

DATE: 12 July 1979

COMMISSION DETERMINATION

Members: Mr Bannerman (Chairman)
Mr Gilbert (Deputy Chairman)
Dr Pengilley
Dr Haddad
Mr McConnell
Mr Willis

TRADE PRACTICES COMMISSION

APPLICATION FOR AUTHORIZATION UNDER SECTION 88 (1)
TRADE PRACTICES ACT 1974 ON BEHALF OF RETAIL
GROCERS AND STOREKEEPERS ASSOCIATION OF WESTERN
AUSTRALIA INCORPORATED

REGISTRATION NUMBER: A14165 FILE NUMBER: A75/2743

The Commission prepared a draft determination in this matter dated 1 June 1979. The draft determination and summary of reasons for determination were sent to the persons concerned in accordance with the provisions of section 90A of the Act.

2. There were no requests for a pre-decision conference and the provisions of section 90A have thus been complied with. The Commission now makes its final determination in accordance with the draft and gives as its reasons for determination the summary of reasons sent with the draft. Authorization is granted to application A14165.

3. This determination together with the draft determination and summary of reasons has been placed on the public register.

TRADE PRACTICES ACT 1974DRAFT COMMISSION DETERMINATION
AND SUMMARY OF REASONS

APPLICATIONS FOR AUTHORIZATION UNDER SECTION 88(1),
ON BEHALF OF THE RETAIL GROCERS' AND STOREKEEPERS'
ASSOCIATION OF WESTERN AUSTRALIA INCORPORATED

REGISTRATION NUMBER: A14165

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THE APPLICATION

This application was made on 23 January 1975 under section 88(1), Trade Practices Act, by Gordon Matheson Pty Ltd on behalf of the Retail Grocers' and Storekeepers' Association of Western Australia Incorporated (RGSA) and was granted interim authorization as at 31 January 1975. The subject of the application is the recommended retail price guide as published each month in "The Grocers' and Storekeepers' Journal". The price guide covers a wide range of goods such as groceries and smallgoods; cakes and confectionery; tobacco products; soft drinks; ice cream; pies; sandwiches and rolls. The Commission notes that in addition to the retail price guide published monthly in the RGSA Journal price changes are also advised to the members almost on a weekly basis.

2. The Association currently has about 375 members representing approximately 600 stores. Coles and Woolworths are members as are some members of various grocery groups (e.g. Foodland, Four Square, Farmers) although the Association could not estimate the number of groups involved. The Association claims that the chain-operated branches follow their own centrally computed prices, and Coles have confirmed that their prices are not influenced in any way by the Association's recommended prices. Woolworths and Coles have said they do not participate in the calculation of, or the decision making process relating to, prices recommended to members. Group members generally follow the prices recommended by their groups subject to variation to meet local competition. Chain prices as well as

group recommended prices are said to be generally lower than RGSA recommended prices. Group members located in isolated country areas, for example "Co-op" Stores and Farmer Stores, are claimed to have more need to refer to RGSA recommended retail prices and wholesale price information because of the delays in mails, absence of product details and the practice of some suppliers on computerised accounting operations of attaching invoices to statements at the end of the month thus creating a time lag on cost price information. The predominant proportion of RGSA members who make use of recommended prices, is said to consist of delicatessens or mixed businesses which remain open for 12 to 16 hours per day and the prices are calculated for the operation of these types of stores.

EFFECT ON COMPETITION

3. According to the Association those members who use the prices recommended by RGSA account for less than 5% of the Western Australian grocery market. The most recent estimate of market shares published by Retail World in December 1978 is as follows:-

Coles	22.1%
Foodland Associated Group	23.5%
Woolworths	16.8%
Charlie Carter	15.8%
Fowlers	9.2%
Others	12.6%

The residual category 'others' includes 'Action' stores which were formerly part of the Freecorns organisation and 'Foodfair' stores formerly owned by Woolworths. The 'Action' and 'Foodfair' stores are larger stores which are neither members of RGSA nor use its recommended prices. A few members of RGSA who use its prices guide would be included in the Foodland Associated figure. Although the total membership of RGSA (which as mentioned earlier includes Coles and Woolworths) would account for a sizeable share of the market, it is clear that members who use the prices recommended by the Association account for a small share of the market.

4. The Commission has considered similar applications by Retail Confectionery and Mixed Business Association of Victoria (RCMBA) (Registration No. A4006; File No. A74/9), Queensland Retail Traders and Shopkeepers' Association (QRTSA) (Registration No. A2239; File No. A75/145) and South Australian Mixed Business Association Incorporated (SAMBA) (Registration No. A6058; File No A75/1257). The Commission did not view these Associations' recommended price arrangements as substantially lessening competition. The competitive position of RGSA members who use its recommended prices is understood to be similar to that of members of these other Associations in all material respects. They have only a small share of the market, and compete more by way of convenience, service and after hours trading than on price. The Commission considers that the recommended price guide of RGSA does not substantially lessen competition.

PUBLIC BENEFITS

5. The Commission considered the public benefits of the recommended price guides in the applications from RCMBA, QRTSA and SAMBA and granted authorization to those applications. As mentioned in paragraph 4 above, the members of RGSA are understood to be in a similar position to those members of RCMBA, QRTSA and SAMBA in all material respects. The Commission considers that the principles applied in the determination of RCMBA, QRTSA and SAMBA applications are equally applicable to this application. Thus in this case also the Commission sees some public benefit in the recommended price guide in that it makes some contribution to the efficiency and viability of these very small businesses, by providing a general guide to prices and pricing policy and saving them valuable time in costing and pricing calculations. One of the public benefit claims put forward by RGSA is that mining companies use RGSA recommended prices as the basis of subsidizing residents of remote mining settlements ('company towns'). The Commission finds no need to consider this claim separately as it is satisfied on the basis of earlier decisions (RCMBA, QRTSA and SAMBA) that public benefit exists.

CONCLUSION AND DRAFT DETERMINATION

6. The Commission considers that the requirements of section 90 (7) of the Act are satisfied and proposes to grant

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authorization under section 88(1) to Gordon Matheson Pty Ltd on behalf of the Retail Grocers' and Storekeepers' Association of Western Australia Incorporated, for recommended price lists for goods (as referred to in paragraph 1) sold by members of that organisation.