

Submission - Inquiry into Access to Justice Arrangements

Executive Summary

Until banks cease 'trading' Commonwealth 'refunds' (grants of any kind) on the ASX, banks' lawyers participate directly and indirectly in a 'risky' operation effecting all borrowers. What follows when 'Not For Value Accounts' are activated is 'a not-for-profit entity' (an account) 're-presenting' the diaspora of (wealthy) Australian professionals to the detriment of all borrowers – an invention.

In Queensland, a 'pattern' of obtaining ill-gotten gains from 'the diaspora' happened through the late 80's and through the 90's arising from (poor) '*administration of government*' concerning 'rural assistance' schemes and other help schemes – in all cases pertaining to an 'origination' of 'borrower hardship' how-so-ever the farmer suffering arose.

In my view, National Australia Bank Limited pioneered invention ('the diaspora') under 'guises' including its Agribusiness brand in operation before and after 2000 under watch with ASIC. At all times that bank thinks firstly only of itself (greed) ahead of the 'intended recipient' of 'rural hardship' for example. That way that bank directly and indirectly 'restructured' a borrower into a state of impecuniousness during processing monies derived from Commonwealth and State Governments promises. After 2000, that bank targeted any-one in business with home-assets arguably in complete disregard of 'Trust'.

In my view, when Commonwealth Bank Australia registered on the ASX (despite its roots) that bank 'double-dipped greed' NAB had earlier pioneered. The 'double-dip concept' is a feature of NAB accounts (false information) possibly furnished with furtiveness since its 'inception'. Over a century ago, Mr. Malleson arrived from England with 1 pound able to start-up business 'models' then - for lawyers and banks to follow into the future.

Example -National Australia Bank Limited ACN 12 004 044 937

		Trade	ASX	Trade	
		\$220,000		\$220,000	
		charge		charge	
	6 years	\$90,000	interest	\$15,000	one- year
	% cost of interest	40.91%	6 years	6.82%	one- year
Summary	risky				Private Equity
	operation	\$220,000	6 years	\$1,320,000	\$1.32 M
	operation	\$15,000	6 years	\$90,000	\$90 K

Example - Commonwealth Bank Australia ACN 123 123 1234

Summary	risky				Private Equity
	operation	\$440,000	6 years	\$2,640,000	\$2.64 M
	operation	\$30,000	6 years	\$180,000	\$180K

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Examples continued

(any) Two banks combined

Summary	Combined risky operation	\$660,000	6 years	\$3,960,000	Private Equity \$3.96 M
	operation	\$45,000	6 years	\$270,000	\$270 K

Not-for-profit account **\$ 705 K** (any) Two Banks combined

Investment Bank (an account) **\$ 205 K** Macquarie Group - Perpetual
\$ 500 K the diaspora of (wealthy) professionals

NAB / KPMG **Operative** **\$ 200 K**
CFP **\$ 300 K** Commonwealth (bank) Financial Planner

A. Operative document after 2000 - transgressed

After 2000 using atypical document evidenced below; NAB and CBA exploited GST to the extent of any-one in business (pet shop or construction or other business) additionally with home-assets. Assistance to do so relied on 'an alliance' of lawyers (and accountants) in disregard of 'Trust' all 'intoxicated' by huge earnings from 'Not for Profit' account(s). Tax-Office 'bribes' concerning **\$33 K** and **\$60 K** guaranteed success of 'risky' operations.

Z. THE BUSINESS, BUSINESS ASSETS AND STOCK-IN-TRADE shall be at the risk of the Seller until the Date of Completion.

GST COPY

GOODS AND SERVICES TAX - WARNING

Marking the GST Items in the Items Schedule may have significant consequences for the Seller and Buyer. The seller and the Buyer should seek professional advice about completion of the GST Items and not rely on the Seller's agent to complete the GST Items.

Notes to Completion:


A. Only 1 box in the selected item must be marked

B. If the Yes box in Item GST1 is marked:

- ▶ Item GST2 must not be marked;
- ▶ despite any markings of Item GST1, clauses 3.4 and 3.5 do not apply.

C. If the Yes box in Item GST2 is marked:

- ▶ Item GST1 must not be marked;
- ▶ despite any marking of Item GST1 clause 3.3 does not apply.



GST1 *Going Concern:* **Warning:** There are strict requirements for the sale of a Going Concern under the GST Act. If in doubt about complying with these provisions, seek professional advice before marking this Item.

Is this a sale of a Going Concern? Yes X

If yes, clause 3.3 (If the Supply is a Going Concern) applies.

