

NEW ZEALAND

(1st September 1997 to 31st August 1998)

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Executive Summary

1. This report summarises the major developments in New Zealand's competition law, the enforcement of that law and in competition policy generally over the period 1 September 1997 to 31 August 1998.
2. In terms of competition law, the Commerce Act 1986 is subject to two reviews. The first review focuses on the Act's penalties, remedies and court processes and the second on the exemptions and exceptions provided to the Act.
3. In the area of enforcement, during the year the Commerce Commission opened 74 Commerce Act cases for investigation. This is a marked increase in comparison with previous years. As well, a case brought by the Commission against nine meat companies resulted in the highest award of penalties in Commerce Act litigation (NZ\$5.5 million, US\$2.75 million). This case has increased the highest total penalty imposed to date under the Commerce Act by more than 11 times, and increased the highest individual penalty imposed by five times.
4. Competition in markets in New Zealand was further enhanced by a range of microeconomic policy measures. In particular the removal on the prohibition on parallel importing, the deregulation of postal services and a number of reforms in the electricity sector.

I. Changes to competition laws and policies, proposed or adopted

5. The Commerce Act 1986 regulates the process of competition in New Zealand. Its purpose is to promote competition in markets within New Zealand. The Act covers anti-competitive conduct in markets within New Zealand, and also overseas business activity insofar as New Zealand markets are affected. As well the Act covers abuse of market dominance in any trans-Tasman market, i.e. between Australia and New Zealand.
6. No amendments were made to the Commerce Act 1986 during the year ended 31 August 1998. However, the Act is currently subject to two reviews.
7. The first review relates to the penalties, remedies and court processes available under the Act. Analysis suggests that the current penalties and remedies available are insufficient to achieve compliance with the Act. The level of pecuniary penalties imposed are relatively low by the standards of comparable overseas jurisdictions and the courts have been very reluctant to impose other remedies available under the Act such as interim injunctions. As well current court processes are costly and are subject to delay. Delays enable firms with dominant positions to delay competitive entry and deprive consumers of the benefits achievable through increased competition.
8. This review is important because New Zealand, perhaps more than any other OECD country, places heavy reliance on its competition law to regulate conduct in utility markets.
9. The second review relates to the exemptions and exceptions to the Act. Exemptions and exceptions are given to the restrictive trade practices part of the Act where the Government wishes to pursue other economic or social goals that conflict with the purposes of the Act. The project has been conducted in recognition of the fact that the need for a particular sector or activity to be exempted needs to be reviewed periodically to ensure that the policy reasons for the exemption, or exception, remain relevant

and, if so, to ensure that competition is not limited more than is necessary to achieve the alternative policy objective.

II. Enforcement of competition laws and policies

I. Action against anti-competitive practices

a) Summary of activities of competition authorities

10. The New Zealand Commerce Commission is the agency charged with enforcing the Commerce Act. Its key enforcement activities during the year to 30 August 1998 are outlined below. More information can be obtained from the Commission's web site:
<http://www.comcom.govt.nz>

Investigation

11. During the year the Commerce Commission opened 74 Commerce Act cases for investigation. This compares with 57 for the previous year.

12. The major cases investigated during the year include:

Elanco¹

In December 1997 the Commission approved this case for penalty action against Elanco, Chemstock and three executives. The Commission has filed a Statement of Claim against Elanco, and two of its executives, and Chemstock Animal Health Limited and one of its executives. The allegation concerning Elanco relates to its animal remedies division, Elanco Animal Health. The Commission is alleging that the companies and executives acted illegally and breached the Act by entering into an anti-competitive price-fixing arrangement.

