

appendixes



appendix 1

the law

amendments to the Trade Practices Act

Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006; commenced 14 September 2006

Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006; commenced 27 September 2006

Trade Practices Amendment (National Access Regime) Act 2006; commenced 1 October 2006

Trade Practices Legislation Amendment Act (No. 1) 2006; 1 January 2007

Australian Energy Market Amendment (Gas Legislation) Act 2007; not yet commenced

Broadcasting Legislation Amendment (Digital Radio) Act 2007; Schedule 1 commenced 29 May 2007, Schedule 2 commenced 19 July 2007

Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Act 2007; commenced 19 July 2007

amendments to the regulations introduced under the Act

Trade Practices Amendment Regulations 2006 (No. 2); commenced 1 January 2007

Trade Practices Amendment Regulations 2007 (No. 1); commenced 27 March 2007

Trade Practices Amendment Regulations 2007 (No. 2); commenced 7 April 2007

Trade Practices Amendment Regulations 2007 (No. 3); commenced 5 July 2007

Trade Practices Amendment Regulations 2007 (No. 4); commenced 25 July 2007

Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2006 (No. 1); commenced 12 August 2006

Trade Practices (Consumer Product Information Standards) (Tobacco) Amendment Regulations 2007 (No. 1); commenced 17 February 2007

regulations introduced under the Act

Trade Practices (Consumer Product Safety Standard) (Children's Nightwear and Paper Patterns for Children's Nightwear) Regulations 2007; commenced 1 March 2007

Trade Practices (Industry Codes–Oilcode) Regulations 2006; commenced 1 March 2007

Trade Practices (Horticulture Code of Conduct) Regulations 2006; commenced 14 May 2007

other laws

Airports Act 1996; focusing on access, prices and the quality of service at Australia's privatised airports

Australian Postal Corporation Act 1989; defining access to the postal network

Broadcasting Services Act 1992; covering the payment of TV licences

Gas Pipeline Access Law

National Electricity Law

Telecommunications Act 1997; implements a regulatory framework for the telecommunications industry

Telecommunications (Consumer Protection and Service Standards) Act 1999; provides a range of safeguards to consumers of telecommunication services

Trade Marks Act 1995; governing the approval of a trademark that certifies that goods or services are of a particular standard of quality, origin, material or mode of manufacture

Copyright Act 1968; Schedule 11 of the *Copyright Amendment Act 2006* commenced 11 December 2006 and enables the ACCC to be made party to certain copyright licensing proceedings before the Copyright Tribunal and requires the tribunal to consider any relevant ACCC guidelines.

exceptions under federal, state and territory legislation

Some federal, state and territory acts permit conduct that would normally contravene the Trade Practices Act. Section 51(1) of the Trade Practices Act provides that such conduct may be permitted if it is specifically authorised under those other acts.

Below is a list of the legislation that allows such conduct or provides for regulations to be made authorising particular conduct. The list includes legislation that the ACCC has been notified of or has otherwise become aware of.

Federal

Trade Practices Act 1974; s. 173

Wheat Marketing Act 1989

Australian Postal Corporation Act 1989

Payment Systems (Regulation) Act 1998

Payment Systems (Regulation) Regulations 2006

New South Wales

Registered Clubs Act 1976

Liquor Act 1982

Rice Marketing Act 1983

Poultry Meat Industry Act 1986

Grain Marketing Act 1991

Hunter Water Act 1991

Competition Policy Reform (New South Wales) Act 1995
Competition Policy Reform (New South Wales) Savings and Transitional Regulation 1996
Farm Produce (Repeal) Act 1996
Industrial Relations Act 1996
Health Services Act 1997
Protection of the Environment Operations Act 1997
Totalizer Act 1997
Casino Control Regulation 2001
Coal Industry Act 2001
Gaming Machines Act 2001
Industrial Relations (Ethical Clothing Trades) Act 2001
Wine Grapes Marketing Board (Reconstitution) Act 2003
James Hardie Former Subsidiaries (Winding up and Administration) Act 2005
Racing Legislation Amendment Act 2006
World Youth Day Act 2006

Queensland

Forestry Act 1959
Chicken Meat Industry Committee Act 1976
Gladstone Power Station Agreement Act 1993
Transport Operations (Passenger Transport) Act 1994
Competition Policy Reform (Queensland) Act 1996
Sugar Industry Act 1999

Victoria

State Owned Enterprises Act 1992
Electricity Industry (Residual Provisions) Act 1993
Gas Industry (Residual Provisions) Act 1994
Water Industry Act 1994
Competition Policy Reform (Victoria) Act 1995
Health Services Act 1998
Gas Industry Act 2001
Outworkers (Improved Protection) Act 2003
Legal Profession Act 2004
Owner Drivers and Forestry Contractors Act 2005

