"Competition Policy - Implications of the Hilmer Report for the dairy industry"

Rhonda Smith
Commissioner
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Introduction

Thank you for inviting me to address the Australian Dairy Industry Council at its Annual General Meeting this year. Competition policy has been subjected to many recent reforms and there are many implications, especially for the rural sector of the Australian economy. The rural sector - and dairy industries are no exception - are being subjected to deregulation and facing competitive markets for the first time in Australia. Statutory protection and marketing boards are being removed.

I would like to talk to you today about competition policy, the role of the ACCC and the impact that this will have for the dairy industry. One major development is the deregulation of many agricultural industries. Where industries are no longer protected by statutory legislation, they are now subject to the TPA and the Commission's enforcement of this Act. I will cover three major roles of the Commission, authorisation & notification; merger investigation and enforcement.

Competition Policy: What is it?

Competition policy should be seen as part of the much broader agenda of micro-economic reform. The aim of micro-economic reform (and of competition policy as part of it) is to improve the efficiency with which resources are used, thus contributing to improved living standards. Thus, it is about:

- increasing the output obtained from a given input (technical or production efficiency);
- improving the allocation of resources between different uses, such that resources go to those uses where consumers value them most (allocative efficiency); and
- improving the response to changing demand and supply conditions (referred to as dynamic efficiency).

Competition policy may impact on either market structure - which influences the incentives for competitive conduct, or on market conduct. It embraces a wide range of policy instruments concerning trade, intellectual property, foreign investment, tax, small business, the legal system, public and private ownership, licensing, contracting out, bidding for monopoly franchises and so on, as well as both the restrictive trade practices and consumer protection provisions of the *Trade Practices Act*.

Some of these policies have an obvious direct effect on competition whilst others affect the general economic environment and ultimately the general climate of competition in the country. Thus, other bodies involved in competition policy include

the Industry Commission, industry specific bodies such as Austel and the Australian Broadcasting Tribunal, and the various State pricing authorities and bodies such as Victoria's Regulator General.

A large element of competition policy is the removal of legislative obstacles to competition. Thus, for example, deregulation affects market structure and the incentives for competitive conduct.

Hilmer

In 1991 the Council of Australian Governments (COAG), agreed to examine a national approach to competition policy. The first step in this process was the establishment in the following year of the National Competition Policy Review by a committee chaired by Professor Fred Hilmer.

On completion of the Hilmer Committee's report in August 1993, Commonwealth, State and Territory Governments began extensive negotiations on implementation of its recommendations. The recommendations made by the Hilmer committee were generally accepted by COAG in April 1995 and the processes culminated in June 1995 in the *Competition Policy Reform Act* 1995. The main reform elements, to be implemented progressively, are as follows:

- The *Trade Practices Act* was amended so that, with applicable State and Territory legislation, the prohibitions of anti-competitive conduct contained in Part IV apply to all businesses in Australia. Constitutional limitations had previously prevented application of the competitive conduct rules to unincorporated businesses operating solely in intra-State trade.
- 'Shield of the Crown' immunity for State and Territory Government businesses is to be removed, with GBE's being subject to the Act from 21 July 1996.
- A new Part IIIA was added to the *Trade Practices Act*, and came into effect on 6 November 1995, establishing a legislative regime to facilitate access to the services of certain infrastructure facilities of national significance.
- Also on the 6 November 1995, the Trade Practices Commission and Prices Surveillance Authority were merged to form the Australian Competition & Consumer Commission. Another new body, the National Competition Council was also established on the same day.
- The Trade Practices Tribunal was renamed the Australian Competition Tribunal and now has the added responsibility for appeals from decisions in Part IIIA access matters.
- A number of changes to Part IV of the *Trade Practices Act* came into effect on 17 August 1995 and broadly involve:
- provision for the ACCC to authorise price agreements between competitors on goods and repealing the existing exemption of agreements on recommended prices between fifty or more participants (s 45);
- new notification provisions to cover third line forcing (s 47);
- extension of the prohibition of resale price maintenance to cover services, as well as goods, and providing for the authorisation of resale price maintenance (s 48); and
- repeal of the specific provisions prohibiting price discrimination (s 49).

New sections were inserted in the *Trade Practices Act* clarifying what activities of the Commonwealth, State and Territory Governments will not be regarded as 'business' and hence not caught by Part IV. In brief, these activities include:

- the imposition or collection of taxes, levies, or fees for licences;
- a variety of intra-government transactions; and
- the acquisition of primary products by a government body under Commonwealth, State or Territory legislation where such acquisition is non-discretionary.