Ophthalmological Society of New Zealand

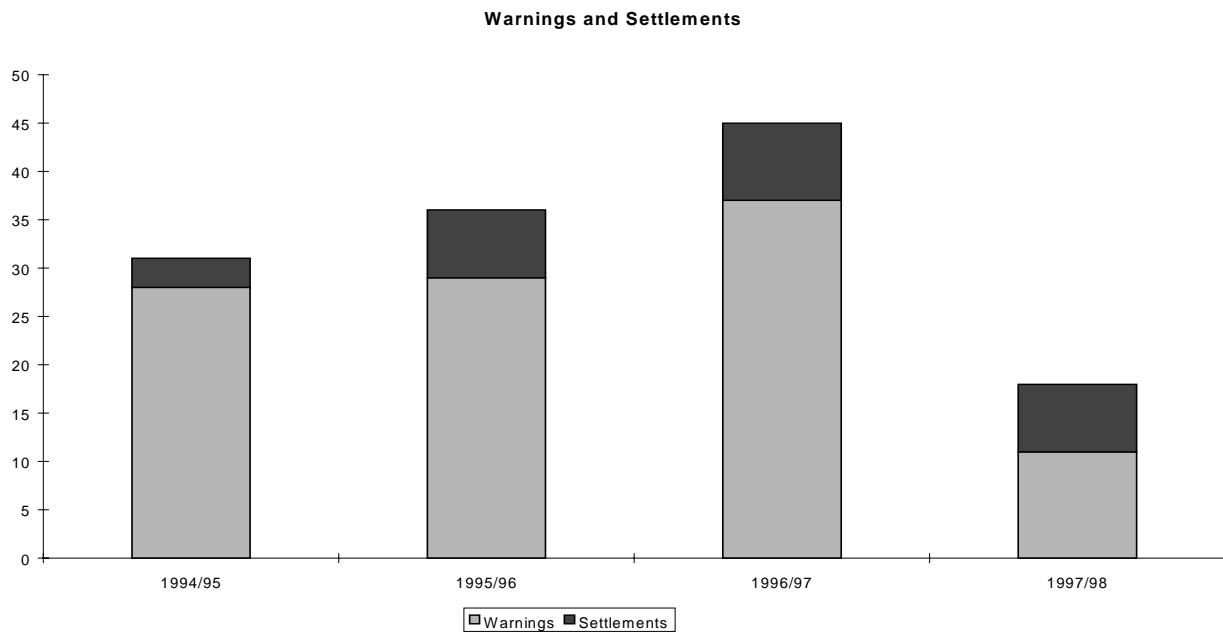
In December 1997 the Commission filed proceedings in the High Court against the Ophthalmological Society of New Zealand and five individual ophthalmologists. The action relates to alleged anti-competitive collusion which led to the cancellation of cataract operations performed in Invercargill by Australian ophthalmologists.

The Commission alleges that the Society and the New Zealand ophthalmologists involved colluded to ensure that the Australian ophthalmologists did not carry out the operations. It is also alleging that one of the New Zealand ophthalmologists, aided and abetted by others, used his dominant position in a market to prevent the Australian ophthalmologists from carrying out the operations.

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Administrative Resolution

13. Many contraventions of the Act are most appropriately addressed by way of an administrative resolution. The Commission employs two broad types of administrative resolution - warnings and settlements. During the 1997/98 year 11 informal warnings were issued and 8 administrative settlements reached. A breakdown between the two types of resolution over the past four years is illustrated in the graph below.



Warnings

14. The most significant warnings given during the year include:

NZ Post

NZ Post had sent out a set of guidelines to their shops and franchise holders which included the instruction not to discount certain pre-paid business envelope products. This raised price-fixing concerns. NZ Post explained that this had been done in error and agreed to notify franchise owners that there was no restriction on their ability to set prices as they wished. A warning was sent to NZ Post and the case was closed.

Petroleum Exploration Association of New Zealand (PEANZ)

This warning was issued following allegations of price-fixing among members of PEANZ and Federated Farmers. The access code agreed to by PEANZ and Federated Farmers states rates of reimbursement to farmers for land access.

Meadowfresh Milk

A warning was issued to Meadowfresh in June 1998 as a result of an alleged breach of s29 (this section prohibits contracts, arrangements, or understanding containing exclusionary provisions) by Meadowfresh in a promotion it ran to encourage retailers to exclusively stock its product.

ProCare

A warning was issued to ProCare Health Limited, an independent medical practitioners association, in June regarding potential price-fixing arrangements. Joint venture exemptions did not apply to the provision of the contract relating to reimbursement of general practitioners.

Inbound Tour Operators' Council (ITOC)

This investigation centred on four tourist organisations' proposed guidelines to standardise "kickbacks" which in the Commission's view amounted to price fixing. "Kickbacks" are a payment made by a business to a tour operator for bringing customers - usually on bus trips - to the business. Warnings were issued to ITOC, New Zealand Tour Drivers' Guild, New Zealand Bus and Coach Association and the New Zealand Tourism Industry Association, and a media release was issued in January 1998.