Otherwise clause 3.3 (If the Supply is a Going Concern) does not apply.

If the Yes box is marked, do not complete Item GST2.

GST2 *Inclusive of Exclusive Purchase Price:* (Do not complete Item GST2 if Item GST1 (Going Concern) is marked Yes)

Mark 1 box only

Does the Purchase Price include GST? Yes X If yes, clause 3.4 (Purchase Price Includes GST) applies

No If No, clause 3.5 (Purchase price Does Not Include GST) applies.

If neither box is marked or if both boxes are marked, clause 3.4 (Purchase Price Includes GST) applies.

B. Operative document before 2000 - transgressed

Queensland Investment Corporation

Act 1991

Act No. 35 of 1991

An Act to provide for the constitution, objectives, functions and powers of the Queensland Investment Corporation and for related purposes

[Assented to 12 June 1991]

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Queensland Investment Corporation Act 1991

False information etc.

4.18(1) A director, chief executive officer, or any other officer or employee of the Corporation who makes available or furnishes information, or authorises or permits the making available or furnishing of information, to the Treasurer, a director, the chief executive officer, the Auditor-General or any person nominated by the Treasurer or the Auditor-General for any purpose under this Act, being information, whether in documentary or any other form, that relates to the affairs of the Corporation and that to the knowledge of the person so doing, is false or misleading in a material particular or has omitted from it a matter or thing the omission of which renders the information misleading in a material respect, commits an offence against this Act.

Penalty—300 penalty units or imprisonment for 2 years, or both.

(2) A director, chief executive officer, or any other officer or employee of the Corporation who makes available or furnishes information, or authorises or permits the making available or furnishing of information, to the Treasurer, a director, the chief executive officer, the Auditor-General or any person nominated by the Treasurer or the Auditor-General for any purpose under this Act, being information, whether in documentary or any other form, that relates to the affairs of the Corporation that is false or misleading in a material particular, or has omitted from it a matter or thing the omission of which renders the information misleading in a material respect, without having taken reasonable steps to ensure that the information was not false or misleading in a material particular and did not have omitted from it a matter or thing the omission of which rendered the information misleading in a material respect commits of an offence against this Act.

Penalty—100 penalty units or imprisonment for 1 year, or both.

(3) The references in this section to a person making available or furnishing, or authorising or permitting the making available or furnishing of, information relating to the affairs of the Corporation, include references to a person making available or furnishing, or authorising or permitting the making available or furnishing of, information as to the state of knowledge of that person with respect to the affairs of the Corporation.

(4) Where information is made available or furnished to a person referred to in this section in response to a question asked by that person, the question and the information are to be considered together in determining whether the information was false or misleading.

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B. Operative document before 2000 - transgressed

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Queensland Investment Corporation Act 1991

‘ “QIC Act” means the *Queensland Investment Corporation Act 1991* of the State of Queensland;’.

5. In Clause 1.1, in the definition “Related Corporation”—

(a) omit the word “corporation” wherever it appears and substitute the words “body corporate” in each case;

(b) omit the expression “7 (5)” and substitute the expression “50”.

6. In Clause 1.1, in the definition “Trust” omit the words ‘now known as the “QUEENSLAND TREASURY CORPORATION INVESTMENT TRUST” ’ and substitute the words “from time to time known as the “QUEENSLAND TREASURY CORPORATION INVESTMENT TRUST” or the “QUEENSLAND INVESTMENT CORPORATION INVESTMENT TRUST” ’.

7. In Clause 2.1—

(a) omit the expression “now be known as” and substitute the words “be known as, from the date of execution of this Deed,”;

(b) insert at the end of the Clause the words ‘and from 1 July 1991, as “QUEENSLAND INVESTMENT CORPORATION INVESTMENT TRUST” ’.

8. In Clause 5.1, omit the words “QTC Act” where they twice appear and substitute the words “QIC Act” in each case.

9. In Clause 5.2, omit the words “QTC Act” where they first appear and substitute the words “QIC Act”.

10. In Clause 5.4, omit the words “which shall be taken into account in the calculation of the Trustee’s remuneration”

11. Omit Clause 9.1 and substitute the following clause—

Conclusion

- I submit that the Productivity Commission could most add value in this Inquiry by focussing strongly on 'culture' of Financial Planners at behest of NAB and CBA and Macquarie Group that may foster 'the diaspora of wealthy professionals' in Australia willing and able to 'rort *the system*' plus who unashamedly take from all innocent bystanders – from all borrowers – take more give less.
- I submit the Commission has opportunity to stamp out public official furtiveness manifested in land registries – stamp out *alias subrogation* of borrowers property.
- Failure to do so may very well encourage continuation of 'rort' surrounding \$1.17 M pattern - obtain ill-gotten gains by those three banks. That maladministration before 2000 and after 2000 involves both Queensland Treasury Corporation (QTC) officials and Treasury Corporation Victoria (TCV) officials indirectly 'on the take'.
- Failure to do so may very well foster continuation of malfeasances some ASIC public officials practise - 'cover-up' during '*the administration of government*' rebates.

