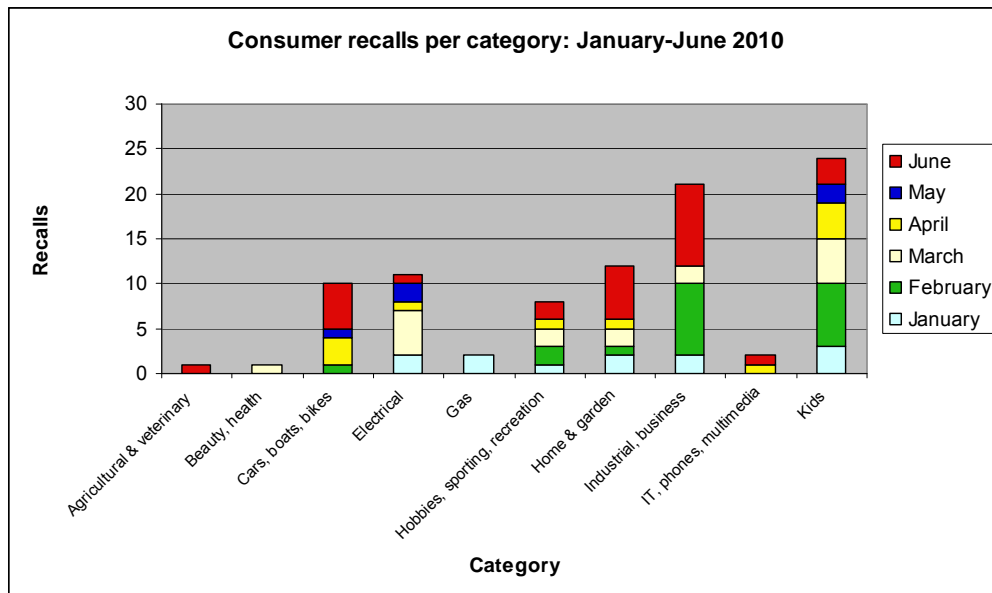


Chart 2.2: Consumer recalls per category over the six months to June 2010



Major consumer product recalls notified to the ACCC this quarter included a global recall of Hewlett-Packard and Compaq notebook computer lithium-ion battery packs, which covered approximately 3000 laptop computers at risk of the battery overheating and creating a fire hazard; and the recall of approximately 2000 heavy-duty commercial gas water heaters by Rheem Australia Pty Ltd due to the risk of the outer jacket of the system overheating and causing contact burns. These gas water heaters were also sold in China, Hong Kong, Indonesia, Thailand and New Zealand.

A number of winter products were also recalled this quarter, including a fan heater which could overheat due to a manufacturing fault. At least one consumer experienced burns to the hand, as well as property damage, due to this fault. A total of 14 000 products were involved in this recall.

Emerging hazards clearing house

Clearing-house reporting to state and territory product safety regulators has now commenced, with positive feedback received on the format and content of the reports. This early identification of product safety hazards will enable faster and more efficient response to hazards.

Mandatory standards and bans

An interim ban was declared on combustible candle holders, and a number of bans are pending declaration on 1 July 2010. These include bans on no-holes tongue studs, novelty cigarettes, inflatable toys/novelties, yoyo water balls, monkey bikes, and certain toy/novelty knives.

Four mandatory standards were finalised: movable soccer goal posts, projectile toys, window coverings, and motor vehicle recovery straps. The single mandatory standard on projectile toys is an excellent example of the benefit of the harmonisation of product safety regulations, as it will replace 17 different Australian regulations when the ACL commences on 1 January.

Reviews of five existing mandatory standards continued—the standards for baby walkers, bunk beds, care labelling, disposable cigarette lighters and hot water bottles.

Product safety enforcement and compliance work

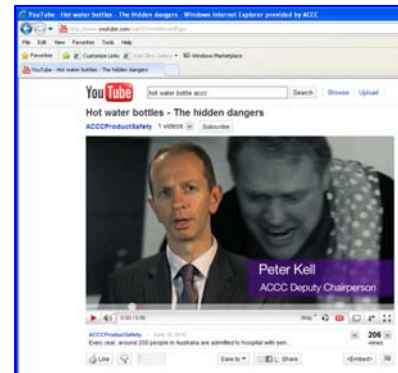
The development and management of national product safety market surveillance activities continues to be a key area of activity. During the quarter, the ACCC worked closely with state and territory regulators to progress the development of the 2010–12 national surveillance program and pre-Christmas toy survey.

Ongoing discussions and liaison, including the delivery of presentations, continued with Standards Australia, various industry sectors and non-governmental organisation stakeholders to promote compliance with mandatory standards and bans.

Education

The ACCC is enhancing how it communicates with both suppliers and consumers, using new mediums to reach its target audience. This quarter the ACCC:

- issued an Avant postcard to promote the Product Safety Australia website. This card was distributed via cafes and other community/family venues around Australia for a two-week period from 19 May and resulted in a significant spike in the number of website hits.
- used Twitter (@ProductSafetyAU) to communicate product recall information and product safety information generally
- developed a recalls 'widget'—an application that can be placed on other websites and allows the recalls database to be searched
- released the ACCC's first-ever YouTube video, promoting hot water bottle safety.



A number of education publications were also produced, including a supplier guide for children's nightwear; and product safety bulletins on children's toys containing magnets, and children's toys containing lead and certain other elements.

The hot water bottle video posted to YouTube was part of a national campaign on hot water bottle safety which also included the development of a safety alert poster and brochure. The brochure will be distributed to a large range of identified stakeholders, including pharmacies nationwide. A national initiative on mobility scooter safety was also finalised and will be launched in early July.

Case study: Product safety and Web 2.0

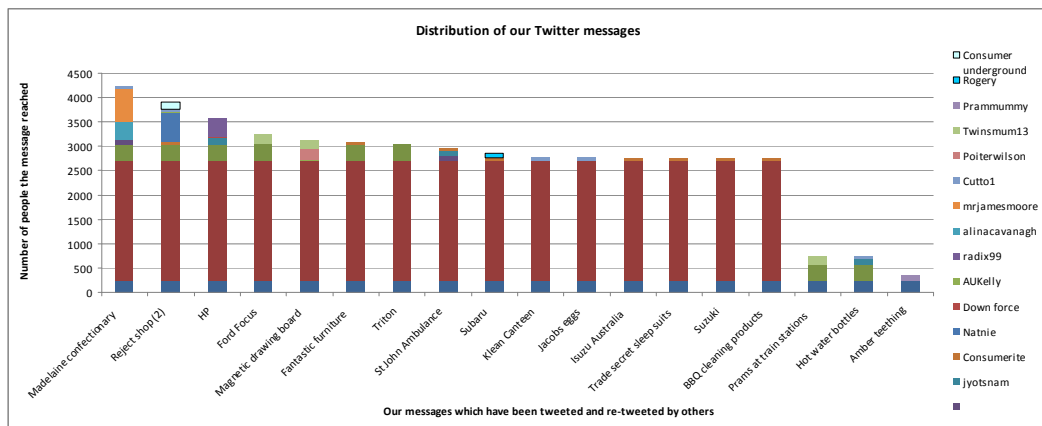
Web 2.0 initiatives

The ACCC has expanded its communication strategies to include more modern and innovative media to complement its existing strategies. The goal is to ensure that more Australians are informed of important product safety information and receive this information from the ACCC. Each medium was specifically chosen because of its ability to increase the distribution of ACCC messages—either in total or for a specific demographic or other group.

ProductSafetyAU on Twitter

On 27 May 2010, Commissioner Peter Kell officially launched the ACCC's product safety Twitter account. Product Safety has thus far published 41 messages on Twitter and currently has 251 followers. Initial messages about the recalls review and the ACCC's being on Twitter reached more than 100 000 people in the first two days. The most powerful feature of Twitter is the ability of people to 're-tweet' ACCC messages—essentially forwarding them to their own followers. The graph below shows how many people have received ACCC messages through Twitter.

Chart 2.3: Distribution of ACCC messages through Twitter



Product recalls widget

The recalls widget (see right) is a small application that can be uploaded to any webpage to display product recall information and allow visitors to search the recalls database. State and territory offices of fair trading have agreed to host the widget on their websites as part of a three-month trial.

The widget will then be marketed to websites that have visitors who are known, through web statistics, to be interested in the Product Safety Australia and recalls websites.



Mobile-friendly websites

Product Safety is working to create mobile and iPhone friendly versions of its websites. This will allow consumers to search for product safety and recall information while on the move, and also lay the foundation for an iPhone application.

YouTube

Product Safety published an informative video on the dangers of hot water bottles on YouTube and the Product Safety Australia website. The video has been viewed 180 times, and messages about the video have reached 740 people on Twitter.

3 Mergers

In assessing mergers, acquisitions and asset sales under section 50 of the Trade Practices Act, the ACCC conducts thorough and rigorous processes to ensure transactions do not lead to a substantial lessening of competition in the marketplace.

Merger reviews undertaken in the June 2010 quarter

Over the past six months, the ACCC refined its reporting processes to distinguish between matters that did not require investigation and review because no competition concerns were considered likely ('pre-assessed matters') and matters that required review.

The matters that were pre-assessed as not requiring review are often referred to the ACCC by other parties or agencies, such as the Foreign Investment Review Board (FIRB), as a courtesy because ACCC clearance is not requested. These pre-assessed matters also result from the ACCC's intelligence activities.

In the June 2010 quarter, 34 matters were pre-assessed by the ACCC. Also during that period, the ACCC reviewed 42 matters, including confidential and public merger reviews. Of the matters reviewed, 79 per cent of merger proposals were cleared unconditionally by the ACCC.

The ACCC opposed one public merger proposal outright and expressed concerns following two confidential review proposals. For one previous matter, variations to existing section 87B undertakings were rejected. No decisions were made in five reviews, either because the proposal was withdrawn or because a view could not be formed on a confidential basis.

Table 3.1: Matters assessed and reviews undertaken, June quarter 2010

	Confidential	Public	Total
Pre-assessed¹ 1 April to 30 June 2010	34	0	34
Total reviews undertaken 1 April to 30 June 2010	9	33	42
Total reviews can be broken down into the following categories:			
Not opposed	6	27	33
Finished—no decision (including withdrawn) ²	1	4	5
Opposed outright	0	1	1
Confidential review—ACCC concerns expressed	2	0	2
Resolved through undertakings ³	0	0	0
Variation to undertaking accepted	0	0	0
Variation to undertaking rejected	0	1	1
Total matters assessed and reviews undertaken	43	33	76

Table 3.2: Matters assessed and reviews undertaken, 1 July 2009 to 30 June 2010

	Confidential	Public	Total
Pre-assessed¹ 1 July 2009 to 30 June 2010	153	0	153
Total reviews undertaken 1 July 2009 to 30 June 2010	46	122	168
Total reviews can be broken down into the following categories:			
Not opposed	31	100	131
Finished—no decision (including withdrawn) ²	8	8	16
Opposed outright	0	8	8
Confidential review—ACCC concerns expressed	6	0	6
Resolved through undertakings ³	0	4	4
Variation to undertaking accepted	1	1	2
Variation to undertaking rejected	0	1	1
Total matters assessed and reviews undertaken	199	122	321

Notes ¹ includes FIRB and APRA notifications.