Grocery Wholesalers

An annual moratorium over Christmas about price increases was found to risk breaching the price-fixing provisions of the Act. The parties (Woolworths, Progressive, NARGON) were warned and a media release was issued in January 1998.

St Johns Ambulance

An investigation into allegations that the Order of St John (OSJ) was abusing its dominant position in the 111 market resulted in a warning and media release in late March 1998. Auckland Rescue Helicopter Trust (ARHT) alleged that OSJ, the receiver of 111 calls, was not forwarding them to ARHT who had a contract with ACC to provide rescue services. OSJ was instead directing calls to its own helicopter.

Settlements

15. The most significant administrative settlements reached during 1997/98 are as follows:

Trans Tasman Alliance

In April 1998 two members of the Trans Tasman Alliance, P&O Nedlloyd and Tasman Express Line, entered into a settlement with the Commission over price-fixing arrangements they had entered into. The companies signed undertakings to stop the arrangement.

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The arrangement related to how the companies would recover the cost of the Ministry of Agriculture and Forestry checks and other government charges to do with unloading ships in New Zealand. The arrangement involved passing on the full cost of those charges to customers.

The case highlighted important issues for the shipping industry and business in general. International shipping has legal exemptions from some sections of the Act. These exemptions apply to land-based charges for export cargo, and to the carriage of goods by sea. They do not apply to arrangements relating to land-based charges for import cargo.

Local Authorities – Western Bay of Plenty District Council, Palmerston North City Council, North Shore City Council

During the year the three local authorities each entered into settlements with the Commission concerning potentially anti-competitive aspects of their water and sewerage connections and maintenance contracts. Some authorities were “bundling” relatively straightforward connection services with the more equipment- and expertise-intensive maintenance contracts. This prevented some smaller contractors from competing for the connections work. In some cases the contracts had not been let through a competitive tender process, or had been awarded directly to the council’s own trading arm.

The settlements provided for the Councils to amend their contract tendering processes to avoid the risk of breaching the Act in the future. Commission interest in the area of local authorities is continuing through the ongoing active investigation of similar situations in other parts of the country.

Christchurch Taxis

Two Christchurch taxi companies, Blue Star and Gold Band, entered into a settlement with the Commission after agreeing on their fare pricing schedules, which appeared to breach the price-fixing provisions of the Act. In the settlement the companies agreed to set their fare pricing schedules independently in future.

Mackay Sugar Co-operative Association Limited and ED & F Man Australia Pty Limited/The New Zealand Sugar Company Limited -

As part of a series of complex transactions involving their respective Australian parent companies, Mackay Sugar Co-operative Association Limited (Mackay) and ED & F Man Australia Pty Limited (Man) each have acquired 25% shareholdings in The New Zealand Sugar Company Limited (NZSC). That proposal was subject to a business acquisition enforcement investigation commenced in June 1997, as the acquisition would effectively result in there being only one sugar refiner and distributor in New Zealand.

The case was concluded on 23 June 1998 as a Commission settlement when a Deed of Settlement was signed by the parties and the Commission. The parties undertook not to seek the imposition of anti-dumping duties on Malaysian sugar, to allow third parties to have access to NZSC’s Christchurch sugar liquefaction facility and for Mackay and Man to sell material handling equipment to a competitor, Kerry New Zealand Limited.

MetService

On 19 September 1995, Marc McNaught, director of Weather Workshop Limited (Weather Workshop) complained that the Meteorological Service of New Zealand Limited (MetService) was abusing its dominant position by denying them access to the data which it collects with its data collection network. The Commission pursued an administrative settlement with the Minister of Transport and the MetService which required the parties to provide public access to meteorological data collected by MetService with public funds.

On 8 September 1997, the Minister and the MetService varied the terms of their contract to require MetService to provide public access to MOT funded meteorological data. As of 30 September 1997, competitors are able to access this data free of charge through the Internet.