There were three main changes to the *Prices Surveillance Act*:

- The reach was extended to the business enterprises of State and Territory Governments. The amended law sets out strict criteria under which the prices set by those enterprises may be vetted or monitored by the ACCC.
- The ACCC was given a formal monitoring role. This will enable it to use its statutory power to secure the information it requires from a monitored organisation or industry.
- The price vetting procedure was refined. The declaration of a business organisation will no longer be open-ended: the Minister has to specify a period. The threshold above which price rises have to be notified has been narrowed to the peak price for the preceding twelve months. The addition of a twelve month limit removes a former anomaly. Finally, the ACCC must provide a public account of the reasons for each decision.

The reform legislation was complemented by two inter-governmental agreements:

The Conduct Code Agreement. This sets out processes for amendments to the competition laws of the Commonwealth, States and Territories and for appointments to the ACCC. It provides for participating governments to (1) pass appropriate legislation to apply the CPRA; and (2) to notify the ACCC of any s 51 exceptions.

Section 51(1) has been significantly watered down. Prior to the legislation, section 51(1) provided that a State or Territory (as well as the Commonwealth) could override the TPA by passing legislation that specifically authorised behaviour that would otherwise be in breach of the Act. Whilst this will remain possible under the new legislation it will be more difficult, more visible and perhaps more embarrassing for States and Territories, and the Commonwealth itself, to do this. A number of transitional provisions accompany the phasing in of this new approach to jurisdiction under the Act.

The Competition Principles Agreement. This sets out arrangements for appointments to, and deciding the work program of, the NCC. It also sets out the principles that governments will follow in relation to prices oversight of GBE's, structural reform of public monopolies, review of anti-competitive legislation and regulations, access to services provided by significant infrastructure facilities and the elimination of any competitive advantage or disadvantage experienced by government businesses when they compete with the private sector.

ACCC

I would now like to discuss in more detail the role and function of the Australian Competition & Consumer Commission and consider how it has changed since its formation last November following a merger between the Trade Practices Commission and the Prices Surveillance Authority.

ACCC Functions

An objects clause was inserted into the TPA in 1995 which states that the object of the Act is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection. The ACCC's goals are a function of the objects of the Act. Its goals, inherited from the TPC are to promote:

- compliance with the *Trade Practices Act*;
- improvement in market conduct;
- a community educated and informed about the *Trade Practices Act*; and
- efficient and effective marshalling and use of ACCC resources.

Following on from these objectives, the main functions of the ACCC are:

- administration and enforcement of the competitive conduct rules (Part IV) and the consumer protection segment (Part V), of the *Trade Practices Act*;
- consideration of notifications and applications for authorisation (Part VII);
- administration of certain aspects of an "access to services" regime (Part IIIA); and
- prices surveillance.

As discussed above, there have been a number of changes to the functions of the ACCC as a result of the Hilmer reforms, in addition to the obvious one of the creation of the ACCC from a merger between the TPC and the PSA. The most significant change/addition to the ACCC's responsibilities that was not performed by either the TPC or the PSA was the introduction of Part IIIA to the *Trade Practices Act* in November 1995 to create an access to services regime. I will discuss this in more detail a little later.

Authorisation

Authorisation under the TPA is a concept that is important to many rural industries and may be of use to the Dairy Industry. The TPA recognises that competition is not always the best method for encouraging efficient markets and for promoting the welfare of all Australians. In some cases there are distinct and substantial public benefits from not prohibiting anti-competitive conduct and allowing agreements between competitors to proceed. In response to this argument, the TPA has an "authorisation" provision, a section that gives the Commission a role in judging whether the public benefit from a proposed arrangement or conduct outweighs the anti-competitive effect from that conduct. If the Commission determines that this is the case, the Commission provides authorisation to the conduct - in effect a legal indemnity from any action under the TPA.

The Commission has the power to put any necessary conditions onto an authorisation and to provide authorisation on an unlimited basis or for a set time period. The

Commission can revoke the authorisation if it feels that there has been a material change of circumstances affecting the conduct being authorised or if the information on which the Commission's authorisation decision was made, was misleading.