² These are matters where no decisions were made. They are not included in the timings in the table below.

³ Only public matters can be resolved through undertakings.

Table 3.3: Comparative financial year merger statistics

Financial year	Total matters assessed and reviews undertaken	Not opposed*	Cleared with undertakings	Opposed or concerns expressed confidentially
2002–03	191	182	2	7
2003–04	189	183	2	4
2004–05	189	178	9	2
2005–06	272	261	6	5
2006–07	390	365	8	17
2007–08	397	380	6	11
2008–09	412	396	5	11
2009–10	321	302	4	15

*This includes reviews that were not opposed plus matters assessed where a review was not required, as well as matters that were withdrawn before a decision was made, reviews in which no view could be formed on a confidential basis, and reviews of variations to undertakings.

Time taken to assess mergers

The following table breaks down the time taken by the ACCC to complete reviews of merger proposals in the June quarter.

Reviews of completed mergers are not subject to the same time frames as reviews of proposed mergers for several reasons, including that it often takes longer to obtain parties' submissions because time is no longer an imperative. The tables do not include matters assessed as not requiring substantive review, e.g. FIRB notifications. The majority of matters that are pre-assessed as not requiring a review are dealt with in less than two weeks, but are not recorded in these tables because the tables list only the timing relating to substantive merger investigations.

Table 3.4: Time taken to review merger proposals, 1 April 2010 to 30 June 2010²

Time taken to undertake merger reviews (cumulative)	Number of reviews	Percentage of mergers
Two weeks or less	6	21%
Four weeks or less	7	46%
Six weeks or less	11	86%
Eight weeks or less	2	93%
More than eight weeks	2	7%

The table below shows the time taken by the ACCC to complete reviews of merger proposals in the 2009–10 financial year.

Table 3.5: Time taken to review merger proposals 1 July 2009 to 30 June 2010³

Time taken to undertake merger reviews (cumulative)	Number of reviews	Percentage of mergers
Two weeks or less	12	10%
Four weeks or less	57	55%
Six weeks or less	32	80%
Eight weeks or less	11	89%
More than eight weeks	14	11%

Statement of issues

Two statements of issues were released during the June quarter:

- Swift Australia Pty Ltd—proposed acquisition of Rockdale Beef Pty Ltd—24 June 2010
- Murray Goulburn Co-operative Co. Ltd—proposed acquisition of Warrnambool Cheese and Butter Factory Company Holdings Ltd—22 April 2010.

² This does not include the 34 pre-assessed matters, the five matters where no decisions were made, the matter in which variations to existing undertakings were rejected, or eight reviews of completed mergers.

³ This does not include 153 pre-assessed matters, 16 matters where no decisions were made as the ACCC could not form a view or the proposal was withdrawn, three reviews of variations to existing undertakings, or 23 reviews of completed mergers.

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 public competition assessments outlining how decisions are reached on matters of particular public interest or those that have important precedence value.

The ACCC issued three public competition assessments during this quarter:

- Cargill Australia Ltd—proposed acquisition of Goodman Fielder’s commercial fats and oils business—11 May 2010—edible oils
- Agilent Technologies Inc.—proposed acquisition of Varian Inc.—30 April 2010—scientific instrumentation
- Link Market Services Ltd—proposed acquisition of Newreg Pty Ltd—21 April 2010—securities registration sector.

Section 87B undertakings

No section 87B undertakings were accepted in the June 2010 quarter, and one variation to existing undertakings was rejected:

- Proposed withdrawal of section 87B undertakings relating to the Dampier to Bunbury Natural Gas Pipeline—9 June 2010.

Major matters

Major matters decided or withdrawn during the June 2010 quarter included:

- Proposed withdrawal of section 87B undertakings relating to the Dampier to Bunbury Natural Gas Pipeline
- Murray Goulburn Co-operative Co. Ltd—proposed acquisition of Warrnambool Cheese and Butter Factory Company Holdings Ltd (withdrawn before decision)
- Woolworths Ltd—completed acquisition of a supermarket site at Tura Beach, New South Wales
- AMP Ltd—proposed acquisition of AXA Asia Pacific Holdings Ltd Australian and New Zealand businesses
- National Australia Bank Ltd—proposed acquisition of AXA Asia Pacific Holdings Ltd Australian and New Zealand businesses.

The ACCC’s merger analysis of these matters is set out below.

Proposed withdrawal of section 87B undertakings relating to the Dampier to Bunbury Natural Gas Pipeline (DBNGP)

Result: On 9 June 2010 the ACCC announced it did not consent to the proposed withdrawal of the 2007 undertaking, the 2004 undertaking and the 2004 Epic Energy (WA) Transmission Pty Ltd (EEWAT) undertaking.

Summary: On 8 January 2010 the ACCC commenced market inquiries on proposals to withdraw the 2004 undertakings of Alinta Ltd and others and EEWAT, and the 2007 undertaking of Babcock and Brown Infrastructure (BBI) and Babcock and Brown Power (BBP).

The 2004 undertakings were accepted in relation to the ACCC's decision not to oppose the acquisition of the DBNGP by the Alinta/Alcoa/DUET consortium. The objective of the undertakings was to address the ACCC's competition concerns with respect to the vertical integration of Alinta and Alcoa as owners and shippers of the DBNGP. The ACCC was concerned that Alinta and Alcoa would use their interests in the ownership of the DBNGP to favour their downstream businesses (which used gas transported by the DBNGP).

The 2007 undertaking was accepted in relation to the ACCC's decision not to oppose the acquisition of Alinta by the Babcock and Brown / Singapore Power consortium in 2007. The objective of the 2007 undertaking was to address the risk of BBI (which acquired Alinta's interest in the ownership of the DBNGP) discriminating in favour of BBP (which acquired Alinta's downstream interests in electricity generation and gas retailing). The 2007 undertaking was intended to complement rather than supersede the 2004 undertaking.

In 2009 the Babcock and Brown group went into voluntary administration and subsequently liquidation. BBI and BBP (now called Prime Infrastructure and Alinta Energy respectively) have severed their management agreements with the Babcock and Brown Group.

The parties to the 2004 and 2007 undertakings were seeking to withdraw the undertakings on the basis that Prime and Alinta Energy are no longer related and that the vertical competition concerns which the undertakings seek to address no longer exist.

The ACCC conducted market inquiries with a range of interested parties, including shippers on the DBNGP and state and regulatory authorities.

The ACCC concluded that the competition concerns which the 2007 undertaking was intended to address continue to exist and that the 2007 undertaking should therefore remain in place. The ACCC also concluded that the continuing relationship between Prime and Alinta Energy, and the continuing risk of Prime discriminating in favour of Alinta Energy, made it necessary for the 2004 undertaking and 2004 EEWAT undertaking, which seek to address this risk in conjunction with the 2007 undertaking, to remain in place. Accordingly, the ACCC did not consent to the proposed withdrawal of the undertakings.

Murray Goulburn Co-operative Co. Ltd—proposed acquisition of Warrnambool Cheese and Butter Factory Company Holdings Ltd

Result: On 2 June 2010 the ACCC ceased its review of the proposed acquisition.

Summary: On 22 February 2010 the ACCC commenced a public review of Murray Goulburn's proposed acquisition of Warrnambool Cheese and Butter.

The merger parties' functions overlap in the markets for the acquisition of raw milk and the manufacture and supply of processed dairy products. Market inquiries were conducted with suppliers of raw milk (farmers), dairy processors, downstream customers and industry associations.

On 22 April 2010 the ACCC released a statement of issues which stated that the proposed acquisition was likely to raise competition concerns in the markets for the acquisition of raw milk from farmers in the south-west region of Victoria and central and south-east regions of South Australia. Additionally, the statement of issues indicated that the markets for the bulk supply of raw milk and cream to food manufacturers may raise competition concerns.

On 2 June 2010 Murray Goulburn announced that it did not intend to proceed with the proposed acquisition and withdrew its application for ACCC merger clearance. Consequently, the ACCC ceased its review of the proposed acquisition.

Woolworths Ltd—completed acquisition of a supermarket site at Tura Beach, New South Wales

Result: On 1 June 2010 the ACCC decided not to oppose the completed acquisition.

Summary: On 14 August 2009 Woolworths acquired a supermarket site located at the corner of Sapphire Coast Drive and Tura Beach Drive, Tura Beach.

On 19 March 2010 the ACCC commenced a public merger review of the completed acquisition.

The ACCC considered the completed acquisition in the context of separate local retail markets within a geographic radius of 5–10 km surrounding the target supermarket site for the supply of supermarket and takeaway packaged liquor products. The ACCC also considered separate state-based markets for the acquisition of supermarket and takeaway packaged liquor products.

The ACCC formed the view that the completed acquisition was unlikely to substantially lessen competition in any of the relevant markets.

The ACCC considered that, in the absence of the completed acquisition by Woolworths, it was unlikely that a rival supermarket would have commenced trading at the Tura Beach supermarket site in the foreseeable future. It appeared likely that Woolworths would have continued to operate the only full-line supermarket(s) in the relevant local retail supermarket market, with or without the completed acquisition.

Accordingly, the ACCC concluded that the completed acquisition by Woolworths did not hinder or prevent competition in the relevant markets. The ACCC also noted the potential for increased competition in the future given the presence of development sites in nearby Merimbula that may facilitate the entry of an alternative full-line supermarket in the relevant local retail supermarket market.

National Australia Bank Ltd—proposed acquisition of AXA Asia Pacific Holdings Ltd Australian and New Zealand businesses

Result: On 19 April 2010 the ACCC decided to oppose the proposed acquisition.

Summary: On 19 January 2010 the ACCC commenced a public review following receipt of a submission from National Australia Bank Ltd (NAB) of its proposed acquisition of AXA Asia Pacific Holdings Ltd (AXA) Australian and New Zealand businesses. The proposed acquisition would overlap in the areas of wealth management products and services including retail investment platforms, superannuation, insurance, managed investments, financial planning and advice.

The ACCC conducted market inquiries with a range of industry participants, including competitors, potential competitors, financial planners, financial planning dealer groups, suppliers of investment products, suppliers of superannuation and retirement income products, suppliers of life insurance products, industry bodies, regulatory agencies and other interested parties.

The ACCC released a statement of issues on 10 February 2010 seeking further information in relation to its preliminary concerns as to the competitive effects of the proposed acquisition. The ACCC found that the proposed acquisition would be likely to result in a substantial lessening of competition in the national market for the supply of retail investment platforms for investors with complex investment needs. The ACCC found that an independent AXA or a proposed acquisition of AXA by AMP would not have this effect.