Airways Corporation of New Zealand Limited (Airways)

Airways Corporation had introduced location specific pricing system for air traffic control services. Part of that system allowed for cross subsidisation from air traffic control services, over which Airways Corporation has a statutory monopoly, to services that are contestable. The Commission had been investigating Airways Corporation following allegations that its pricing system breached s 36 of the Commerce Act.

The investigation lead Airways to introduce a new pricing system which eliminates the possibility of cross subsidisation. At the request of the Commission, Airways reported intermittently to the Commission's staff on its progress.

The Commission has not itself assessed whether Airways' new pricing regime is in compliance with the Act. Any complaints that are received about it will be assessed on a case-by-case basis.

Proactive Enforcement

16. During the year the Commission undertook proactive enforcement activities that included the following actions.

Health

During the year the Commission conducted an education programme in the health sector. The activities completed during the year included publication of guidelines on how the Commerce Act relates to the health sector; liaison with, and presentations to, a number of sector groups, initiation of penalty action against ophthalmologists in December and the issuing of warnings to St Johns Ambulance and Pro Care Health Limited (as summarised earlier).

Emerging Communications Technologies

The Commission undertook a number of activities in relation to Emerging Communications Technologies, that included:

- monitoring of the 26 GHz spectrum auction;

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- monitoring of the 2 GHz spectrum auction;
- Telecom/Cellnet business acquisition clearance;
- investigations into cellular, 0800 and local number portability and the Internet; and
- a number of speeches and articles.

Natural Gas Corporation 1980 Wholesale Gas Contracts

The focus on the National Gas Corporation (NGC) 1980 Wholesale Gas Contracts concluded during the year. The focus of this work was to promote the replacement of the restrictive 1980 wholesale gas contracts between NGC and the gas utilities. The NGC reached agreement with all parties on an amendment to the 1980 contract, which removed the restrictive provisions.

Penalty action taken by the Commerce Commission

17. The most significant cases taken by the Commission for the 1997/98 year, are outlined immediately below.

Christchurch Buses

An investigation was completed into Christchurch Transport Limited (CTL) for bid-rigging and market sharing arrangements it attempted to enter into with two of its major competitors. The High Court awarded pecuniary penalties of NZ\$380,000 against CTL and NZ\$10,000 against CTL's Chief Executive, who also lost his job.

Southpower Limited

This case was settled prior to the substantive hearing, scheduled to commence in June 1998. The case related to the manner in which Southpower apportioned its costs between its line and energy business units, and its anti-competitive contractual structure. The matter was settled with Southpower paying \$450,000 costs to the Commission and undertaking to reorganise its business structure by 30 September 1998 to comply with the Commerce Act.

Roadmarkers (Waikato) Limited

On 24 June 1998 Justice Elias found that Roadmarkers (Waikato) Limited had contravened the Commerce Act by attempting to fix prices by rigging a bid for a roadmarking tender. Roadmarkers (Waikato) Limited paid an agreed penalty of \$15,000 and costs of \$5,000 to the Commission.

DB Breweries Limited

On 28 November 1997 DB Breweries consented in Court to both judgement and a penalty of \$110,000 plus \$5,000 costs for resale price maintenance. The allegation was that DB Breweries, by way of one of its sales representatives, prevented the Whitehouse Tavern in Papakura from selling promotional packs of beer at less than DB Breweries Limited's recommended price.

Toyota New Zealand

On 9 September 1997 Toyota New Zealand Limited consented to judgement being entered against it and to paying a penalty of \$250,000 for the operation of its Fleet Sales Assistance Scheme during 1992 and 1993. The effect of the scheme was to limit the discounts Toyota Dealers might offer when fleet owners were buying new vehicles.

Meat processing company cartel

On August 19, 1998 the Auckland High Court imposed more than \$5.5 million penalties on nine meat companies. This case involved an extensive investigation into one of the biggest industries in New Zealand and a court battle fought for over three years before the companies admitted that they had breached the Commerce Act.

Through a series of more than 90 meetings, 12 North Island meat companies entered into anti-competitive arrangements that related to the prices they would pay farmers for livestock. Three of the companies: Affco NZ Limited; Richmond Limited and Lowe Walker NZ Limited, each had penalties of \$1.5 million (US\$750,000) imposed upon them. Court action is continuing against Te Kuiti Meat Processors Limited.