Tasmania

Electricity Supply Industry Act 1995

Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995

Competition Policy Reform (Tasmania) Act 1996

Western Australia

North West Gas Development (Woodside) Agreement Act 1979

Energy Coordination Act 1994

Competition Policy Reform (Western Australia) Act 1996

Grain Marketing Act 2002

Electricity Industry (Wholesale Electricity Market) Regulations 2004

Electricity Industry Act 2004

Electricity Corporations Act 2005

South Australia

Industries Development Act 1941

Cooper Basin (Ratification) Act 1975

Roxby Downs (Indenture Ratification) Act 1982

Competition Policy Reform (South Australia) Act 1996

Authorised Betting Operations Act 2000

Authorised Betting Operations Regulations 2001

Chicken Meat Industry Act 2003

Northern Territory

Consumer Affairs and Fair Trading Act 1990

Competition Policy Reform (Northern Territory) Act 1996

Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations

Electricity Reform Act 2000

Water Supply and Sewerage Act 2000

Australian Capital Territory

Health Act 1993

Competition Policy Reform Act 1996

Financial Management Act 1996

Government Procurement Act 2001

Road Transport (Public Passenger Services) Act 2001

Territory Records Act 2002

Cemeteries and Crematoria Act 2003

Insurance Authority Act 2005

appendix 2

freedom of information

statistics 2006–07

The ACCC received 29 freedom of information requests during the 2006–07 financial year. The requests were for access to documents generally relating to investigations and complaints. Six requests were carried over from last year.

In four cases access was granted in full and in 12 cases access was granted in part. Access was refused in three cases and two were transferred to other government agencies. Eight cases were not proceeded with and six requests had not been finalised by the end of the year.

There were four requests for internal review. One matter carried over from the 2005–06 financial year is awaiting decision from the Administrative Appeals Tribunal, and two matters from the 2006–07 financial year remain before the Administrative Appeals Tribunal for review.

section 8 of the Freedom of Information Act 1982

This section requires the ACCC to report annually on:

- > the organisation and functions of the agency
- > the arrangements that exist for outside participation in agency decision making
- > the categories of documents held by the agency
- > how the public can access these documents.

The following information addresses these requirements.

organisation, functions and decision making

The structure, functions, legal basis, organisation and detailed descriptions of the exercise of powers of the ACCC are set out in detail earlier in this report.

arrangements for outside participation

The ACCC's functions bring it into frequent contact with private individuals, companies, industry and consumer groups and other state, territory and Australian Government agencies. This contact allows interested bodies outside the ACCC to express their opinions and have it taken into account by the ACCC when it establishes its policies and priorities. These activities are detailed in full in appendix 6.

public registers

The ACCC maintains 27 public registers, both statutory and voluntary. The majority of documents placed on the registers in recent years can be downloaded from the ACCC website (www.accc.gov.au). Copies of documents that are not on the website are available from the Public Register Officer by calling (02) 6243 1330 or emailing public.registers@accc.gov.au.

statutory registers

The Trade Practices Act requires the ACCC to maintain certain public registers.

the notifications and authorisations registers (ss. 95 and 89)

These registers contain details of applications for notifications and authorisation, related submissions and the ACCC's decisions and reasons for its decisions.

consumer protection/product safety register (s. 65)

This is a register on conferences held on bans or mandatory recalls of defective goods.

access to services register (ss. 44Q, 44ZW, 44ZZC and 44ZZL)

This is a register of decisions and declarations under Part IIIA. They may include decisions made by the federal minister that a regime established by a state or territory for access to a service is an effective access regime for the service, or proposed service declarations that a service is an essential one of national significance.

register of price notifications (s. 95ZC)

This register contains copies of all locality notices given to the ACCC under s. 95Z of the Trade Practices Act and copies of any notices given under Part VIIA of the Act to, or by, the ACCC relating to the locality notice. The register in place under s. 23(1) of the Prices Surveillance Act effectively became the register under s. 95ZC, when that section came into operation.

part X investigations register (international liner shipping)

This register contains references given to the ACCC by the minister under ss. 10.47(1) and 10.57(1) of the Trade Practices Act; particulars of decisions made by the ACCC to hold investigations under ss. 10.48(2) and 10.58(2); requests to the ACCC by the minister under ss. 10.48(3) and 10.58(3); relevant documents given to the ACCC; particulars of oral submissions; and reports given to the minister by the ACCC relating to such investigations.

telecommunications registers (ss. 151AR–152EA)

The telecommunications registers include declared services, determinations, competition notices, ministerial pricing determinations, access codes and undertakings.

merger clearances register

On 1 January 2007 the ACCC created a new public register for merger clearances. This register contains information relating to merger clearances as required by s. 95AH of the Trade Practices Act.

voluntary registers

Although it is not obliged by statute, the ACCC also maintains public registers on mergers and acquisitions and undertakings under s. 87B of the Trade Practices Act.

The mergers and acquisitions register makes brief details of mergers and acquisitions considered by the ACCC publicly available. The details include the names of the target, acquirer and possible acquirer; product description; an outline of the matter and the ACCC's decision, including an outline of the reasons for that decision.

The undertakings register relates to s. 87B of the Trade Practices Act, under which enforceable undertakings may be given to the ACCC about a matter in which the ACCC has a power or function other than under Part X. Such undertakings provide for the ACCC to negotiate administrative settlements. The register contains copies of those undertakings.

categories of documents

The ACCC maintains the following categories of documents:

- > particulars of agreements furnished to the Commissioner of Trade Practices under previous acts
- > court, adjudication and legal material
- > library material, organisation matters
- > publications, speeches and media releases
- > personnel records
- > working documents, including staff investigations, reports, analyses, recommendations, correspondence and complaints, public registers and confidential material excluded from public registers
- > ACCC papers relating to parliamentary committees and questions about ACCC meetings with government and non-government bodies in relation to the introduction of new legislation or the amendment of existing legislation
- > general correspondence with members of the public.

facilities for access

ACCC publications may be inspected at, and are available from, any ACCC office (please refer to appendix 7 for address and contact details). Many ACCC publications can be downloaded from the ACCC website (www.accc.gov.au). Public register documents may be examined and photocopies bought at the ACCC's national office by calling the Public Register Officer during business hours on (02) 6243 1330, or by emailing public.registers@accc.gov.au.

