

The Government believed that businesses within the sector are best placed to assess the nature of the difficulties being experienced and to resolve them. A mandatory code would only be considered if voluntary self-regulation failed.

The proposed self-regulatory approach, including the appointment of the Ombudsman, should only consider disputes involving vertical relationships along the supply chain.

The Commission is fundamentally against the regulation of horizontal relationships between retailers or suppliers as this may contribute to price fixing — the elimination of which is one of the Commission's main aims.

In his presentation to the Retail Grocery Code Committee, Commissioner John Martin identified some key features of a voluntary code, including:

- a clear statement of objectives, definitions and scope;
- guiding principles relating to issues like unconscionable terms and practices and disclosure;
- code administration and compliance procedures including publicity, reporting, review and evaluation; and
- dispute resolution.

The committee is expected to report to Government at the end of June.

## Section 51AC

Finally the Government has decided to increase the transactional limit for small business claims of unconscionable conduct from \$1 million to \$3 million.

The doubts about how this monetary test is to apply will remain, however. In many instances, such as a refusal to supply a customer or distributor, it is far from clear whether the monetary test is satisfied: is the \$3 million to be measured against the annual turnover in a relationship or each individual transaction?

These changes are likely to take effect from 30 June 2000.

## Shipping freight rates to be investigated

The Deputy Prime Minister, the Hon John Anderson, has asked the Commission to investigate whether grounds exist for the increase in freight rates experienced in the South-East Asian shipping market.

Specifically, the Australian Peak Shippers Association is concerned about the operation of the Australia/South-east Asia Trade Facilitation Agreement (TFA).

In its complaint to the Deputy Prime Minister, the association pointed out that before August 1999, the freight rate for a 20 feet container was A\$450 but by April 2000 it had increased to A\$950.

Whether or not the increase can be justified, given the fact that rates have declined in recent years, exporters nevertheless claim they are finding it difficult to manage.

The Deputy Prime Minister is particularly concerned that the TFA, through its coverage of most of the lines and capacity in the South-east Asian trade, may not accord with objects of Part X as set out in s. 10.01.

One of the objects of Part X is to permit conference operations while enhancing the competitive environment for outward liner shipping services. He has asked that the TFA be investigated in determining whether it satisfied s. 10.45(a)(iv).

In undertaking the investigation, the Commission will give special consideration to the following questions:

- Does the operation of the TFA contribute to the provision of adequate outward liner shipping services at internationally competitive freight rates in accordance with the objects of Part X?
- Does the conduct of shipping lines operating under the TFA provide grounds for deregistering the agreement or for seeking undertakings that would make deregistration unnecessary?

## New agreement targets energy labelling

The Commission and the Australian Greenhouse Office signed a cooperation agreement in March this year to protect the interests of consumers and ensure that Australia meets its commitment to reduce greenhouse emissions.

Procedures for addressing potentially misleading energy efficiency claims (star rating) on new white goods are targeted under the agreement.

Where the AGO identifies cases of misleading energy labelling, they will be referred to the Commission for possible enforcement action.

In taking out enforcement action, the Commission will consider whether there appears to be:

- apparent blatant disregard for the law;
- a history of previous contraventions of the law, including overseas contraventions;
- significant public detriment;
- the potential for action to have worthwhile or educative or deterrent effect; and
- a significant new market issue.