



Australian
Competition &
Consumer
Commission

Determination

Revocation of Authorisation

Application lodged by

**Queensland Retail Traders and
Shopkeepers Association**

in relation to the publication of a price guide for its members

Date: 9 August 2006

Authorisation no. A2239

Public Register no. C2006/1267 8

Commissioners:

Samuel

Sylvan

King

Martin

McNeill

Smith

Willet

1. Introduction

- 1.1 The Australian Competition and Consumer Commission (the ACCC) is the independent Australian Government agency responsible for administering the *Trade Practices Act 1974* (the Act). A key objective of the Act is to prevent anti-competitive conduct, thereby encouraging competition and efficiency in business, resulting in a greater choice for consumers in price, quality and service.
- 1.2 The Act, however, allows the ACCC to grant immunity from legal action for anti-competitive conduct in certain circumstances. One way in which parties may obtain immunity is to apply to the ACCC for what is known as an 'authorisation'. Broadly, the ACCC may 'authorise' businesses to engage in anti-competitive conduct where it is satisfied that the public benefit from the conduct outweighs any public detriment.
- 1.3 On 6 November 1978, the Trade Practices Commission (TPC)¹ granted the Queensland Retail Traders and Shopkeepers Association (QRTSA) authorisation A2239 in relation to its pricing guide. The price guide appeared in the Association's publication, the *Retailer of Queensland* (now the *Australian Retailer*), issued to QRTSA members. The prices that appeared in the guide were recommended prices.
- 1.4 QRTSA advised that the purpose of the guide was to assist its members, particularly smaller stores with limited resources, in setting day-to-day market prices. For other larger QRTSA members, the guide was to be used as an occasional check when invoices were not available. The QRTSA originally sought authorisation because it was concerned that publication of the price guide may raise competition concerns under the Act.

2. Revocation – The Statutory Tests

- 2.1 Section 91B of the Act provides that a person to whom authorisation was granted may apply to the ACCC for revocation of the authorisation. On receipt of such an application, the ACCC is required to write to interested parties:
 - advising them of the application for revocation,
 - indicating the basis on which the revocation has been applied for, and
 - inviting submissions from interested parties.
- 2.2 After considering any submissions received, the ACCC is required to issue a written determination either revoking or allowing the immunity conferred by the authorisation to continue.

¹ The TPC is now the ACCC

3. ACCC Review

- 3.1 On 22 June 2006 the ACCC wrote to the QRTSA seeking information as to whether immunity from the Act was still required for the agreement covered by authorisation A2239.
- 3.2 On 3 July 2006, the QRTSA requested that the ACCC revoke authorisation A2239. QRTSA advised that the immunity conferred by the authorisation is not required, as it no longer provides a price guide to its members, and has not done so for approximately 10 years.
- 3.3 On 11 July 2006 the ACCC wrote to 21 potentially interested parties advising of the QRTSA's request for revocation of authorisation A2239. The letter invited submissions in relation to this request by 25 July 2006.
- 3.4 The ACCC has not received any objections to the revocation from any of the interested parties consulted. As a consequence, there is no need for the ACCC to assess the likely public benefits and detriments resulting from the revocation.

4. Determination

- 4.1 Based on the information provided by the QRTSA, and the absence of any objections from interested parties, **the ACCC hereby revokes authorisation A2239.**
- 4.2 This determination is made on 9 August 2006. If no application for review is made to the Australian Competition Tribunal, the ACCC's determination will come into force on 1 September 2006.