



Australian
Competition &
Consumer
Commission

Determination

Revoking Authorisation

Initiated by the ACCC in relation to an authorisation lodged by

Retail Liquor Store Owners' Association

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

Date: 13 September 2006

Authorisation no. A90351

Public Register no. C2006/1529 30

Commissioners:

Samuel
Sylvan
King
Martin
Smith
McNeill
Willett

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 15 April 1982, the Trade Practices Commission (TPC)¹ granted the Retail Liquor Store Owners' Association (RLSOA) authorisation A90351 in relation to its *Easiprice Schedule*. The RLSOA sought authorisation to prepare and distribute an *Easiprice schedule*, which was designed to assist members to calculate a retail price for bottled wines and spirits.

2. Revocation – The Statutory Tests

- 2.1 Section 91B of the Act provides that the ACCC may initiate the consideration of the revocation of an authorisation if it appears to the ACCC that:
- the authorisation was granted on the basis of evidence or information that was false or misleading
 - a condition of the authorisation has not been complied with or
 - there has been a material change in circumstances since authorisation was granted.
- 2.2 To initiate the consideration of the revocation of an authorisation the ACCC is required to write to interested parties advising them of its intention to consider the revocation of the authorisation, indicate the basis on which the revocation is being proposed and invite submissions in respect of the revocation.
- 2.3 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.
- 2.4 If, in response to a request for submissions, any interested party objects to revocation, then the ACCC cannot revoke the authorisation unless it is satisfied that the public benefit no longer outweighs the public detriment.
- 2.5 If no objections are received, the ACCC may proceed to revoke the authorisation.

¹ The TPC is now the ACCC

3. ACCC Review

- 3.1 On 17 August 2006 the ACCC wrote to potentially interested parties advising of the ACCC's decision to issue a notice to consider revocation of authorisation A90351 on the basis that there has been a material change of circumstances since the authorisation was granted. The letter invited submissions in relation to the notice by 1 September 2006.
- 3.2 The ACCC's letter outlined that based on preliminary inquiries made, the ACCC understands that no parties are currently relying on authorisation A90351. In particular the ACCC understands that:
- the RLSOA no longer exists and
 - the *Easiprice Schedule* is no longer being prepared or distributed to liquor store owners.
- 3.3 The ACCC concluded that the matters outlined above constitute a material change of circumstances. The ACCC further noted that since 1982 significant changes have occurred in the market for the retail sale of liquor, including the composition of participants.
- 3.4 The ACCC has not received any objections to the revocation from any of the interested parties consulted.

4. Determination

- 4.1 Based on the information provided by the ACCC's inquiries, and the absence of any objections from interested parties, the ACCC hereby revokes authorisation A90351.
- 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.