Trade Practices and Consumer Law Conference

The Trade Practices Act – The Past, The Present and The Future

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This paper seeks to provide a broad personal overview of the past, present and future of trade practices law and policy in Australia. It reviews the past in order to identify some of the foundations of trade practices law; then describes some current developments; and then seeks to identify some priorities in the coming years.

1. The Past

Modern Australian competition policy began with the enactment of the *Trade Practices Act 1974*. This late start had some advantages. Australia was able to learn from the experiences of the United States and Europe and to strike a sensible balance between their differing approaches, a balance that recognised, in particular, the need for a strong law against anti competitive behaviour but at the same time acknowledged the need in some circumstances in a small economy for anti competitive behaviour to be authorised on the grounds of public benefit.

A disadvantage, however, of the late start, combined with the absence of a strong merger law from 1977 until 1993, was the existence of many concentrated industry structures a legacy that will remain for years.

When the Act took effect in 1974 there was an initial "big bang" effect. A vast number of cartels and anti competitive practices, both of a horizontal and vertical character, were rendered unlawful overnight and forced to cease immediately with significant benefits for competition.

Following the big effects of the early years there was a period of consolidation and, at times, regress for the remainder of the 1970s and the 1980s. Equivocal government attitudes to competition law characterised both the Fraser Government and the first seven years or so of the Hawke Keating Government . The merger test was weakened to a dominance test from 1977 to 1993. Resourcing for the Trade Practices Commission was inadequate. Views that the Act could inhibit the emergence of productive entrepreneurism were given more credence than in the 1990s. The big business lobby was more powerful than in the late 1990s. The Trade Practices Commission became heavily involved in time consuming reviews of numerous interim authorisations granted in 1974. It also lost some important cases eg. Tradestock. Fines were at low levels.

In the 1990s competition law and policy took off. This is not out of line with international trends but in many respects Australia was ahead of developments in other countries.

First, the Act became more effective. Penalties were increased under the Act from a maximum of $250,000 to a maximum of $10 million per offence for corporations. (One cause of the delay in the increase of penalties was pressures from trade unions which feared that the application of Sections 45D and E. This opposition was finally overridden with the penalties for secondary boycotts being generally kept at a lower level than for the other parts of the Act). At the same time there were a number of spectacular Trade Practices Commission cases, which culminated in large penalties. Freight express companies paid penalties of around $15 million (under the old scale of penalties) and a little later ready mix concrete companies paid penalties of $21 million (under the new scale) for cartel behaviour. The Parliament, the Federal court and the Trade Practices Commission were all supporting higher penalties. These penalties sent a strong signal to Australian business that the Trade Practices Act was to be taken far more seriously than in past and led to widespread adoption of more serious compliance programs than had occurred in the 1980s.

Second, in the 1990s the Trade Practices Commission (and later the Australian Competition and Consumer Commission) began to enforce more vigorously than in the past the consumer protection provisions of the Act, with a series of high profile cases concerning, for example, life insurance companies selling complex policies to Aboriginal people, the AMP case in which refunds of around $100 million were paid to consumers, the Telstra wire repair plan case in which refunds of over $40 million were paid to consumers and a range of other important cases and activities.

Third, another fundamental change was linked with the much higher profile for the Trade Practices Act and the Trade Practices Commission. Cases received far more publicity. Publicity had very significant effects on educating the community and policy makers about the nature and importance of trade practices law and competition. It made firms more aware of the importance of avoiding breaches of the law as well as of enhancing their understanding of its legal requirements. It also helped build support for legislative strengthening of the Act, improved TPC resourcing, the extended reach of the Act, and the adoption of a national competition policy.

Fourth, another important development was the strengthening of the merger law. The merger test was changed from one of dominance to one of substantial lessening of competition to bring it into line with North American practice. (It is interesting to note that in recent years European interpretations of the dominance test have taken it much closer, although not all the way, to a substantial lessening of competition test.) The importance of this change in the law cannot be overestimated. Merger law over time has a large effect on how competitive the structure of an economy's. It plays an especially important role in deregulating areas were almost invariably businesses' response to deregulation is to seek to merge and thereby to minimise or offset the pro competitive effects of the deregulation.

