

GST final report

**ACCC oversight of pricing responses to the
introduction of the new tax system**

JANUARY 2003



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Foreword

An important part of the work of the Australian Competition and Consumer Commission during the three years from 8 July 1999 to 30 June 2002 was its responsibilities to oversight pricing responses to the New Tax System changes, particularly the introduction of Goods and Services Tax and abolition of Wholesale Sales Tax.

During these three years the Commission administered legislation prohibiting price exploitation in relation to the New Tax System changes. This law was established under the Trade Practices Act to reflect federal and state governments' desire to address consumer concerns about the possibility of some businesses taking advantage of the tax changes to charge unreasonably high prices.

The Commission promoted compliance through the extensive distribution of information and the education of business and consumers about their rights and obligations under the price exploitation provisions of the Trade Practices Act. It closely monitored prices and pricing behaviour to estimate price movements from the proposed New Tax System changes, to assess actual price adjustments following the tax changes, and to help identify any price exploitation. The Commission also actively enforced the law through investigation of complaints and possible breaches identified from its monitoring and from other sources.

As a general conclusion, there was no evidence of significant opportunistic pricing by business to increase margins following the introduction of the Goods and Services Tax and abolition of Wholesale Sales Tax on 1 July 2000. The impact on pricing occurred mainly in the September 2000 quarter and was within the Commission's estimates of the effect of the tax changes. While businesses generally acted correctly in adjusting prices to take account of the tax changes there was nevertheless a significant number of likely breaches of the law pursued by the Commission, with a range of remedies, including substantial refunds, obtained for the benefit of affected consumers.

This report provides an overview of the Commission's activities in over-sighting pricing responses to the New Tax System changes.

The contribution of Commissioners, particularly of Dr David Cousins who was the Commissioner with special responsibilities for the New Tax System changes, and Commission staff, to the public interest outcomes achieved is acknowledged.

Professor Allan Fels AO

Chairman

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Introduction

To ensure there was no price exploitation in relation to the New Tax System (NTS), which included introduction of the Goods and Services Tax and abolition of the Wholesale Sales Tax (WST), a prices oversight regime was established under the Trade Practices Act.

Under this regime the Australian Competition and Consumer Commission had specific responsibilities to oversight pricing responses to the introduction of the NTS during the three year period from 8 July 1999 to 30 June 2002—the NTS transition period.

This report provides an overview of the Commission's activities.

For each quarter of the three year transition period the Commission was required to report to the Minister about its operations in relation to the NTS. These quarterly reports are published on the Commission's website and provide detail on the activities of the Commission.

Included in this overview final report are brief sections on the NTS and the related role of the Commission. The report then discusses the Commission's activities under three general section headings: Promoting compliance, Price monitoring and Enforcement.

For the first half of the three year transition period in particular, the Commission's primary focus was on promoting compliance through informing and educating business and consumers about their rights and obligations under the price exploitation provisions of the Trade Practices Act. The various means by which the Commission undertook this essential task are noted in 'Promoting compliance'.

Having an extensive price monitoring program in place was vital to the Commission fulfilling its prices oversight role, as noted in 'Price monitoring'. Gathering information on prices and pricing behavior in the period leading up to the introduction of the GST on 1 July 2000 and in the months immediately following provided the basis for the Commission's estimates of price movements resulting from the NTS changes and helped identify where price exploitation occurred.

'Enforcement' provides an overview of the Commission's NTS-related enforcement work, including a brief discussion of some individual cases. Price exploitation remained an enforcement priority throughout the three years of the transition period. During this period the Commission, in relation to the NTS:

- considered over 51 000 complaints
- investigated approximately 7000 matters
- obtained refunds of around \$21 million on behalf of approximately two million consumers
- instituted court proceedings in 11 matters
- accepted 55 court enforceable undertakings.

The aim of the Commission's enforcement work was to promote compliance and to quickly resolve GST-related matters to minimise confusion and consumer losses. Emphasis was placed on having businesses cease the conduct of concern, and many businesses also undertook various forms of corrective action such as the publishing of notices in the media and/or at point of sale or the sending of letters to individual customers.

Requiring suppliers to refund amounts overcharged to consumers because of the NTS changes was also a priority of the Commission's enforcement work. In most, but not all, cases it was possible for suppliers to identify and refund the individual customers who had been overcharged. When it was not possible to identify such customers, despite in many cases advertising the availability of refunds in mainstream press, suppliers were required to divest overcharged amounts through discounting or the free supply of products and in a few cases through donation to charities.

Examples of the remedies obtained through court orders and both formal and informal undertakings are noted in the brief discussion of cases in the 'Enforcement' section of this report.

The New Tax System

During the three year period from 8 July 1999 to 30 June 2002 the Australian Competition and Consumer Commission had specific responsibilities in relation to the introduction of the New Tax System.

On 8 July 1999 legislative changes for the NTS came into effect. Among other things the NTS introduced a broad-based Goods and Services Tax (GST) to replace a number of existing indirect taxes including the WST, and provided significant income tax cuts. Under the NTS, from 1 July 2000, most goods and services became subject to GST equivalent to one-eleventh of the selling price, some goods and services were GST-free and some were input taxed.

It was recognised that introduction of the NTS changes would affect the prices that businesses charged for the supply of goods and services in virtually all industries. The government expected that consumers would receive the full benefit from indirect tax reductions and that they not be exposed to greater than necessary price rises from the NTS changes.

To ensure that there was no exploitation, a prices oversight regime was established under the Trade Practices Act. The law against price exploitation operated during the NTS transition period, from 8 July 1999 until 30 June 2002, and reflected federal and state parliaments' desire to address consumer concern about the possibility of some businesses taking advantage of the tax changes to charge unreasonably high prices.

The Commission's role

The Commission's responsibilities under Part VB of the Trade Practices Act required it to issue guidelines on pricing responses to the NTS changes, to check prices and take action against businesses that increased prices unreasonably.

Price exploitation carried penalties of up to \$10 million per offence for corporations, and up to \$500 000 per offence for individuals. The provisions also applied to advisers found to be knowingly concerned in, or aiding and abetting, contraventions of the law. Federal Parliament also provided the Commission with significant administrative powers to address any price exploitation conduct resulting from the NTS changes.

Under the law the Commission could issue a notice to a corporation or person it considered had contravened the prohibition against price exploitation. In any court proceedings for injunction or penalty, a notice constituted prima facie evidence that the price charged was unreasonably high, and could not be attributed to the NTS changes, supplier's costs, supply and demand conditions or any other relevant matter. If a price exploitation notice was served, it was up to the corporation or person to show that they had not engaged in price exploitation.

A second type of notice could be issued by the Commission to a business to help prevent price exploitation by specifying a maximum price for a supply for a specified period. The Commission could publish the notice in such manner as it considered appropriate, including in national newspapers. A maximum price notice effectively warned the business that a supply above the maximum price specified constituted price exploitation.

The Commission had additional NTS responsibilities in relation to:

- the Commonwealth Fuel Sales Grant Scheme, which provided a grant, generally of 1 or 2 cents per litre, to fuel retailers and distributors for petrol and diesel sold to consumers in regional and remote areas of Australia
- the reduction in Commonwealth excise on petrol and diesel from March 2001
- the reduction in Commonwealth excise on draught beer from 4 April 2001.

To ensure that the benefits of the grant and excise reductions were passed on to consumers, these measures were prescribed under the price exploitation legislation administered by the Commission.

During the NTS transition period the Commission was required to report to the Minister within 28 days after the end of each quarter about the operations of its price exploitation responsibilities.

The Commission's responsibilities remained a high priority throughout the transition period, requiring significant Commissioner, staff and other resources. Dr David Cousins was the Commissioner with special responsibilities for the NTS changes.

Promoting compliance

When promoting compliance the Commission put emphasis into informing and educating business and consumers about their rights and obligations under the price exploitation provisions of the Trade Practices Act. Its education strategy, which included wide distribution of guidelines on price exploitation, was highly effective in raising business awareness. It also increased consumer knowledge about expected price changes.

The guidelines

The Commission's price exploitation guidelines, *Price exploitation and the New Tax System*, gave business the basic information needed to comply with the NTS.

Draft preliminary guidelines were first released in April 1999 and discussed at an industry round table on 2 June 1999. Shortly after, the Commission issued its first edition guidelines as required under Part VB of the Act. Revised guidelines were published in March 2000 to provide greater certainty for business in setting prices.

The net dollar margin rule was a fundamental principal of the guidelines. That is, if the NTS changes caused taxes and costs to fall by \$1, then prices should fall by at least \$1. If, after taking into account the cost reductions resulting from the NTS, the costs of a business rose by \$1, then prices might rise by no more than that amount.

This was the most requested GST publication produced by the Commission. It was also the most down-loaded publication from the Commission's GST website during the transition period.

Communications strategy

The Commission ran a comprehensive communications strategy to promote compliance with the law during the three-year transition period. The aim was to raise and to maintain awareness and understanding among consumers and businesses of their respective rights and obligations under the legislation. This was achieved by providing information through printed publications, a dedicated website, and the GST Price Line (which in May 2001 was absorbed into the Commission's general Infocentre call line).

The Commission's communications strategy took into account the differing needs of two major target groups: business and consumers. It involved anticipating issues likely to concern or interest them. As new issues emerged further explanatory materials were quickly developed and disseminated.

In addition, communication strategies targeting both groups were developed for non-English speaking background and Aboriginal and Torres Strait Islander audiences.

Business strategy

The key elements of the business strategy were the following.

- *Small business compliance guide*, which explained the Commission's price exploitation guidelines in detail and contained numerous examples and illustrations of the concepts in the guidelines. It also contained practical compliance tips and checklists.
- *Small business cost savings estimator*, a software tool that assisted businesses to calculate likely cost changes in business inputs arising from the NTS changes.
- *Small business retail price adjustor*, which assisted small retailers to adjust their retail prices taking into account cost savings in overheads, the removal of WST and adding GST. It also calculated the amount of WST in stock-on-hand.
- *GST news for business brochures* were fact sheets addressing specific business and industry topics. There were 18 publications in this series (see attachment 1) which were distributed through relevant business, industry and professional associations.
- A business information network, which was a comprehensive database of more than 900 business and industry organisations that enabled quick dissemination of new publications and media releases in hard copy and electronic formats.
- Industry association liaison and presentations, to ensure wide dissemination of information to business and professional groups.

