

**Trade Practices Amendment Act 1991**

**No. 49 of 1991**

**An Act to amend the *Trade Practices Act 1974***

[*Assented to 24 April 1991*]

The Parliament of Australia enacts:

**Short title etc.**

**1. (1)** This Act may be cited as the *Trade Practices Amendment Act 1991.*

**(2)** In this Act, **“Principal Act”** means the *Trade Practices Act 1974*1*.*

**Commencement**

**2.** This Act is taken to have commenced on 21 December 1990.

**Mergers and other acquisitions**

**3.** Section 50 of the Principal Act is amended:

**(a)** by inserting in subparagraph (1)(b)(i) “, or associated with,” after “related to” (twice occurring);

**(b)** by inserting after subsection (1) the following subsection:

“(1aa) A body corporate that is related to, or associated with, a corporation must not acquire, directly or indirectly, any shares in the capital, or any assets, of any other body corporate (in this subsection called **‘an acquired body corporate’**)if:

1. as a result of the acquisition, the corporation would be, or be likely to be, in a position to dominate a market for goods or services; or
2. where the corporation is in a position to dominate a market for goods or services:

(i) the acquired body corporate, or another body corporate related to, or associated with, it, is, or is likely to be, a competitor of the corporation or of any body corporate related to, or associated with, the corporation; and

(ii) the acquisition would, or would be likely to, substantially strengthen the power of the corporation to dominate that market.”;

1. by inserting in subparagraph (1a) (b) (i) “, or associated with,” after “related to”;
2. by inserting in paragraph (2) (a) “, or likely to be in a position,” after “position”;
3. by inserting in paragraph (2) (b) “, or likely to be in a position,” after “position”;
4. by adding at the end of subsection (2) “, or to be likely to be in a position to dominate that market, as the case may be”;
5. by inserting after subsection (2) the following subsection:

“(2aa) In subsection (2), the reference to bodies corporate, or a corporation and a body or bodies corporate, together being in a position to dominate a market is a reference to their being in that position whether or not they would need to act in concert to achieve such domination and whether or not they have acted in concert to put themselves in that position.”;

**(h)** by inserting in subsection (2a) “, or to be likely to be able to exert” after “exert”;

**(i)** by inserting after subsection (2a) the following subsection:

“(2ab) In subsection (2a), the reference to bodies corporate, together with another body corporate or other bodies corporate, being in a position to exert a substantial degree of influence is a reference to their being in that position whether or not they would need to act in concert to exert such influence and whether or not they have acted in concert to put themselves in that position.”;

**(j)** by inserting in subsection (2b) “, or to be likely to be able to exert,” after “exert”.

**NOTE**

1. No. 51, 1974, as amended. For previous amendments, see Nos. 56 and 63, 1975; Nos. 88 and 157, 1976; Nos. 81, 111 and 151, 1977; Nos. 206 and 207, 1978; No. 73, 1980; Nos. 61 and 176, 1981; No. 80, 1982; No. 39, 1983; Nos. 63, 73 and 165, 1984; No. 65, 1985; Nos. 8, 17 and 168, 1986; Nos. 23 and 141, 1987; Nos. 8, 20 and 87, 1988; Nos. 28 and 34, 1989; and No. 11, 1990.

[*Minister’s second reading speech made in*—

*House of Representatives on 21 December 1990*

*Senate on 11 March 1991*]