A series of decisions by the ACCC, perhaps most notably the Ampol/Caltex merger decision, brought home to business and to trade practices lawyers that the new approach covered anti competitive mergers even though more than one substantial

player may have remained in the market. The Federal court decision to grant an interlocutory injunction when Coles Myers sought to acquire Fordlands via Rank Associated also signalled a significant degree of court recognition that the public interest in the promotion and protection of competition is the key element in merger law.

Fifth, since 1995 the Act has been extended to apply to incorporated businesses trading within states, and has also state public utilities. Should any constitutional difficulties arise, it is difficult to imagine that the Governments of Australia would wish to reverse their clear wish that the Act should cover areas such as professions and the state public utilities.

Sixth, there was a transfer of responsibility for the Trade Practices Act from the Attorney General's Department to the Department of Treasury. The Treasury is more powerful and has been able to support the Act and the Commission strongly. Moreover, the Commission became much more closely linked with broad issues of microeconomic reform in such areas as communications, energy and transport. The role of prices surveillance was cut back but without the reduction in the resources available to the Australian Competition and Consumer Commission when it took over the function both of the Trade Practices Commission and the Prices Surveillance Authority in 1995. A better coordination of competition and prices policy was achieved

Seventh, much greater emphasis was given to the need to promote competition in the monopoly public utility areas of communications, energy and transport, inter alia. It began to be recognised that worthy though the Trade Practices Act was, it generally has not been applied to the most uncompetitive parts of the economy adequately.

Finally, national competition policy was greatly broadened. Following the Hilmer report, an access regime was introduced into the Trade Practices Act. Reviews of laws that restrict competition became part of the national competition policy agenda. Issues of competitive neutrality were systematically pursued at Federal, State and Territory level. The monopoly structures of public utilities were reviewed and in some cases changed. Broadly speaking, the Government support support of procompetitive policies in many areas was boosted, eg. local government.

Finally

2. The Present

The Trade Practices Act and the ACCC's current activities can be grouped under three headings.

One is the traditional work concerning the provisions of the Trade Practices Act relating to anti-competitive behaviour and consumer protection matters.

A second role concerns regulation in relation to the public utilities. This is closely connected with the first role but goes further in view of the network characteristics and high market power of the relevant utility areas.

The third role for the next two and a quarter years is in regard to price effects of the New Tax System

(a) Traditional Areas

For the Commission the challenge this year and the next year or two is essentially to handle the new challenges in relation to the GST well, but, at the same time, to do all the traditional work that the Commission does as well as ever and, if not better than that, always seeking to improve. This view is clearly shared by the Government. The recent increase in ACCC funding in the 2000/2001 Budget included $M10 for legal costs, most of it aimed at traditional rather than GST related enforcement activities. These was also additional funding for regulatory activities. Far from holding back the ACCC's traditional activities, the Commission's tax role has been a significant factor in bringing it the additional funding it has needed for traditional activities.

The Commission is involved in 55 cases before the courts at the present time, a record. There are a number of international cartels which are attracting ACCC attention and likely to end up in court. There was a vitamins cartel where for some eight or nine years, virtually all the multinational major vitamins producers around the world shared markets and fixed prices. Prices rose about 75% during that period, most of it not attributable to inflation. The main effect has been in the animal feed industry. Australian owned firms are not involved. The multinationals have already been fined about a billion dollars in the US and face damages cases and there is a flow on here. The art houses cartel has also become known but there are a number of other international cartels of concern.

Within Australia, the Commission is concerned that there are a number of price fixing cases being investigated. There have not been so many or such big ones before the Commission for some time, but they have unfortunately increased somewhat and action will occur about some before too long.

The Commission is also continuing to apply the Trade Practices Act in the new areas that were covered for the first time following the competition policy reforms of 1995. For example, there are a number of matters concerning the health sector including some likely forthcoming litigation concerning price fixing before the Federal Court. The Commission is also investigating entry restrictions in the orthopaedic specialist college.

Another significant case concerns alleged breached of section 45D and E by the MUA.