Information about facilities available to help people with a disability gain access to documents may be obtained from any ACCC office. Special arrangements can be made to overcome any difficulties with physical access.

procedures and contact officer

Inquiries about access to documents or other matters related to freedom of information should be directed to the Freedom of Information Officer on (02) 6243 1244 during business hours, or by emailing foi@accg.gov.au.

Applicants seeking access to documents under the *Freedom of Information Act 1982* should apply in writing to:

FOI Officer
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

The FOI application fee is \$30, which should accompany the request. The ACCC levies the applicable fees and charges imposed under the Freedom of Information Regulations (Fees and Charges). Such fees and charges may be remitted, reduced or not imposed for any reason, including if grounds of financial hardship or general public interest can be established.

Access may be refused to a document deemed to be exempt or to contain exempt material. Alternatively, access may be granted in part, if practicable. A refusal to grant access will be supported by a statement of reasons. An applicant may apply for internal review of the decision. The chairman of the ACCC is authorised to make these decisions, although that power has been delegated to certain specified officers.

appendix 3

publications

regular publications

ACCC briefing (electronic only) August 06, October 06, December 06, March 07, May 07

ACCC ejournal, nos 27–37

ACCC update magazine, issues 20–21

Network (Utility Regulators Forum), issues 22–24

fair trading and consumer protection

Broadband connection speeds, fact sheet

Consumer protection and the Trade Practices Act, fact sheet

The hazard of toddler bucket drowning, fact sheet

Australasian Consumer Fraud Taskforce: Scams target you—protect yourself (brochure)

Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your money (brochure)

Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your phone (brochure)

Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your computer (brochure)

Australasian Consumer Fraud Taskforce: Scams target you—protect yourself, protect your identity (brochure)

Babies dummies: keep baby safe, safety alert (brochure)

Baby walker safety, safety alert (brochure)

Bunk bed safety, safety alert (brochure)

Cot safety, safety alert (brochure)

FairStore: a best practice guide for stores serving remote and Indigenous communities (book)

FairStore—for consumers (brochure)

Keeping baby safe (Arabic) (booklet)

Hot water bottles, safety alert (brochure)

Household furniture hazards for kids, safety alert (brochure)

If it sounds too good to be true ... it probably is: spam and scams (brochure)

Know how to complain: stand up for your consumer rights (brochure)

Toy safety, safety alert (brochure)

Warranties and refunds (desk sign, window sign)

Your consumer rights: refunds (wallet card)

Your consumer rights: rent bidding (brochure)

Your consumer rights: warranties (brochure)

Your consumer rights: warranties for service (brochure)

Your online rights (brochure)

effective
competition
and informed
markets

Can growers collectively bargain? fact sheet

Cartel conduct: how it affects your business, fact sheet

Does the Horticulture Code apply to packing houses? fact sheet

Does the Horticulture Code apply to you? fact sheet

Fuel re-selling agreements, disclosure and the Oilcode, fact sheet

I have a dispute under the Oilcode—what do I do? fact sheet

Refusal to deal, fact sheet

The Trade Practices Act and the ACCC—an overview, fact sheet

Unconscionable conduct in consumer transactions, fact sheet

Unconscionable conduct in small business transactions, fact sheet

What are a merchant's rights and responsibilities under the Horticulture Code? fact sheet

What are an agent's rights and responsibilities under the Horticulture Code? fact sheet

What does the Oilcode say about fuel re-selling agreements? fact sheet

What does the Oilcode say about terminal gate pricing? fact sheet

What does the Oilcode say about the termination of a fuel re-selling agreement? fact sheet

What is unprocessed horticulture produce? fact sheet

What to do if you receive horticulture produce without a horticulture produce agreement, fact sheet

Why say NO to backdated horticulture produce agreements? fact sheet

Scams, frauds and your business, Competing Fairly Forum (DVD)

Collective bargaining, Competing Fairly Forum (DVD)

Advertising and selling (book)

An overview of the Horticulture Code (book)

An overview of the Horticulture Code (Arabic) (book)

An overview of the Horticulture Code (Khmer) (book)

An overview of the Horticulture Code (Punjabi) (book)

An overview of the Horticulture Code (Traditional Chinese) (book)

An overview of the Horticulture Code (Vietnamese) (book)

An overview of the Oilcode for fuel resellers (summary sheet)

Authorisation—new processes from 2007 (A4 brochure)

Authorisations and notifications—a summary (book)

Being smart about your franchise—checklist before signing a lease agreement (brochure)

Collective bargaining notifications—a summary (A4 brochure)

Food and beverage industry descriptors guideline to the TPA (book)

Being smart about your new franchise and your retail lease, franchise bulletin

Guide to authorisation (electronic only)

Guide to collective bargaining notifications (book)

Guide to exclusive dealing notifications (book)

effective
competition
and informed
markets cont.

