

Chapter 1

Introduction

Background

1.1 The Trade Practices Legislation Amendment Bill (No. 1) 2007 was introduced into the Senate on 20 June 2007. The following day, the Senate Selection of Bills Committee referred the provisions of the Bill to the Standing Committee on Economics for inquiry and report by 1 August 2007.¹

1.2 The bill amends Part IV of the *Trade Practices Act 1974* (TPA) relating to the misuse of market power and Part IVA dealing with 'unconscionable conduct'. It implements the government's response to the March 2004 Senate Economics References Committee report on 'The effectiveness of the *Trade Practices Act 1974* in protecting small business'.

1.3 The bill makes changes to section 46 of the TPA to improve and clarify the operation of the provisions of the Act relating to the misuse of market power by corporations. The amendments relate to leveraging market power, coordinating market power and predatory pricing. Additionally, it ensures that the amendments are consistent with the relevant provisions in section XIB, which relate to the telecommunications industry, as well as to applicable State and Territory legislation.

1.4 The bill also amends section 51AC of the Act to extend and clarify the operation of the unconscionable conduct provisions and ensures that the changes apply in relation to financial products and services. Further, the bill provides for the creation of a second Deputy Chairperson for the ACCC who is experienced in small business matters.

Conduct of the inquiry

1.5 The committee advertised the inquiry in the *Australian* newspaper on 27 June 2007 and invited written submissions by 9 July 2007. Details of the inquiry were placed on the committee's website. The committee also wrote to a number of organisations and stakeholder groups inviting written submissions.

1.6 The committee received 27 submissions. These are listed in Appendix 1. A public hearing was held in Melbourne on 27 July 2007. Witnesses who presented evidence at this hearing are listed in Appendix 2.

1.7 The Committee thanks those who participated in this inquiry.

Structure of the report

1.8 Chapter 2 of the report provides background to the bill, including the Senate's 2004 report, the government's response and the government's July 2004 statement *Committed to Small Business*. Chapter 3 provides a summary of the bill's three schedules. Chapter 4 presents the evidence made in submissions and at the public hearing.

¹ Selection of Bills Committee, *Report No. 10 of 2007*, dated 21 June 2007.