Another part of the Act where there is more activity is under Section 46. The Commission itself had not any cases under Section 46 for a long time until recently. There are a number of cases, which are currently before the Federal Court at the present time, where these issues are being adjudicated upon. There are likely and be some interesting judgements One concerns Safeway in Melbourne. There is the Boral case which the ACCC lost on the first round but has appealed. There is the Rural Press case in South Australia. There are also some other private cases concerning section 46. The net effect is that this part of the Act may have some rejuvenation.

Consumer protection continues to be an issue of high priority although these days the Commission does not deal with those financial sector consumer protection matters which are within the jurisdiction of ASIC. The Commission is finding, however, that in the newer areas of e-commerce and internet transactions, a significant number of consumer protection matters are arising. These markets offer benefits for consumers, but some of the traditional consumer protections are not available or not known sometimes, even to operators in Australia. Matters like warranties, refunds, privacy questions, credit card misuse and fraud and a range of other significant consumer protection issues arise in these areas.

There is a high rate of merger activity here and internationally. The Commission continues to deal with mergers in the usual manner, without any significant policy changes. There are often claims that the Commission does not take due account of international factors, but, if one looks at some of the mergers that the Commission has not opposed in recent times, then one would have to question those who say that the commission does not place due weight on international competitive factors. The Commission did not oppose the acquisition of Southcorp white goods by Email, the bathroom products merger of Corona and Fowler, Berri's acquisition of the orange juice interests of National Food, Goodman Fielder's, acquisition of Bunge with some conditions, and the earlier AMCOR acquisition of APPM, and BHP of both New Zealand Steel and Tubemakers. There is a very long list of cases where the Commission has not opposed mergers where there was some kind of case for these mergers to occur on grounds of international competition.

The Commission has opposed some mergers in the telecommunications area with Telstra/Ozemail and Optus and AAPT. These decisions signal the fact that an important part of the agenda for merger law is in the deregulating areas. The Commission, however, is not against mergers in deregulating areas but concerned that sometimes they can undo the pro competitive affects of de regulation.

The Commission now has a full time Commissioner, John Martin, who specialises in small business matters. It has received additional staff, established a small business unit and is pursuing litigation in a number of cases about unconscionable conduct and, as mentioned earlier, some verdicts from the courts will start to come through on the new provision in the Act There has been a reduction in the number of complaints that the Commission is receiving from small business about alleged unconscionable conduct by big business. That could be due to the impact of the new law and to the impact of the Commission's activism, and also to the concerns of Parliament and governments everywhere about this matter.

(b) Regulation

An important and progressive feature of Australia's approach to dealing with deregulating public utilities is its integration at national level of the application of traditional competition law and of the newer requirements for regulation of the powerful public utilities. The reasons for this are to ensure that a competition culture applies to regulatory decision making at national level; to adopt a national approach to markets (to the extent that they are national in character); to deal adequately with the phenomenon of convergence in which many different markets now interact with one another making industry specific regulation a difficult task; to combine and

coordinate the application of competition and regulatory laws; and to economise on resources in the public sector.

The Commission's work on telecommunications has involved four main activities. First, there have been a significant number of access declarations. At this early stage in the development of the industry the access decisions have been the most important single activity of the Commission in bringing about a more competitive and efficient telecommunications industry. However, that stage now seems largely complete. There are not many new areas where the Commission expects to be making declarations.

Second, the Commission is now heavily involved in a further phase of activity where the main issues concern the terms and conditions of access to declared facilities. In particular the Commission is involved in quite a large number, indeed a worrying number, of arbitrations in telecommunications concerning terms and conditions, including prices, of access.

The third activity is the application of the traditional parts of the Trade Practices Act to the telecommunications sector eg merger law.

Fourth, the Commission has a role in oversighting and directing other important decisions regarding competition and telecommunications eg it gives directions concerning local portability to the Australian Communications Authority.

An outcome of all this activity has been a considerable increase in the amount of competition in the telecommunications sector although important areas of market power remain. Also linkages between this sector and other sectors eg media, information technology, internet activities raise important issues.