Consumer strategy

The key elements of the consumer strategy were the following.

- *Australia's everyday shopping guide with the GST*, an information booklet and a pocket-sized foldout card with best estimates of how prices of 185 common goods and services would be likely to change in the six months to December 2000. The guide was delivered to every household in Australia in late May early June 2000. A further 4.5 million copies were made available free through post offices and newsagents. Versions were also printed in major newspapers, with large print and braille versions made available through the GST Price Line.
- An extensive advertising campaign during June and July 2000 aimed at informing consumers and small business about the likely price impacts of the NTS and aimed at raising awareness of the Commission's role. The key message was that the Commission intended to prevent price exploitation and to ensure that businesses passed on cost savings from the tax changes to their customers. Consumers were advised to call the Commission's GST Price Line in cases of price exploitation. The advertisements were run in major metropolitan media, rural and regional media, specialised Aboriginal and Torres Strait Islander media and media targeting multicultural communities, as well as magazines and radio.
- The National GST Consumer Consultative Group, which consisted of representatives from consumer organisations from each state and territory. The group assisted the Commission in its consumer protection strategies, including improved access to Commission information for people from non-English speaking background and Aboriginal and Torres Strait Islander communities and those with vision impairment. The group also provided feedback on the effectiveness of the Commission's activities.

- A consumer information network, which was a database of over 150 consumer and community organisations, around 100 libraries and more than 100 government and other agencies. The Commission used this network mainly to distribute information about the NTS both electronically and in hard copy.
- *GST talk*, fact sheets that gave consumers detailed information about issues of public concern that emerged from inquiries and complaints to the GST Price Line and the Commission's other compliance activities. There were 11 publications in this series (see attachment 1).
- *GST snapshots*, a newsletter-style publication produced to inform consumer groups about price changes and the Commission's activities under the NTS. There were four publications in the series (see attachment 1), which were distributed mainly through the consumer information network.
- *GST bulletins*, which alerted consumers and businesses to emerging GST pricing issues identified mainly from calls to the GST Price Line as well as from the Commission's enforcement activities. They were produced quickly and distributed through the consumer and business information networks. From July 2001 the publication was discontinued and replaced by *ACCC consumer express*, which dealt with topical issues including GST matters. There were 27 *GST bulletins* published (see attachment 1).
- A 'How to make a complaint' brochure.

Aboriginal and Torres Strait Islander information strategy

In June 2000 the Commission mailed out more than 20 000 specially produced GST information kits to indigenous community organisations and other relevant agencies and groups working with indigenous communities.

Follow up presentations on GST and general trade practices issues began in September 2000 with visits to indigenous communities in Northern Queensland, Cape York and the Torres Strait and later to communities across northern Western Australia and central Australia. The visits dealt with GST price changes and issues such as misleading and deceptive conduct, debtor harassment and unconscionable conduct.

The Commission's dedicated ATSI information line (1300 303 143) provided GST-related information to indigenous people and recorded their complaints relating to prices under the NTS.

Information strategy for people from non-English speaking background

In June 2000 the Commission distributed information kits on GST pricing in Arabic, Chinese, Greek, Italian, Spanish and Vietnamese. They contained the *Everyday shopping guide with the GST*, fact sheets, business compliance information, a check list on price displays and a point-of-sale poster for retailers. The kits were mailed to over 10 000 community organisations as well as being made available from the Commission's website. Key publications were also translated into Croatian, Macedonian, Russian, Serbian and Turkish and were available from the website.

In July 2000 an advertising program was run in each of the six main languages other than English. Major multicultural newspapers carried the advertisements, and the general radio campaign was translated for broadcast on ethnic radio. The Commission also prepared articles on price changes with the GST and the Commission's role for various multicultural community media and journals.

The Commission had staff able to take calls to the GST Price Line in languages other than English. It also used the telephone interpreter service.

Media activities

The Commission's media activities were a key tool for promoting compliance with the price exploitation provisions of the Act. Media releases, print and radio advertisements, press articles, question and answer columns and press interviews all provided opportunities to inform large audiences about GST pricing issues as they arose.

Over the three years of the transition period the Commission issued over 160 media releases related to the NTS changes (see attachment 2). The majority related to the actions of individual companies that raised concerns under the provisions of the Trade Practices Act and the consequences those actions had for consumers. The Commission considered that releasing information through the media promoted compliance by example and illustrated the consequences of price exploitation and misleading or deceptive conduct with respect to the NTS to a wide audience in a cost-efficient manner.

In addition to the series of advertisements produced in June–July 2000, the Commission provided articles and information for question and answer columns in newspapers. These were mainly used in major metropolitan daily newspapers, but also in industry and other publications and provided timely information to a wide audience on current issues. During the transition period the Commission continued to provide information for articles on emerging issues for the print media.

GST website

The GST website was a key communication tool providing easy access to relevant business and consumer publications and answers to inquiries frequently received by the Commission. Reports on retail price changes after the introduction of the NTS were also available on the site.

During the transition period the website received over 11.5 million hits and serviced just under 500 000 individual sessions. The April–June 2000 quarter was the busiest period on the website with 7.5 million hits and 220 000 individual sessions. In comparison, the July–September 2000 quarter saw 1.6 million hits and 67 000 individual sessions, while in the April–June 2002 quarter, the last of the transition period, there were 390 000 hits and 37 000 individual sessions.

The most popular areas on the site were publications and media releases with the Commission's price exploitation guidelines the most down-loaded document.

Information was available in 11 languages other than English: Arabic, Chinese, Greek, Italian, Spanish, Vietnamese, Croatian, Macedonian, Serbian, Russian and Turkish. Materials in Chinese were the most frequently sought non-English language pages overall followed closely by Arabic, Vietnamese and Italian.

GST Price Line

A dedicated GST pricing call centre was established in July 1999. In its initial stages it had a staff of three and operated Monday to Friday between 8 am and 9 pm. By the end of February 2000 calls had increased to an average of 230 per day. By 3 June 2000 call activity had increased to such an extent that hours of operation were extended to include weekends between 10 am and 5 pm and staff were increased to approximately 60.

The call load increased from 24 000 during June 2000, to 67 100 during July 2000. Over 92 500 calls were received during the July–September 2000 quarter. To service the surge in calls GST Price Line staff were increased and two out-sourced independent call centres were engaged, increasing staff dedicated to answering GST-related telephone complaints and inquiries to over 200.

After the initial hectic few months, calls to the GST Price Line gradually reduced. The GST Price Line continued to operate until 30 April 2001 when it was replaced by the ACCC Infocentre, which became the initial response centre for all inquiries and complaints to the Commission on competition and consumer issues throughout Australia.

While the Infocentre is not a dedicated GST line, the call centre staff answered inquiries about the Commission's pricing guidelines and handled requests for the Commission's GST publications. They accepted and logged complaints about possible price exploitation and misleading or deceptive conduct relating to the NTS and continue to refer callers to other agencies where appropriate. Calls to this 1300 302 502 service can be made from anywhere in the country for the cost of a local call.

The telephone interpreter service is available for people from non-English speaking backgrounds calling the Infocentre, and the dedicated ATSI information line (1300 303 143) provides general trade practices information to indigenous people and records their complaints.

During the NTS transition period the Commission received over 180 000 GST-related calls. Of these approximately 51 000 (28 per cent) were complaints and approximately 131 000 (72 per cent) were inquiries. The 10 industries most commonly the subject of GST related calls between July 1999 and June 2002 were:

<u>Inquiries</u>	<u>%</u>	<u>Complaints</u>	<u>%</u>
Retailing (not elsewhere classified)	13.21	Supermarket and grocery stores	8.42
Central government administration	9.57	Automotive fuel retailing	5.70
Supermarket and grocery stores	6.68	Retailing (not elsewhere classified)	5.66
General insurance	3.80	General insurance	4.97
Automotive fuel retailing	3.27	Cafés and restaurants	3.49
Domestic appliance retailing	2.41	Takeaway food retailing	3.32
Real estate agents	2.39	Telecommunication services	3.21
House construction	2.21	Domestic appliance retailing	2.63
Telecommunication services	1.99	Specialised food retailing (not elsewhere specified)	2.02
Takeaway food retailing	1.97	Real estate agents	2.02

Public compliance commitments

A public compliance commitment was a voluntary commitment, signed by the Chief Executive Officer of a corporation, stating that the corporation was committed to complying with the Commission's price exploitation guidelines. Such a statement was the culmination of a company's discussions with the Commission about the application of the pricing guidelines and its re-pricing methodology. A public compliance commitment established an effective liaison and information reporting regime, which minimised the corporation's risk of breaching the price exploitation provisions of the Act.

By the end of June 2000 the following 35 companies from many industry sectors had made public compliance commitments, which were published on the Commission's website. The Commission regarded this as a major achievement in its efforts to encourage compliance with the NTS price exploitation legislation.

Ansett Holdings Ltd	Imperial Tobacco Australia Ltd
Australia & New Zealand Banking Group Ltd	Lend Lease Corporation Ltd
Australia Post	National Australia Bank Limited
Berri Ltd	Qantas Airways Ltd
BOC Gases Australia Ltd	Rebel Sports Ltd
British American Tobacco Australasia Ltd	Strathfield Group Ltd
Burns, Philp & Company Ltd	Stryker Australia Pty Ltd
Cable & Wireless Optus Ltd	Sydney Airport Corporation
Capral Aluminium Ltd	Telstra Corporation Ltd
Coca-Cola Amatil Ltd	The Broken Hill Proprietary Company Ltd
Coles Myer Ltd	Toll Holdings Ltd
Commonwealth Bank of Australia	Tricon Restaurants Australia Pty Ltd
David Jones Ltd	Unilever Australia Ltd
Department of Infrastructure, Victoria	United Distillers and Vintners (Aust.) Ltd
Ergon Energy Ltd	Westfield Holdings Ltd
Estee Lauder Pty Ltd	Westpac Banking Corporation
GE Australia	Woolworths Ltd
Goodman Fielder Ltd	

The commitments generally required the companies to report to the Commission every six months or upon request. These reports confirmed that the companies had complied with the Commission's price exploitation guidelines and no compliance issues arose from the review of the reports. A common theme from discussions with the companies was that the tax changes were no longer a factor in their pricing decisions and that pricing had returned to a normal commercial basis. Most indicated that there would be no further price increases for their products as a result of the NTS.