The ACCC considered that AXA was on the cusp of delivering an innovative full-service retail investment platform that would play an important role in the near future in driving competition. The ACCC was concerned that the proposed acquisition would remove a vigorous and effective competitor that would provide effective competitive constraint on market participants and, in particular, strong competitive tension with NAB's Navigator platform in the form of platform functionality and innovation. A public competition assessment in relation to this matter will be released in due course.

AMP Ltd—proposed acquisition of AXA Asia Pacific Holdings Ltd Australian and New Zealand businesses

Result: On 19 April 2010 the ACCC decided not to oppose the proposed acquisition.

Summary: On 4 December 2010 the ACCC commenced a public review of AMP's proposed acquisition of AXA Australian and New Zealand businesses. The proposed acquisition would overlap in the areas of wealth management products and services including retail investment platforms, superannuation, insurance, managed investments, financial planning and advice.

The ACCC conducted market inquiries with a range of industry participants, including competitors, potential competitors, financial planners, financial planning dealer groups, suppliers of investment products, suppliers of superannuation and retirement income products, suppliers of life insurance products, industry bodies, regulatory agencies and other interested parties.

The ACCC released a statement of issues on 10 February 2010 seeking further information in relation to its preliminary concerns as to the competitive effects of the proposed acquisition. The ACCC found that the proposed acquisition would be unlikely to result in a substantial lessening of competition in the relevant markets. The ACCC considered that AXA was on the cusp of delivering an innovative full-service retail investment platform that would play an important role in the near future in driving competition in the national market for the supply of retail investment platforms for investors with complex investment needs. The ACCC found that AMP was not a significant competitor in this market and that either an independent AXA or an AMP-owned AXA would continue to drive innovation, particularly with respect to platform functionality. A public competition assessment in relation to this matter will be released in due course.

4 Authorisations and notifications

A key objective of the Trade Practices Act is to prevent anti-competitive arrangements or conduct, thereby encouraging competition and efficiency in business, resulting in greater choice for consumers in price, quality and service.

Some anti-competitive arrangements can, however, be allowed under the Act if the parties can demonstrate that the arrangements are in the public interest. Businesses may obtain immunity by applying for an authorisation or submitting notifications of exclusive dealing and collective bargaining to the ACCC.

Authorisations

During the June quarter 2010, the ACCC received 14 new authorisation applications, covering 10 projects.

At 30 June 2010, a total of 18 authorisation applications, covering 12 projects, were being considered by the ACCC.

Matters finalised

Australian Payments Clearing Association Ltd (APCA)—A91203 and A91213

Summary: On 7 December 2009, APCA applied for a replacement authorisation for the provisions of the Australian Paper Clearing System (APCS) Regulations relating to the suspension and termination of APCS members.

The ACCC granted interim authorisation on 13 January 2010. A final determination granting authorisation to APCA's arrangements for five years was issued on 15 April 2010.

Australasian Performing Rights Association Ltd (APRA)—A91887–A91194 and A91211

Summary: On 30 September 2009, APRA applied for the revocation of its previous authorisations, due to expire on 30 March 2010, and their substitution with new authorisations (A91887–A91194 and A91211) on substantially the same terms, for a further six years.

The applications related to APRA's standard arrangements for the acquisition and licensing of the performing rights in its music repertoire.

The ACCC granted interim authorisation on 22 March 2010. A final determination granting conditional authorisation until 31 October 2013 was issued on 16 April 2010.

Gladstone Ports Corporation Ltd and others—A91208

Summary: On 24 December 2009, Gladstone Ports Corporation (GPC), Wiggins Island Coal Export Terminal (WICET) and WICET Holdings applied for authorisation to make contracts, arrangements or understandings between the applicants and the State of Queensland to:

- reallocate from the Barney Point Coal Terminal (which is owned and operated by GPC) to the proposed Wiggins Island Terminal (which

will be owned by WICET and operated by GPC) the portion of port terminal services, coal-handling services and coal storage facilities (tonnage capacity) that GPC currently supplies to Wesfarmers

- reallocate from the Barney Point Coal Terminal to either the RG Tanna Coal Terminal (owned and operated by GPC) or the proposed Wiggins Island Coal Terminal the portion of tonnage capacity that GPC currently supplies to the Dawson Joint Venture.

The ACCC released a determination granting authorisation to the arrangements for five years on 21 April 2010.

Casuarina Precinct Stakeholders Committee—A91201–A91202

Summary: On 30 November and 11 December 2009 the Casuarina Business Precinct Stakeholders Committee lodged related applications for authorisation to agree to restrict the supply of certain types of alcohol products to consumers (known as the Liquor Accord). The parties to the Liquor Accord are Casuarina All Sports Club Inc., GPT Group, The Village Shopping Centre, Coles Liquor and Woolworths Ltd.

The ACCC granted interim authorisation on 25 March 2010. A final determination granting conditional authorisation to the supply restrictions within the proposed Liquor Accord, including any variation to those supply restrictions, for a period of three years was issued on 12 May 2010.

Board of Airline Representatives of Australia Inc. (BARA)—A91200

Summary: On 26 November 2009, BARA applied for re-authorisation to negotiate and bargain collectively, on behalf of BARA's member airlines, from time to time with airport operators and providers of other essential airport services, and agree on terms and conditions of acquisition of such services, including prices, on an airport by airport basis.

The ACCC released a final determination granting conditional authorisation to the collective bargaining arrangements for five years on 14 May 2010.

Macquarie Generation and others—A91198–A91199

Summary: On 27 November 2009, authorisation was sought for a co-insurance arrangement developed pursuant to the disaggregation of electricity generation portfolios in New South Wales.

The New South Wales Government proposed to disaggregate its three existing electricity generation portfolios into five 'Gentrader' contract bundles. Under the co-insurance arrangements, a Gentrader that was unable to meet its firm capacity requirements would have the option of calling on co-insurance.

Co-insurance arrangements were to be implemented through a multiparty agreement between the generators and the Gentraders that successfully bid for the electricity trading rights of the generators.

Specifically, authorisation was sought for the following features of the co-insurance arrangements, to be made and given effect to through a compensation deed:

- the payment provisions, which specified the price payable (the ‘compensation price’) for the compensation which a Gentrader could call on when the generator was unable to meet its firm capacity requirements
- the firm capacity provisions, which specified the quantity of firm capacity to be made available by each generator to its Gentrader counterpart for the purpose of the co-insurance arrangement
- the allocation procedures and rules, which specified which Gentrader would be required to pay compensation and the amount of that compensation and
- the supply and acquisition of the co-insurance, which was limited to the parties to the agreement.

The ACCC released a final determination denying authorisation on 20 May 2010.

Media Entertainment and Arts Alliance—A91204

Summary: On 16 December 2009 the Alliance applied for authorisation to collectively negotiate the terms of engagement for freelance journalists by Fairfax. In February 2010, the Alliance amended the application to extend the arrangements to include negotiations with ACP Magazines, News Ltd and Pacific Magazines.

The ACCC released a determination granting authorisation to the collective bargaining arrangements for five years on 26 May 2010.

Rio Tinto Aluminium and others—A91205–A91207

Summary: On 24 December 2009, Rio Tinto Aluminium Ltd, as manager of the Gladstone Power Station (GPS) Joint Venture, sought authorisation on behalf of itself and participants in the GPS Joint Venture—namely GPS Energy Pty Ltd, GPS Power Pty Ltd, Sunshine State Power BV, Sunshine State Power (No. 2) BV, SLMA, GPS Pty Ltd, Ryowa II GPS Pty Ltd, and YKK GPS (Queensland) Pty Ltd—for arrangements under amended agreements in relation to electricity generated and supplied by the Gladstone Power Station.

Earlier agreements relating to the Gladstone Power Station were previously authorised by the ACCC in 1994. The applicants amended the GPS agreements to accommodate certain changes to commercial arrangements which occurred against the background of the introduction and operation of the National Electricity Market.

The ACCC released a final determination granting conditional authorisation to the arrangements until 29 March 2029 on 2 June 2010.

Santos QNT Pty Ltd and others—A91215–A91216

Summary: On 25 February 2010, Santos QNT Pty Ltd and 10 other Queensland oil producers (the applicants) sought authorisation to:

- jointly discuss and negotiate common terms and conditions, including price, under which oil produced predominantly from the Surat Basin and Denison Trough in Queensland would be offered for sale and sold by the applicants

- enter into and give effect to contracts by which oil would be offered for sale by the applicants to buyers.

The ACCC granted interim authorisation on 24 March 2010. A final determination granting authorisation to the joint marketing arrangements until 30 June 2020 was issued on 2 June 2010.

Australian Payments Clearing Association Ltd (APCA)—A92109–A91210

Summary: On 7 January 2010, APCA applied to revoke authorisations A90967 and A90968 and to substitute new authorisations in relation to the suspension and termination provisions of the Bulk Electronic Clearing System regulations.

The ACCC released a final determination granting authorisation to APCA's arrangements for five years on 3 June 2010.

Victorian Farmers Federation (VFF)—A91214

Summary: On 18 February 2010 the VFF applied to revoke authorisation A40093 and to substitute a new authorisation on substantially the same terms, for a further five years.

Authorisation was sought on behalf of Victorian chicken grower groups for each grower group to collectively bargain with the chicken meat processors to which they supply growing services. The VFF requested that the application be considered under the ACCC's streamlined process for considering collective bargaining authorisation applications.

The ACCC granted interim authorisation on 18 March 2010. A final determination granting authorisation to the collective bargaining arrangements for five years was issued on 21 April 2010.

North West Iron Ore Alliance (NWIOA)—A91212

Summary: On 4 February 2010 the NWIOA lodged an application for authorisation on behalf of its shareholders Atlas Iron Ltd, Brockman Resources Ltd and FerrAus Ltd.

The NWIOA sought to collectively negotiate the terms and conditions, including price, under which above rail haulage and/or below rail track access will be acquired in the Pilbara region from BHP Billiton, Rio Tinto, Fortescue Metals Group and any other similar providers in the future.

The NWIOA requested that the application be considered under the ACCC's streamlined process for considering collective bargaining authorisation applications.

The ACCC granted interim authorisation on 4 March 2010. A final determination granting conditional authorisation to the arrangements for 15 years was issued on 29 April 2010.

Rio Tinto Aluminium Ltd—A91231

Summary: On 19 May 2010, Rio Tinto Aluminium Ltd, on behalf of Rio Tinto Aluminium (Holdings) Ltd, applied to revoke authorisations A40078, A40079, and A40080 granted to Comalco Ltd on 19 November 1999 in relation to Gladstone Power

Station. Rio Tinto Aluminium is the manager of the GPS Joint Venture. Comalco Ltd changed its name to Rio Tinto Aluminium (Holdings) Ltd in 2006.

The ACCC released a final determination revoking the authorisations on 30 June 2010.

Draft determinations issued (not otherwise appearing above)

Vision Group Holdings Ltd—A91217

Summary: On 29 March 2010, Vision Group Holdings Ltd and all the employees and contractors engaged by Vision Group applied for authorisation to discuss and, if relevant, agree on and implement fees to be charged to patients for ophthalmology services supplied at Vision Group branded clinics.