The Commission's role in the energy sector, that is the sectors of gas and electricity, relates mainly to national questions. State matters are handled by State regulators, eg distribution and retail regulation although there is still a role for the Trade Practices Act in those areas. The Commission is at present involved in making numerous decisions about important pricing questions. In electricity it is the national transmission regulator and sets prices and is due to extend its role further in transmission shortly.

Similarly the Commission is also involved in important decisions about interstate gas pipelines. A number of very challenging decisions have arisen in these areas. In both electricity and gas the Commission regulated a revenue cap. In gas it also regulates prices under that cap. These prices are for access to the transmission network. All the major issues that arise in any scheme of pricing regulation arise. These include questions about incentive pricing eg the use of CPI-X regimes. In addition there are challenging questions concerning the evaluation of operating and maintenance costs, asset valuations, depreciation and cost of capital. The Commission has now determined that in general it believes it is appropriate to use a post tax nominal rate of return approach to the determination of prices rather than a pre-tax real approach to the cost of capital. It is more open and transparent, clearer to capital markets, avoids controversial questions in converting rates of return from the nominal post tax to real pre-tax rates and seems to be a better way of dealing with tax questions. In addition the supply of capital seems to be driven more by post tax than pre-tax rates of return

and therefore a post tax approach is more appropriate in a setting which encourages efficiency in resource allocation.

The Commission also has other roles to play in the energy sector including the oversight of the rules of the national electricity market, the oversight of the gas access laws and so on.

The Commission has also been involved in government sales of assets in the energy sector. Its task is to review the bidders in order to ensure that none of the acquisitions are anti competitive or likely to be in breach of S50. The ACCC has made no secret of its disappointment at the state of competition in gas especially in the upstream sector and welcomes the recent Business Council report also expressing concerns about this.

The Commission administers a comprehensive economic regulatory framework for the privatised airports and Sydney Airport. The two main measures applying to the privatised airports are a price cap on aeronautical services and access arrangements. Under the access arrangements airport services at the privatised airports are now declared services under Part IIIA. There are also complementary measures including quality of service monitoring and a review of regulatory arrangements by the ACCC after five years.

Sydney Airport which is not privatised is not subject to a price cap or to airport specific access arrangements. The ACCC is required to review aeronautical charges under the Prices Surveillance Act, including a forthcoming proposal for a major price increase. It is also regulated under Part IIIA. Certain freight handling facilities at Sydney Airport have been declared under the normal Part IIIA process following the Australian Competition Tribunal's rejection of Sydney Airport's appeal against the Treasurer's declaration decision in March this year.

c) The ACCC and the New Tax System

In June last year, legislation was passed which fundamentally reformed our existing taxation system. Key elements of the reform relevant to the Trade Practices Act included the introduction of a broad-based consumption tax and the removal of a number of indirect taxes including the Wholesale Sales Tax.

The changes to the tax system will result in a change in most prices. Some prices will go down, some will go up and some will stay the same.

The Commission believes that for the most part the market will work fairly well to adjust to the new tax system. In particular, there is unlikely to be general exploitation of consumers, and, for example, the profit share of national income is most unlikely to go up as a result of any pricing behaviour due to GST. If anything it is more likely that businesses will have difficulty passing on all the tax increases.

There are a number of other reasons why there is unlikely to be generalised consumer exploitation. First, at present we have a tight macroeconomic climate of low inflation, which means that it is not easy to raise prices by significant amounts. Second, there is strong competition in most industries, which will constrain the ability of business to increase prices. Because of the degree of consumer consciousness of the GST it is

likely that quite a few businesses will be making special efforts to reassure their consumers that they getting a good deal out of the tax changes rather than a bad deal. They will be pointing out in various ways that they are offering a better deal than their competitors.

Third, most businesses will act responsibly.

Fourth, this will be augmented by huge consumer concern about what happens to prices when the GST is increased. There will be 19 million consumer watchdogs, watching business prices and their relation to the tax changes. The media is also showing a very high degree of interest in this topic.