The benefits of the public compliance commitments included:

- heightened corporate awareness and understanding of their obligations and responsibilities in relation to pricing under the NTS
- greater overall compliance with the NTS price exploitation legislation and the Commission guidelines resulting from the influential position of the companies in their industries
- the resolution of emerging issues in a timely and cost-effective manner with a high degree of compliance from participating organisations
- consistency in the complaints handling process, with a Commission liaison officer appointed to each company with a public compliance commitment
- assistance with the Commission's price monitoring role.

Price monitoring

Throughout the transition period the Commission had an extensive price monitoring program in place. It also drew on many other sources of information about price changes and pricing behaviour. These included the consumer price index (CPI) and Australian Bureau of Statistics' wholesale price indexes, commercially provided price information databases for specific products at the wholesale and retail levels, large corporations with public compliance commitments and the authorities that regulate industries such as electricity, gas and public transport. Complaints by consumers and businesses through the GST Price Line also contributed to the Commission's information on price changes associated with the NTS.

Information gathered about price changes and pricing behaviour provided the basis for the Commission's estimates on price movements and helped identify where price exploitation occurred.

The general survey

The general survey involved collecting prices on identical products at different times. The Commission conducted the general survey seven times during the GST transition period: December 1999–January 2000, March, May, August and October 2000, February and May 2001.

The size of the survey was substantial. For example, about 320 000 price comparisons were made between the survey in May 2000 (the pre-GST base) and the May 2001 survey. Prices were collected from around 10 000 retail outlets in 115 locations (capital cities, major regional cities and towns) in all states and territories.

The surveys conducted in the first half of 2000, before the introduction of the GST, provided a base for comparisons of pre- and post-GST prices and helped to assess whether opportunistic pricing occurred generally before the tax changes. The Commission's *Report on ACCC price surveys: pre-GST price changes*, which was available on the GST website, summarised the findings of these price collections under broad product category headings. Average price changes between December 1999–January 2000 and May 2000 were generally quite moderate. The weighted average increase across the whole survey was just under 1 per cent over the period.

Two additional reports were produced following the August 2000 survey: *Report on ACCC price surveys: preliminary post-GST price changes* and *Report on ACCC price surveys: General survey, period covering May to August 2000*. Both were available on the GST website.

Subsequent price collections, in October 2000 and February and May 2001, indicated that repricing associated with the NTS occurred predominantly in the September 2000 quarter and was broadly within the Commission's estimates. Comparing the change in prices between the May and August 2000 surveys provided the best indication of the effects of the tax changes alone as it was long enough to allow retail prices to be adjusted for the tax changes, but not long enough for non-tax factors to have much influence.

The weighted average price change over the three months between the May and August 2000 surveys was +2.6 per cent. Weighted on the same basis the Commission's estimate of the effects of the NTS by the end of 2000 was an increase of 3 per cent. The weighted average price change over 12 months between the May 2000 and May 2001 surveys, by which time non-tax factors were generally determining prices outcomes, was +5.7 per cent.

The samples in the general survey were large enough to analyse differences in price changes between metropolitan (capital city) and regional areas. The data indicated that price changes resulting from the NTS were fairly consistent across geographical locations even though price levels may have been quite different. The results also showed no substantial differences in the average price changes between the states and territories, although again prices may have been at different levels.

Monthly supermarket survey

The Commission conducted monthly surveys of supermarket prices from January 2000 until June 2002, covering more than 300 supermarkets nationwide, with a product basket of over 100 commonly purchased items.

Comparisons over time were based on changes between prices averaged over two months. This reduced volatility from month to month resulting from changes in supermarkets' price 'specials'. From May–June 2000 to April–May 2002 the weighted average price increased by 10.3 per cent. When prices of fruit and vegetables items, which have volatile supply and demand characteristics, were removed, the increase was 8 per cent over the total period.

Consumer price index

The Commission analysed official statistics produced by the Australian Bureau of Statistics. In particular, data from the CPI which measures price movements in a basket of goods and services consumed by capital city households.

While the methodology used by the ABS to measure CPI price changes is different to that used by the Commission in its retail price surveys, movements in prices of products in the CPI basket were broadly consistent with the Commission's estimates of the effects of the tax changes on prices. The change in the CPI 'All Groups' in the September 2000 quarter was + 3.7 per cent, followed by + 0.3 per cent in the December 2000 quarter, consistent with the bulk of the effect of the tax changes occurring in the September quarter 2000. The CPI increased by 6 per cent over the four quarters ending June 2001 by which time non-tax factors were clearly influencing general price outcomes.

General impact of the New Tax System on prices

The results of the Commission's surveys since the September 2000 quarter, together with CPI outcomes, confirmed that the impact on prices occurred mainly in the first quarter of 2000–01. This was consistent with the Commission's estimates. No evidence of significant opportunistic pricing to increase margins was found.

Although prices have risen since the initial impact during the September 2000 quarter, average increases have generally been in line with inflation trends that existed before the NTS.

Industry-specific monitoring

The Commission was also active in monitoring price movements within specific industry sectors, particularly in the period leading up to the introduction of the GST on 1 July 2000 and in the subsequent 12 month period. The results of this monitoring activity were reported in the Commission's quarterly reports to the Minister on its operations under Part VB of the Trade Practices Act. This activity included the following.

- Fuel prices monitoring, including the published *Report on the movement in fuel prices in the September 2000 quarter*, which were available from the Commission's website.
- Motor vehicle prices monitoring, and notices under section 75AY of the Act issued on a sample of motor vehicle dealers to obtain data about post-GST pricing. The Commission concluded that NTS savings were reflected in new motor vehicle prices and there was no evidence of price exploitation.
- New house building construction cost index monitoring, which showed an average increase of 9.5 per cent in the September 2000 quarter and 0.2 per cent increase for the December 2000 quarter, suggesting that the NTS effects on prices in the industry were largely exhausted in the September quarter.
- Road freight transport monitoring of information provided by major road transport firms on the pricing of services to major customers in July 2000, which was assessed by the Commission as reflecting NTS savings, and further information obtained in late 2000 that indicated freight rates had risen because of increases in diesel fuel prices.

- Banking products price monitoring, indicating that banks implemented the bulk of their NTS repricing in the September 2000 quarter, with subsequent interest rate and fee changes generally being influenced by other factors such as changes to the overnight cash rate and increases in business costs.
- Residential rents information obtained from several sources, which did not reveal any pattern of changes suggesting potential price exploitation by landlords. The Commission considered that factors other than the tax changes determined rental movements during the NTS transition period.
- Alcohol and tobacco products were surveyed in mid-August 2001 to check any immediate product repricing as a result of the 1 August 2001 indexation of excise rates on these products. Alcoholic products sold on licensed premises were found to have increased by around 10–12 per cent over the period May 2000 to August 2001. Cigarette prices increased by 23.7 per cent over the same period, mainly reflecting cost increases associated with the implementation of the NTS and the effect of the July 2000, February 2001 and August 2001 increases in excise under indexation arrangements existing before the tax changes.
- Notices under section 75AY of the Act issued in the June 2000 quarter to various manufacturers and distributors in industries previously subject to a 22 per cent rate of WST. There was no evidence of anticipatory pricing in these industries and the direct NTS savings appeared to have been reflected in their July 2000 pricing.

Enforcement

Price exploitation remained a Commission enforcement priority throughout the three years of the NTS transition period. The Commission's enforcement work concentrated on the following major areas.

- GST that was charged on GST-free items.
- Businesses not passing on indirect tax benefits, such as the abolition of WST or the reduction in petrol excise, in full.
- Businesses misrepresenting the total price of goods or services (GST-exclusive price display).
- Increases in prices which reflected the full impact of the tax changes on the consumer price index (CPI) where the GST also was previously imposed (CPI-based increases may have needed to be discounted for the effect of the GST to comply with the Commission's rule that businesses should not increase their net dollar margin as a result of NTS changes alone).
- Charging of GST on contracts that did not provide for the pass through of GST.
- GST erroneously collected on GST-free supplies by gift deductible entities.

The principle aim of the Commission in its enforcement activities was to promote compliance. It also aimed to resolve quickly GST-related matters to minimise confusion and consumer losses. The Commission therefore accepted court enforceable

undertakings, rather than taking direct court action, when the conduct was not obviously deliberate or blatant. When businesses made inadvertent mistakes and volunteered this information to the Commission, this was taken into account in determining any enforcement action and, if appropriate, any remedies.

During the transition period (July 1999 to end June 2002) the Commission considered over 51 000 GST-related complaints. Many were found not to breach the Trade Practices Act, and many were multiple complaints about the same businesses. However, many businesses undertook corrective action to remedy potential GST-related contraventions of the Act. The Commission's coordinated approach to investigations included extensive monitoring of complaints and the use of standard form letters, both when initially seeking information and when attempting to resolve possible breaches of the Act. During the transition period the Commission:

- investigated approximately 7000 GST-related matters
- obtained refunds of around \$21 million on behalf of approximately two million consumers
- instituted court proceedings in 11 GST-related matters
- accepted 55 court enforceable undertakings.

The Commission's enforcement activities were reported in its quarterly reports to the Minister on its operations under Part VB of the Trade Practices Act, as well as in the *ACCC Journal* throughout the transition period. Some of the main areas of enforcement are referred to below.

Court cases

Proceedings were instituted in the Federal Court in respect of 11 GST-related matters, 10 of which have been concluded.

Australian Taxation Services

On 16 July 1999 the Federal Court made orders against Michael Phillip Ivanoff and his company, Australian Taxation Information Services Pty Ltd, trading as Australian Taxation Services, restraining them from sending, providing or furnishing any person with a form styled to look like an Australian Taxation Office (ATO) form. Australian Taxation Services had distributed a form, the 'GST Application For Registration', to some 20 000 small businesses asking them to pay \$175 for one year's registration or \$295 for two years' registration. Businesses were misled into believing that Australian Taxation Services was associated with the ATO and these payments were necessary to register under the GST.

The court also ordered Australian Taxation Services to write, by 23 July 1999, to all businesses sent the original form advising them that it was providing a voluntary information service which was not approved in any way by the ATO, that it had no association with the ATO, and that the court had ordered any monies paid to be returned. Ivanoff and Australian Taxation Services failed to send the letters and the Commission commenced contempt proceedings.

On 11 November 1999 the Federal Court found Ivanoff and Australian Taxation Services guilty of contempt. Ivanoff was jailed for three months, Australian Taxation Services was fined \$5000 and they were ordered to pay the Commission's costs of the contempt proceedings.