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C. Operative legislature after 2000 – transgressed

plus GST GROSS UP PROVISION - BOQ 'brand' registered in July 2000 at Land registry.

TRADE PRACTICES ACT 1974 (Cth) AND THE NEW TAX SYSTEM CHANGES

Part VB of the Trade Practices Act 1974 (Cth) proscribes price exploitation in respect of the tax changes associated with the introduction of the goods and services tax. To give the proscription widespread operation a uniform Price Exploitation Code based on the Trade Practices Act provisions has been adopted by all states and territories. It is also proposed to introduce strong penalties for misleading and deceptive conduct in respect of the tax changes. The Australian Competition and Consumer Commission has exclusive administrative responsibility for the new laws. It has also been given extensive powers. The new laws present both constitutional and interpretative problems.

1. INTRODUCTION

Parliament is concerned that the raft of tax changes associated with the introduction of the goods and services tax ("GST") will be used as an occasion for extracting windfall profits. There is also a concern that the tax changes will provide an opportunity for misleading consumers about price changes.

To ensure that the tax changes are not used by suppliers to extract extra profits during the implementation of those changes, a new Pt VB has been added to the *Trade Practices Act 1974 (Cth)* ("TPA").¹ Part VB forms part of a national New Tax System Price Exploitation Code ("the Code"). The object of the Code is to have in place a uniform law against exploitation of the tax changes and a uniform system of administration.²

To ensure that suppliers do not exploit consumers by disseminating incorrect information about the new tax changes, the Commonwealth Parliament has introduced a Bill to amend the TPA, to prohibit false representations and misleading or deceptive conduct in respect of the effect, or likely effect, of the New Tax System

changes.³ Any breach will attract significant penalties. The new provision is in addition to the existing provisions of Pt V of the TPA. Pt V of the TPA already prohibits misleading or deceptive conduct and false representations, including price misrepresentations.⁴

This article will firstly examine the structure of the new price exploitation provisions. It will then examine the nature of price exploitation. Finally, the article will look at the laws relating to price promotions. The basic conclusion drawn by the article is that whilst there are constitutional and interpretative difficulties with the Code it is likely when taken in conjunction with the new misleading or deceptive conduct provisions to achieve its fundamental goal of inhibiting price opportunism.

2. APPLICATION AND ADMINISTRATION OF THE PRICE EXPLOITATION PROVISIONS

2.1 Overview of Pt VB of the TPA

The cornerstone of Pt VB of the TPA is s 75AU. A corporation contravenes s 75AU if it

¹ *A New Tax System (Trade Practices Amendment) Act 1999 (Cth)*.

² See *New Tax System Price Exploitation Code (Victoria) Act 1999*, ss 18 and 24.

³ *A New Tax System (Trade Practices Amendment) Bill 2000 (Cth)*. Even before the introduction of the new provisions the Australian Competition and Consumer Commission ("ACCC") had indicated that it would closely monitor price promotions and advertising in respect of the new tax changes. See ACCC, *Price Exploitation and the New Tax System: General Principles, Information and Guidelines on When Prices Contravene Section 75AU of the Trade Practices Act* (March 2000) Part 3. The publication is available at the ACCC's website (<http://gst.accc.gov.au>).

⁴ See TPA, ss 52 (misleading or deceptive conduct) and 53(e) (misrepresentations as to price).

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SPONSORSHIP - ASX

Commonwealth Bank Australia ACN 123 123 1234

Preferential Payment – offshore contract \$ 257 K

National Australia Bank Limited ACN 12 004 044 937

Retention of GST rebates / refunds \$220 K

Retention of GST rebates / refunds \$ 23 K \$ 243 K

the diaspora of (wealthy) professionals \$ 500 K

'Advance'.....after..... GFC.....Operative..... \$ 200 K

Not for Profit Account – ~~Not for Value Account~~ \$ 700 K

Suncorp secret