Guidelines for excluding information from the public register for authorisation and notification processes (flyer, electronic only)

Horticulture Code compliance manual

Merger review process guidelines (book)

Price advertising and the Trade Practices Act, news for business

Resale price maintenance, news for business

Warranty and refund signs, news for business

Oilcode compliance manual

The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry

The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Arabic)

The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Khmer)

The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Punjabi)

The guide to the Horticulture Code for growers and wholesale traders in the horticulture industry (Traditional Chinese)

The guide to the Oilcode

The Horticulture Code of Conduct—how does it affect you? (DVD)

The Oilcode—how does it affect you? (DVD)

TPA matters for small business (CD)

Retail flash no. 9 (electronic only)

infrastructure
service
markets

ACCC Telecommunications reports 2005–06 (book)
Airports price monitoring and financial reporting 2005–06 (electronic only)
Assessing cross-subsidy in Australia Post 2005–06 (electronic only)
Container stevedoring monitoring report, no. 8 (electronic only)
Examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat (book)
Medical indemnity insurance, 4th monitoring report (electronic only)
Quality of service monitoring report for price-monitored airports 2005–06 (book)
Regulatory conference 2006 (CD)
Report to the Senate on anti-competitive private health insurance (book)
Senate economic legislation inquiry into the price of petrol in Australia (book)
Telstra's compliance with price control arrangements 2005–06 (book)

corporate

ACCC annual report 2005–06 (book)
ACCC corporate plan 2006–07 (book)
ACCC learning and development materials
ACCC library database training manual
ACCC who we are: what we do: how we work (DVD)
Summary of the Trade Practices Act (book)
Your relocation guide to 23 Marcus Clarke Street, Canberra (book)

appendix 4

commissioner profiles

Graeme Samuel AO



Graeme Samuel AO is chairman of the ACCC. He was appointed to this position in August 2003 for a five-year term. Until then Mr Samuel was president of the National Competition Council, chairman of the Melbourne and Olympic Parks Trust, a commissioner of the Australian Football League, a member of the Board of the Docklands Authority and a director of Thakral Holdings Limited. He relinquished all these offices to assume his position with the ACCC.

Mr Samuel is past president of the Australian Chamber of Commerce and Industry, a past chairman of Playbox Theatre Company and Opera Australia, a former trustee of the Melbourne Cricket Ground Trust and former chairman of the Inner and Eastern Health Care Network.

Until the early 1990s Mr Samuel pursued a professional career in law and investment banking. He retired from this to assume a number of roles in public service and company directorships. Mr Samuel was a partner of the law firm Phillips Fox and Masel from 1972 to 1980, executive director of Hill Samuel Australia Limited and subsequently Macquarie Bank Limited from 1981 to 1986 and co-founder of Grant Samuel and Associates in 1988.

Mr Samuel holds a Bachelor of Laws (Melbourne) and Master of Laws (Monash). In 1995 he was elected a life member of the Australian Football League. Mr Samuel was appointed an Officer in the general Division of the Order of Australia in 1998. In 2000 he was awarded the Australian Sports medal for services to sport. In the same year he was appointed an Honorary Fellow of the Australian Institute of Company Directors. In 2003 he was awarded the Centenary Medal in recognition of his service as president of the National Competition Council and was appointed an Honorary Life Trustee of the Committee for Economic Development of Australia.

Louise Sylvan



Louise Sylvan is deputy chair of the ACCC. She was formerly the chief executive of the Australian Consumers Association (ACA) and president of Consumers International.

An active member and worker in consumer protection nationally and internationally for over 15 years, Ms Sylvan is well known for her work in enhancing consumer rights in a range of areas such as health, food safety issues, financial services, as well as in competition and consumer policy.

Ms Sylvan's impact on the issues of the day was recognised in her selection as one of 'Australia's 20 True Leaders' published by the Australian Financial Review *BOSS* magazine in 2002.

Currently, Ms Sylvan serves internationally on the OECD Consumer Policy Committee and the International Consumer Protection and Enforcement Network, and nationally on the Australian Statistics Advisory Council to the ABS. Earlier memberships included six years on the Australian Prime Minister's Economic Planning Advisory Council and the Self-Regulation Task Force in 1999–2000.

Ms Sylvan has a BA and Masters of Public Administration from universities in her original homeland of Canada. She immigrated to Australia in 1983.

John Martin



John Martin was appointed as commissioner of the Australian Competition and Consumer Commission in June 1999 with special responsibilities for small business related matters. Commissioner Martin is Chairman of the ACCC Transport Committee, a member of the enforcement and adjudication committees and is responsible for health-related issues.

Mr Martin is also the chairman on the International Air Services Commission.

Mr Martin was executive director of the Australian Chamber of Commerce and Industry from 1989 until his appointment to the ACCC. In his position at ACCI he was responsible for representation of business interests and development of business policies and programs, particularly as they affect small and medium enterprises. Mr Martin was a member of the board of Standards Australia for over five years and represented Australia on the Business and Industry Advisory Committee to the OECD.

Earlier in his career Mr Martin was a policy adviser and program manager with the Australian Treasury and the Department of Industry and a regional industrial consultant with the United Nations in Bangkok.

Mr Martin holds an economic degree from the Australian National University.

He started his second five-year term on 7 June 2004.