Authorisation does not provide a blanket exemption from the requirement to comply with all provisions of the Act. The Act allows the Commission, on application, to grant authorisation in relation to:

- making or giving effect to an anti-competitive contract or arrangement or an understanding;
- covenants affecting competition;
- primary boycotts;
- secondary boycotts;
- anti-competitive exclusive dealing;
- exclusive dealing involving third line forcing;
- resale price maintenance; and
- mergers leading to or likely to lead to substantial lessening of competition.

Misuse of market power may not be authorised.

Notification

Notification is a concept similar to authorisation. Notification provides protection from prosecution under the TPA and takes effect when a notification of certain conduct is lodged and the conduct is exempt from the provisions of the TPA until the Commission revokes the notification. Notification has been used by the South Australian Dairy Industry on occasion after deregulation. In 1994 the Commission received and accepted a notification from the South Australian Dairy Industry for arrangements with Milk Vendors. At the time, as you are all probably aware, South Australia had two major brands of milk, the arrangement was to make exclusive contracts with the effect that milk vendors could only carry one brand or the other.

On a later occasion, the Commission was consulted by Dairy Vale in South Australia to provide an informal opinion about whether authorisation should be sought for its restructure from a co-operative to a corporate structure. The Commission saw no major trade practices concerns and informed the parties of its informal opinion.

Public benefit

The public benefit of the conduct is assessed within the context of the market. The Act requires the Commission to have regard to all the circumstances that relate to the public benefit. Public benefit is not defined by the Act, but left to the discretion of the Commission. Some outcomes that have been recognised as public benefits in the past include:

- fostering business efficiency;
- industry rationalisation;
- expansion or employment;
- promotion of industry cost savings;
- promotion of competition in industry;

- promotion of equitable dealings in the market;
- development of import replacements;
- growth in export markets;
- arrangements which facilitate the smooth transition to deregulation.

The last two of these public benefits have been of importance to rural industries in Australia, especially those subjected to competition for the first time. The growth in export markets was recognised in the authorisation granted to the Australian Wool Exchange Ltd for its articles of association and code of conduct and business rules. The application was made in response to the Commonwealth Government's decision to withdraw from its involvement in the administration of the marketing of wool. The major industry groups established AWEX to fill the void left by the Government's withdrawal. The substantial contribution that the wool industry makes to the Australian economy from its export arrangements was an important consideration in the decision.

The last mentioned public benefit has been used quite considerably in the context of deregulation of many rural industries. The removal of statutory protection measures and statutory marketing authorities has meant that many primary producers have suddenly gone from concentrating on producing grains, eggs and dairy products to becoming marketeers overnight.

The Commission has dealt with a number of rural industries that have sought authorisation for various marketing schemes following the withdrawal of government support for those industries. In assessing these applications, the Commission accepted that in most cases there would be a public benefit in mechanisms that facilitate the transition from a regulated scheme to a deregulated regime. This position helped to avoid a dislocation in the functioning of a market that would be caused by too sharp a move from regulation to deregulation.

In particular, the Commission granted authorisation to the winegrape industry to enable various groups in the industry to hold a series of meetings to reach an indicative price for winegrapes. Under previous legislation, prices for winegrapes had been fixed. In the Commission's view the process of reaching the indicative price enhanced public benefit by improving information exchange in the industry and helping growers to adjust to an environment where they had to negotiate their own prices. In contrast, the Commission denied authorisation to the tobacco industry for a scheme to replace various government market support schemes. The proposed scheme, in the Commission's view was no different from the government marketing schemes it sought to replace. Such a scheme did not assist the industry to adapt to the new circumstances it would face in a deregulated environment.

The Victorian Egg Industry Co-operative in 1995 was granted authorisation for a two year period for a franchising and marketing agreement that set prices, packaging and output between producers. The Commission in that matter, considered that the small public benefits that arose from the agreement, such as information dissemination and quality control, would not have been sufficient on their own to outweigh the anti-competitive effect of the agreement. However in the light of the fact that the industry was newly deregulated and that this led to far-reaching and fundamental changes to the business techniques of producers, this public benefit was considered by the

Commission, to outweigh the anti-competitive effect of the arrangement. The authorisation was limited to two years, because the Commission did not want to reduplicate the protected regulatory scheme that had just been removed, but merely wanted to facilitate the adjustment to the new marketing techniques.