Other Commerce Commission Activities

18. Following instructions from the Minister of Commerce, the Commission is currently, Commerce, investigating whether there is a need for price control to be imposed over airfield activities at Auckland, Wellington and Christchurch airports. The Commission is to report back to the Minister by no later than 14 December 1999.

Promotion of Public Awareness and Compliance

19. During the 1997/98 year the Commerce Commission issued 70 Media Releases on Commerce Act topics. 42 Speeches were given, 6 publications were revised and reprinted and 1 new publication and 2 occasional papers were published. The Commerce Commission also has two newsletters: Compliance and Fair's Fair, each of which are produced 6 times a year. Three issues of Compliance were dedicated to Commerce Act topics and all issues of Fair's Fair contained articles on Commerce Act topics.

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2. *Mergers and acquisitions*

Surveillance

20. New Zealand has a voluntary pre-merger notification regime. A total of 347 un-notified business acquisitions were identified by the Commerce Commission during the year. Follow-up investigation was initiated on 98 of the acquisitions identified during the year.

21. Some of the major non-notified business acquisitions investigated during the last quarter of the year are as follows.

Tourism Holdings Limited/Mount Cook Group Limited

The acquisition by Tourism Holdings Limited of some of Mount Cook Group Limited's tourism assets was investigated. Those assets included: tour coach operations, light aircraft operations at Mount Cook and Queenstown, travel centres in Auckland, Queenstown and Te Anau, and the in-bound travel services, sales and marketing operations.

A number of markets were identified for the purposes of analysing the competition effects arising from the acquisition, including the market for the provision of coach tours and coach charter in New Zealand, and the markets for the provision of scenic flights/flightseeing services in the Queenstown/Milford and Mount Cook regions.

While the acquisition resulted in some horizontal aggregation of market shares in the relevant markets, the market shares for the combined entity fell within one or both of the Commission's "safe harbours". It was also considered that there was sufficient competition from existing market participants, aided by relatively low entry barriers.

It was concluded that the acquisition did not raise any dominance concerns in any of the relevant markets.

Designer Textiles (NZ) Limited / Prato Mills (NZ) Limited

The acquisition by Designer Textiles of the assets of Prato Mills, a privately owned company involved in the manufacture of weft knitted fabrics, was investigated. It was concluded that the proposal did not raise dominance concerns in relation to the market for the manufacture and supply of weft knitted fabrics in New Zealand. The market share of the merged entity, Prato Textiles, fell within both of the Commission's safe harbours. In addition to existing competition, the combined entity would continue to face substantial competition from imported fabrics, which comprised around 35% of the total market, and imported finished garments.

Independent Newspapers Limited / South Otago Newspapers Limited

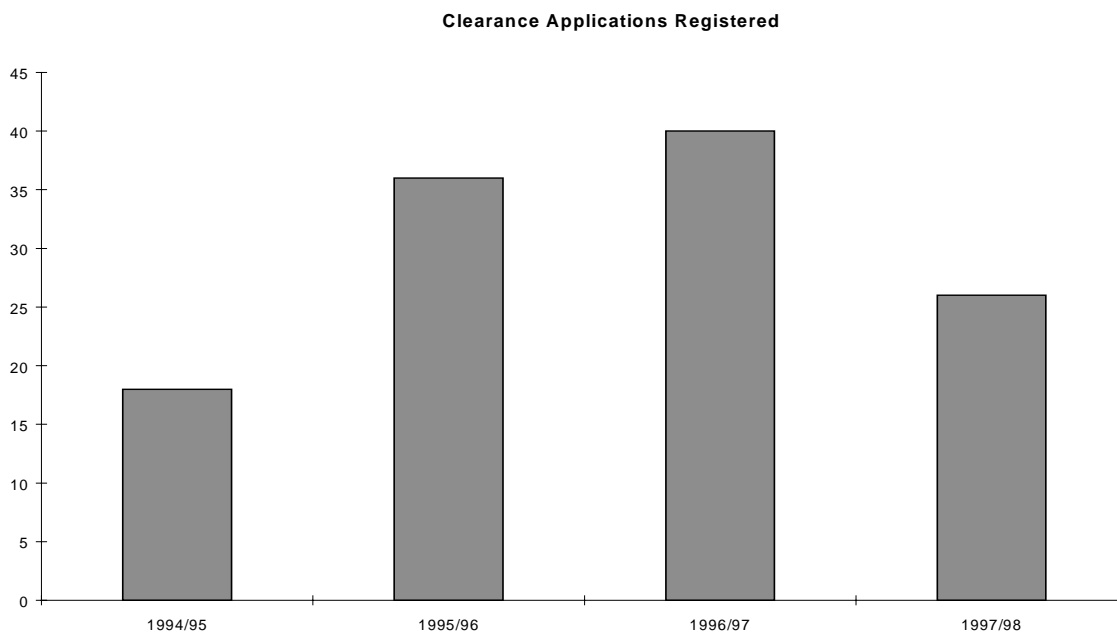
The likely effects of Independent Newspaper Limited's (INL) proposed acquisition of the publishing assets of South Otago Newspapers were reviewed. INL is New Zealand's largest newspaper publishing company, involved in the publishing and printing of newspapers and magazines in New