Jennifer McNeill



Jennifer McNeill was appointed in July 2002 for a five-year term ending 21 July 2007.

Before joining the ACCC, she was a partner in a major national law firm practising in litigation and dispute management. While with that firm, Ms McNeill represented both public and private sector clients in contentious and non-contentious matters involving contractual, regulatory and liability issues. She was a LEADR accredited mediator and tutored in civil procedure at the Australian National University. She remains an NSW Law Society accredited specialist in commercial litigation.

Ms McNeill served on the ACCC's enforcement, merger review and adjudication committees and took a particular interest in its consumer protection work.

Edward Willett



Edward Willett was appointed in January 2003 for a five-year term. Mr Willett is currently both a member of the ACCC, specialising in communications matters, and an inaugural member of the AER.

Mr Willett chairs the Utility Regulators Forum and the ACCC's Communications Committee. Before being appointed to the ACCC, Mr Willett was the inaugural executive director of the National Competition Council for seven years. Previously, he worked as an assistant commissioner with the Industry Commission, helped develop the Commonwealth Department of Industry, Science and Technology's role in business law and regulation, spent three years as deputy head of the Commonwealth Office of Regulation Review, and was involved in other Industry Commission inquiry work. He spent three years with the New Zealand Ministry of External Relations and Trade as an adviser on international economics and trade, and eight years as an economist with the Department of Defence.

Mr Willett has degrees in law and economics and a post-graduate diploma in international law.

David Smith



David Smith was appointed in June 2004 for a five-year term. He is the ACCC commissioner specialising in enforcement.

Immediately before his appointment as commissioner, Mr Smith was manager of the Enforcement and Compliance Division responsible for enforcement and compliance functions nationally, and has been a staff member of the ACCC since its inception in 1995. Before the creation of the ACCC he worked for its predecessor the Trade Practices Commission and has over 30 years experience in all areas of regulatory activity.

During this time Mr Smith also managed a number of other branches within the TPC and ACCC, including Mergers and Asset Sales, Deregulating Industries and Enforcement Coordination. In 1995–96 he was on overseas exchange with the Canadian Competition Bureau where he worked on a range of competition issues.

Stephen King



Stephen King was appointed in June 2004 for a five-year term. He is the ACCC commissioner specialising in mergers.

Dr King is an accomplished academic and one of Australia's most respected expert witnesses and lecturers in the field of economics. Before joining the ACCC he was Professor of Economics at the University of Melbourne from 1998 and a Professor of Management (Economics) at the Melbourne Business School from 2002. Dr King was also a Research Fellow in the Economics Program at the ANU Research School of Social Sciences from July 1994 to December 1997, and lectured in Economics at Harvard College from 1988 to June 1991.

He has a PhD from Harvard University and was awarded the University Medal by the Australian National University. Dr King is also a Fellow of the Academy of Social Sciences in Australia.

Dr King has been published widely in leading economic journals, and from 1999–2001 edited the *Australian Economic Review*. His specialisation is applied micro-economic theory, industrial organisation and regulation.

appendix 5

AER member profiles

Steve Edwell



Steve Edwell has been appointed by the Ministerial Council on Energy as inaugural chair of the Australian Energy Regulator, a position he has held since 23 May 2005.

Mr Edwell has over 15 years experience in reform of utilities, in particular electricity and water, where he has driven a number of comprehensive reform projects, and has worked in both the public and private sectors.

From 1988 to 1998 Mr Edwell worked in Queensland Treasury, holding the position of Assistant Under-Treasurer Structural Reform. Subsequently he undertook various contracted positions in the utilities sector and has acted as a consultant on a range of electricity and water matters, specialising in large-scale reform implementation.

Immediately before this appointment, Mr Edwell worked for the Western Australian Government leading the implementation of comprehensive electricity reform in that state. He was also the CEO of the Queensland Electricity Reform Unit, which implemented a range of electricity reforms culminating in Queensland joining the National Electricity Market. His other assignments have included being commissioned by the Queensland Government to implement the COAG water reforms and as head of the Queensland Office of Energy.

Mr Edwell has a commerce/economics degree from the University of New South Wales and an MBA from University of Queensland.

Geoff Swier



Geoff Swier was selected by states and territories as a member of the AER.

Mr Swier holds a Masters of Commerce (Economics) from the University of Auckland and has 20 years experience in micro-economic reform in Australia and New Zealand, focusing on the establishment of competitive energy markets and privatisation.

Mr Swier played a leading role in the Victorian electricity industry reforms from late 1993, and led policy and planning work for the reform of the Victorian gas industry between 1996 and June 1999. Between 1999 and 2001 he was a director of VENCORP, the Victorian gas market system operator.

He began his career in the New Zealand Ministry of Energy in 1982 working in energy forecasting and energy policy. Between 1984 and 1987 he was an economic adviser to the New Zealand Minister of Finance, and in 1990 was an adviser to the New Zealand Minister for State Owned Enterprises. In the early 1990s he was involved in policy work that led to the development of the New Zealand wholesale electricity market.

Edward Willett



Edward Willett: Part IIIAA of the Trade Practices Act provides that one of the members of the AER must be a commissioner of the ACCC. (See commissioner profiles in appendix 4)

appendix 6

external committees

Small Business Advisory Group

This group provides the ACCC with the opportunity to liaise with small business stakeholders, discuss emerging issues and work towards a collaborative approach to addressing them. The Small Business Advisory Group meetings were held in November 2006 and May 2007.