The last cause for optimism is the pleasing results of the 'test run' that we had on July 29 1999. When the sales tax on TVs, videos, cameras, watches, jewellery was cut, there was very substantial compliance. The benefits of the tax cuts were passed onto consumers. The Commission measured the benefit to consumers, and found that the price cuts that occurred were higher than estimated.

Nevertheless, given the complexity of the changes being made to the tax system, federal, State and territory parliaments were concerned that some businesses could use consumers' lack of understanding about the impact of the new tax regime to increase profit margins. Potentially, this could be done by increasing prices excessively or by not reducing prices fully in line with the net cost impact of the changes.

Accordingly, the Commonwealth Parliament legislated to create a new offence of price exploitation, and gave the Commission a range of powerful tools to help prevent and eliminate price exploitation during the transition to the New Tax System. The new law is a general one; all businesses affected by the New Tax System in any way are covered by the new law. State and Territory Parliaments have regulated to fill the constitutional gap. There is little doubt that the strength of the legislation reflects a high community concern.

Evidence from other economies that experienced similar changes in taxation laws suggests that price oversight regimes, such as the one being administered by the Commission, not only help a smoother transition, but lower the inflationary impact.

Price Exploitation

The cornerstone to the Commission's powers during the transition period is the offence of price exploitation. Part VB of the *Trade Practices Act* defines price exploitation and gives the Commission a range of powers and functions during the transition to the New Tax System.

Price exploitation occurs if the price for a good or service is unreasonably high, having regard to the New Tax System changes alone and to other matters, including suppliers' costs, supply and demand conditions and any other relevant matter.

In order to prevent and eliminate price exploitation the Commission has been given a range of powerful statutory tools, including the ability to:

- issue a section 75AW notice where the Commission considers that a corporation has engaged in price exploitation. This notice creates the assumption that price exploitation has occurred in any ensuing Court proceedings.
- issue a section 75AX notice specifying a maximum price that may be charged for a good or service during a specified period. This notice will aid in the prevention of price exploitation.
- issue a section 75AY notice requiring a business to provide certain information to the Commission.
- monitor prices to assess the effect of the New Tax System changes, and to investigate cases of price exploitation.

The new law is very strong, with heavy penalties of up to $10 million per offence and $500,000 for any individual executive involved. There is provision for the Commission to publish notices in the media about any cases where it thinks prices are excessive. Advisers to businesses (including lawyers and accountants) need to be aware that the Act provides no protection for advisers found to be involved in price exploitation in breach of the Act.

The Guidelines

The Act requires the Commission to formulate Guidelines about what it considers constitutes price exploitation. The Commission must have regard to these Guidelines when considering whether to issue a price exploitation notice or a notice to aid in the prevention of price exploitation. The Federal Court may have regard to the Guidelines in any proceedings relating to price exploitation under sections 76 and 80 of the Act. The Guidelines provide certainty about the administration of the law by the Commission.

Recently, the Guidelines have been updated to reflect an amendment to the *Trade Practices Act*, to clarify a number of policy issues raised with the Commission since the Guidelines initial release last July and to address some new issues. The update did not amend the underlying principles of the Guidelines. They continue to provide broadly applicable, economy wide, principles.

The updated Guidelines, in summary, are:

- prices should be reduced immediately to pass on the full effect of the tax reductions;
- any increase in price based on the GST should include a full offset for other indirect tax reductions;
- no mark up should be applied to the GST component of price;
- prices should reflect only actual, not anticipated, tax increases;
- businesses should not take the opportunity to increase the difference between cost and prices in dollar terms (the dollar margin rule); and
- Prices should not rise by more than 10% as a result of the New Tax System changes (the price rule).

Put simply, the main guideline is that:

"If the New Tax System changes cause taxes and costs to fall by $1, then prices should fall by $1. If, after taking into account tax and cost reductions resulting from the New Tax System, the costs of a business rise by $1, the prices may rise by no more than that amount.

This means that the net dollar margins of business are unaffected or should be unaffected by these guidelines.

The Guidelines were drawn up in close consultation with business and consumers and after much public exposure of them. The Coalition for Business Tax Reform, ACCI, BCA, COSBOA and many individual businesses were all consulted. It has been generally recognised by business people that the Commission has taking real notice of the things that have been said. The Commission has responded to the needs of business, and have made some changes to accommodate practical concerns.