Zealand, Australia and the United States. In 1997 INL acquired a controlling interest in Sky Network Television Limited.

South Otago Newspapers published three newspapers. It was determined, however, that aggregation in the supply of newspapers would occur only in the Clutha region. Staff concluded that the merged entity would continue to be constrained by existing competition (particularly from Allied Press), by the threat of potential competition and by other media outlets such as advertising flyers, magazines, radio and television.

Business acquisitions - clearance Applications

22. The graph below illustrates the number of clearance applications registered for 1997/98 (n=26) in comparison with the preceding three years.



23. The significant clearance applications sought for the 1997/98 year are outlined below.

Sealed Air Corporation/WR Grace and Co (No 311)

On 27 November 1997 the Commission cleared the merger of Sealed Air (NZ) Limited and the flexible packaging business of W R Grace (NZ) Limited. The merger forms part of a world-wide transaction which combined the packaging operations of two United States based companies, W R Grace & Co and Sealed Air Corporation, to create a new public company called Sealed Air.

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Tip Top Ice Cream Company Limited/New American Ice Cream (No 313)

On 19 December the Commission declined to give clearance to Tip Top Ice Cream Company Limited to acquire the trade names and trade marks, goodwill and business assets associated with the take-home ice cream wholesaling business of United Dairy Foods. The Commission was not satisfied that the proposed acquisition would not result, or would not be likely to result, in the combined entity acquiring or strengthening a dominant position in the New Zealand market for the wholesale supply of take home ice cream.

Richmond Limited/Lowe Walker NZ Limited (No. 316)

On 11 February 1998 the Commission cleared the proposed acquisition by Richmond of the beef and sheep procurement and slaughtering assets owned and operated by Lowe Walker. The Commission concluded that the combined entity was likely to be constrained to a significant extent by the presence of existing competitors as well as by the prospect of new entry.

Mainland Products/South Island Dairy Farmers Co-operative Limited (No 324)

On 12 May 1998 the Commission cleared the acquisition by Mainland Products of the fresh milk and cream, and of the yoghurt and other cultured food assets, of South Island Dairy Farmers Co-operative. Although implementation of the proposal would lead to aggregation and a comparatively high market share in the market for the processing and supply of town milk in the South Island, the Commission concluded that no dominance concerns arose in this or any other market.

Telecom New Zealand Limited/Cellnet Mobile Services Limited (No 325)

On 15 May the Commission cleared Telecom Corporation of New Zealand Limited to acquire the assets and business of Cellnet Mobile Services from Cellnet. The Commission concluded that Telecom is not dominant in the market for the distribution of cellular services in New Zealand and that the proposal would not result, and would not be likely to result, in Telecom or any other person acquiring or strengthening a dominant position in the market.

New Zealand Bus Limited/ Transportation Auckland Corporation

The Commission cleared New Zealand Bus to acquire Transportation Auckland Corporation. In relation to the market for the provision of scheduled passenger services in the greater Auckland metropolitan region, the Commission considered that without the constraints possible through the powers of the Auckland Regional Council (ARC) as the subsidiser of most bus services, there would be dominance concerns. The Commission concluded, however, that the ARC's strong statutory powers, which allow it to regulate the market, would provide sufficient countervailing power to the merged entity.