The group membership includes:

- Motor Trades Association of Australia
- National Farmers Federation
- The Pharmacy Guild of Australia
- Australian Chamber of Commerce and Industry
- Australian Hotels Association
- Council of Small Business of Australia
- Master Builders Association
- Housing Industry Association
- Law Council of Australia
- Institute of Chartered Accountants in Australia
- Australian Industry Group
- Real Estate Institute of Australia
- Australian Federation of Business and Professional Women
- Australian Retailers Association
- Franchise Council of Australia

Issues discussed by the group this year included:

- > development of industry codes of conduct in the oil and horticulture sectors
- > continued liaison with small business organisations to assist those in the retail industry to take proactive steps towards more effective self-regulation in the future
- > the need for a better understanding of the commercial dynamics, both of the franchisor–franchisee relationship and the ACCC and the parties
- > collective bargaining
- > ACCC information and outreach initiatives
- > ACCC administration of s. 51AC, unconscionable conduct in business transactions
- > developments in proposed trade practices legislative amendments and other legislation affecting the work of the ACCC
- > enforcement and litigation, including the way cases are selected and the use of enforceable undertakings
- > initiatives to improve the accessibility of the ACCC and its processes to small business

Small Business Advisory Group meetings 2006–07 and member attendance

Members	November 06	May 07
Motor Trades Association of Australia	X	X
National Farmers Federation		X
The Pharmacy Guild of Australia	X	X
Australian Chamber of Commerce and Industry	X	X
Australian Hotels Association	X	X
Council of Small Business of Australia	X	X
Master Builders Association	X	X
Housing Industry Association		X
Law Council of Australia	X	
Institute of Chartered Accountants in Australia	X	
Australian Industry Group		
Real Estate Institute of Australia	X	X
Australian Federation of Business and Professional Women	X	
Australian Retailers Association		
Franchise Council of Australia	X	X

Franchising Consultative Panel

The panel gives the ACCC an opportunity to not only identify emerging issues in the industry, but to also develop specific compliance and educational initiatives to help franchisors and franchisees understand their rights and obligations under the Act. Its membership includes franchisors, consultants, lawyers, franchise associations and franchisees. The Franchising Consultative Panel meetings were held in October 2006 and April 2007. The panel membership includes:

Dibbs Abbott Stillman

The Federal Chamber of Automotive Industries

Franchise Council of Australia

Franchising Solutions

Home Wilkinson Lowry

Just Cuts/Wellbeing

Motor Trades Association of Australia

University of New South Wales

Griffith University

Law Council of Australia

WordWerx

Kwik Kopy

Issues discussed by the panel this year included:

- > due diligence by franchisees and franchisors as an ongoing issue in addition to succession planning
- > the need to match educational materials with potential franchisees to ensure they are aware of regulations and exercise due diligence
- > issues of franchisor insolvency
- > review of the Franchising Code of Conduct
- > franchising issues and ACCC litigation matters
- > ACCC information and outreach activities in the industry sector

Franchising Consultative Panel meetings 2006–07 and member attendance

Members	October 06	April 07
Dibbs Abbott Stillman	X	
The Federal Chamber of Automotive Industries	X	X
Franchise Council of Australia	X	X
Franchising Solutions	X	X
Home Wilkinson Lowry	X	
Just Cuts/Wellbeing		X
Motor Trades Association of Australia	X	X
University of New South Wales	X	X
Griffith University		
Law Council of Australia	X	
WordWerx	X	X
Kwik Kopy	X	

Consumer Consultative Committee

The Consumer Consultative Committee comprises consumer, community and welfare organisations from around Australia that meet to advise the ACCC on issues and trends affecting consumers that fall within the scope of the Trade Practices Act.

A review of membership was conducted in 2006–07 and a new committee will be convened in December 2007. Members are appointed for a term of approximately two years, with regular reviews to ensure a dynamic and representative membership.

Members assist the ACCC in its administration of the Act to enhance the delivery of consumer outcomes. Meetings are held three times a year. The Consumer Consultative Committee also:

- > facilitates comment to the ACCC on issues affecting consumers that fall within the scope of the ACCC's administration of the Trade Practices Act and allows group members to inform the ACCC about issues that affect the groups they represent
- > enables the ACCC to ensure its communication and compliance strategies meet the needs of consumers
- > provides tangible outcomes for consumers through work that members undertake in partnership with other members and the ACCC
- > improves consumer and community organisations' understanding of the Trade Practices Act and access to the administrative processes of the ACCC
- > develops and implements further strategies to ensure businesses comply with the Trade Practices Act and improve their processes to take account of, or rectify, consumer issues identified by the ACCC and the Consumer Consultative Committee
- > assists the ACCC in its dissemination strategies and appropriate external networks available to enhance communication with community and consumer groups and consumers, and issues as requested by the ACCC

Committee membership

The 2006–07 committee membership includes the Deputy Chair of the ACCC, Louise Sylvan, who chairs the CCC. Other ACCC staff attend as required. Membership also includes senior officers of each of the following consumer, community and welfare organisations:

Communications Law Centre
Consumers Federation of Australia
National Children's and Youth Law Centre
Tasmanian Council of Social Service
Australian Financial Counselling and Credit Reform Association
Country Women's Association of Australia
Federation of Ethnic Communities Council of Australia
Public Interest Advocacy Centre
Consumer Law Centre Victoria
National Council on Intellectual Disability
Tangentyere Council
Australian Consumers Association

Outcomes from the committee during the 2006–07 year include:

- > advice on emerging consumer issues including scams that assisted the ACCC's development of a revised SCAMwatch website
- > assisting in the development of consumer materials including *FairStore*—a publication for Indigenous consumers, and the translation of ACCC consumer materials including *Know how to complain*
- > assisting in development of strategies to help disadvantaged and vulnerable consumers
- > contributing as community partners in the annual national campaign conducted by the Australasian Consumer Fraud Taskforce that the ACCC chairs

Health Sector Consultative Committee

The Health Sector Consultative Committee (HSCC) was formed to continue the liaison process between the ACCC and the health sector that developed through the operation of the Health Services Advisory Committee. The HSCC will meet twice annually and its inaugural meeting took place on 29 May 2007.

The HSCC provides a forum for the ACCC to advise the health sector (through its representatives on the committee) on trade practices issues and for committee members, including consumer representatives, to raise trade practices queries or concerns relevant to their position within the sector.

The HSCC is chaired by ACCC commissioner Mr John Martin and membership comprises:

Australian Dental Association—Carmelo Bonanno
Australian Health Insurance Association—Michael Armitage
Australian Health Ministers Advisory Council—Tony Sherbon
Australian Medical Association—Zelle Hodge
Australian Physiotherapy Association—Damian Mitsch
Australian Private Hospitals Association—Michael Roff
Choice—Viola Korczak
Committee of Presidents of Medical Colleges—Russell Stitz
Department of Health and Ageing—Jamie Clout
Optometrists Association Australia—Joe Chakman
National Rural Health Alliance—Gordon Gregory
The Pharmacy Guild of Australia—Wendy Phillips

Issues discussed by the HSCC at its meeting this year included:

- > identification of trade practices issues relevant to the health sector
- > Dawson amendments to the Trade Practices Act, particularly the provision for collective bargaining notifications by small businesses
- > recent ACCC enforcement and compliance activity affecting the sector

Health Sector Consultative Committee meetings 2006–07 and member attendance

Members

May 07

Australian Dental Association	X
Australian Health Insurance Association	X
Australian Health Ministers Advisory Council	X
Australian Medical Association	X
Australian Physiotherapy Association	
Australian Private Hospitals Association	X
Choice (formerly Australian Consumers Association)	
Committee of Presidents of Medical Colleges	X
Department of Health and Ageing	X
Optometrists Association Australia	X
National Rural Health Alliance	X
The Pharmacy Guild of Australia	X

Energy Consultative Committee

Following the establishment of the Australian Energy Regulator in 2005, the Energy Consultative Committee of the ACCC agreed to continue with the committee in a consultative form to provide briefings on energy matters to members. It met once in 2006–07.

The committee is chaired by AER Chairman Steve Edwell, and membership comprises:

Australian Energy Regulator—Ed Willett, Joe Dimasi, Michelle Groves, Mike Buckley, Sebastian Roberts, Chris Pattas

Essential Services Commission—Greg Wilson, Paul Fearon

Essential Services Commission of South Australia—Pat Walsh

Economic Regulation Authority—Lyndon Rowe

Independent Competition and Regulatory Commission—Paul Baxter

Independent Pricing and Regulatory Tribunal—Jim Cox

Office of the Tasmanian Energy Regulator—Andrew Reeves, Jane Hyland

Queensland Competition Authority—John Hall, Gary Henry

Issues discussed by the committee at its meeting this year were retail pricing determinations in various jurisdictions, gas and electricity revenue determinations for distribution and transmission businesses, the wholesale national electricity market and gas and electricity legislative reform program.

Energy Consultative Committee meetings 2006–07 and member attendance

Members

May 07

Australian Energy Regulator AER/ACCC	X
Essential Services Commission (Vic.)	X
Essential Services Commission of South Australia (SA)	X
Economic Regulation Authority (WA)	X
Independent Competition and Regulatory Commission (ACT)	X
Independent Pricing and Regulatory Tribunal (NSW)	X
Office of the Tasmanian Energy Regulator (Tas.)	X
Queensland Competition Authority (Qld)	X

Infrastructure Consultative Committee

The Infrastructure Consultative Committee was set up in 2006 to facilitate discussions on the broad issues of infrastructure and infrastructure regulation. The committee was selected to be representative of the diversity of infrastructure interests, and includes representatives from energy, telecommunications, water, rail, port and airports. The committee is an important mechanism for the ACCC to gain feedback from stakeholders in the infrastructure sector. Operational issues and the specifics of decisions that are before the ACCC/AER are not the focus of this committee. Rather, the focus is on issues in the practice of regulation that cross the different infrastructure sectors. The committee commissions research work for discussion.