Meriton Apartments

In March 2000 the Commission instituted proceedings against Meriton Apartments Pty Ltd alleging misleading and deceptive representations in an advertisement that stated the Summit Apartments would be GST free and that there would be an instant 10 per cent increase in value in July 2000. The Commission contended that Meriton lacked a reasonable basis for making the representations about the increase in value of the apartments on introduction of the GST.

On 18 April 2000 the Commission obtained, by consent orders, a Federal Court declaration that Meriton had breached the misleading and deceptive conduct provisions of the Trade Practices Act; injunctions restraining Meriton from making similar representations in the future; orders requiring Meriton to conduct a comprehensive trade practices compliance program and to pay the Commission's costs of the proceedings.

Video Ezy

On 25 May 2000 the Commission instituted proceedings against Video Ezy Australasia Pty Ltd alleging that it had engaged in price exploitation and made misleading representations about the introduction of the GST, in relation to increases in hire price from \$6 to \$7 of certain new release videos from late 1999. The Commission also joined an associated company and various directors and senior managers to the action.

On 27 April 2001 the Commission and Video Ezy consented to Federal Court orders in which the court made declarations, granted permanent injunctions, and ordered Video Ezy to offer discounts and refunds in Townsville, implement a trade practices compliance program and contribute to the Commission's costs. The Commission agreed to discontinue its price exploitation claims.

Discount Electrical Centre

On 16 June 2000 the Commission instituted proceedings against Discount Electrical Centre (Australia) Pty Ltd alleging misleading and deceptive conduct contrary to section 52 of the Trade Practices Act. Discount Electrical Centre had placed an advertisement and issued a catalogue containing a statement 'Beat the GST' when the televisions and DVD players in the advertisement and catalogue were previously subject to WST of 22 per cent and the Commission believed prices would decrease as a result of the tax changes.

The proceedings were settled on 13 July 2000 when Discount Electrical Centre gave undertakings to the Federal Court that it would: not make representations that the price of televisions and DVD players would increase as a result of the introduction of the NTS; pay reasonable compensation to all persons who suffered any loss as a result of the representations; place corrective advertising; institute a trade practices compliance program; and pay the Commission's costs.

Rod Turner Consulting

The Commission instituted proceedings on 3 July 2000 against Rod Turner Consulting Pty Ltd, a chartered accountancy firm, and Mr Rod Turner, its sole director, alleging that the firm wrote to a client's tenant stating that from 1 July 2000 an extra 10 per cent would be payable on rent but the landlord was including a GST component in the increased rent from 20 June 2000. It was also alleged that the firm represented that water rates for the rented premises would carry a GST cost to the landlord. The Commission alleged that these representations were false and misleading in respect of the price of services, and misleading and deceptive because the supply of residential premises by way of lease is an input-taxed supply under the NTS legislation and therefore not a taxable supply for the purposes of GST and also because water rates are GST-free.

On 2 October 2002 the Federal Court made orders, by consent, granting declarations that the firm had breached section 52 of the Trade Practices Act, and orders that Mr Turner attend a trade practices seminar and that the firm and Mr Turner pay part of the Commission's costs in the matter.

Goldy Motors

In July 2000 the Commission instituted proceedings against Goldy Motors, a Perth car dealer, alleging misrepresentations and false and misleading conduct after Goldy Motors ran an advertisement encouraging consumers to buy vehicles before 30 June 2000 because it was their 'Last chance to buy ... GST FREE!!'. The Commission was concerned that the representation may have misled consumers because the price of new vehicles was expected to, and subsequently did, fall with the introduction of the GST on 1 July 2000.

In December 2000 the Federal Court found in favour of the Commission and granted orders including declarations that Goldy Motors had breached the Trade Practices Act; injunctions preventing Goldy Motors from engaging in similar conduct in the future; corrective advertising; refunds or an alternative form of appropriate compensation for consumers induced by the advertisement into purchasing a car and/or applying for finance before 30 June 2000; and payment of the Commission's costs.

Electrodry Carpet Dry Cleaning

The Commission instituted proceedings on 18 August 2000 against A Whistle and Co (1979) Pty Ltd, trading as Electrodry Carpet Dry Cleaning, alleging misrepresentations and false and misleading conduct. The allegations concerned a brochure distributed by Electrodry in Queensland, New South Wales, Victoria, South Australia and Western Australia, promoting the GST-exclusive component of the price in very large prominent print with the total price including GST in much smaller print.

In November 2000 the Commission obtained, by consent orders, a Federal Court declaration that Electrodry breached sections 52 and 53(e) of the Trade Practices Act, corrective advertising, injunctions preventing future similar conduct and directing Electrodry to implement a trade practice compliance program.

On 13 January 2003 the Federal Court found that Signature Security had breached sections 52, 53(e), 53(d) and 53C of the Act as well as the section 87B undertaking. Court orders are to be made on a date to be fixed.

Signature Security

On 19 March 2001 the Commission instituted proceedings against Signature Security Group Pty Ltd alleging false, misleading and deceptive advertising and a failure to disclose the full cash price by Signature Security in its promotion of security systems to the public on a GST-exclusive basis. The Commission also alleged breaches of an undertaking given pursuant to section 87B of the Trade Practices Act in which Signature Security agreed to stop advertising its prices on a GST-exclusive basis.

On 13 January 2003 the Federal Court found that Signature Security had breached sections 52, 53(e), 53(d) and 53C of the Act as well as the section 87B undertaking. Court orders are to be made on a date to be fixed.

Commodore Homes

The Commission commenced proceedings on 5 April 2001 against Commodore Homes (WA) Pty Ltd alleging that in the lead up to the GST, Commodore Homes represented to potential home buyers that their homes would be built by 1 July 2000 and they would therefore avoid having to pay GST. Delays in construction meant that many homes were not completed by that date and Commodore Homes then tried to recover the GST component from those home buyers.

On 12 February 2002 the Commission obtained, by consent orders, Federal Court declarations that Commodore Homes' conduct breached the Trade Practices Act, injunctions, and orders that Commodore Homes institute a trade practice compliance program and pay the Commission's legal costs. In settling the matter with the Commission, Commodore Homes also voluntarily refunded \$882 124 to 264 new home buyers.

Domaine Homes

On 11 July 2001 the Commission instituted proceedings against Domaine Homes (NSW) Pty Ltd and two of its officers alleging that the parties had made misleading representations to new home buyers about the effect of the NTS on the construction of new homes and had acted unconscionably in their dealings with some customers.

On 9 November 2001 Domaine Homes provided undertakings to the Federal Court, without admission of liability, to refund approximately \$1.9 million of GST plus interest to 260 new home buyers; pay an additional \$5000 to each of the seven customers on whose behalf the Commission had taken representative action to reimburse them for other potential losses; and pay part of the Commission's costs.

Metropolis Real Estate

The Commission commenced proceedings on 6 September 2001 against Metropolis Real Estate Pty Ltd alleging false, misleading and deceptive representations to a client by quoting a flat fee of \$5000 for acting as agent in a property sale and then withholding an additional 10 per cent from the settlement funds on account of the GST.

In November 2001 the Federal Court made orders, by consent, declaring that Metropolis had engaged in false, misleading and deceptive conduct; restraining representations of GST-exclusive pricing; ordering a refund of \$500 to the vendor; requiring attendance of Metropolis employees and agents at a trade practices compliance seminar; and contributing to the Commission's legal costs.

Court enforceable undertakings

The Commission made considerable use of court enforceable undertakings, under section 87B of the Trade Practices Act, in its GST-related enforcement activities. The 55 GST-related section 87B undertakings obtained by the Commission, four of which are with multiple parties, are listed in attachment 3. Copies of the undertakings are available from the public register of section 87B undertakings that the Commission maintains on its website.

A sample of the GST-related matters that were concluded through court enforceable undertakings is noted below.

Tropical Homes (Townsville) Pty Ltd

On Saturday 24 July 1999 and Saturday 31 July 1999 Tropical Homes placed two advertisements in the *Townsville Bulletin*, which said:

Beat the GST Offer! With new homes and land due to increase by up to 15% ..., and ... With prices predicted to rise up to 15% with the introduction of the GST ...

The Commission took the view the advertisements represented that the price of new homes and land would rise up to 15 per cent once the GST was introduced. However, introduction of the 10 per cent GST and removal of the WST on various inputs would result in an increase in the price of new homes and land by less than 10 per cent. Accordingly, the Commission considered that Tropical Homes may have engaged in misleading conduct in contravention of sections 52 and 53(e) of the Trade Practices Act.

Tropical Homes provided 87B undertakings agreeing to: refrain from publishing any representation that stated or implied the introduction of GST would result in the price of new homes or land rising above 10 per cent; publish a corrective advertisement; and institute a trade practices compliance program.

Sarai Holdings Pty Ltd, trading as Zoeros Lifeskills Training

In October 1999 Sarai Holdings made the following representation in a letter promoting a series of training courses:

The course will continue to be offered for the price of \$395 until the February course in the year 2000, when it will increase to \$495, (to come in line with the GST Government changes).

The Commission was concerned this representation implied that the price of the course would rise by approximately 25 per cent once GST was introduced when in fact the introduction of GST might in the short term result in a price increase of no more than 10 per cent. The Commission was also concerned that the representation implied the price of the course would rise in February 2000 when, if GST was collected, it would not rise until 1 July 2000 when the GST came into effect.

Sarai Holdings provided an 87B undertaking agreeing to: not publish similar representations; not make representations concerning the GST when it did not have reasonable grounds for making the representation; write to affected customers; and implement trade practice compliance training for its staff.

Forty Winks Franchising Pty Ltd

Between February and April 2000 Forty Winks' television advertising included the statement:

Buy now before the GST bites.

The Commission was concerned that this statement had misled consumers into believing that the prices of bedding products would rise significantly following the introduction of the GST. However, as bedding products were subject to 12 per cent WST, any price increase resulting from the GST would be relatively small. The Commission was also concerned that in-store representations by Forty Winks' franchisees demonstrated a lack of understanding of the likely effect of the GST on bedding prices.

Forty Winks withdrew the television advertisement and provided an 87B undertaking agreeing to: run national corrective newspaper advertising; provide training material to all Forty Winks' franchisees on the impact of the GST on the prices of bedding products; and provide a trade practices compliance program to all Forty Winks' franchisees and employees.