Two weeks ago, the Commission granted authorisation to a collective negotiation agreement between Ingham's chickens and its contract growers on several grounds of public benefit including:

- assisting a smooth transition from regulation to deregulation which will ensure lower adjustment costs for the South Australian chicken meat industry;
- providing chicken growers with a degree of countervailing market power in the negotiating process; and
- a decrease in transaction costs resulting from the collective negotiation process that should result in lower retail prices.

Markets

Market definition is a significant element in consideration of applications for authorisations or merger consideration. If the market is broadly defined, it is unlikely that an agreement or an acquisition will lead to a substantial lessening of competition. If the market is narrow, the conduct has a higher chance of being judged to be anti-competitive. In the QCMA case the Trade Practices Tribunal said in 1976:

"We take the concept of a market to be basically a very simple idea. A market is the area of close competition between firms, putting it a little differently, the field of rivalry between them... Within the bounds of a market there is substitution - substitution between one product and another, and between one source of supply and another, in response to changing prices. So a market is the field of actual and potential transactions between buyers and sellers amongst whom there can be strong substitution, at least in the long run, if given a sufficient price incentive. Let us suppose that the price of one supplier goes up. Then on the demand side buyers may switch their patronage from this firm's product to another, or from this geographic source of supply for another. Whether such substitution is feasible or likely depends ultimately on customer attitudes, technology, distance and cost and price incentives."

In the Victorian Egg determination and the recent South Australian Chicken determination, the Commission found that the relevant market was a state market and separated the functional markets at the production, distribution and retail levels. For example in the Egg determination, this meant that the Commission looked at the conduct in the context of the Victorian state market. This was because producers from anywhere in the State could supply to other areas within the State, but did not often supply to inter-state areas. The anti-competitive agreement was therefore judged on the fact that 70% of all producers in the State were parties to the agreement. If the market had been judged to have been a national market, perhaps only 30% of all Australian producers would have been party to the agreement and the anti-competitive effect would not have been as considerable.

Mergers in the rural sector

The TPA prohibits mergers or acquisitions that would substantially lessen competition in a substantial market. The Commission looks at approximately 150 mergers each year and in 1994/95 opposed eight proposals. The Commission has issued Guidelines on its merger investigation for industry. A five stage process for the Commission's assessment of substantial lessening of competition is adopted in the guidelines. The steps are:

1. First, the market is defined.

2. Market concentration ratios are assessed. If the market concentration falls outside the thresh-holds, the Commission will determine that substantial lessening of competition is unlikely. The concentration thresholds are:

- if the top four firms in the market enjoy less than 75 per cent market share the Commission does not investigate any further, subject to the next point;
- If no firm has 40 per cent or more of the market, the ACCC does not investigate the merger.

There is no presumption that because a firm's market share is above a certain threshold it is necessarily considered to be anticompetitive. It is simply the reverse, below certain market shares the Commission does not consider mergers.

3. Potential or real import competition is looked at. If import competition is an effective check on the exercise of domestic market power, it is unlikely that the Commission will intervene in a merger. If imports exceed ten per cent, the Commission does not consider the merger.

4. In the fourth stage of its merger assessment, the Commission looks to the barriers to entry to the relevant market. If the market is not subject to significant barriers to new entry, incumbent firms are likely to be constrained by the threat of potential entry, to behave in a manner consistent with competitive market outcomes. A concentrated market is often an indication that there are high barriers to entry.

5. Finally, if a merger is still under consideration after the steps above have been taken, the Commission then engages in more detailed competitive analysis. In doing so, the Commission looks to other factors which are outlined by the legislation in section 50(3) that I outlined above. They include whether the merged firm will face countervailing power in the market; whether the merger will result in the removal of a vigorous and effective competitor; or whether the merger is pro, not anti-competitive.

If the Commission determines that the merger or acquisition will be a breach of the Australian legislation because it substantially lessens competition in a substantial market, the parties to the transaction may:

- **discontinue**
- **provide undertakings** to overcome the Commission's concerns. The Commission prefers "structural" rather than "behavioural" undertakings. By structural, I mean undertakings that could include divestiture, for example to

sell off certain branches of a bank to a third party. It is probably obvious to you that "behavioural" undertakings such as promises not to raise prices or harm other competitors are hard to monitor and create considerable burdens on Commission resources.

- **proceed with merger**. If the parties continue with their merger plans after the Commission has indicated its informal objections, the Commission then normally seeks a permanent injunction and must prove to the Court's satisfaction that the merger would substantially lessen competition. There is a right of appeal to the full Federal Court. The process usually takes time.
- **seek authorisation**. The option of authorisation is available, as I discussed above, where an acquisition would lead to a benefit to the public at such a level that the Commission believes that the acquisition ought to be allowed to proceed.