On 9 June 2010 the ACCC issued a draft determination proposing to grant authorisation to the arrangements for five years. The ACCC is currently seeking submissions in relation to the draft determination. It expects to release a final decision in August 2010.

Applications lodged (not otherwise appearing above)

Generic Medicines Industry Association Pty Ltd (GMiA)—A91218–A91219

Summary: On 31 March 2010, GMiA applied for authorisation of its code of practice (2nd edition) which includes provisions for taking disciplinary action against GMiA members who breach the code.

The ACCC is currently considering submissions from interested parties and the applicants prior to releasing a draft determination in July/August 2010.

North West Shelf Project—A91220–A91223

Summary: On 31 March 2010 the North West Shelf Project partners that are participants in the Domestic Gas Joint Venture (BHP Billiton Petroleum, BP Developments Australia, Chevron Australia, Shell Development (Australia) and Woodside Energy) and the Incremental Pipeline Gas Joint Venture (BHP Billiton Petroleum, BP Developments Australia, Chevron Australia, Shell Development (Australia), Japan Australia LNG (MIMI) and Woodside Energy) applied for authorisation to:

- jointly discuss and negotiate common terms and conditions (including price) and the methods by which domgas (natural gas supplied to customers in Western Australia) produced from the project will be offered for sale
- enter into contracts, arrangements or understandings between the applicants containing common terms and conditions (including price) upon which domgas produced from the project will be offered for sale and sold
- give effect to existing domgas contracts for their full term, including any extensions. This would also include giving effect to Domestic Gas

Joint Venture gas supply contracts that may be assigned to the Incremental Pipeline Gas Joint Venture.

- give effect to domgas contracts entered into during the term of authorisation (or any extensions of such contracts) for a period of up to 25 years from the date of the first delivery of gas under those contracts.

Authorisation is sought until 31 December 2016.

The ACCC is currently considering submissions from interested parties and the applicants prior to issuing a draft determination in July 2010.

State of Queensland acting through the Office of Liquor and Gaming Regulation (OLGR)—A91224 and A91225

Summary: On 15 April 2010 the OLGR applied for authorisation for a proforma liquor accord agreement. Liquor accord agreements are signed by licensed premises and others in a particular area and contain strategies to reduce the abuse and misuse of alcohol. The OLGR's proforma liquor accord agreement:

- is voluntary to sign and is non-binding upon its signatories
- requires signatories to ban practices and promotions that may encourage rapid or excessive consumption of liquor, for example:
 - 'drink cards' that provide a multiple of free drinks
 - extreme discounts or discounts of limited duration
 - any other promotions or gimmicks that encourage rapid intoxication.

The ACCC is currently considering submissions from interested parties and the applicants prior to issuing a draft determination in July/August 2010.

Recruitment and Consulting Services Association (RCSA)—A91226

Summary: On 4 May 2010 the RCSA sought to make a minor variation to authorisation A91102, which allows the RCSA to make arrangements giving effect to exclusionary provisions in its code for professional conduct, its constitution and its disciplinary and dispute resolution procedures (DDRP) until February 2014.

The RCSA proposes to vary the DDRP to:

- clarify the chronology of the complaints process
- allow for matters to be resolved between the complainant and the RCSA member within 30 days
- allow the RCSA to delay its intervention in a complaints process
- provide that a member may give an undertaking to the RCSA Board in satisfaction or partial satisfaction of a disciplinary complaint made against that member.

Virgin Blue Airlines Pty Ltd and others—A91227 and A91228

Summary: On 15 April 2010, Virgin Blue and Air New Zealand applied for authorisation to make and give effect to the Australasian Airline Alliance Agreement, an associated code share agreement and related agreements which are contemplated by the alliance agreement (together referred to as the alliance). The alliance provides for coordination and agreement between Virgin Blue and Air New Zealand in respect of trans-Tasman passenger services.

The ACCC is currently considering submissions from interested parties and the applicants prior to issuing a draft determination in August/September 2010.

South Australian Oyster Growers Association Inc.—A91229

Summary: On 17 May 2010 the South Australian Oyster Growers Association applied for re-authorisation of an agreement between it and five named oyster hatcheries (which grow juvenile oysters, or 'spat'). Under authorisations first granted in 1999, the parties have agreed that the hatcheries shall charge oyster growers (which rear spat to marketable size) in South Australia a levy on spat. The money is used by an association-owned company, the South Australian Oyster Research Council Pty Ltd, for oyster industry research and development.

The hatcheries now charge \$1 per 1000 spat and seek authorisation to charge \$1.50 per 1000 spat, indexed to inflation, or alternative lower figures. The application is expressed to be also on behalf of the research council and any organisation which is the first point of sale of live spat into South Australia from a hatchery.

The ACCC is currently considering submissions from interested parties and the applicants prior to issuing a draft determination in July/August 2010.

Suncorp Metway Ltd and Bendigo and Adelaide Bank Ltd—A91232–A91233

Summary: On 31 May 2010, Suncorp Metway and Bendigo and Adelaide Bank lodged an application for authorisation for an agreement not to 'direct charge' each other's cardholders for transactions at their automatic teller machines.

The ACCC is currently considering submissions prior to issuing a draft determination in July/August 2010.

Agsafe Ltd—A91234

Summary: On 28 May 2010, Agsafe applied for re-authorisation of the Agsafe Code of Conduct.

The code requires persons and premises involved in the storage, handling, transport and distribution of agricultural and veterinary chemicals to be accredited through the Agsafe Accreditation and Training Program. The code also provides for the imposition of trading sanctions on persons and premises that are not accredited, and on manufacturers and retailers that continue to trade with those who are sanctioned. Agsafe seeks authorisation for three years to allow it to transition the industry to a new incentive-based accreditation and training program.

The ACCC granted interim authorisation on 23 June 2010. The ACCC is currently considering submissions from interested parties and the applicants prior to issuing a draft determination in July/August 2010.

Brisbane Marine Pilots Pty Ltd (BMP)—A91235

Summary: On 17 June 2010, BMP lodged an application for authorisation of a pilotage services agreement it has entered into with the State of Queensland (represented by the Department of Transport trading as Maritime Safety Queensland). Under the agreement Maritime Safety Queensland must acquire all pilotage services at the Port of Brisbane exclusively from BMP.

The ACCC is currently seeking submissions from interested parties regarding the application for authorisation and anticipates releasing a draft determination in August/September 2010.

Premium Milk Ltd—A91236

Summary: On 22 June 2010, Premium Milk applied for re-authorisation to collectively negotiate farm-gate prices and milk standards on behalf of its members (milk producers located in south-east Queensland) with Parmalat Australia Ltd.

Premium Milk proposes to amend its constitution so as to expressly allow it to represent milk producers operating in northern New South Wales as well as Queensland.

The ACCC is currently seeking submissions from interested parties regarding the application for authorisation and anticipates releasing a draft determination in September 2010.

Liquor Stax Australia Pty Ltd—A91237

Summary: On 30 June 2010, Liquor Stax Australia, on behalf of around 200 small businesses operating liquor merchants and hotels, applied for authorisation to collectively bargain with around 60 suppliers of inputs such as alcohol, cigarettes, poker machines and confectionery, as well as services such as advertising, insurance and communications.

The ACCC anticipates issuing a draft determination in September/October 2010.

Collective bargaining notifications

The ACCC received seven collective bargaining notifications, involving four new collective bargaining matters, during the June quarter 2010.

Summaries of these notifications are provided below.

RJ Nuss Removals Pty Ltd—CB00141

Summary: On 1 April 2010, RJ Nuss Removals Pty Ltd, on behalf of a group of removalists, notified a proposal to collectively negotiate a rail services agreement for the provision of rail linehaul freight services with Asciano Services Pty Ltd (trading as Pacific National). In particular, Nuss Removals proposed to negotiate an annual volume growth rebate and the terms of the agreement

The ACCC sought submissions from the target prior to allowing the notification to stand on 14 April 2010.

Tasmanian Chicken Growers Association (TCGA)—CB00142

Summary: On 22 April 2010 the TCGA, on behalf of its six chicken meat grower members, notified a proposal to collectively negotiate the terms and conditions of grower contracts, including grower fees, with Inghams Enterprises Pty Ltd.

The ACCC sought submissions from interested parties prior to allowing the notification to stand on 14 May 2010.

Hertz Australia Pty Ltd—CB00143

Summary: On 3 May 2010, Hertz Australia Pty Ltd, on behalf of a group of rental car companies, notified a proposal to collectively negotiate with Perth Airport in relation to the terms and conditions (including price) at which the rental car companies will acquire airport facility services (car parks and counter space).

The ACCC issued a draft objection notice on 13 May 2010. The ACCC is currently considering submissions from interested parties and the applicants prior to issuing a final decision in July 2010.

Carter Holt Harvey Woodproducts Australia Pty Ltd (WPA)—CB00144—CB00147

Summary: On 11 May 2010, WPA, on behalf of the South Australian Forestry Corporation, Hancock Victorian Plantations Pty Ltd and Green Triangle Forest Products, notified a proposal to collectively negotiate the price at which the parties will supply plantation timber (low-quality radiata pine logs) for export through the Port of Portland in Victoria. The parties also sought to negotiate other terms of the supply agreement, including quantity and term.

The ACCC sought submissions from the targets prior to allowing the notifications to stand on 2 June 2010.

Exclusive dealing notifications

During the June quarter 2010 the ACCC received 185 new notifications across 62 matters.

Notifications of interest considered during the quarter include:

Brisbane International Speedway Ltd and others—N94032—N90034

Summary: On 7 July 2009, Brisbane International Speedway Pty Ltd, Murray Bridge Sporting Car Club and Motorcycle Club Incorporated and Premier Speedway Club Warrnambool lodged notifications proposing to supply race services from time to time, including access to track facilities and race events, on condition that:

- the offeree has purchased a suitable licence from the National Association of Speedway Racing Pty Ltd (NASR) in order to compete at the track or
- the offeree has purchased a suitable licence from NASR in order to visit the racing pit area.

On 28 January 2010 the ACCC decided to issue draft notices proposing to revoke the notifications.

On 22 February 2010 a pre-decision conference was held with respect to this matter. On 13 May 2010 the ACCC issued notices revoking the immunity provided by the notifications. The immunity ceased to be in force on 13 June 2010.

Perth Motorplex and Avalon International Raceway—N93304 and N93305

Summary: On 12 February 2008, Placide Pty Ltd as trustee for the Metro Speedway Trust (trading as Speedway Perth Motorplex) and Corio Park Pty Ltd (trading as Avalon International Raceway) lodged notifications proposing to supply race services, including access to track facilities and race events, on condition that:

- the offeree has purchased a suitable licence from the National Association of Speedway Racing Pty Ltd (NASR) in order to compete at the track or
- the offeree has purchased a suitable licence from NASR in order to visit the racing pit area.