Queensland Motorways Limited

From 1 July 2000 there was an increase in the price of Logan Motorway tolls in Brisbane by Queensland Motorways, which represented in advertisements that:

The modification to the price will reflect the introduction of the Commonwealth Government's 10% Goods and Services Tax (GST) and minor rounding of coinage.

Upon investigation by the Commission, Queensland Motorways acknowledged that the actual increase resulting from the GST was 9.94 per cent and that part of the price increase, which ranged from 11.4 per cent to 20 per cent for particular vehicles, was because of other commercial factors.

Queensland Motorways provided 87B undertakings agreeing to: provide the public of Brisbane with a toll free day on Wednesday, 16 August 2000; publish a public apology for failing to advise consumers of the true nature of the price increase; not seek any toll increases for 12 months from 1 July 2000; and implement a trade practices compliance program.

Clarendon Homes (NSW) Pty Ltd

Clarendon Homes attempted to claim GST from clients who had signed GST contracts for the construction of new homes based on representations by sales staff that the quoted price was GST-inclusive.

The Commission considered that such conduct was misleading and deceptive and raised its concerns with Clarendon Homes who agreed to waive the GST charges totalling about \$1.09 million. The company also provided 87B undertakings agreeing to write to all 208 affected clients advising them that the GST charges had been waived, and to implement a trade practices education program for its staff.

Island Industries Board, trading as Islanders Board of Industry & Service (IBIS)

IBIS operated 14 general stores in the outer Torres Strait Islands, selling general items including groceries. The Commission was concerned that when implementing the NTS changes in July 2000, IBIS had increased some of its prices by up to 22 per cent (including on GST-free items) and was at risk of breaching the price exploitation provisions of the Act.

IBIS provided an 87B undertaking agreeing to: review its prices to ensure all NTS savings were passed on and GST was correctly applied; provide refunds on overcharged items to customers with satisfactory proof of purchase; provide discounts of 5 per cent on all items for one month; display corrective apologies in all stores; and implement a trade practices compliance program.

Aus-Care, Townsville, Cairns, Upper Mt Gravatt, Indooroopilly

From 1 July 2000 four Aus-Care medical centres began to charge patients 10 per cent GST on Hepatitis B vaccinations for children under the age of 13. The Commission was concerned that the medical centres had included a GST component on goods or services that were GST-free and were therefore at risk of breaching the price exploitation provisions of the Act.

The four Aus-Care medical centres provided 87B undertakings agreeing to: ensure that vaccinations of Hepatitis B did not include a GST component; review their billing practices to ensure there was no GST component on any GST-free services; distribute a corrective apology; refund patients charged the GST on Hepatitis B vaccinations; and implement a trade practices compliance program.

Strasburger Enterprises (Properties) Pty Ltd, trading as Quix Food Stores

Quix operated 99 convenience stores across Australia, retailing groceries, fast food and other consumable products. Following price surveys conducted by the Commission in May and August 2000 and February 2001, the Commission was concerned that with the introduction of the NTS changes Quix had overcharged on some products in breach of the price exploitation provisions of the Act.

Quix provided 87B undertakings agreeing to: reduce the price of a range of product lines; publish an apology; commission an independent audit to assess the amount of overcharging; discount a range of product lines to compensate consumers for the overcharging; and implement a trade practices compliance program.

Tangent Nominees Pty Ltd, trading as Summit Homes

Summit Homes charged clients GST above the allowance which was built into the original contract prices for the construction of new homes. The Commission considered that such conduct was misleading and deceptive and raised its concerns with Summit Homes.

Summit Homes refunded \$258 000 additional GST payments to the 111 clients affected and provided an 87B undertaking agreeing to implement a trade practices compliance program.

Administrative settlements

The majority of the GST-related matters investigated by the Commission were settled administratively. Many of these were relatively minor matters involving little or no detriment to consumers. Others involved the repayment by suppliers to individual consumers of overcharged GST, or suppliers otherwise divesting such amounts. A number of case examples are noted below.

Some matters involved the inadvertent collection of significant amounts of GST from consumers in respect of supplies that were subsequently ruled by the ATO to be GST-free. Such cases were resolved through the suppliers providing GST refunds and reclaiming their GST overpayments from the ATO. Significant matters of this type concerned: mortgage lenders insurance, gift deductible entities, universities and university colleges and halls of residence, and motor vehicle leases, which are discussed briefly below.

Mortgage lenders insurance

In August 2000 the ANZ bank advised the Commission that it had obtained a private ruling from the ATO concerning the GST payable on mortgage lenders insurance. As a consequence of the ruling ANZ refunded approximately \$5 million to some 37 000 customers of the bank who had been overcharged GST on their mortgage lenders insurance.

The Commission subsequently followed up with other insurers the issue of GST charged on mortgage lenders insurance. As a result three other insurers provided refunds of around \$4.3 million to some 86 000 of their customers who had also been overcharged GST.

The insurers could subsequently reclaim their GST overpayments from the ATO.

Gift deductible entities

Following the ATO revising how the GST applied to supplies made by charities and gift deductible entities, some of these organisations found that they had collected GST on supplies subsequently deemed to be GST-free.

The Commission established guidelines for such organisations including museums, zoos and art galleries to adopt when managing the refund process. They were required to contact all known consumers providing an explanation and refund of the GST paid, and to advertise the availability of refunds in suitable forums to identify as many affected customers as possible. Any unclaimed funds, less refund administration costs, were to be distributed through a reduction in the organisation's prices.

Through this process the Commission oversaw the refunding of approximately \$5.5 million in GST funds, which the organisations were able to reclaim from the ATO.

Universities and university colleges and halls of residence

The ATO also reviewed how the GST applied to certain student services supplied by universities and university colleges and halls of residence. Some universities found they had collected GST on students' general service fees that the ATO subsequently ruled were GST-free. In addition, some university colleges and halls of residence found they had collected GST on the supply of food and accommodation that the ATO subsequently ruled were GST-free.

The Commission established guidelines to manage the refunding of GST collected by these institutions. These guidelines required the institutions to identify current and past students, including through advertising on websites and in suitable print media, that had been charged GST and to provide refunds. Any unclaimed funds, less refund administration costs, were to be used to support student services particularly those provided by student union bodies.

Around \$4 million in refunds were provided under the Commission's guidelines, with the institutions able to reclaim their overpaid GST from the ATO.

Motor vehicle leases

Following complaints from consumers that they were being charged GST on their motor vehicle leases even though the lease agreements had been entered into before July 1999, and in many cases well before that time, the Commission conducted investigations into the conduct of various motor vehicle leasing companies. These companies generally sought private rulings from the ATO as to whether GST was payable on their standard lease agreements entered into before July 1999.

Some motor vehicle leasing companies found they had collected GST on leases that the ATO subsequently ruled were GST-free supplies. In consultation with the Commission these companies provided GST refunds in the order of \$3 million. These GST overpayments were subsequently able to be reclaimed by the leasing companies from the ATO.

Michael Hill Jewellers

In October 2000 Michael Hill Jewellers donated \$10 000 to the Starlight Foundation after overcharging WST on watchbands.

In July 1999 the WST rate on watchbands was reduced from 32 per cent to 22 per cent. In July 2000 the WST rate on these products was reduced to zero and a 10 per cent GST applied to the retail price. As a consequence of its prices monitoring program the Commission raised this matter with Michael Hill Jewellers and was advised that because of a computer error it had failed to pass on the WST reduction from 32 per cent to 22 per cent on watchbands sold through its stores.

Because it was difficult to identify consumers who had been affected by this error the Commission accepted that the donation to the Starlight Foundation effectively divested Michael Hill Jewellers of any benefit that it may have gained as a result of the overcharge. The Commission was satisfied that the computer errors had been fully investigated and corrected before 1 July 2000.

Cabcharge Australia Ltd

The Commission received a large number of complaints about discrepancies between credit card statements and invoices issued from Cabcharge electronic terminals. The Commission was concerned that such conduct was misleading and deceptive. Cabcharge advised that the electronic terminals in cabs were being progressively updated with new software to handle GST, and in some cases customers had been charged a different amount in the cab from that later appearing on their statements.

In December 2000 Cabcharge agreed to:

- credit all customers for any difference between the amount authorised by the customer's signature on the Cabcharge invoice and the amount subsequently charged on the card statement
- conduct an independent audit to ensure that all such invoice discrepancies were correctly refunded
- ensure that all electronic terminals in taxis were updated to clearly show the true cost of taxi travel.

Classic Video Pty Ltd, trading as Video City

In April 2001 Classic Video, which operated 13 Video City outlets in Tasmania, undertook to donate \$4800 to the Royal Tasmanian Botanical Gardens Trust after charging GST on the rental of videotapes hired during the week before 1 July 2000. The Commission's investigation of complaints revealed that for videos hired before 1 July 2000 but returned after that date, GST had been incorrectly charged on the pre-1 July 2000 portion of the transactions. It was found that some 20 500 customers were overcharged an average amount of 23 cents.

7-Eleven Stores Pty Ltd

In November 2001, 7-Eleven Stores (the franchisor of some 265 convenience stores in New South Wales, Victoria and Queensland) undertook to, until 30 June 2002, reduce the price of 150 dry grocery items by an average of 5.6 per cent and freeze the prices on another 600 dry grocery items.

The Commission's concern was that 7-Eleven's recommended retail prices for certain goods from 1 July 2000 did not fully reflect the abolition of WST in wholesale prices from some suppliers. On the basis of those wholesale prices the Commission considered that 7-Eleven stores' retail prices were too high.

ADT Security Pty Ltd

In January 2002 ADT Security undertook to refund approximately \$141 000 to around 2300 customers after the Commission raised its concerns about ADT's charging GST on long-term alarm monitoring contracts. The Commission considered that certain ADT 'Safewatch' contracts did not provide for ADT to pass on GST liability incurred by it to its customers. In settling the matter ADT agreed to write to all affected customers refunding any GST paid and apologising for the mistake.

Ford Credit Australia Limited

In early August 2002 Ford Credit agreed to credit 256 non-business customers approximately \$430 000 in GST by way of refunds and reduced rental payments on their motor vehicle leases. Under the GST transition rules, GST was payable on the monthly rental amounts by Ford Credit because the leases were entered into after 2 December 1998. The Commission was concerned, however, that the terms of the lease agreements did not allow the company to pass on the GST to the lessees and in doing so Ford Credit was likely to breach the misleading and deceptive conduct provisions of the Act.