The Commission has looked at many proposed mergers in the rural industry. In 1995 the Commission announced that it would oppose a proposed joint venture between Goodman Fielder Limited and Bunge Industrial Pty Ltd on the grounds that it would be likely to substantially lessen competition. The joint venture would have merged the milling, baking, pre-mix and starch/gluten operations of the companies. In arriving at its conclusion, the Commission particularly took account of:

- the fact that the proposed joint venture would remove two large competitors from the flour market and combine them into one;
- the high level of concentration which would result in the south-eastern Australian flour market (and particularly the high market share of a combined Goodman Fielder and Bunge - the Commission estimated this share as being in the order of 65 per cent);
- high barriers to entry to flour milling due to the high 'sunk costs' and economies of scale;
- the absence of import competition; and
- the significant level of vertical integration by flour millers in the bread supply markets.

The Commission's decision was influenced by the fact that flour is a major cost in making bread and other baked products such as cakes and biscuits and affects the cost of independent plant bakers, hot bread shops and in-store bakeries operated by retail chains. Consumers would be likely to face higher bread prices.

The Commission conducted extensive market inquiries in Victoria and also nationally, consulting other millers, bakers of bread and other flour-based products, industrial users of flour and flour products and various segments of the food retailing sector. The parties claimed that some public benefit would arise from the merger, however the Commission can only look at this if the parties apply for authorisation for the merger.

Mergers in the Dairy Industry

Several years ago the Commission opposed some mergers between large dairy companies in Australia. The Commission was concerned to ensure that the bodies did not replicate the protected market that existed before deregulation. More recently,

after initial hesistation, the Commission allowed the takeover of Port Curtis Dairies by QUF after negotiations with the relevant parties. The Commission has not opposed the following two joint ventures in the Dairy industry:

Australian Co-operative Foods/ Bega Co-operative Society Limited

The Commission was approached by ACF and Bega about a proposed joint venture in market milk processing and distribution in February 1996. ACF and Bega proposed to consolidate their market milk processing and distribution businesses in the ACT and South-East New South Wales, but excluding ACF's operation outside this region and Bega's dairy food manufacturing facilities.

In determining that the proposed joint venture was unlikely to substantially lessen competition, the Commission noted that the milk industry was undergoing significant rationalisation with many of the smaller players looking to strategic alliances with a major player in order to ensure sufficient backing to remain viable in the face of larger and better capitalised competitors.

Co-operatives have approached the Commission with arguments that they are particularly vulnerable due to their historical problems with accessing capital markets and it is argued that alliances such as the one proposed here will, along with other rationalisation and scale benefits, enable such access on more favourable terms.

The Commission did not oppose the joint venture.

QUF Industries/Norco/Dairyfields

The Commission was approached about a further joint venture for the marketing of milk in February 1996. AUF, Dairyfields and Norco proposed a joint venture in packaged milk operations. It will also produce cream, custard and fruit juice. The Commission considered that, while the acquisition could be viewed as a pre-emptive action in light of further industry deregulation, the presence of other significant industry participants would be likely to maintain competition.

The Commission did not oppose the joint venture.

Enforcement issues in Agricultural Matters

QUF

In 1993 the Commission alleged that the QUF wrote to former milk vendors before an auction of Brisbane milk runs to be held on 7 July 1993, offering them special sub-lease arrangements provided they did not bid at the auction. The Commission was of the view that these arrangements may prevent competition after deregulation.

The Federal Court found against the Commission's application for interim orders. The Commission subsequently decided not to proceed to a substantive hearing of the matter, discontinued its action and paid QUF's costs.

Reef

This matter involves allegations against Reef Distributing Company, a manufacturer of fertiliser products. The Commission has alleged that Reef telephoned a number of farmers in Victoria, Queensland and NSW and represented that it would supply liquid fertiliser products at no charge. Alternatively, Reef represented to farmers that they would be under no obligation to pay for liquid fertiliser unless harvested crops yielded an increase in output. Reef is also alleged to have sent unsolicited goods to farmers, and demanded payment. The farmers all subsequently received demands for payment, culminating in the issuing of proceedings against them in the Manly Local Court.