In June 2008 the ACCC decided not to take any further action with respect to these notifications. Following similar notifications being lodged by Brisbane International Speedway and others, the ACCC decided to review the immunity provided by the Perth Motorplex and Avalon Raceway notifications. On 13 May 2010 the ACCC issued draft notices proposing to revoke these notifications.

On 17 June 2010 a pre-decision conference was held with respect to this matter. The ACCC is currently considering submissions from interested parties and the notifying parties prior to issuing a final decision in August 2010.

New South Wales Public Health Organisations—N93906–N93840

Summary: On 23 March 2009 and 8 April 2009, 23 notifications were lodged by public health organisations (PHOs). PHOs are area health services, statutory health corporations and affiliated health organisations which operate public hospitals in New South Wales. Under the notified conduct, pathology services for private in-patients in New South Wales public hospitals must, unless it is not in the best interests of the patient, be supplied by pathology practitioners appointed by PHOs.

The ACCC invited submissions from interested parties in relation to the notified arrangements. In response to concerns raised by interested parties about the operation of the exception to the policy relating to the practicalities of temporary accreditation, New South Wales Health advised that it would amend the policy.

On 27 May 2010 the ACCC decided to take no further action at that time.

5 Regulatory affairs

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

Communications

In the June 2010 quarter the ACCC:

- published a list of 129 exchange service areas (ESAs) where the wholesale line rental (WLR) service, local carriage service (LCS), and public switched telephone network originating access (PSTN OA) service will, subject to conditions, be exempt from regulation from 30 December 2010
- issued a discussion paper which reviews the pricing of the domestic transmission capacity service (DTCS)
- issued two current cost accounting reports, one for the second half and the full year 2008–09 and another for the first half of 2009–10, under the accounting separation regime for Telstra
- issued the imputation and non-price terms and conditions report for the March 2010 quarter.

Declarations

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

ACCC undertakes review to vary DTCS description

The ACCC is conducting an inquiry to clarify the scope of the DTCS description. The DTCS declaration is intended to cover all transmission interface protocols commonly used over the Australian network.

In November 2009 the ACCC published 'An ACCC discussion paper reviewing the declaration for the domestic transmission capacity service'. A number of submissions to the paper were received in January and April 2010. The ACCC is considering all the submissions received.

Exemptions

ACCC implements Australian Competition Tribunal's 2009 WLR, LCS and PSTN OA individual exemption orders

On 25 June 2010 the ACCC published a list of 129 ESAs where the WLR, LCS and PSTN OA services will be exempt from regulation from 30 December 2010.

The list of exemption ESAs was prepared in accordance with the Australian Competition Tribunal's WLR, LCS and PSTN OA individual exemption orders made in late 2009. However, the list of exemption ESAs is not of itself definitive, as certain conditions and limitations imposed by the tribunal must also be met or the exemptions will not take effect.

The tribunal's orders and the list of exemption ESAs can be found on the ACCC website.

Access terms and conditions—indicative prices, undertakings and disputes

ACCC invites comments on approach to DTCS pricing

On 30 April 2010 the ACCC issued a discussion paper which reviews the pricing of the DTCS.

The discussion paper invites submissions on different approaches to pricing the DTCS in a manner that is consistent with the current price access regime under Part XIC of the Trade Practices Act and the proposed access regime set out in the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009. Submissions were due on 11 June 2010 and the draft report was to be published on 19 July 2010.

Australian Competition Tribunal affirms ACCC decision to reject Telstra's unconditioned local loop services (ULLS) undertaking

On 18 May 2010 the ACCC welcomed the release of reasons for the decision of the Australian Competition Tribunal affirming the ACCC's rejection of Telstra's undertaking for the ULLS.

Telstra's undertaking proposed a \$30 price per customer line per month in the Metropolitan Band 2 exchange service areas, covering some 70 per cent of the population of Australia. The \$30 price proposed by Telstra was significantly higher than the \$16 price published by the ACCC for the period of 31 August 2009 to 31 December 2010 for Band 2.

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 June 2010 quarter, no new access disputes were notified to the ACCC. Three access disputes concerning the ULLS or the line sharing service (LSS) were withdrawn.

Interim and final determinations

In the June 2010 quarter the ACCC issued 18 final determinations in finalising 19 access disputes between Telstra and various access seekers, covering a range of terms in dispute regarding access to the ULLS or LSS.

No interim determinations were made or extended in the June 2010 quarter.

Published determinations

In the June 2010 quarter, the ACCC did not publish any determinations made in arbitrations concerning disputes over access to services. The following table summarises the position in relation to access disputes during the June 2010 quarter.

Table 5.1: Access disputes—June 2010 quarter

Status of current access disputes for June 2010 quarter	Total
Active disputes at 1 April 2010	36
Decisions subject to appeal to the Federal Court	0
New arbitrations commenced	0
Interim and final determinations issued	18
Disputes withdrawn	4
Published determinations	0

With these changes, the ACCC continues to arbitrate 13 access disputes.

Reports

On 23 June 2010 the ACCC issued the following reports under the accounting separation regime for Telstra:

- Imputation and non-price terms and conditions report for the March 2010 quarter
- Current cost accounting report for the second half and the full year 2008–09
- Current cost accounting report for July–December 2009.

Australian Energy Regulator

The AER recognises the importance of being open and transparent. Accordingly, all papers and submissions relating to the AER are freely accessible by the public on the AER's website at www.aer.gov.au.

AER chair arrangements

On 22 May 2010 the term of the inaugural chairman and board member, Mr Steve Edwell, concluded. The AER acknowledges the significant contribution and leadership provided by Mr Edwell, and is grateful for the solid foundation he has been instrumental in establishing over the five years he served as chairman.

Mr Andrew Reeves has been appointed acting AER chairman for three months, pending finalisation of the Ministerial Council on Energy's selection process.

Electricity network regulation matters

Consultation paper—CitiPower's and Powercor's proposed security fee schemes

On 28 June 2010 the AER released its consultation paper seeking stakeholders' comments on CitiPower's and Powercor's proposed security fee schemes. Under Electricity Industry Guideline No. 14 (Provision of Services by Electricity Distributors), a distribution business may require a security deposit (security fee) when connecting high-risk customers to insure against potential asset stranding, which will then be eventually funded by all other customers of the distribution business.

The consultation paper summarises CitiPower's and Powercor's proposed security fee schemes and seeks stakeholder comments on whether the interest rate paid to new connecting customers on any security fee refunded is appropriate. The consultation paper also seeks comments on the fairness and reasonableness of the proposed security fee schemes, which will inform the AER should a dispute be submitted to AER. Interested parties were invited to make submissions on the consultation paper by 26 July 2010.

Draft decision—applications for exclusion from the Victorian service incentives for supply reliability, supply interruption events March–December 2009

On 25 June 2010 the AER released its draft decision for applications for exclusion from the Victorian service incentives for supply reliability in relation to supply interruption events between March and December 2009.

Final regulatory investment test for transmission (RIT-T) and guidelines—18 June

On 29 June 2010 the AER published its RIT-T, replacing the regulatory test for transmission investments, to commence on 1 August 2010. The purpose of the RIT-T is to identify the transmission investment option which maximises net economic benefits and, where applicable, meet the relevant jurisdictional or Electricity Rules based reliability standards. The RIT-T provides a single framework for all transmission investments and removes the distinction in the regulatory test between reliability-driven projects and projects motivated by the delivery of market benefits.

The AER has also published RIT-T application guidelines for the operation and application of the RIT-T. The application guidelines are designed to provide guidance to businesses applying the RIT-T and enhance transparency and consistency in investment decision making.

Final decision: Citipower deep connection charge rates

On 25 June 2010 the AER released its conclusion on the benchmark upstream augmentation charge rates for CitiPower's network. The AER's conclusion only relates to the interpretation and application of the Essential Services Commission of Victoria's Electricity Industry Guideline No. 14 (Provision of Services by Electricity Distributors) to CitiPower's augmentation charges.

The AER consulted on CitiPower's approach of charging new customers deep connection charges as part of the overall project cost in calculating connection charges, regardless of whether such augmentation takes place immediately or some time in the future.

Cost allocation methods—Victorian distribution businesses

In May and June 2010 the AER approved the cost allocation methods (CAMs) for the Victorian distribution businesses CitiPower, Powercor, Jemena and United Energy Distribution. The CAMs govern how the businesses allocate costs between their regulated and unregulated sections. The businesses will be required to allocate costs in accordance with the approved CAMs from 1 January 2011. Forecasts for the current distribution determination that the AER is undertaking must also be prepared in accordance with the CAMs. The AER received advice from McGrathNicol Corporate Advisory in reviewing the CAMs.

Victorian Advanced Metering Infrastructure (AMI) excluded services charges

On 4 June the AER decided to regulate remote AMI services via the Essential Services Commission (Victoria) Guideline 14 until the end of the 2011–15 regulatory control period, as required under the AMI order in council. These services include remote meter reading and energisation/de-energisation services enabled by AMI. As remote metering services are now becoming available to customers with AMI meters, it was decided the Victorian distribution businesses should submit proposed charges and terms and conditions for the services to the AER, to enable customers to access the lower cost remote services as soon as possible.

Victorian distribution draft determination

On 4 June 2010 the AER released its draft determination for Victorian electricity distribution businesses Powercor, SP AusNet, Citipower, United Energy and Jemena Electricity for the period 1 January 2011 to 31 December 2015. On the basis of efficient operation in a mature and comparatively reliable network, the AER rejected the substantial increases in expenditure sought by the Victorian distributors, including increases of over 66 per cent in capital spending and 38 per cent in operational expenditure. The AER's draft decision would lead to a reduction in the average residential bill of around 2.3 per cent on average in the first year (2011) and increases in the following years of between 0.9 per cent and 1.1 per cent in nominal terms, with the impact varying for each distributor.

Submissions on the AER's draft decision and revised regulatory proposals from interested parties were invited by 19 August 2010. In addition, a pre-determination conference was held on 17 June, with the AER final decision to be made by the end of October 2010.

Network pricing assessment for 2010–2011: ACT / NSW/ QLD / SA distribution network service providers

In June 2010, the AER approved the pricing proposals for the following distribution businesses: ActewAGL (ACT); Country Energy, Integral Energy and EnergyAustralia (NSW); Energex and Ergon Energy (Queensland); and ETSA Utilities (South Australia). The AER considered that EnergyAustralia's initial pricing proposal was deficient, as the proposed prices for post-2009 public lighting services were not consistent with the requirements specified in the AER's 2010 determination. It approved the amended 2010–11 distribution pricing proposal on 18 June 2010.

Final decision—South Australia / Queensland distribution determination

On 6 May 2010 the AER released its final decision and distribution determinations for ETSA Utilities (the electricity distributor in South Australia) and Energex and Ergon

Energy (the electricity distributors in Queensland). The decisions and determinations cover the regulatory control period 1 July 2010 to 30 June 2015 and set the revenue that the distributors are able to recover for the provision of electricity distribution services.

