

CANADIAN COMPETITION RECORD

FOREIGN AND INTERNATIONAL COMPETITION LAW AND POLICY DEVELOPMENTS

AUSTRALIAN NEWSLETTER

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Newsagents

On November 18, 1998, the Australian Competition Tribunal (the "Tribunal") delivered its decision in relation to its review of the Australian Competition and Consumer Commission (the "ACCC") decision to the newspaper distribution arrangements in Australia.

The ACCC had proposed to authorise the arrangements for a short period, but convenience stores and others who saw themselves disadvantaged by the system appealed to the Tribunal. The Tribunal effectively over-ruled the ACCC decision and would have the authorisation to effectively cease as of July 1, 1999.

This caused concern within the Government. The Government has asked the ACCC to consult all the industry players and report back to the Government on any possible solutions arising from the consultation. This is due by the end of March 1999.

Telecommunications

The ACCC has made decisions or is involved in public inquiries in relation to the following issues in telecommunications:

- interconnect access
- churning
- subscription television services
- local networks
- data markets
- mobile networks

Country of Origin

New Country of Origin labelling laws came into effect late 1998. The new laws replace existing more general laws contained in the misleading conduct provisions of the *Trade Practices Act 1974*.

The new laws have re-defined the rules for labelling, packaging, use of logos and advertising that makes a claim about where the goods come from. The new rules also clarify what conditions companies must fulfil to be sure they comply. The ACCC has undertaken a major education campaign.

Goods and Service Tax

The Australian Government is in the process of introducing a Goods and Services Tax.

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The ACCC will be the market place regulator to ensure a fair flow-on of any tax changes whether they result in price increases or decreases. The ACCC is also to ensure that there is no misleading or deceptive conduct in relation to the new tax.

The ACCC will have a major compliance role, including some very strong enforcement mechanisms including fines of up to AU\$10 million.

Parliamentary Inquiries

- **Retailing.** Following a promise during the election campaign by Government, a Joint House Committee has been set-up to look at retailing in Australia particularly the effects of very high concentration on small business.
- **Petroleum Retailing.** As part of a petrol deregulation program which started with the ending of price surveillance late last year, petroleum legislation that protects franchisees and limits the number of service stations that oil companies can own is proposed to be repealed.

A Parliamentary Inquiry is looking at the legislation. There is considerable opposition to the repeal until such time as there are changes in the market and a new mandatory code of conduct for relationship between all companies and the franchisees is in place and considered to be effective.

- **Personalities and Officer Exchanges.** There are a number of changes at the ACCC.

Commissioner Rhonda Smith and Commissioner David Lieberman's terms expired on November 5, 1998 and they are yet to be replaced. The

replacements are likely to be an Economist and a Commissioner with small business background. Furthermore, there is an expectation that there will be a further Commissioner appointed for the GST, bringing the number to seven.

The ACCC is also engaged in a very extensive international inter-change program. At the moment it has exchanges with New Zealand, Taiwan, Canada and the European Union. Furthermore, ACCC staff has been seconded to Fiji and Hong Kong.

The ACCC is also engaged in "capacity building" exercises with Fiji, South Africa, The Peoples Republic of China and Indonesia.

National Competition Council ("NCC")

The National Competition Policy ("NCP") reforms launched in 1995 are starting to pay social dividends in terms of essential services and the environment, says a new report by the NCC, National Competition Policy: Some Impacts on Society and the Economy. The Report also finds that NCP has positives for both urban and rural Australia.

The Council's report also looks at the effects of NCP reform on the delivery of essential services, and gives a strong thumbs up:

- The NCP gas and electricity reforms have been delivering cheaper energy prices, and service standards are being improved or maintained. NSW and Victoria — the States most advanced with electricity reform — now supply the cheapest power in the country.
- The NCP gas reforms play a key role in the construction of a new NSW — Victoria 'interlink'

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gas pipeline in 1998. The new pipeline satisfied emergency gas needs, and averted a long-term collapse of the Victorian gas network, following the Longford disaster last year.

- The NCP water reforms include measures to improve drinking water quality, better monitoring standards and improved catchment policies. The importance of these reforms was highlighted by the crises over drinking water quality in NSW and South Australia last year. NSW announced a package of reforms late last year — including structural reform of Sydney Water — consistent with the NCP framework, to address these issues.

NCP and the “Bush” re: Regional Australia

Another area given attention in the NCC Report is the impact of reform on rural Australia. The report concedes that some reforms will impose costs on the bush. For example, removing barriers to competition in petrol supply could contribute to the closure of some petrol stations in outlying communities. In some areas, supply is likely to become more centralised in larger regional centres, bringing cheaper prices due to greater economies of scale.

“But it’s also important to look at the helping hand that reform can bring to rural communities which are suffering from dwindling populations and declining business opportunities for quite separate reasons. In fact, the NCP reforms can help lower the prices of many goods and services to rural communities, and there are better ways to address any associated costs — for instance, community service obligations to ensure that necessary services are provided, and rural development policies.”

Ministerial Arrangements

Following the election late last year of the Government, there have been some changes at the ministerial level. The Treasurer still has the broad policy responsibility for Competition Policy, but a Minister for Financial Services and Regulations has been appointed. That Minister covers both competition and consumer policy issues.

Inquiry into Import Restrictions on Books and Software

The ACCC has been asked by the Government to report on import restrictions on books and computer software. This is due early in 1999.

Maritime Union of Australia

The ACCC settled secondary boycott legal action involving the Maritime Union of Australia on the basis of Court undertakings and a compensation fund for small businesses affected by the secondary boycott activity.

Franchise Code of Conduct

A Mandatory Franchise Code of Conduct came into force on October 1, 1998. The Code is enforced by the ACCC. This was part of an overall small business package extending unconscionable conduct law to commerce transactions.