A small business package was developed as a result of calls from small business that they did not have the same degree of knowledge and therefore needed help to adjust their prices.

Misleading and Deceptive Conduct

In addition to the new powers under Part VB, the Commission's existing powers in relation to misleading and deceptive conduct, are particularly relevant during the transition to the New Tax System. The Commission has been working closely with businesses and many consumer groups to ensure that businesses are particularly careful to minimise consumer confusion during the transition period.

New legislation was introduced into the Federal Parliament in February 2000 to give the Commission power under Part VB to deal with misleading and deceptive conduct specifically related to the New Tax System changes. The penalties here will be a maximum of $10 million for corporations and $500,000 for individuals. The Commission understands that this legislation will be passed by Parliament in about three weeks.

Price Display

The Guidelines deal with the transitional issues associated with re-ticketing goods on 1 July 2000. The Commission's general position is that all prices should be GST inclusive. The Commission recognises the practical problems businesses face in re-ticketing all their goods and services on 1 July 2000 to take account of the New Tax System price changes. For this reason the Guidelines specifically recognise the use of

dual ticketing and dual pricing on a temporary basis.

<u>Dual Ticketing</u>

Dual ticketing is where two prices are displayed on the good, one pre 1 July 2000 and one post 1 July 2000 price. The amended Guidelines specifically state that dual ticketing may be used subject to the following conditions:

- they are only used for one month prior to 1 July 2000;
- the pre 1 July 2000 ticket is removed as soon as possible, and in any event within one month;
- they make clear reference to the date range; and
- there are prominent signs explaining the ticketing.

Temporary Dual Pricing

Dual pricing refers to the grace period where there will be a different price marked on the good from that expected to be paid at the counter. The amended Guidelines clarify the timeframes for this 'grace period':

- individual items to be changed as soon as possible but in any event within one month;
- scanning equipment to be changed overnight; and
- shelf prices to be changed as soon as possible, and in any event by 10 July 2000.

Where dual pricing is used there must be prominent signs informing consumers that prices are being changed, some prices may fall, others may increase, and that consumers should ask for assistance to establish the actual price.

The Commission is aware of the implications of dual pricing and the scanning code, and the Commission is working with the Australian Supermarket Institute, the Australian Retailer's Association and the State Fair Trading Departments to seek a suspension of the relevant parts of the scanning code for a short period, while shelf prices are being changed.

Scope of the Commission's Activities In Relation to the New Tax System

The Commission's new role in relation to the New Tax System changes will involve a range of activities, in addition to traditional enforcement. A major focus in promoting compliance will be on-going communication with both businesses and consumers. The Commission will assist business and consumers to understand their rights and

obligations under the new legislation and Guidelines.

Education and awareness

Our comprehensive education strategy has commenced with a new series of bulletins. 'News for Business' will deal with emerging business issues and 'GST Talk' will address consumer issues.

We are working closely with the Australian Tax Office in the roll-out of their publications and seminars. We are also working with industry associations and other stake-holders to identify opportunities to provide tailored business material. In addition, we will work with industries that are dealing with particular issues to establish compliance strategies that are consistent with the Guidelines.

It is imperative that as much information is circulated to limit confusion when the new tax system is introduced.

Small Business

The Commission is acutely aware of the crucial importance of small business to a smooth transition. Almost every supply chain contains a small business. Small business has less resources to seek advice and assistance during the transition and therefore is a risk area for not passing on savings. If one part of the supply chain fails to pass through savings, and just adds the 10 per cent, the end result is higher prices to consumers.

The Commission recognises the potential for some smaller businesses, in the face of no affordable alternative, to just add 10 per cent. To help prevent this undesirable and probably illegal action, the Commission has a 'small business pricing kit' to help small business pass on cost savings as a result of the new tax system changes. The small business pricing kit contains:

- a compliance guide to avoid price exploitation under the New Tax System;
- a cost savings estimator; and
- a retail price adjustor.

The ACCC is committed to helping small business – firstly, by ensuring that suppliers' savings are reflected in the prices they charge their business customers, and, secondly, by providing information and guidance.

