



Australian
Competition &
Consumer
Commission

Determination

Revocation of Authorisation A4006

Application lodged by

Retail Confectionery & Mixed Business Association Inc

in relation to the circulation of price lists to its members

Date: 13 September 2006

Authorisation no. A4006
Public Register no. C2006/1376

Commissioners: Samuel
Sylvan
King
McNeill
Martin
Smith
Willett

1 Introduction

- 1.1 The Australian Competition and Consumer Commission (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 24 February 1978, the Trade Practices Commission (TPC)¹ granted the Retail Confectionery & Mixed Business Association Inc² (CAMBA) Authorisation A4006 to circulate suggested prices lists for the guidance and assistance of its members.
- 1.4 The CAMBA’s price lists were distributed via the monthly ‘Milk Bar’ magazine, and covered soft drinks, ice cream, confectionery, bread, biscuits, sandwiches, milk shakes, cigarettes and tobacco. The prices that appeared in the magazine were recommended prices.
- 1.5 The CAMBA advised that the purpose of the price lists was to assist their members in setting retail prices. At the time that authorisation was granted, the CAMBA maintained that it only suggested prices to its membership when:
 - there were difficulties associated with the calculation of retail prices due to the involvement of State taxes and sales tax or
 - in its opinion, the margins allowed in manufacturers recommended prices were insufficient to provide proprietors with an adequate return.

2 Statutory provisions

- 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

¹ The TPC is now the ACCC

² Authorisation was lodged by Hutchinson Holdings Pty Ltd on behalf of the Retail Confectionery & Mixed Business Association Inc

- 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.

3 ACCC review

- 3.1 On 14 June 2006 the ACCC wrote to the CAMBA seeking information as to whether immunity from the Act was still required for the arrangement covered by Authorisation A4006.
- 3.2 On 25 July 2006, the CAMBA requested that the ACCC revoke Authorisation A4006. The CAMBA advised that it no longer required the authorisation.
- 3.3 Consistent with the requirements of the Act, the ACCC wrote to potentially interested parties on 22 August 2006, advising of the CAMBA's request for revocation of Authorisation A4006. The ACCC invited submissions in relation to CAMBA's request by 6 September 2006.
- 3.4 The ACCC has not received any objections to the revocation from any of the interested parties consulted. As a consequence, the ACCC is not required to assess the likely public benefits and detriments resulting from the revocation application.

4 Determination

- 4.1 Based on the information provided by the CAMBA, and the absence of any objections from interested parties, **the ACCC hereby revokes Authorisation A4006.**
- 4.2 This determination is made on 13 September 2006. If no application for review is made to the Australian Competition Tribunal, the ACCC's determination will come into force on 5 October 2006.