The committee is chaired by Graeme Samuel and external membership includes:

Australian Pipeline Industry Association
Association of Australian Ports and Marine Authorities Inc.
Australian Telecommunications Users Group
Australian Airports Association
Australasian Railway Association
Australian Water Association
Babcock and Brown Infrastructure
Board of Airlines Association of Australia
Competitive Carriers Coalition
Energy Networks Association
Energy Users Association
Energy Supply Association of Australia
Infrastructure Partnerships Australia
Macquarie Bank
Optus
Telstra
Standard and Poor's (Australia) Pty Ltd
Water Services Association of Australia

Issues discussed by the committee this year include:

- > regulation and incentives for investment with specific focus on the New Zealand experience
- > light-handed economic regulation—what does it mean and what is its role
- > overview of the change to Part IIIA of the Trade Practices Act
- > regulatory risk—what it means and how can it be taken into account
- > recent tribunal and Federal Court decisions and what they mean or future regulatory practices
- > issues regarding the facilitation of commercial resolution of access issues

Infrastructure Consultative Committee meetings 2006–07 and member attendance

Members	October 06	April 07
Australian Pipeline Industry Association		X
Association of Australian Ports and Marine Authorities Inc.	X	X
Australian Telecommunications Users Group	X	
Australian Airports Association		X
Australasian Railway Association	X	X
Australian Water Association		
Babcock and Brown Infrastructure	X	
Board of Airlines Association of Australia		
Competitive Carriers Coalition	X	
Energy Networks Association	X	X
Energy Users Association		
Energy Supply Association of Australia		
Infrastructure Partnerships Australia		
Macquarie Bank		
Optus		
Telstra	X	X
Standard & Poor's	X	X
Water Services Association of Australia		X

appendix 7

addresses and contacts

ACCC

National office

23 Marcus Clarke St Canberra ACT 2601

GPO Box 3131 Canberra ACT 2601

telephone: 02 6243 1111

facsimile: 02 6243 1199

ACCC Infocentre

business and consumer inquiries 1300 302 502

ACCC website

www.accc.gov.au

AER

Address

Level 42, The Tower, 360 Elizabeth Street
Melbourne Central, Melbourne VIC 3000

GPO Box 520 Melbourne VIC 3001

telephone: 03 9290 1444

facsimile: 03 9290 1457

AER email

AERInquiry@aer.gov.au

AER website

www.aer.gov.au

ACCC regional offices

	regional director	address	telephone facsimile
New South Wales	Geoff Williams	Level 7, Angel Place 123 Pitt Street Sydney NSW 2000 GPO Box 3648 Sydney NSW 2001	02 9230 9133 02 9223 1092
Victoria	Bob Weymouth	Level 35, The Tower 360 Elizabeth Street Melbourne Central Melbourne VIC 3000 GPO Box 520 Melbourne VIC 3001	03 9290 1800 03 9663 3699

ACCC regional offices

	regional director	address	telephone facsimile
South Australia	George Kamencak	Level 14, ANZ House 13 Grenfell Street Adelaide SA 5000 GPO Box 922 Adelaide SA 5001	08 8213 3444 08 8410 4155
Queensland	Alan Ducret	Level 3, AAMI Building 500 Queen Street Brisbane QLD 4000 PO Box 10048 Adelaide Street Post Office Brisbane QLD 4000	07 3835 4666 07 3832 0372
North Queensland	Kim McBey	Level 6, Central Plaza 370 Flinders Mall Townsville QLD 4810 PO Box 2016 Townsville QLD 4810	07 4729 2666 07 4721 1538
Western Australia	Sam Di Scerni	Level 3, East Point Plaza 233 Adelaide Terrace Perth WA 6000 PO Box 6381 East Perth WA 6892	08 9325 0600 08 9325 5976
Tasmania	Peter Clemes	Level 3, AMP Building 86 Collins Street Hobart TAS 7000 GPO Box 1210 Hobart TAS 7001	03 6215 9333 03 6234 7796
Northern Territory	Derek Farrell	Level 8 National Mutual Centre 9–11 Cavenagh Street Darwin NT 0800 GPO Box 3056 Darwin NT 0801	08 8946 9666 08 8946 9600

glossary and abbreviations

ACCC	Australian Competition and Consumer Commission
ACFT	Australian Consumer Fraud Taskforce
ACMA	Australian Communications and Media Authority
Act	the <i>Trade Practices Act 1974</i>
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
ANAO	Australian National Audit Office
APTPPL	APT Petroleum Pipelines Ltd
ASIC	Australian Securities and Investment Commission
AWA	Australian workplace agreement
CSP	carriage service provider
Dawson amendments	resulting from the review of the Trade Practices Act by Sir Daryl Dawson
ex-officio members	hold office on the commission because they head up other regulatory agencies
FTTN	fibre-to-the-node
gas code	National Third Party Access Code for Natural Gas Pipeline Systems
GSM	global system for mobile communications
ICN	International Competition Network
ICPEN	International Consumer Protection and Enforcement Network
LCS	local carriage service
LSS	line sharing service
MCE	Ministerial Council on Energy
MTAS	mobile terminating access service
NEL	National Electricity Law
NER	National Electricity Rules
NEM	National Electricity Market
NGL	National Gas Law
NGR	National Gas Rules

OECD	Organisation for Economic Cooperation and Development
pay-TV	subscription television services
PSTN OTA	public switched telephone network origination and termination service
RKR	record keeping rule
s. 87B undertakings	court enforceable undertaking made under s. 87B of the Act
SCOCA	Standing Committee of Officials on Consumer Affairs
TPA	Trade Practices Act
the tribunal	Australian Competition Tribunal
ULLS	unconditioned local loop service
WLR	wholesale line rental

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