For Energex, the AER approved capital expenditure of \$6378 million (58 per cent more than in the previous five years in nominal terms) and operating expenditures of \$1768 million (41 per cent more than in the previous five-year period in nominal terms) for the next five-year period. For Ergon Energy, the AER has approved capital expenditure of \$5560 million (42 per cent more than in the previous five years in nominal terms) and operating expenditure of \$1942 million (34 per cent more than in the previous period in nominal terms) for the five-year period. For ETSA Utilities, the AER approved a capital expenditure program of \$1768 million over five years (in nominal terms).

Final decision—EnergyAustralia public lighting services proposal

On 15 April 2010 the AER released its final decision on EnergyAustralia's public lighting services in accordance with the directions of the Australian Competition Tribunal. The decision replaced the AER's April 2009 decision on EnergyAustralia's alternative control (public lighting) services for the 2009–14 regulatory control period.

Gas network regulation matters

Access arrangement decision—Jemena Gas Networks New South Wales gas distribution network

On 28 June 2010 the AER approved an access arrangement (including the reference services agreement and access arrangement information) for the Jemena Gas Networks New South Wales gas distribution network for the period 1 July 2010 to 30 June 2015. The decision makes revisions to the access arrangement proposal (including the reference services agreement and access arrangement information) drafted by the AER and released with the AER's 11 June 2010 final decision on the service provider's access arrangement proposal.

These revisions correct errors and omissions in the documents. The revisions made by the AER are incorporated into the access arrangement (including the reference services agreement and access arrangement information) drafted by the AER and published with the decision on the access arrangement. The access arrangement will take effect on 1 July 2010.

Victorian gas distribution businesses comparative performance report 2008

On 27 May 2010 the AER published the 2008 Victorian gas distribution businesses comparative performance report. The report presents the 2008 financial and service quality performance of Victoria's three gas distribution businesses: Envestra, Multinet and SP AusNet. The report also includes the businesses' performance trends since 2003.

The report found that gas supplies were reliable and that the gas distribution businesses earned returns on assets before tax consistent with the forecast in the 2008–12 gas access arrangement review.

This report is a continuation of a series of distribution service performance reports previously published by the Essential Services Commission of Victoria, after the

transfer of the economic regulation function from the Essential Services Commission of Victoria to the AER in July 2008.

Decisions—proposed 2010–11 tariff variations for distribution and transmission pipelines

On 25 May 2010 the AER made decisions to allow the proposed annual tariff variations for 2010–11 for the Central Ranges Pipeline (Tamworth distribution) gas network, Central Ranges (transmission) Pipeline, Dawson Valley Pipeline and Roma to Brisbane Pipeline. The reasons for these decisions and the tariffs allowed for 2010–11 are provided in the AER's statement of reasons.

Access arrangement decisions—Wagga Wagga, ACT, Queanbeyan and Palerang gas distribution networks

On 27 April 2010 the AER approved the access arrangement (including the access arrangement information) drafted by the AER for the ActewAGL Distribution ACT, Queanbeyan and Palerang gas distribution network for the period 1 July 2010 to 30 June 2015. The AER also approved the access arrangement for the Country Energy Wagga Wagga gas distribution network for the period 1 July 2010 to 30 June 2015. The decision makes revisions to the access arrangement proposal (including the terms and conditions of access) and access arrangement information drafted by the AER and released with its final decision on the service provider's access arrangement proposal. These revisions correct errors and omissions in the documents.

The access arrangements and the access arrangement information, which are published with the decision on the access arrangement, took effect on 1 July 2010, and are available on the AER's website at www.aer.gov.au.

Energy markets

Victorian gas market significant price variation guidelines

On 23 June 2010 the AER published a guideline regarding significant price variations (SPVs). The guideline outlines what constitutes a SPV, and notes the AER's responsibility of producing a gas day report when the triggers are met. Both the trade-weighted market price and the value of ancillary payments will be monitored by the AER to fulfil this reporting function, which was previously held by VENCORP.

The guideline was produced after consultation with various stakeholders, including energy companies and the Australian Energy Market Operator Ltd (AEMO). The AER expects the reports will be of interest to a wide range of parties, including existing market participants, participants considering entering the market, policy makers, energy analysts and consumer groups.

Powerlink's early implementation of the market impact component of the service target performance incentive scheme (STPIS)

On 4 June 2010 the AER released its final decision on the early application of the market impact component of the STPIS for Powerlink. In March 2008 the AER amended the STPIS to incorporate a market impact component into the scheme. The market impact component of the amended scheme supplements the original scheme by targeting outages that have an adverse impact on dispatch outcomes. In March 2010, Powerlink submitted its proposal for the early application of the market impact component. The AER approved Powerlink's proposal.

Upcoming retail energy functions—issues papers

The Ministerial Council on Energy's Standing Committee of Officials is in the final stages of consultation on the new National Energy Customer Framework. The AER will have various roles under the new customer framework, and has commenced preliminary consultation on various retail guidelines relating to its expected new roles.

In April to June 2010, the AER published issues papers regarding retail performance reporting, its proposed approach to retail exemptions, retail compliance and national hardship indicators.

The issues paper regarding market performance reporting considers a number of possible indicators to measure and monitor areas such as customer transfers, energy prices and affordability, handling of customers experiencing payment difficulties, disconnection and reconnection levels, customer service and complaints. The retail exemptions issues paper considers the AER's approach to exemptions under the proposed new retail framework, including proposed determinations of class exemptions. The retail compliance issues paper outlines key elements of what will become the AER's Statement of Approach to Compliance and Enforcement, including periodic exception reporting requirements, conduct of audits and recovery of compliance audit costs, and guidance for the development of retailer and distributor compliance programs.

The national hardship indicators issues paper considers the requirement for the AER to monitor and report on retailers' performance in relation to their customer hardship policies. The AER will be required to develop a set of national hardship indicators against which the performance of retailers and implementation of their hardship policies will be assessed.

The AER undertook preliminary consultation with stakeholders regarding key issues, both in written submissions and through public forums and workshops. The consultation process is ongoing, with issues papers and key dates set out on the AER's website at www.aer.gov.au.

Quarterly compliance report

In April 2010 the AER published its latest quarterly compliance report. The report summarises the results of the AER's compliance monitoring and enforcement activities in both the electricity and gas industries during the period January to March 2010.

It provides an overview of the results of investigations (including special reports into significant market or power system events), compliance audits and targeted compliance reviews, as well as electricity derogations and rebidding inquiries during the quarter.

High-price events in the national electricity market

From April to June 2010 the AER released two 'prices above \$5000/MWh' reports. The reports related to events in Victoria on 22 April and Tasmania on 22 May. In June the AER also released its second 'market ancillary service prices above \$5000/MW' report in relation to events in South Australia on 21 and 22 April 2010.

Water

Under the *Water Act 2007*, the ACCC has policy development, enforcement and monitoring responsibilities relating to water markets, water trading and water delivery services in the Murray–Darling Basin.

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

Enforcement and monitoring activities under the Water Rules

Enforcement

Between 1 April and 30 June 2010, the ACCC received 27 contacts from irrigators and operators regarding the water market rules and water charge rules. The ACCC is currently investigating a number of these matters for possible breaches of the rules. Investigations have focused on compliance with the termination fee rules.

Monitoring

The *Water Act* gives the ACCC responsibility for monitoring regulated water charges and compliance with the *Water Market Rules 2009* and the *Water Charge (Termination Fees) Rules 2009*. The purpose of the ACCC undertaking monitoring is to inform the Minister for Climate Change, Energy Efficiency and Water, Senator the Hon. Penny Wong, and stakeholders more broadly, of regulated water charges and the degree of compliance with the rules.

The ACCC is required to provide the minister with annual reports on the results of its monitoring, consistent with an agreement between the minister and the ACCC. The ACCC will provide the minister with the first report, covering the 2009–10 financial year, in early 2011.

In May 2010 the ACCC wrote to operators with the second of four information requests. In this request the ACCC sought feedback to proposed reporting requirements in relation to bulk water charges, water planning and management charges and other infrastructure operator charges. The ACCC received four submissions.

Policy development

Water Charge (Termination Fees) Rules 2009

In early May 2010 the minister wrote to the ACCC requesting advice on possible amendments to the rules. This advice was to relate to recent rulings issued by the Australian Taxation Office regarding GST on termination fees. The minister requested that the advice be provided by the end of June 2010.

In mid May 2010 the ACCC released a draft advice for public comment. The draft advice sought comments by 4 June 2010. The ACCC received four submissions, which are now available on the ACCC website. The ACCC provided its advice to the minister at the end of June.

Water Charge (Planning and Management Information) Rules

On 2 June 2010 the minister gave notice of her intention to make the Water Charge (Planning and Management Information) Rules. These rules are based on advice provided by the ACCC in July 2009.

The rules aim to improve the transparency of water planning and management charges and require government agencies to consistently publish detailed information on water planning and management charges.

The ACCC will be responsible for enforcing compliance and monitoring of these rules.

There will be a guide to assist Murray–Darling Basin state government departments and agencies in complying with the requirements of these rules.

When the rules are made by the minister in late July 2010, the ACCC will release a guideline providing details of the rules and how stakeholders can publish water planning and management information that complies with the rules.

Transport and general prices oversight

Intellectual property—copyright proceedings

Phonographic Performance Company of Australia Ltd—Copyright Tribunal decision⁴

On 17 May 2010 the Copyright Tribunal of Australia handed down its decision on the reference to the tribunal regarding the proposed tariff to be paid by fitness centre operators for the use of protected sound recordings in fitness classes. The tribunal found that the licence fee payable by fitness centre operators for the use of protected sound recordings in fitness classes should be increased to \$15 per class or, alternatively, levied at \$1 per attendee per class.

The copyright owner in this matter is the Phonographic Performance Company of Australia (PPCA), a music collecting society. The PPCA filed its initial reference in the Copyright Tribunal in December 2006, seeking to bring into operation a new licence scheme and tariff rate for the use of that copyrighted material. The first respondent, Fitness Australia, joined the reference in January 2007. The ACCC was made a respondent to the reference in April 2007. This was the first matter joined by the ACCC pursuant to its new role under amendments to the *Copyright Act 1968*.

Where the ACCC joins a proceeding before the Copyright Tribunal, its role is to assist the tribunal in making its determination by providing an independent view of the economic arguments put by the parties to the proceedings, with the objective of promoting competition and consumer welfare.

The PPCA initially sought a change in the tariff rate from 96.8 cents per fitness class to \$4.54 per month per member of the fitness centre, or \$0.99 per person per casual attendance.

⁴ Phonographic Performance Company of Australia Ltd (ACN 000680 704) under section 154(1) of the Copyright Act 1968 [2010] ACopyT 1 (17 May 2010).

On 15 June 2010, Fitness Australia lodged an application in the Federal Court under section 5 of the *Administrative Decisions (Judicial Review) Act 1977* for review of the Copyright Tribunal's decision. Fitness Australia is seeking orders that the decision be set aside and remitted to the Copyright Tribunal for reconsideration.