Commission powers post 30 June 2002

The pricing of goods and services may be considered under the price exploitation provisions of the Trade Practices Act only when supply of the goods or services occurs within the NTS transition period (i.e. between 8 July 1999 to 30 June 2002). The Commission does not have power to pursue pricing conduct that occurs after 30 June 2002 under the price exploitation provisions of the Act.

Any pricing conduct that occurred before 30 June 2002 and that indicates a possible breach of the price exploitation provisions of the Act continues to be investigated by the Commission. However, there are currently few such matters before the Commission and the incident of new complaints of this type is very low and declining.

During the later stages in particular of the three year transition period the vast majority of GST-related complaints and inquiries received by the Commission were not concerned with possible price exploitation conduct, but rather were concerned with suppliers' failure to include GST in price advertising, quotes, etc. Such 'GST-exclusive' pricing conduct is potentially in breach of the fair trading provisions of the Act, which prohibit misleading and deceptive conduct and false representations.

The Commission's powers to pursue pricing conduct under the fair trading provisions of the Act remained unchanged after 30 June 2002. It continues to consider complaints and inquiries concerning GST-exclusive pricing under those provisions, or refers such complaints and inquiries to the relevant state and territory offices of fair trading. These government agencies administer fair trading legislation similar to that of the Trade Practices Act and are often better placed than the Commission to pursue complaints against local and regional traders and on behalf of individual consumers.

Attachment 1.

ACCC GST publications

GST guidelines

- May 2000. Price exploitation and the New Tax System—A compliance guide for small business
- April 2000. Application of the price exploitation guidelines to regulated industries: the process
- March 2000. Price exploitation and the New Tax System
- January 2000. Public compliance commitments

Australia's everyday shopping guide with the GST

- May 2000. Australia's everyday shopping guide with the GST
- May 2000. Everyday shopping guide with the GST—ready reckoner

GST bulletin

- 27. Caravan parks, camping grounds, Video Ezy, Video City, Oasis Credits. 17 May 2001
- 26. Beer excise reduction. 17 April 2001
- 25. Financial Institutions Duty abolition, discount sunscreen and boarding house refunds. 11 April 2001
- 24. Why is Australia Post charging an additional 10% when customers use domestic stamps for international postage? 26 March 2001
- 23. Applying GST to food items when sold for consumption on the premises. 16 February 2001
- 22. Recent increases in price of fuel, cigarettes and alcohol not GST related. 8 February 2001
- 21. Summary of GST compliance. 21 December 2000
- 20. Refunding wrongly collected GST. 30 November 2000
- 19. Telstra bills, housing contracts. 24 November 2000
- 18. Auctions. 31 October 2000
- 17. Retail price survey results. 23 October 2000
- 16. ACCC price watch continues. 11 October 2000
- 15. Price displays, how to make a complaint. 6 October 2000
- 14. ACCC price monitoring. 22 September 2000
- 13. Advertising prices. 15 September 2000

12. Advertising prices. 22 August 2000
11. Internet price displays, fish 'n chips. 18 August 2000
10. GST and the date goods are collected. 10 August 2000
9. Milk, shampoo. 7 August 2000
8. Price displays, Franklins supermarkets. 3 August 2000
7. Tollways, pre-purchased tickets, car parts. 20 July 2000
6. Pet food, cosmetics, commercial rent. 20 July 2000
5. Soft drinks, restaurants, cash rounding. 19 July 2000
4. Coffee, credit card bills, second hand cars. 18 July 2000
3. Gift vouchers, second hand goods. 10 July 2000
2. Post GST sales, collection date confusion. 6 July 2000
1. Initial price change results. 4 July 2000

GST Talk

11. Investors will no longer pay stamp duty on quoted marketable securities from July 2001. April 2001
10. The end of financial institutions duty payments on your deposits from 1 July 2001. April 2001
9. Commercial residential premises—accommodation charges. July 2000
8. How do I know what I have to pay? May 2000
7. Holidays and the GST. May 2000
6. Weddings. May 2000
5. Lay-bys. April 2000
4. Residential rents. April 2000
3. Price exploitation and consumers in the New Tax System. March 2000
2. The New Tax System—what changes and when? July 1999
1. Electronic goods—the price will go down. July 1999

News For Business

18. No more financial institutions duty or stamp duty on quoted marketable securities from 1 July 2001. May 2001
17. Commercial contracts that have price or rent review clauses by reference to the CPI. April 2001
16. Commercial and retail property leases. October 2000
15. Handy hints on pricing for operators of cafes, takeaways, and restaurants. October 2000

14. Franchise fees and the New Tax System. October 2000
13. Small business guide to cost savings under the New Tax System. June 2000
12. Where the savings come from—Rubber tyres. June 2000
11. Where the savings come from—Legal services. June 2000
10. Where the savings come from—Woollen jumpers. June 2000
9. Where the savings come from—Televisions. June 2000
8. Coin-operated machines—June 2000
7. Pricing issues for the trucking industry. June 2000
6. Adjusting prices. June 2000
5. Jewellers and the New Tax System. June 2000
4. Taxis. June 2000
3. Lay-by sales. May 2000
2. Pricing during the New Tax System transition. March 2000
1. Pricing claims and the New Tax System. March 2000

GST Checklist for small business

- | | |
|--------------|---|
| August 2000. | Price exploitation—What every business must know |
| July 2000. | How to make a complaint |
| June 2000. | Displaying prices |
| June 2000. | Compliance costs |
| June 2000. | Pricing claims |
| June 2000. | Avoiding and handling complaints |
| June 2000. | Handy hints |
| June 2000. | New retail prices |
| May 2000. | Re-pricing and the New Tax System—A joint publication with GST Start-Up Assistance Office |

GST Snapshots

4. Price displays, info for non-English speakers. 9 June 2000
3. Consumer Q&A. 26 May 2000
2. GST inclusive pricing, residential rent, cars. 26 April 2000
1. Price tickets, membership/insurance premiums, lay-bys. 11 April 2000

Retail price monitoring reports

- February 2001. Report on ACCC price surveys: general survey. February 2001 collection
- October 2000. Report on ACCC price surveys: general survey. Period covering May to August 2000
- October 2000. Report on ACCC price surveys: Preliminary post-GST price changes
- October 2000. Report on ACCC price surveys: Pre-GST price changes
- October 2000. Report on the movement in fuel prices in the September 2000 quarter

Reports to the Minister

11. Report to the Minister under section 75AZ of the TPA—1 April to 30 June 2002
10. Report to the Minister under section 75AZ of the TPA—1 January to 31 March 2002
9. Report to the Minister under section 75AZ of the TPA—1 October to 31 December 2001
8. Report to the Minister under section 75AZ of the TPA—1 July to 30 September 2001
7. Report to the Minister under section 75AZ of the TPA—1 April to 30 June 2001
6. Report to the Minister under section 75AZ of the TPA—1 January to 31 March 2000
5. Report to the Minister under section 75AZ of the TPA—1 October to 31 December 2000
4. Report to the Minister under section 75AZ of the TPA—1 July to 30 September 2000
3. Report to the Minister under section 75AZ of the TPA—1 April to 30 June 2000
2. Report to the Minister under section 75AZ of the TPA—1 January to 31 March 2000
1. Report to the Minister under section 75AZ of the TPA—1 July to 31 December 1999

Attachment 2. ACCC GST-related media releases since July 1999

16 August 2002	Real estate agent refunds GST on commission
8 August 2002	Ford Credit to provide over \$430 000 in GST refunds on car leases
11 June 2002	Capital Finance refunds over \$70 000 after GST error
12 February 2002	Commodore Homes (WA) Pty Ltd refund \$880 000 to new home buyers
22 January 2002	WA home builder refunds \$258 000 in GST payments
10 January 2002	ADT Security to refund \$141 000 after ACCC concerns
10 December 2001	A Man's Toyshop amends pricing display
30 November 2001	ACCC moves to protect consumers from unlawful GST charges
30 November 2001	7-Eleven Stores Pty Ltd reduces, freezes prices on grocery items after ACCC concerns
9 November 2001	Domaine Homes refunds \$1.9 million GST to 260 new home buyers after ACCC legal action
2 November 2001	Federal Court finds that Canberra real estate agency engaged in misleading conduct
19 September 2001	Commercial television networks to implement GST inclusive pricing
13 September 2001	ACCC action against Canberra real estate agent for alleged misleading conduct
12 September 2001	Musicians refunded \$18 000 for GST overcharge on insurance
10 September 2001	Quix to compensate consumers for price exploitation
12 July 2001	ACCC institutes legal proceedings against Domaine Homes
3 July 2001	One year on and most businesses comply with ACCC price guidelines
22 June 2001	ACCC to monitor abolition of FID, stamp duty on quoted marketable securities
1 June 2001	ACCC finalises fuel investigation
11 May 2001	Customers receive \$29 000 in refunds
3 May 2001	Video City to donate \$4800 to charity after GST overcharge
27 April 2001	ACCC and Video Ezy settle litigation
17 April 2001	ACCC calls on drinkers to assist beer excise crackdown

6 April 2001	ACCC institutes court action alleging Commodore Homes (WA) Pty Ltd misled homebuyers about the GST
21 March 2001	ACCC focus on boarding houses—\$5300 refunds
19 March 2001	ACCC alleges false, misleading conduct, breaches of undertakings against Signature Security on ‘GST exclusive’ pricing
14 March 2001	BP Express stores discounting sunscreen for 155 days after GST error
9 February 2001	Quix stores discounting sunscreen for 174 days after GST error
11 January 2001	Gateway offers consumer refunds
4 January 2001	Signature Security Group to fix GST-exclusive advertisements
22 December 2000	ACCC success against Perth car dealer’s GST claims
21 December 2000	ACCC continues to monitor petrol prices
20 December 2000	GST compliance
13 December 2000	Auctioneers must provide clear GST information: ACCC
11 December 2000	Rounding and EFTPOS transactions
8 December 2000	Real estate agent credits landlords to fix GST concerns
1 December 2000	ACCC acts over potentially misleading conduct by Cabcharge
27 November 2000	Tas University to compensate students for fee overcharge
27 November 2000	Note to media: Government caught in confusion on petrol tax
21 November 2000	Carpet cleaner misrepresented post-GST prices
31 October 2000	Michael Hill Jewellers donates \$10 000 to charity after WST overcharge
27 October 2000	New Tax System-related price rises are in the past
24 October 2000	Wollongong City Council provides refunds, free sports day for GST overcharge
20 October 2000	Major ACCC survey confirms moderate GST price impact within <i>Everyday shopping guide</i> expectations
20 October 2000	Fuel prices in September quarter
6 October 2000	Restaurant home delivery service to fix GST-exclusive menus
27 September 2000	Medical centres provide GST refunds to patients
26 September 2000	ACCC maintains GST price watch
21 September 2000	Refunds for GST ‘double dip’ on pre-paid mobile phone cards
20 September 2000	IBIS provides GST compensation to customers

