



Australian  
Competition &  
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Commission

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# NEWS RELEASE

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## **ACCC SAVES SMALL BUSINESS NEWSAGENTS \$20 MILLION**

Prompt action by the Australian Competition and Consumer Commission has relieved many Australian small businesses of a potentially heavy financial obligation for useless equipment.

Following the collapse of Bill Express in July 2008 close to 3000 small businesses, predominantly newsagents, found they were locked into up to 60 month rental contracts for bill paying technology which no longer worked.

Small business owners rented the equipment from Technology Business International Pty Ltd for \$495 a month. When Bill Express failed, newsagents and other small business owners were told they would no longer receive the Bill Express services or the subsidy from Bill Express that was meant to equal the rental amount, but they still had to pay rental for the equipment that, with the collapse of Bill Express, was worthless.

The total rental amount outstanding under the TBI rental contracts was \$20,700,298 around the time the ACCC commenced proceedings.

"This is an important case for many small businesses," ACCC Chairman Graeme Samuel said today. "While \$495 a month may not be a lot of money for a large business, for your local newsagent it may mean the difference between breaking even or keeping staff on."

ACCC inquiries showed that newsagents agreed to take on the Bill Express services because they were told the system would be at least cost neutral for their businesses. When Bill Express went broke it became apparent that newsagents had in fact entered into two contracts, one with Bill Express for the services which included a rebate that covered the rental cost of the relevant equipment, and one with TBI to rent the equipment.

The ACCC took action in the Federal Court in late October 2008, claiming that Bill Express and TBI engaged in misleading and deceptive conduct and exclusive dealing in contravention of the *Trade Practices Act 1974*.

The matter was complicated by the fact that Bill Express and TBI were both in liquidation prior to the hearing, and also because the rental rights had been sold to a number of trusts, the trustee of which is BNY Trust Company of Australia Pty Ltd. The ACCC took action against BNY as being involved in the conduct of Bill Express and TBI however the ACCC settled its case against BNY prior to the hearing.

Today, Justice Gordon declared that TBI and Bill Express had contravened the Act by engaging in exclusive dealing and misleading and deceptive conduct.

Following the declaration of exclusive dealing the Federal Court accepted an undertaking from BNY as part of its settlement with the ACCC.

BNY has undertaken to the court that it will not take any steps to request or recover any payment in relation to the contracts and also to repay in excess of \$200,000 that has been collected from newsagents from around the time the ACCC commenced proceedings until the court's decision. BNY will contact newsagents directly in this regard.

"It is surprising that a well resourced trust company, with quality legal representation, agreed to acquire rental streams that were affected by exclusive dealing. The sections of the Act that prohibit exclusive dealing are not new – there is no excuse for this sort of conduct," Mr Samuel said.

**Media inquiries:**

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**General inquiries:**

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