Transport and infrastructure access

Withdrawal of Hunter Valley access undertaking

On 19 April 2010 the Australian Rail Track Corporation (ARTC) withdrew the proposed Hunter Valley rail network access undertaking it had submitted to the ACCC on 22 April 2009. The ARTC indicated that it would finalise a revised undertaking in light of stakeholder submissions and the ACCC's comments on the original undertaking, and that it would submit the revised undertaking to the ACCC in the near future.

The ACCC had issued on 5 March 2010 a draft decision not to accept the 22 April 2009 access undertaking on the basis that, in its proposed form, it was unlikely to be appropriate under Part IIIA of the Trade Practices Act.

Ports

National ports strategy

The ACCC made a submission in June 2010 to Infrastructure Australia for its draft report on a national ports strategy. The submission outlined the ACCC's role in relation to ports and land-side supply chains.

Post

Assessment of price notification to increase reserved letter prices

On 28 May 2010 the ACCC announced its decision not to object to Australia Post's proposal to increase the prices of letter services over which it has a statutory monopoly, including an increase in the basic letter rate from 55 to 60 cents.

The ACCC had previously, in December 2009, objected to a pricing proposal from Australia Post following concerns that Australia Post's costs were not falling in response to declining volumes. The ACCC also identified a number of deficiencies with Australia Post's demand and cost forecasts.

In its 2010 price notification, which was provided to the ACCC on 1 April 2010, Australia Post identified significant reductions in its operating expenses. In addition, Australia Post improved the quality of information in support of its price notification, allowing the ACCC to undertake an informed assessment of the appropriateness of the proposed price increases.

The ACCC considered that there was significant pressure on Australia Post's reserved service revenue streams. Even with the proposed price increases and an efficient reduction in operating costs, the ACCC assessed that Australia Post would still face a loss on its reserved services. For this reason, the ACCC did not object to Australia Post's proposed price rises.

However, based on its consideration of Australia Post's costs and volume forecasts, the ACCC also considered that no further price changes should be required for the period 2009–10 to 2011–12.

Price monitoring

Fuel monitoring

The ACCC monitors retail prices of petrol, diesel and automotive liquefied petroleum gas (LPG) in all capital cities and around 150 regional centres and country towns. Movements in international benchmark prices are monitored for these fuels, as well as international crude oil prices. The ACCC closely follows developments in the petroleum industry.

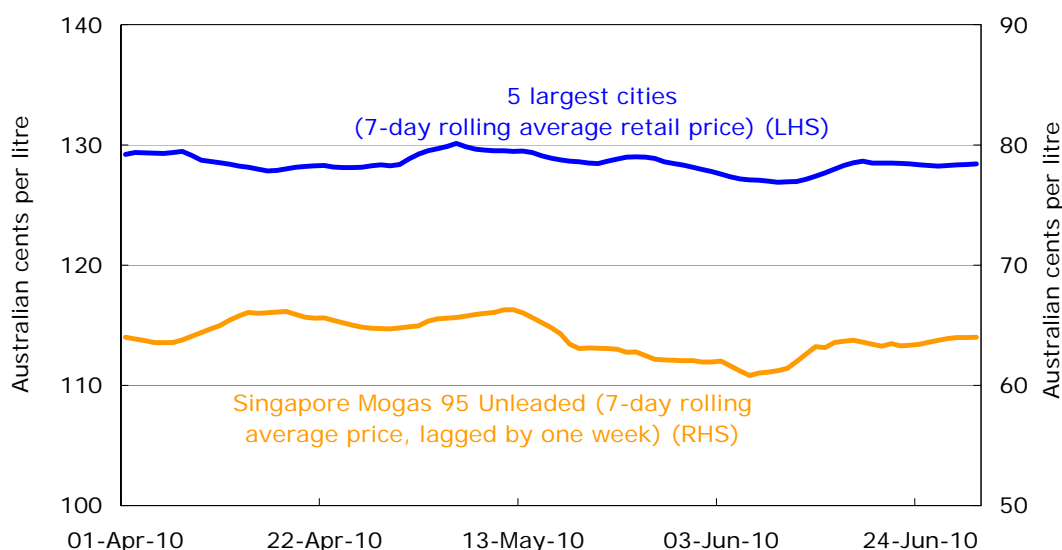
Price movements in the June 2010 quarter

Petrol

The ACCC examines movements in domestic retail petrol prices compared with movements in international benchmark prices. In the case of regular unleaded petrol it examines movements in seven-day rolling average retail regular unleaded petrol prices in the five largest 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 prices over the period 1 April to 30 June 2010. Retail regular unleaded petrol prices are shown on the left-hand side of the chart and Singapore Mogas 95 Unleaded prices are shown on the right-hand side. It is important to remember that a comparison of movements in these two prices 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.

Chart 5.1: Movements in retail regular unleaded petrol prices and international benchmark prices—1 April to 30 June 2010



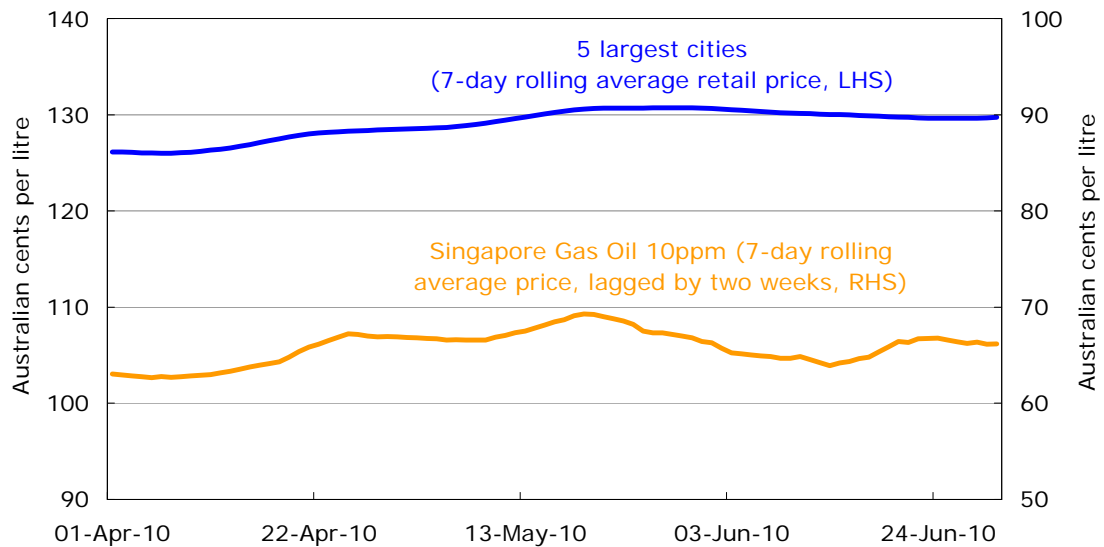
As illustrated in the chart, retail regular unleaded petrol prices tracked movements in the benchmark prices in the June 2010 quarter. Average retail regular unleaded petrol prices across the five largest cities (on a seven-day rolling average basis) decreased from 129.2 cpl to 128.4 cpl, a decrease of 0.8 cpl.

Diesel

The ACCC monitors the movement of retail diesel prices against the spot price of Singapore Gasoil with 10 parts per million (ppm) sulphur content. In the chart below, retail diesel prices are shown on the left-hand side of the chart and Singapore Gasoil prices are shown on the right-hand side. The chart illustrates that retail diesel prices broadly tracked movements in the international benchmark price over the June 2010 quarter.

Average retail diesel prices for the five largest cities (on a seven-day rolling average basis) increased by 3.6 cpl, from 126.1 cpl to 129.7 cpl.

Chart 5.2: Movements in retail diesel prices and international benchmark prices—1 April to 30 June 2010

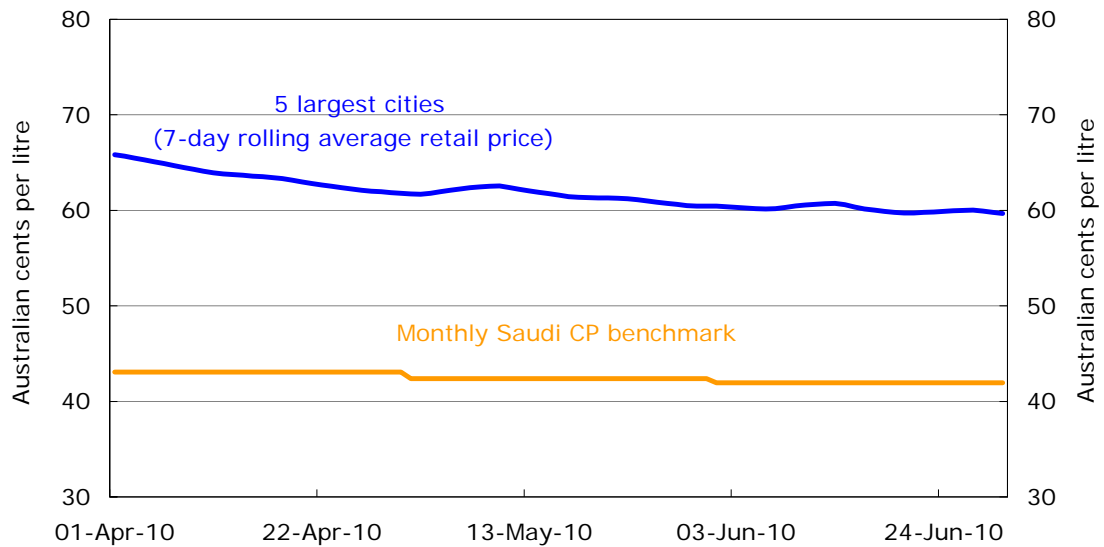


Automotive LPG

The ACCC monitors the movement of retail automotive LPG prices against the average price of Saudi Aramco contract prices for propane and butane, which are issued on the first day of the month (see chart below).

Average retail automotive LPG prices for the five largest cities (on a seven-day rolling average basis) decreased by 6.1 cpl, from 65.8 cpl to 59.7 cpl.

Chart 5.3: Movements in retail automotive LPG prices and international benchmark prices—1 April to 30 June 2010



6 International activities

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

- managing the ACCC's involvement at international fora, including coordinating and preparing 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 ACCC staff about global developments through research, analysis and reporting
- building and sustaining strong links with key international officials and organisations.

International fora

The ACCC participates in a variety of international fora throughout the year. The ACCC is an active member of the International Competition Network and is represented on its steering committee and a number of key working groups, including those relating to mergers and cartels. During the June 2010 quarter, the ACCC's presidency of the International Consumer Protection and Enforcement Network (ICPEN) came to an end; however, the ACCC continues to be involved in various ICPEN work groups. Other fora in which the ACCC participates include the Organisation for Economic Cooperation and Development (OECD) and Asia-Pacific Economic Cooperation (APEC).

Participating in such fora delivers a number of benefits to the ACCC, including:

- advocating the work of the ACCC internationally
- promoting competition and consumer protection in the region
- assisting the ACCC to obtain global development updates, as well as information and best practice strategies on enforcement activities from counterpart agencies
- assisting in building and sustaining strong links with key international officials and organisations.