18 September 2000	Retirement village operators may need to refund GST
15 September 2000	ACCC warns service sector to include GST in advertised prices
13 September 2000	Lander Toyota offers over \$23 000 in refunds to new car buyers
13 September 2000	\$1 million GST waiver benefits new home owners
8 September 2000	ACCC reports on price changes before and after GST
8 September 2000	Darwin bus fare increases within ACCC guidelines
1 September 2000	Up to 37 000 ANZ bank customers to receive refunds
24 August 2000	GIO provides 2800 GST refunds on car leases
23 August 2000	Petrol grant allegations
22 August 2000	FAI provides court enforceable undertakings over potentially misleading premium notices
22 August 2000	ACCC protecting consumers: GST enforcement update
22 August 2000	ACCC takes carpet cleaning company to court alleging misleading GST advertising
3 August 2000	Franklins supermarkets
31 July 2000	Brisbane City Council rates: charges rise not all due to GST
28 July 2000	ACCC acts on Perth car dealer's GST claims
28 July 2000	Response to MTAA re motor vehicle purchase advice
25 July 2000	GST 'mistakes' must be rectified fully, quickly
25 July 2000	Toll-free day follows GST claims
24 July 2000	Franklins to provide three-week discount to consumers for GST errors
21 July 2000	Victorian Workcover Authority amends potentially misleading brochures
18 July 2000	More companies give public compliance commitment
13 July 2000	ACCC settles 'beat the GST' litigation with Discount Electrical Centre
10 July 2000	Registered GST start-up assistance provider to offer refunds to consumers
10 July 2000	ACCC acts on Perth law firm's GST claims
7 July 2000	ACCC v Video Ezy Australasia—directions hearing
5 July 2000	ACCC takes court action over statement about GST on residential rent, water
4 July 2000	Price movements in petrol and LPG on 3 July

2 July 2000	ACCC watching post-GST sales
2 July 2000	Small business race to complete price changeover to GST
1 July 2000	Petrol price movements on 1 July
1 July 2000	New Tax System and price changes
1 July 2000	Action on misleading rent
30 June 2000	Six more major companies commit to pass on savings
30 June 2000	Australia's top companies commit to pass on cost savings
30 June 2000	Everyday supermarket prices remain stable—ACCC
30 June 2000	ACCC meets demand for business GST pricing help
30 June 2000	Bankwest to freeze merchant fees: ACCC
29 June 2000	ACCC resolves misleading GST property claims
28 June 2000	ACCC acts to ensure compliance among holiday destinations
26 June 2000	Shoppers take heed—the GST will affect lay-bys
22 June 2000	Discount Electrical Centre directions hearing
22 June 2000	ACCC accepts Coles Myer GST public compliance commitment
22 June 2000	ACCC visits small businesses to assist in GST transition
21 June 2000	Apollo Blinds GST undertaking
19 June 2000	ACCC accepts Coca-Cola Amatil (Aust.) public compliance commitment
19 June 2000	ACCC takes Discount Electrical Centre to court over GST claims
16 June 2000	Funeral industry refunds
16 June 2000	ACCC price checking on 1 July
15 June 2000	ACCC launches ACA's Choice Price Watch
14 June 2000	Telstra price rises under investigation
14 June 2000	Trucking prices should fall despite ATA report
13 June 2000	GST, everyday prices and you: GST pricing information for Australians from non-English speaking backgrounds
8 June 2000	Commonwealth Government's GST advertising
6 June 2000	Rentlo under investigation
5 June 2000	WorkCover NSW premium rise
2 June 2000	Forty Winks to remedy GST compliance issues
2 June 2000	Total Aqua admits its GST claims were wrong

30 May 2000	BHP signs GST public compliance commitment
29 May 2000	ACCC gives GST price help to small business
26 May 2000	Australia Post public compliance commitment
26 May 2000	GST, everyday prices and you: GST pricing information for Aboriginal and Torres Strait Islanders people
26 May 2000	ACCC takes court action against Video Ezy and senior managers with first GST price exploitation case
25 May 2000	ACCC checks prices in the Northern Territory to prevent GST price exploitation
25 May 2000	Consumers' misconceptions follow strong industry campaign: ACCC
23 May 2000	Consumers to be helped by price guide
22 May 2000	ACCC takes action to protect small business on GST eve
15 May 2000	Victorian public transport fare increases
9 May 2000	ACCC welcomes budget allocations
9 May 2000	ACCC responds to business coalition for tax reform
2 May 2000	GST price exploitation law enforcement
2 May 2000	Pricing guidelines enforceable: ACCC
28 April 2000	ACCC checking South Australian prices to prevent price exploitation
26 April 2000	ACCC gets consumers' views
20 April 2000	Video Ezy negotiations break down
18 April 2000	Court grants declarations and injunctions against Meriton for breaches of the Trade Practices Act
18 April 2000	ACCC response to opposition call on alleged misleading Government GST advertising campaign
14 April 2000	Video Ezy discussion
11 April 2000	ACCC issues Video Ezy corporate with first GST price exploitation notice
6 April 2000	ACCC examines bread price rises
6 April 2000	ACCC monitors Tasmanian prices to prevent price exploitation
29 March 2000	ACCC monitoring WA prices to prevent price exploitation
9 March 2000	ACCC issues guidance on price display
9 March 2000	ACCC alleges GST misrepresentations by Meriton Apartments
9 March 2000	ACCC pricing guidelines firm and fair

29 February 2000	Zurich refunds \$50 000 after GST Hotline complaint
17 February 2000	Accor questioned on 10 per cent rise
16 February 2000	Big W withdraws dual tickets
15 February 2000	GST claims misleading
30 January 2000	Please explain for seven insurance companies
27 January 2000	ACCC to investigate Avis increase in car hire rates
25 January 2000	Banks warned of GST price watch
25 January 2000	Qantas adjusts frequent flyer price change
13 January 2000	ACCC stops builder's GST misrepresentations
5 January 2000	Home building industry focus of ACCC price watch
28 December 1999	Lifeskills training course provider misleading on GST
20 December 1999	ACCC links with consumer representatives on GST
16 December 1999	ACCC highlights the need for GST compliance programs
13 December 1999	ACCC—new powers to stop anticipation of the GST
25 November 1999	Industry, consumer GST guidelines input positive
25 November 1999	Used car dealer to fix GST advertising
23 November 1999	Price hike claims of small business unfounded
12 November 1999	Price exploitation and regulated industries
12 November 1999	Operator of GST scam gaoled after ACCC action
5 November 1999	Ray White Real Estate to fix GST representations
27 October 1999	ACCC to pursue potential profiteers
22 October 1999	Motor vehicle trader to correct GST representations
12 October 1999	ACCC to examine insurance premium increases
27 September 1999	First GST public compliance commitment
7 September 1999	New home builder to fix GST representations
30 July 1999	Consumers benefit from Wholesale Sales Tax reduction
28 July 1999	Price reductions expected tomorrow
14 July 1999	ACCC launches comprehensive GST surveillance
12 July 1999	ACCC/ATO move against scheme spreading GST confusion

Attachment 3. GST-related section 87B undertakings

Name	Date	Section	Conduct	Undertaking
Lennox Phillip Pty Ltd	17.7.99	ss. 52, 53(e)	Misleading conduct—Beat the GST claim, implying the price of used vehicles would increase because of GST	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising • Compliance program
Tropical Homes (Townsville) Pty Ltd	7.9.99	ss. 52, 53(e)	Misleading conduct—Beat the GST, homes and land to increase up to 15%	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising • Compliance program
Werribee Motor Traders Pty Ltd	30.9.99	ss. 52, 53(e)	Misleading conduct—Beat the GST price increase: implying the price of used vehicles would be greater on introduction of GST	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising • Compliance program
Brumar Services Pty Ltd	28.10.99	s. 75AU	Price exploitation—failing to pass on WST reduction	<ul style="list-style-type: none"> • Cease the conduct • Point-of-sale corrective advertising • Refund customers affected • Compliance program
Ray White (Real Estate) Pty Ltd, trading as Ray White Investor Services	3.11.99	ss. 52, 53(e)	Misleading conduct—Beat the GST claim: implying the price of new homes and land would rise on introduction of GST	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising • Compliance program
Relyt Pty Ltd and S&S Thomson Investments Pty Ltd	24.11.99	ss. 52, 53(e)	Misleading conduct—that the price of used vehicles would increase on introduction of GST	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertisements • Compliance program
Sarai Holdings Pty Ltd, trading as Zoeros Lifeskills Training	10.12.99	ss. 52, 53(e)	Misleading conduct—February 2000 price rise of 25% because of GST	<ul style="list-style-type: none"> • Cease the conduct • Contact persons to whom representations made • Compliance program
Metricon Homes Pty Ltd	22.12.99	ss. 52, 53(e)	Misleading conduct—increases in building costs before 1 July 2000 because of GST	<ul style="list-style-type: none"> • Cease the conduct • Compliance program
Total Aqua Pty Ltd	31.5.00	ss. 52, 53(e)	Misleading conduct—impact of introduction of GST on spring and bottled waters prices	<ul style="list-style-type: none"> • Cease the conduct • Offer refunds or compensation • Corrective advertising • Compliance program
Forty Winks Franchising Pty Ltd	1.6.00	ss. 52, 53(e)	Misleading conduct—effect of GST on bedding products	<ul style="list-style-type: none"> • Training material to all franchisees • Compliance program • Corrective advertising