III. The role of Competition Authorities in the formulation and implementation of other policies

Essential Facilities

25. New Zealand primarily relies on the Commerce Act 1986 to regulate access to essential facilities. The Act is complemented by information disclosure regulations designed to make transparent the performance of businesses with market power, and the threat of heavier handed regulation, such as price control, if monopoly power is abused.

Electricity

26. A series of reforms were announced by the Government in April 1998 to the regulatory regime for electricity in response to a number of issues that continue to be of concern in the generation, distribution and retail sectors.

Generation sector

27. In the generation sector there is over-capacity, insufficient pressure on costs and whole prices are not competitive. In response to these concerns the Government announced a split of one of the two state owned generation companies - ECNZ, into three state owned enterprises.

Distribution and retail

28. In these two sectors three outstanding problems have yet to be effectively addressed:

- monopoly rents - pressure on costs and profits in distribution are relatively weak;
- barriers to retail competition remain - owners of local electricity companies have incentives to deter competition; and
- the presence of cross subsidisation - local electricity companies have incentives to cross-subsidise generation investments from distribution and retail customers are subject to competition.

29. The following reforms will be introduced in response to these problems:

- enhanced public information disclosure;
- legislation prohibiting cross-subsidies and requiring open access;
- ownership separation of distribution and retail/generation businesses;
- low cost arrangements for consumer switching; and
- an enhanced threat of price control.

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Telecommunications

30. There were no changes to the regulatory regime for telecommunications during the 1997/98 year. However, a review was initiated of the information disclosure regulations and some progress has been made in terms of resolving numbering issues.

31. In August 1998 the Minister of Communications set a three month deadline for industry and officials to resolve telecommunications numbering issues to avoid regulatory intervention. The proposal is to involve a voluntary independent number administration with access to a dispute resolution procedure.

32. Availability of telecommunications numbers is an essential part of enabling effective competition. Entrants to the market need certainty of access to numbers so they can provide competitive services. Prompt implementation of cost-effective and technically satisfactory number portability arrangements are also required so consumers can retain their phone number when they change their telecommunications supplier.

33. In terms of market development, Saturn Communications Limited, a cable television company entered the Wellington market offering residential services in competition with Telecom New Zealand Limited. As well very significant reductions in national and international call prices were experienced over the year.

Gas

34. There were no changes to the regulatory regime for the gas sector during the year. However, a review of the gas information disclosure regulations has commenced in light of the improvements made to the disclosure requirements for electricity.

Postal services

35. The postal services market was opened to full competition during the year. Previously NZ Post had a monopoly on all letters priced below NZ 80 cents (US 50 cents). Since deregulation a total of 10 postal operators are now registered with the Ministry of Commerce, with many more companies providing courier and counter services around the country. Competition has led to price reductions, for example small postal businesses in Kaikoura and New Plymouth offer across town delivery at a rate of 25% below the rate offered by NZ Post.

The wider regulatory environment

Parallel importing

36. As part of a strategy to promote an open and internationally competitive economy, New Zealand removed the prohibition on parallel importing of copyright goods on 19 May 1998. Parallel importing occurs when genuine goods are imported without the permission of the copyright holder.

37. Prior to this reform parallel imports could not be brought into New Zealand unless the importer was licensed by the copyright holder or was importing for their own private and domestic use. However, goods that were not made with the permission of the copyright holder continue to be prohibited.

38. One legitimate concern for copyright holders is that it may be easier to import pirated goods without the parallel importing restrictions. To address this concern the Copyright Act 1994 has been amended to substantially increase the maximum fine for importing pirated goods from \$50,000 to \$150,000.

39. The practical effects of this change are substantial. This is because the scope of copyright law in New Zealand is very wide. Copyright does not just apply to good such as books and computer software, it also applies to goods such as cars. Even if goods are not subject to copyright, the packaging that they come in, or instruction manuals that come with them, will usually be subject to copyright. Consequently prior to the reform, it was possible for companies to set up exclusive importing arrangements for most products. This effectively gave the exclusive importer a monopoly over the sale of that product in New Zealand. Some exclusive importers were able to use this monopoly status to hold prices in New Zealand at a higher level than prices in other parts of the world.

