



8 July 2002

2002 REVIEW OF THE COMPETITION PROVISIONS OF THE TRADE PRACTICES ACT 1974

SUBMISSION BY AAMI LIMITED

Introduction

AAMI is making this submission to the 2002 Review of the Competition Provisions of The Trade Practices Act 1974 to provide a counterpoint to the well-publicised views of “big business” and others that the ACCC’s current powers should be constrained and that it should not be given additional powers. Our submission is an overview of AAMI’s philosophical position, rather than an argument in depth, on what we see as the key areas under challenge.

AAMI is concerned that the constraint argument may gain some momentum on the basis that business is being unfairly dealt with by the ACCC and that to widen the ACCC’s powers would provide further opportunity for unfair treatment.

AAMI is a long-term supporter of competition law that is robust but fair to product and service providers and their customers and that is impartial, transparent and energetically administered.

AAMI supports the provision of new and wider penalties as proposed by the ACCC.

AAMI’s position is that maximum monetary penalties for engaging in activities proscribed under the Trade Practices Act should be sufficiently severe to ensure compliance by organizations, regardless of their resources and regardless of the value of the potential gain to be had from engaging in such activities.

We agree that imprisonment of the responsible people should be available as a penalty in the cases of hard-core cartel behaviour perpetrated by organizations meeting the criteria proposed by the ACCC.

We support the view that for executives contemplating involvement in such behaviour, the possibility of being sentenced to a term in prison will be a more effective deterrent than the prospect of a personal monetary penalty, no matter how severe.

AAMI believes collusion inevitably raises business input costs both directly and indirectly, is anti-competitive and negatively impacts consumers. We believe the range and severity of penalties must be such that any predicted corporate or personal benefit of collusion is far outweighed by both the risk and outcome of detection.

Regarding the extended criminal sanctions, we note that extensive safeguards are proposed to ensure that they are not imposed inappropriately.



AAMI does not believe that any action proposed by Australian companies to acquire the scale perceived as needed for them to be able to compete internationally should disadvantage other Australian businesses and consumers.

AAMI believes the “international scale” argument is over-stated. The logical extension of this argument is that any company must be as big as its competitors to be able to successfully compete with them, which of course is a nonsense.

Many relatively small Australian companies successfully compete both domestically and internationally with other companies big and small.

On the other hand, there have been monopolies, duopolies – operations with “scale” – where the businesses and consumers they supply and service have been disadvantaged in terms of pricing, responsiveness and outmoded products and services.

The prospect of large international corporations buying large (in the Australian market) public companies and converting them to “branch office operations” is also over-stated. In the ordinary course of business, there is not a lot to be gained from making a major investment in a company and then devaluing it by undermining its presence in its home market.

Companies prosper, stagnate or fail for many reasons. Size, or the lack of it, is at best but one factor.

AAMI believes a greater public good flows from the ACCC having unrestricted access to obtaining media publicity for ACCC actions and outcomes

AAMI does not believe that the ACCC undertakes investigations and action on anything other than openly defensible grounds.

We do not have any difficulty with the ACCC publicising that investigations are underway and their eventual outcomes – media coverage is an ongoing reminder to business and the public that the ACCC exists and that it is active. Media coverage of outcomes also helps educate the market about illegal practices.

We can appreciate that there will be objections to perceived “trial by media” and that the media generally tends to sensationalise the facts of any matter. However we believe that there is greater public value in a wide and ongoing awareness of the ACCC, its role and its successes, than is to be gained by curbing its access to the media to minimise the occasional hurt suffered by an organization under ACCC investigation.

AAMI does not believe there needs to be a supervisory body imposed on the ACCC’s existing Board of Commissioners

The very nature of the ACCC’s accountabilities and its work in meeting those accountabilities means that from time to time, it will “tread on toes”.

The fact that it has and will continue to do so is not an argument for greater control or worse, control not necessarily committed to the objectives of the Trade Practices Act.



We have seen no argument that the ACCC has exceeded its charter in the exercise of its duties. Certainly it is vigorous and public, and in our view, properly accountable in the execution of its duties, and we see this as far preferable to a situation where a proposed investigation already reviewed and approved by the current Board of Commissioners could be abandoned because of the contrary, and perhaps secret, decision of a review board.

About AAMI

AAMI is one of Australia's leading companies in the motor vehicle, home and compulsory third party (CTP) insurance markets. Operating in all states except Western Australia and the Northern Territory, AAMI employs over 2200 people in some 50 offices, branches and customer service centres.

AAMI commenced business on 1 January 1970 as a motor vehicle insurer, offering a major independent alternative to government-owned and motor club-owned insurers.

Its predecessor was Club Motor Insurance Agency (Club Motor), established in 1933 by a consortium of general insurance companies.

By the close of 1999, the number of insurance companies in that consortium had fallen from 45 to one, Royal & SunAlliance. Today AAMI is an independently managed, wholly-owned subsidiary of that company.

In 1978, AAMI branched out into South Australia and then into New South Wales in 1983.

In 1989 AAMI diversified by entering the home insurance market in Victoria, South Australia and Tasmania, extending to Queensland in 1995 and New South Wales the following year. Also in 1989, it entered the compulsory third party personal injury (CTP) market in New South Wales and, in 1993, in Queensland.

AAMI recorded growth of more than 20% in both car and home insurance policy sales in 2001. Total policy sales were 2.16 million and premium income was \$815.9 million.

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