
International developments

Global Commerce Conference

The ACCC will host the much-anticipated Sydney Global Commerce Conference at the Sydney Hilton on 9–11 November 1998. The overall purpose of the conference is to engender consumer confidence in the global marketplace (including electronic commerce) through the development of initiatives for enhanced global fair trading and competition.

More specifically, the conference will provide a forum for the discussion of global marketplace initiatives and allow stakeholder input into development of initiatives, involvement of stakeholders in implementation of initiatives, drafting of action plans for implementation of initiatives, and identification of any new global market issues and initiatives. The major areas for which new initiatives are proposed are:

- new enforcement techniques, international cooperation between enforcement agencies and the harmonisation and internationalisation of consumer protection standards; and
- industry initiatives, including corporate and industry-based complaints handling, compliance and self-regulation.

The conference will include 20 high profile speakers, including eight international speakers, such as Daniel Petre (Nine MSN), John Bridgeman (UK Office of Fair Trading) and Orson Swindle (US Federal Trade Commission), as well as the ACCC's Chairman and Deputy Chairman. Speaking at the conference dinners will be Alan Cameron (Australian Securities and Investments Commission) and Paul Twomey (National Office of the Information Economy).

More information about the conference can be obtained from the ACCC's website or from Jacqueline Pearce on telephone (02) 6243 1072 or email jacqueline.pearce@accc.gov.au

International Internet Sweep Day 1998

On 10 September 1998 members of the International Marketing Supervision Network (IMSN) participated in the second International Internet Sweep Day. The IMSN is an informal network of consumer law enforcement agencies cooperating on mutual enforcement matters. The sweep day, organised by the ACCC, involved more than 60 law enforcement agencies from 25 countries. This year's sweep targeted sites that offered products with miracle cure health claims. Last year's sweep, which concentrated on get-rich-quick-schemes, removed 297 scams from the Internet, including some via prosecutions.

On the sweep day, consumer protection officials all over the world searched the Internet for suspect sites. Once they had identified sites that



made a health claim or offered a miracle cure, they sent educational email messages outlining the fact that such activities may be regulated in some countries and referring them to the ACCC's homepage for more information on how to comply.

The ACCC identified hundreds of suspect sites following last year's sweep day, and took follow-up action. The ACCC also plans to pursue enforcement action against Internet operators acting in contravention of the Trade Practices Act following this year's sweep day.

The ACCC's website contains information about 'virtual health treatments' and how they are regulated by the Trade Practices Act, as well as contact details for enforcement agencies and consumer protection laws around the world. Consumers can also alert the ACCC of sites suspected to be a scam by clicking on a Slam-a-scam icon on its website.

Promoting international market access

Australian firms competing in the international marketplace face a number of obstacles which constrain competition in existing markets and entry into new markets. On the one hand, there are government restrictions on trade such as import restrictions, protective tariffs, parallel import restrictions and countervailing duties. Such government restrictions are the subject of bilateral trade negotiations between governments and also in fora such as the World Trade Organisation. On the other hand, private restrictions on trade such as import cartels and restrictive agreements between market participants also exist. Both categories raise market access problems for Australian companies seeking to compete effectively in overseas markets, but it is the problems caused by private restrictions which the Commission is most directly concerned with.

The ACCC has taken an active role in assisting in the development of competition policy in a number of countries by working with regional organisations such as APEC and by providing assistance to foreign regulators on implementing and improving the enforcement of their existing competition laws. This work will not only benefit the relevant local economies by creating

more efficient markets, but will also provide improved access to these markets for Australian exporters.

The Commission is also an active participant in multilateral organisations such as APEC, the WTO and the OECD and involved with domestic organisations such as the Supermarket to Asia Council to better understand the competition problems facing Australian industry and exploring solutions to such problems.

The reason for competition

The Trade Practices Act has contributed to Australia's competitiveness in the international marketplace. Before 1974, collusion and other restrictive business practices were rife in Australian industry. These have diminished significantly as a result of the Trade Practices Act which has enhanced the competitiveness of Australian companies both domestically and internationally. The high standard of Australia's competition laws was recognised by a recent study reported in the Economist (16 May 1998, p. 121) which stated that 'Australian laws are the best in the world at preventing unfair competition' and ranked Australia's competition laws as the fairest.