The matter was referred to the Commission by the Victorian Farmers' Federation. Inquiries indicate that the alleged conduct has been consistent over the past four years across three states. The Commission inquiries have indicated that at least 140 farmers have been affected by Reef's conduct, but believe that there may be more. Additionally, because Reef targets rural communities and growing groups, the effects of its conduct are intensified in small areas, many of which are suffering economic hardship from drought conditions. The Commission views this as very unacceptable business behaviour and is not prepared to let the matter pass without action.

The Commission was granted an interim injunction in the matter last September restraining Reef from further prosecuting any proceedings against a number of farmers in the Manly Local Court. In March this year the Commission obtained further wider interlocutory injunctions to the effect that Reef is restrained from prosecuting further any proceeding by it now pending or taking any step in proceedings to be commenced against any person for the price of the goods, or freight charges for the carriage of the goods. The matter is to return to Court in the next few months for permanent directions.

Rhone Merieux

Primary producers are also better off as a result of recent action taken by the ACCC against a producer of veterinary supplies. The producer, Rhone Merieux Australia (RMA), had tried to force a wholesaler of veterinary products to stop discounting their new flea control product, Frontline. It was alleged that when the wholesaler refused to stop discounting, his account was terminated and supply was refused. This sort of conduct is prohibited by the resale price maintenance provisions of the TPA.

By consent of the parties, the matter was resolved by the Federal Court who ordered that:

- RMA be restrained from engaging in the practice of resale price maintenance and that it write to all its wholesalers advising them that they can discount RMA products; and
- RMA place corrective advertisements in the relevant veterinary magazines.

In addition to the Court order, RMA provided also gave undertakings to the Commissions that RMA will:

- introduce an ACCC approved trade practices compliance program to cover its employees, including the provision of a pocket checklist on trade practices compliance; and

- write to all veterinary surgeons throughout Australia providing corporate compliance information to them on two separate occasions in the next two years and provide them with a copy of the pocket checklist; and
- fund an industry awareness program for wholesalers and retail veterinary surgeons regarding trade practices compliance. This program is to include seminars and presentations in major capital cities.

HeartSmart Eggs

The ACCC recently took action against a number of producers of Omega 3 enriched eggs called "HeartSmart". Various companies gave enforceable undertakings to the ACCC in relation to the eggs. The ACCC had alleged that the HeartSmart egg producers had made false or misleading claims about the health benefits of consumption of the eggs and that ABRI, the owner and licensor of the trademark 'HeartSmart' was knowingly concerned in the offences.

The ACCC alleged that promotional literature and radio advertisements misrepresented that:

- Omega 3 is lacking in most Australian diets;
- extent of research into the effect of the Omega 3 eggs on the human heart;
- ability of the Omega 3 enriched eggs to reduce blood pressure;
- effect of Omega 3 in reducing the risk of arthritis and asthma;
- various heart foundations around the world encourage the increased and regular use of all types of eggs; and
- the consumption of HeartSmart eggs is beneficial for pregnant and nursing mothers.

The HeartSmart producers have now undertaken to:

- change the name of the eggs;
- adopt a standard testing procedure to determine the Omega 3 content of the eggs:
- immediately abandon current advertising;
- cease making misleading health benefit claims;
- engage in advertising to correct the misleading information promoted in the HeartSmart literature; and
- pay the ACCC's costs.

Future Directions

The future of competition policy and reform in Australia is expected be both challenging and exciting. The recent extension of the *Trade Practices Act* into new areas to cover Government Business Enterprises and unincorporated businesses should see the emergence of a more competitive and efficient business environment.

Effective competition is the key to efficiency and productivity in businesses. It is the factor that encourages innovation, cost and production efficiency and enhanced consumer satisfaction by businesses striving to keep ahead of their competitors. However, stiff competition also creates incentives for unethical traders to 'cut corners'

to beat their rivals, and this is where the ACCC must step in. Recent trends have shown that a culture of healthy and legal competition between businesses has developed in Australia since the introduction of the *Trade Practices Act*. However the incentives to cheat will always be too much for some businesses to resist, and hence there will always be a need for ACCC type enforcement.

However, in addition to its enforcement role, the ACCC sees itself playing an important part of developing and maintaining industry compliance and awareness of the *Trade Practices Act*. There is increasing awareness by business of the need to educate staff to promote compliance. The ACCC most certainly encourages this attitude of compliance and will continue in the future to assist in the process of deterrence of breaches of the Act. The ACCC is certainly a firm believer in the age old cliche that "prevention is always better than cure".