Name	Date	Section	Conduct	Undertaking
Golden Miles Pty Ltd	15.6.00	ss. 52, 53, 53A, 53C	Misleading conduct—claiming price of certain property would increase by 10% because of GST	<ul style="list-style-type: none"> • Cease the conduct • Compliance program
Apollo Window Blinds Pty Ltd	19.6.00	ss. 52, 53(e)	Misleading conduct—beat the GST claim: implying would avoid paying any tax when goods attracted WST	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising • Refund customers affected • Compliance program
Aqua Acts Down Under	21.6.00	ss. 52, 53(e)	Misleading conduct—price increases before 1 July 2000 on Easter Kids Camps because of GST	<ul style="list-style-type: none"> • Cease the conduct • Apology letters • Corrective advertising
KMP Pty Ltd, trading as Inski	23.6.00	ss. 52, 53(e)	Misleading conduct—dual ticketing used before introduction of GST	<ul style="list-style-type: none"> • Cease the conduct • Refund customers affected • Compliance program
Tony Amodio (principal of Accounting for GST)	28.6.00	ss. 52, 53(d), 53(e), 53(f)	Misleading conduct—claiming firm affiliated with ATO, and all businesses required to be registered for GST	<ul style="list-style-type: none"> • Cease the conduct • Refund customers affected • Corrective advertisement • Compliance program
Matthew Old (contractor to Accounting for GST)	28.6.00	ss. 52, 53(d), 53(e), 53(f)	Misleading conduct—claiming firm affiliated with ATO, and all businesses required to be registered for GST	<ul style="list-style-type: none"> • Cease the conduct • Compliance program
The DCH Legal Group Partnership	10.7.00	ss. 52, 53(e)	Misleading conduct—GST on legal fees	<ul style="list-style-type: none"> • Cease the conduct • Refund clients affected • Corrective advertising • Compliance program
United Vend Group Pty Ltd	19.7.00	ss. 52, 53(e)	Misleading conduct—that GST was payable before 1 July 2000	<ul style="list-style-type: none"> • Cease the conduct • Compliance program
Queensland Motorways Ltd	24.7.00	ss. 52, 53(e), 75AYA	Misleading conduct—increase of toll prices because of GST	<ul style="list-style-type: none"> • Corrective advertising • Toll free day • Not to seek any toll increases for 12 months • Compliance program
A C McGrath & Co. Pty Ltd	25.7.00	ss. 52, 53(e)	Misleading conduct—beat the GST claim, implying the price of motor vehicles would increase because of GST	<ul style="list-style-type: none"> • Cease the conduct • Refund customers affected • Compliance program
Lincraft Pty Ltd (Custom Made Division)	9.8.00	ss. 52, 53(e), 75AU	Misleading conduct and price exploitation—impact of GST on price of goods and GST-related overcharging before 1 July 2000	<ul style="list-style-type: none"> • Refund and gift voucher to customers affected • Compliance program
Advanced Hair Studios (Franchising) Pty Ltd	16.8.00	ss. 52, 53(e)	Misleading conduct—price of hair replacement products would increase because of NTS	<ul style="list-style-type: none"> • Cease the conduct • Write to each franchisee and all customers • Compliance program

Name	Date	Section	Conduct	Undertaking
FAI General Insurance Co.	18.8.00	ss. 12DA, 12DB of the ASIC Act ¹	Misleading conduct—incorrectly stated GST liability on insurance renewal notices	<ul style="list-style-type: none"> • Audit to identify affected policyholders • Contact all affected policyholders • Review company's trade practices compliance program
Ecom Computer Australia Pty Ltd	24.8.00	ss. 52, 53(e)	Misleading conduct—beat the GST claim: implying the price of computer packages would increase because of GST	<ul style="list-style-type: none"> • Cease the conduct • Refund consumers affected • Corrective advertising • Compliance program
Cheryl Benson, proprietor of Dural Pharmacy	29.8.00	ss. 52, 53(e)	Misleading conduct—GST payable on goods before 1 July 2000	<ul style="list-style-type: none"> • Cease the conduct • Apology letter to customers • Corrective advertising • Attend TPA training program
TS Burstow Funerals Pty Ltd	31.8.00	ss. 52, 75AU	Misleading conduct and price exploitation—application of GST to pre-paid funeral services	<ul style="list-style-type: none"> • Audit to identify clients affected • Reinstate contracts that were re-drawn or re-negotiated • Refund clients affected
Dellapond Pty Ltd, trading as Amazing Fences	31.8.00	ss. 53(e), 75AU	Misleading conduct—charging GST on goods and services supplied before 1 July 2000	<ul style="list-style-type: none"> • Cease the conduct • Notice and refund to customers affected • Compliance program
Express Promotions Australia Pty Ltd	5.9.00	s. 52	Misleading conduct—promotion of 'free' stationery to businesses when supply conditional on surrender of their GST Direct Assistance Certificates (valued at \$200)	<ul style="list-style-type: none"> • Cease the conduct • Corrective notices • Refund customers affected • Compliance program
Clarendon Homes (NSW) Pty Ltd	11.9.00	ss. 52, 53(e)	Misleading conduct—charging GST on GST-exclusive fixed price home construction contracts	<ul style="list-style-type: none"> • Not to seek recovery of GST from affected clients • Compliance program
Australian Leisure & Hospitality Group (ALH Group)	18.9.00	ss. 52, 53(e), 75AU, 75AYA	Price exploitation and misleading conduct—incorrect calculation of NTS direct and indirect taxes on certain wine-based products	<ul style="list-style-type: none"> • Notification to customers • Refund customers affected • Discounting of products
Islanders Board of Industry & Service (IBIS)	20.9.00	s. 75AU	Price exploitation—price increases of products following NTS changes higher than justified	<ul style="list-style-type: none"> • Review prices • Refund customers affected • Discounting of products • Corrective apologies • Compliance program

¹ This undertaking was made pursuant to section 93AA of the *Australian Securities and Investment Commission Act 1989* (the ASIC Act). ASIC delegated certain of its consumer protection powers in relation to financial services, including with respect to misleading and deceptive conduct and false and misleading representations in connection with the GST, to the ACCC.

Name	Date	Section	Conduct	Undertaking
Aus-Care: –Townsville –Cairns –Upper Mt Gravatt –Indooroopilly	21.9.00	ss. 52, 53(e), 75AU	Misleading conduct and price exploitation—charging of GST on Hepatitis B vaccinations which were GST-free	<ul style="list-style-type: none"> • Cease conduct and review billing practices • Distribute a corrective policy • Refund patients affected • Compliance program
Cuisine Courier Pty Ltd	29.9.00	ss. 52, 53(e), 53C	Misleading conduct—displaying GST exclusive prices and failure to state full cash price	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising • Corrective phone recording • Compliance program
Ferry Real Estate (QLD) Pty Ltd Ferry Property Management Pty Ltd Castorina Investments Pty Ltd	30.11.00	s. 75AU	Price exploitation—increase of property management fee in anticipation of GST by including a GST component	<ul style="list-style-type: none"> • Corrective letters of apology • Credit landlords affected • Compliance program, including a mechanism to review costs
Flight Centre Limited	21.12.00	s. 52	Misleading conduct—price of airline tickets would increase by more than 10% because of GST	<ul style="list-style-type: none"> • Compliance program
Signature Security Group Pty Limited	21.12.00	ss. 52, 53(e), 53C	Misleading conduct—displaying GST exclusive prices for security services	<ul style="list-style-type: none"> • Ensure future ads are GST inclusive • Amend Yellow Pages advertisement • Compliance program
Gateway Pty Ltd	9.1.01	ss. 52, 53(e)	Misleading conduct—concerning the effect of NTS on computer prices	<ul style="list-style-type: none"> • Cease the conduct • Refund customers affected • Compliance program
Sun Imports Pty Ltd	21.1.01	ss. 52, 53(e), 75AU	Price exploitation and misleading conduct—increase in product price by 10% for GST, despite removal of 22% WST	<ul style="list-style-type: none"> • Reduce prices • Refund customers and consumers affected • Corrective notices
Zuellig Insurance Brokers Ltd	13.3.01	ss. 52, 53(e), 75AU	Price exploitation and misleading conduct—GST charged on insurance before 1 July 2000	<ul style="list-style-type: none"> • Cease the conduct • Audit to identify customers affected • Refund customers affected • Compliance program
Thomson Legal & Regulatory Limited	7.4.01	ss. 52, 53(e)	Misleading conduct—GST-exclusive prices displayed on website and in publications	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising and notices • Corrective letters of apology to customers • Compliance program
Oasis Credits Pty Ltd, trading as Holdfast Finance Corporation	12.4.01	ss. 52, 75AU	Misleading conduct and price exploitation—charging GST on vehicle finance arrangements that did not attract GST	<ul style="list-style-type: none"> • Notify customers of refund and credit options • Independent report on completion of refund/credit process • Compliance program

Name	Date	Section	Conduct	Undertaking
Mike Carney Motors Pty Ltd, trading as Mike Carney Toyota	7.8.01	ss. 52, 53(e), 53C	Misleading conduct—advertised price claimed to be GST inclusive when it was not, and various other misrepresentations	<ul style="list-style-type: none"> • Cease the conduct • Corrective advertising • Compliance program
Marsh Pty Ltd	30.8.01	ss. 52, 53(g), 53C, 75AU	Misleading conduct and price exploitation—GST claimed from policy holders who took out insurance in December 1999	<ul style="list-style-type: none"> • Notify policy holders and refund those affected • Compliance program
Strasburger Enterprises (Properties) Pty Ltd, trading as Quix Food Stores	5.9.01	s. 75AU	Price exploitation—over-charging on grocery and fast food products following NTS changes	<ul style="list-style-type: none"> • Cease the conduct • Audit to assess over-charging • Reduce prices • Corrective notices • Compliance program
Flipstock Pty Ltd, trading as A Man's Toyshop, Ross Mylrea (director) and Arthur Clarke (wholesale manager)	5.12.01	ss. 52, 53(e), 53C	Misleading conduct—GST exclusive advertising	<ul style="list-style-type: none"> • Cease the conduct • Display public notices, and write to persons on mailing list • Compliance training program
Tangent Nominees Pty Ltd, trading as Summit Homes	17.1.02	ss. 52, 53(e)	Misleading conduct—charging GST on fixed price building contracts entered into before 1 July 2000	<ul style="list-style-type: none"> • Refund customers affected • Audit of refund process • Compliance program
Golden Way Realty (S.A.) Pty Ltd, trading as Professionals Golden Grove	9.8.02	s. 53(e)	Misleading conduct—use of GST-exclusive agency agreements	<ul style="list-style-type: none"> • Cease the conduct • Identify and refund customers affected • Compliance program

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