40. Thus, it is likely that removal of the restriction on parallel importing will have a positive impact on the standard of living for most New Zealanders as:

- the level of competition will increase, with multiple sellers of the same product competing for market share;
- prices will fall for consumer goods and for business inputs such as plant and machinery;
- the range of goods available will increase; and
- goods will become available in New Zealand earlier.

Agricultural Marketing Arrangements

41. The Government has announced the removal of its statutory backing for producer boards. Producer boards have been invited to provide submissions to the Government on the means, including the timeline, for achieving the Government's deregulation objective. Submissions are to be with Government by 15 November 1998. A key tension is to realise the gains from deregulation as quickly as possible, while minimising the transition costs in moving to a deregulated environment. At this stage, final recommendations from officials on the required legislative amendments are expected to be before the Government by the end of July 1999.

Occupational Regulation

42. Generally, the development of occupational regulation in New Zealand has been ad hoc, and there has not been a systematic review of its effectiveness or cost. A stocktake in July 1998 showed that the government is involved in the regulation of over 80 occupational groups, through 13 different Ministerial portfolios. The potential for this legislation to result in unnecessary costs, or to be ineffective at achieving its objectives, is high.

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43. In response, a framework for regulating new, or reviewing existing occupations, was approved by Cabinet on 10 August 1998. The framework focuses on the amount of risk posed by the practice or occupation. The Ministry of Commerce has an oversight role in considering all proposals for occupational regulation against this policy framework. Also, the Ministry is developing legislation in the form of a template, which regulating agencies will be able to make use of as needed. This is to be reported on to the Government by 30 September 1998.

44. Further, the Cabinet has agreed to the development of an omnibus occupational regulation bill which will provide the means of implementing the results of many of the 27 reviews currently underway across departments.

Regulatory Responsibility Package

45. A suite of Cabinet papers has been developed which contain a number of proposals for enhancing both the incentives and capability to produce regulation which is necessary, and is effective at achieving government's objectives, and does so at least cost. The package is supported by a significant section of the business community as an important mechanism for reducing business compliance costs. The components of the package are strongly interrelated. Key components include:

- a Regulatory Responsibility Act. The Act would establish a clear set of principles for regulation and send a strong signal that the Government is committed to improving the quality of regulation. This proposal will be considered by the Government later in 1998;
- the requirement to complete a regulatory impact statement (RIS) (in place since 1 July 1998);
- the establishment of a Regulatory Responsibility Taskforce. The taskforce would be charged with reviewing and making recommendations to the Government in respect to key areas that have been identified as requiring regulatory reform.

IV. Resources of the Commerce Commission

46. Resources overall (current numbers and change over previous year):

a) Annual budget:	NZ \$5.8 million	US \$2.9 million
b) Number of employees :		78
⇒ economists;		2
⇒ lawyers;		7
⇒ other professionals;		47
⇒ support staff;		22
⇒ all staff combined		78

47. Human resources applied to:
- | | |
|---|----|
| a) Enforcement against anti-competitive practices | 16 |
| b) Merger review and enforcement; | 3 |
| c) Advocacy efforts | 7 |
48. Period covered by the above information: 1 July 1997-30 June 1998

V. Publications relating to the Commerce Act 1986

Penalties, Remedies and Court Processes Under the Commerce Act 1986, A Discussion Document, Ministry of Commerce, January 1998.

The Commerce Act and the Health Sector', Commerce Commission, January 1998.

The Evaluation of Public Benefit and Detriment Under the Commerce Act, Commerce Commission Occasional Paper Number 7, February 1998.

A Study of the Commerce Commission's Evaluation of Applications for Business Acquisition Clearances and Authorisations 1991-96, Occasional Paper Number 8 February 1998.

Compliance Issue Number 5: 'The Economics Of Competition Policy', October 1997.

Compliance Issue Number 6: 'Telecommunications Issues', December 1997.

Compliance Issue Number 9 'Refusal To Deal', June 1998.

Commerce Act publications updated in 1997-98 by the Commerce Commission:

- Business Acquisitions and the Commerce Act, December 1997
- Guidelines to the Analysis of Public Benefits and Detriments, December 1997
- Excluding Competitors: A Guide to Section 29 of the Commerce Act, December 1997
- Price Fixing and the Commerce Act: A Guide to Section 30 of the Commerce Act, December 1997

NOTE

1. Eli Lilly and Company (NZ) Limited.