

62 Dublin Road
Ringwood East Vic 3135

17th May 2002

Sir Daryl Dawson
Chairman
Inquiry into the Trade Practices Act

HEREWITH A SUBMISSION

Dear Sir,

At the outset let it be remembered that as in many other developed countries, Australia will in future protect its national icon businesses and industries which in the national interest need to survive financially. Examples of such businesses are our Big Four banks, Qantas, Telstra, BHP/Billiton, Amcor, Adstream Marine, Patricks and our wine, cereals and wool industries – just to name a few.

The ACCC seeks publicity which adversely affects reputations without any proven case and it seems to not take into account that certain of our business leaders must survive. The case which the ACCC is currently mounting against Qantas is a good example. A foreign airline dares to come into this country with a deliberate, pre-determined plan to slash airfares so that they can hit Qantas twice by stealing passengers and revenue, regardless of what it does to Qantas. Yet their motives are allowed free reign, but as soon as Qantas retaliates to save its business it has to spend shareholders funds in court for trying to retain its business. That is the third time Qantas is hit. Isn't what happened on the Adelaide-Brisbane route what competition is all about? Should Qantas have left its fares unchanged while its rivals stole its passengers? What is wrong with matching its competitors fares? – nothing! What is wrong with adding flights when its competitors are doing just that on every route?

The attitude of the ACCC in this matter is hard to understand. If the ACCC wanted to take action in the airline industry under the predatory pricing criteria he should have taken action earlier against the upstart airlines when early on they were charging fares so cheap that the Qantas CEO said they were absolutely unsustainable in the long run. If the newcomers had been prepared to pour in millions of dollars to prop up losing operations they could have sent Qantas broke. Yet the ACCC did nothing about this predatory pricing – why?

Single Chairman to be replaced by a "Fair Trading Panel" of five, made up of a chairman who should be the Secretary of the Department of Trade, two senior, experienced accountants and a representative of large corporates and one from Small Business. The "Fair Trading Panel" should have the following functions:-

1. To declare from time to time which are our national icons.
2. To ensure that at all times these icons will never be subjected to such serious competition that their long term viability might be threatened and so cause much unemployment.
3. To ensure that no action is taken to limit the expansion of an icon domestically if such icon finds it necessary to acquire or take over other businesses within Australia so that they gain sufficient size and strength to compete internationally.
4. To receive and consider applications from all health care professionals, ancillary careers and hospitals to charge common fees for like services so that costs of health care are stable and known regarding health insurance. If found appropriate, to formally certify this price collusion with a certificate to all concerned.
5. To receive and consider applications from other businesses, professions and industries whose members seek approval to charge common fees and prices, such as architects, engineers, accountants and others. Also, any two business entities may such approval to charge common fees and prices in any industry where really tough competition threatens the viability of business entities and thus would cause much unemployment. Before Certificates of Approval are given for common pricing under this section, the accountants on the Panel must thoroughly investigate the costs involved in providing the goods or services and then agree to set the common prices so that the providers will receive a reasonable return on funds involved or reasonable fees for time spent on tasks – but at rates which do not exploit consumers.
6. Shall consider and take decisions upon all matters relating to fair competition, giving due regard to the fact that whenever a new entrant enters an industry or service by slashing existing prices and adding capacity, that the established businesses are allowed to fight back to defend their turf by charging whatever prices and adding whatever capacity they deem fit to retain their business and viability without being threatened under any regulation whatsoever.
7. Shall never go public about any investigation which is underway as a result of any complaint regarding unfair trading until action has been taken and a court has found some party guilty of unfair trading.
8. Shall ensure that “Category Killers” in the form of chains of large specialist stores do not become so large that they kill off all small traders in the industry.
9. To subject to close scrutiny all proposals for takeovers and mergers when there are grounds for believing an entity may, as a result, become a monopoly in an industry. Each case shall be determined on its merits after taking into account the following:-
 - a) is a national icon involved? If so, it might be given greater latitude as stated herein before;
 - b) can the entities involved prove they need a larger capital and business base either to export successfully or to compete globally;
 - c) if an entity is forced to divest a business on the grounds that it has gained monopoly power, it should not be forced to so divest if that meant a foreign corporation would take it over. (This has happened in the past and is not in the national interest).


- d) if any foreign entities seek to set up business in Australia they should be subject to a capacity test – especially if up against one of our national icons. E.g. If an airline wants to come in and start a regular service on the Kangaroo route from Sydney to London they should be refused a licence on the grounds that there is over capacity there already and so will threaten an icon Qantas.

Collusion. Under these proposals this would no longer be an offence, which would no doubt upset Alan Tels who would have half our health care professionals in jail if he had his way.

Declared Infrastructure. There shall be no more infrastructure declared for use by others than those who paid for it and own it. The Telstra network should be "un-declared". Those who want to compete in an industry or service will have to construct their own infrastructure.

Price Controls. Other than those common prices or charges certified by the Fair Trading Panel there shall be no price controls whatsoever – providing this does not preclude action to be taken to prevent predatory pricing by new entrants to a service or an industry.

Yours sincerely



T.C. BOXALL