The **Small Business Compliance Guide** explains in plain English what business must do to comply with the ACCC price exploitation guidelines. It provides many practical examples.

The **Cost Savings Estimator** is a user friendly software package that will enable small business to obtain an estimate of likely changes to its costs due to the New Tax System changes. The cost estimator will be freely available on the Commission's website (http://gst.accc.gov.au) or from the Commission's hotline (1300 302 503).

The New Tax System will cut business costs from July 2000 by abolishing Wholesale Sales Tax and other indirect taxes. Businesses should pass these savings on in full to consumers.

The **Retail Price Adjustor** assists small business to calculate the amount of wholesale sales tax in stock on hand and then adjust the retail price taking into account – cost savings in overheads, the removal of WST and adding a 10 per cent GST.

A further package is also being developed to help businesses calculate the maximum price that may be charged for a good or service in relation to The New Tax System charges. We expect this to be available soon after the cost calculator package.

Consumers

Consumers are a key stakeholder for the Commission. It is crucial that consumers are informed about what to expect as a result of the New Tax System changes. Informed consumers minimise unfounded complaints, and allow consumers to accurately identify where price exploitation is likely to have occurred.

To this end, the Commission has released a range of expected price movements for common household goods and services as a result of the New Tax System. The estimates are a range to take account of the differing cost savings and dollar margins applied by businesses.

The estimates provide guidance to consumers as to how prices are likely to change due to the New Tax System in the six months from 1 July 2000 until 1 January 2001. This guide empowers consumers to shop for fair price changes during the introduction of the New Tax System. It also assists business in setting prices that are less likely to attract consumer and regulatory concern.

Using it, 19 million consumers will be able to gauge what price changes should be. It will assist them to shop around for the best, and fairest, price. If changes appear unreasonable, they will be better informed and also able to question the business.

In addition the Commission has already released a number of consumer newsletters in its 'GST Talk' series, established a National Price Hotline (1300 302 502) and established a Consumer Consultation Group.

Public compliance commitments

An innovative strategy being adopted by the Commission is to invite some of Australia's biggest businesses to give a public commitment to the Guidelines. These are intended to be voluntary commitments that are in themselves not enforceable at law. The focus on big business is deliberate. In many instances big business is able to influence market prices and can provide a lead for smaller businesses. Public compliance commitments will provide an assurance to the community that no unfair advantage will be taken of the New Tax System changes to increase margins.

The Commission encourages businesses to develop effective programs to ensure full compliance with the Guidelines, including appropriate advice to staff and monitoring of performance. In this regard reference is made to Australian Standard 3806 as a guide to good practice.

A number of companies have recognised the potential benefits of this new approach, including the possible public relations advantages of being early in making a voluntary commitment, and are discussing specific proposals with the Commission. The Commission will have a public register of organisations it deems to have adopted acceptable public commitments and will have means of close communication with them during the transition.

GST Price Line

The Commission launched its GST Price Line on 14 July last year. The number is 1300 302 502. The primary functions of the service are to provide information to

consumers and business and to take complaints about price exploitation. We are also handling complaints and inquiries by e-mail through our website (http://gst.accc.gov.au).

Data gathered will help the Commission to quickly target those areas of the economy where exploitation may occur.

Price Checking

The Commission is supplementing the information from the Hotline with price checking and survey activities. As part of its responsibilities the Commission has surveyed prices in connection with the reduction in the WST rate from 32 per cent to 22 per cent on 29 July 1999.

A comprehensive price checking strategy is being undertaken for the 1 July 2000 changeover. The Commission will use the information it collects together with information from consumer groups, industry sectors, economic modelling, industry analysis and any other source that arises. This will provide the ACCC with a sound base to inform our compliance and enforcement activities.

Enforcement

The existence of sanctions is essential to the efficient operation of any regulatory system. The penalties applicable to price exploitation are sufficiently large to make any business sit up and take notice. The Commission's reputation as a fair and effective regulator with the will to take action where required adds to that incentive. The Commission will use all the tools available to it to achieve a high level of compliance.