In particular, during the June 2010 quarter the ACCC:

- attended the International Competition Network Annual Conference in Istanbul

- attended and presented at the American Bar Association Anti-trust Spring Meeting in Washington DC
- attended and participated in OECD Competition Committee meetings in Paris
- attended and participated in the newly formed OECD Product Safety working group and EU Consumer Product Safety seminar in Mallorca
- jointly hosted, attended and participated in the ICPEN Conference in Washington DC
- attended the American Bar Association Anti-trust Innovation Symposium in San Francisco
- worked on the finalisation of an MOU with the United States Consumer Product Safety Commission (CPSC) to enable enhanced information sharing in relation to product safety between the two agencies
- attended and participated in the Indonesian Conference on Competition Law and Policy in Bali
- presented for the OECD–Korea Policy Centre Competition Program in Seoul on the analysis of mergers where there are vertical/conglomerate effects and on determining and enforcing the appropriate set of remedies in merger cases.

Free trade agreements

The ACCC continues to actively participate in free trade agreement (FTA) negotiation rounds, contributing in particular to work on competition and consumer protection issues. The ACCC's participation in these negotiations reflects its goals of promoting competition in the region and ensuring that the FTAs:

- are compatible with Australia's competition law and regulations
- are practical in implementation
- contain mechanisms to build cooperative arrangements between the relevant enforcement authorities.

This quarter the ACCC participated in negotiations, or assisted in the preparation of material for negotiations, in relation to the following FTAs:

- Australia–Japan
- Australia–Korea
- Australia–Malaysia
- Trans-Pacific Partnership Agreement.

Information requests

The ACCC continues to actively share information regularly with its international counterparts. During the June 2010 quarter the ACCC received and/or sought information from counterpart agencies in Canada, Chile, Cyprus, the European Commission, Fiji, Germany, Hong Kong, Hungary, Indonesia, Ireland, Israel, Japan, Malta, New Zealand, Pakistan, Papua New Guinea, Singapore, the Slovak Republic, South Korea, the United Kingdom, the United States and Vietnam.

Information shared between the ACCC and its counterpart agencies relates to a range of the ACCC's activities, including market inquiries, best practice processes for investigations, product safety standards, outreach methodology, cross-border cartels, mergers and marketing fraud, and general information about the ACCC's role and functions and Australia's competition, regulatory and consumer protection laws and policies. The ACCC has also exchanged information to assist with enforcement investigations and measures against scam activity, and provided technical assistance.

Information exchange meetings and study visits

The ACCC hosts visits by counterpart agencies, which provides an opportunity to share ACCC experiences and expertise and assist in the development of those agencies. In addition to hosting meetings in Australia, the ACCC conducts meetings with counterpart agencies at international events such as OECD meetings.

During the June 2010 quarter the ACCC met with representatives of the following agencies:

- Competition Bureau, Canada
- FISCALIA Nacional Economica, Chile
- European Commission
- Fair Trade Commission, Japan
- Commerce Commission, New Zealand
- Ministry of Economic Development, New Zealand
- Competition Commission, Singapore
- Office of Fair Trading, United Kingdom
- Department of Justice, United States
- Federal Trade Commission, United States
- Competition Authority, Vietnam.

Capacity-building activities

The ACCC's capacity-building activities mainly focus on best practice processes in competition, infrastructure regulation and consumer protection. ACCC involvement in technical assistance programs provides valuable learning opportunities for developing agencies and experience for ACCC staff in delivering training.

Staff exchange

The ACCC and its counterpart agencies participate in staff exchanges and secondments to assist in developing an increased understanding of each other's activities, laws and policies, and to facilitate cooperation between agencies.

In the June 2010 quarter the ACCC hosted an official from the Vietnam Competition Authority for a one-month secondment in the Enforcement and Compliance Division.

7 Reviews and inquiries

Legislative matters

The following legislation came before the Australian Parliament during the June 2010 quarter.

Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010

On 17 March 2010 the government introduced the Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010 into the House of Representatives. Parliament passed an amended version of the bill on 24 June 2010.⁵

The legislation will implement the remaining reforms to the Trade Practices Act as part of the Australian Consumer Law process. In particular, the bill will implement three key sets of reforms:

- agreed best practice reforms based on existing provisions in the fair trading acts of the states and territories
- a new national product safety regulatory and enforcement framework
- a new regime of statutory consumer guarantees and remedies to replace existing consumer conditions and warranties.

The bill will also change the name of the Trade Practices Act to *Competition and Consumer Act 2010*.

Trade Practices Amendment (Infrastructure Access) Bill 2010

On 29 October 2009 the government introduced the Trade Practices Amendment (Infrastructure Access) Bill 2009 into the House of Representatives. Parliament passed an amended version of the bill on 24 June 2010. The bill currently awaits Royal Assent.

Among other changes, the legislation will amend the Trade Practices Act in relation to:

- binding time limits and limited merits review
- applications by certain persons that a certain service is ineligible to be a declared service
- enabling the ACCC to accept access undertakings with fixed principles that will apply to subsequent undertakings
- enabling the ACCC to issue an amendment notice proposing amendments to a proposed access undertaking submitted by a service provider.

⁵ The bill received Royal Assent on 13 July 2010.

Competition and Consumer Legislation Amendment Bill 2010

On 27 May 2010 the government introduced the Competition and Consumer Legislation Amendment Bill 2010 into the House of Representatives. The bill was referred to the Senate Economics Legislation Committee for inquiry and report. The report was tabled on 15 June 2010.

If passed, the legislation would amend the Trade Practices Act and the proposed *Competition and Consumer Act 2010* to address the issues of creeping acquisitions and to insert a statement of interpretive principles into the unconscionable conduct provisions of the Australian Consumer Law.

Other developments

Regulatory price cap and price notification regime for regional air services into and out of Sydney Airport

On 28 May 2010 the Minister for Competition Policy and Consumer Affairs, the Hon. Dr Craig Emerson MP, signed a declaration under the Trade Practices Act and issued a direction to the ACCC relating to the Australian Government's decision to continue with the current regulatory price cap and price notification regime for regional air services into and out of Sydney Airport.

Declaration No. 92 declares the provision of aeronautical services and facilities to regional airlines at Kingsford Smith Airport, effectively restricting the airport from increasing aeronautical charges in excess of CPI between 1 July 2010 and 30 June 2013. Direction No. 30 directs the ACCC to give special consideration to the government's policy that the increase in prices for regional aeronautical services and facilities over the three years from 1 July 2010 should not exceed the total increase in CPI over that same period.

Petrol monitoring

On 13 May 2010 the Minister for Competition Policy and Consumer Affairs, the Hon Dr Craig Emerson MP, issued a direction to the ACCC under the Trade Practices Act concerning the monitoring of prices, costs and profits related to the supply of unleaded petroleum products in the petroleum industry. The direction requires the ACCC to continue its petrol monitoring activities in 2011 and provide a report to the minister by 17 December 2011.

The direction effectively extends by one year the direction issued by the previous minister, the Hon. Chris Bowen MP, on 17 December 2007. Minister Bowen's direction will expire after the ACCC completes its 2010 petrol monitoring report, which is due in December.

Parliamentary inquiries

During the June 2010 quarter the ACCC appeared before its Senate Budget estimates hearing and three other parliamentary inquiries:

- **Senate Economics Legislation Committee** | 9 April 2010 | Trade Practices Amendment (Material Lessening of Competition—Richmond Amendment) Bill 2009

- **Senate Economics Legislation Committee** | 27 April 2010 | Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010
- **Senate Select Committee on the National Broadband Network** | 4 June 2010,

On 24 June 2010 the ACCC also provided a briefing to the Senate Select Committee on Agricultural and Related Industries to assist its inquiry into food production in Australia.

Consultative committees

Infrastructure Consultative Committee (ICC) | met 22 April 2010 | issues discussed included:

- current infrastructure issues across all areas
- recent regulatory reforms
- the development of a national port strategy
- progress report on the ICC project concerning the state of the market for corporate debt following the global financial crisis.

Fuel Customer Consultative Group (FCCG) | established 30 April 2010 | issues discussed included:

- the committee's objectives and rules and an outline of what the members expected to achieve
- developments in relation to biofuels (particularly ethanol blended petrol)
- the findings of the 2009 *Monitoring of the Australian petroleum industry* report
- historical pricing trends and general market influences on prices.

Franchising Consultative Committee (FCC) | met 4 June 2010 | issues discussed included:

- issues arising from the Franchising Code amendments, which came into effect on 1 July 2010
- recent ACCC franchising litigation
- Griffith University's study into franchise conflict, and its ACCC-funded pre-entry education program for prospective franchisees.

Small Business Consultative Committee (SBCC) | met 18 June 2010 | issues discussed included:

- recent enforcement outcomes and adjudication work relevant to small business
- recent amendments to the Trade Practices Act, in particular the unfair contract terms regime which came into effect on 1 July 2010
- the 2009 amendments to section 53C, particularly in relation to café/restaurant menu pricing

- bundled telecommunications contracts and the impact these may have on small business.

Appendix

Speeches

During the June 2010 quarter the ACCC delivered 27 speeches, including:

Telecommunications and media: the changing landscape

Graeme Samuel, Chairman

Convergence in digital media and the sports media code, Communications and Media Law Association, Sydney, 4 May 2010

The ACL and the telecommunications sector

Sarah Court, Commissioner

A regulator's perspective. Communications Alliance, Sydney, 11 May 2010

What the ACL means for small business

Peter Kell, Deputy Chairman

ACCC-hosted breakfast for small business, Darwin, 25 May 2010

The changing face of competition law in Australia

Michael Schaper, Deputy Chairman

What every accountant needs to know, National Institute of Accountants, Hobart, 28 May 2010

Current issues facing the ACCC

Graeme Samuel, Chairman

Competition Law Conference, Sydney, 29 May 2010

News releases

During the June 2010 quarter the ACCC issued 57 news releases and the AER issued two news releases.

Publications

The following publications were released during the June 2010 quarter.

Corporate

ACCCount: A report of the Australian Competition and Consumer Commission's activities, 1 January to 31 March 2010

ACCC update, issue 28

For consumers

Consumers and unfair contract terms

Product safety bulletin June 2010: Children's toys containing magnets

Product safety bulletin June 2010: Lead and certain elements in children's toys and finger paints

For business

A guide to the unfair contract terms law

Children's nightwear and paper patterns for children's nightwear: Supplier guide

Franchising Code of Conduct amendments

News for business: ACCC powers to issue infringement, substantiation and public warning notices

News for business: Unfair contract terms

Professions and the Trade Practices Act

Reduced fire risk cigarettes: Supplier guide

Your essential guide to the Franchising Code of Conduct, DVD

ACCC reports

Review of the Australian product safety recalls system

For regulated industries

Network, issue 36

Regulatory observer, issue 1

Regulatory observer, issue 2