In most countries, unrestricted competition is not a goal in itself. However, the aim of competition policy is not exclusively related to efficiency, but may encompass a broader set of policy objectives including consumer welfare, more equitable income distribution and the encouragement of small business. Competition generally promotes the efficient allocation of resources and, ultimately, economic growth, which benefits all consumers. There is, however, a presumption in favour of competition unless it can be shown that there are countervailing efficiency arguments or other public policy goals that override the expected benefits of competition.

A key area of concern arises from conduct by competitors in overseas markets. For example, if a country reduced import tariffs on a particular product, on the face of it, this should have the impact of opening up the market to international trade. However, if there was a restrictive agreement in the home market between local manufacturers and local retailers under which local retailers did not accept imports for sale, market access by international

suppliers would still be restricted. This has obvious adverse effects for potential suppliers and also limits the potential range of products offered to consumers.

Other examples are import cartels, which are a further source of restriction on international trade. The importers in a particular country, or even across a range of countries, may collude to unfairly force down the price of imports.

APEC

A brief look at the current state of competition policy within APEC member states highlights the work that needs to be done. Out of the 18 members of APEC, only half have competition laws (Australia, Canada, Chile, Chinese Taipei, Japan, Mexico, New Zealand, Republic of Korea and the United States of America) with the remaining nine members currently operating without any specific competition laws (Brunei Darussalam, Hong Kong (China), Indonesia, Malaysia, Papua New Guinea, People's Republic of China, Republic of the Philippines, Singapore and Thailand).

The 1995 'Osaka Action Agenda' recognised competition policy as one of the 15 key issues to be dealt with by APEC. The Osaka Action Agenda states that:

APEC economies will enhance the competitive environment in the Asia-Pacific region by introducing or maintaining effective and adequate competition policy and/or laws and associated enforcement policies ensuring the transparency of the above, and promoting cooperation among APEC economies, thereby maximising, *inter alia*, the efficient operation of markets, competition among producers and traders, and consumer benefits.

The current economic problems within many APEC economies reinforce the need for transparency and increased competition within all APEC economies. The Commission is taking an active role within the APEC framework to provide assistance to other member states in developing their own competition laws.

A recently completed Competition Policy Training Program, which was run in conjunction with the Philippine authorities, is a good example of the Commission's regional work. The program was divided into three parts. Phase one consisted of a two-day seminar on

competition policy held in the Philippines for a wide range of Philippine government officials. Phase two consisted of a two-week 'hands on' training course and practical experience session in Australia for a group of eight Philippine government officials. Phase three was a detailed workshop held in the Philippines for the government officials who had attended phase two of the course. The phase three workshop had to be expanded due to the level of interest that the workshop generated and ended up including approximately 30-40 officials.

A similar project is being planned in conjunction with the People's Republic of China, under a funding grant from AusAID.

Closer cooperation is also currently being developed with Indonesian government officials. The Commission is assisting the Indonesian Ministry of Justice in its preparation of the Ministry's draft competition law. The Commission will also send an officer to Indonesia to provide a series of seminars on competition issues as a key first step in establishing a long-term relationship with Indonesia's competition officials.

The Commission also conducts training programs in Australia. One successful program saw officials from ASEAN/APEC government agencies attend an eight-week course at the Commission to learn about Australia's competition and consumer laws, the compliance mechanisms used, investigation techniques, settlement negotiations and the preparation and conduct of litigation. Delegates from Malaysia, Thailand, Indonesia, Vietnam and China participated in this course.

The Commission maintains a very close working relationship with the Fair Trade Commission of Taiwan (FTC). This close working relationship is supported by an agreement between the ACCC and the FTC which aims to promote cooperation and coordination between the agencies and to lessen the possibility of differences between the agencies in the application of competition and fair trading laws administered by them where these differences are not the result of statutory provisions.

Conclusion

As noted previously, it is private restrictions in overseas markets which the Commission is most concerned with in its international work. Market entry problems caused by private actions are more likely to eventuate in markets which either have no competition policy or markets where competition policy is ineffectively enforced.

The goal of the Commission's international work is, therefore, to assist other countries achieve effective competition policies and to develop their own culture of competition. This will result in a win-win situation with overseas markets becoming more competitive and Australian exporters gaining increased access to those markets.

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