



THE ACCC AND THE CARBON PRICE

We are 20 days into the fixed Carbon Pricing Mechanism, also called the *carbon tax*. A few price rises have already come through. Air travel passengers are paying a carbon surcharge of between \$1.82 and \$10, depending on the carrier. IPART has approved councils in NSW to lift their rates by 0.4% due the carbon tax.

Meanwhile the ACCC has received more than 600 complaints or inquiries about the carbon tax's impact on prices. Most enquiries are about energy retailers, other sectors include construction, landfill and refrigerant gases.

The commission is currently investigating 20 cases and will go after businesses that are setting out to deceive customers. Bakery chain Brumby's is still being investigated after management told franchisees they should increase prices and "let the carbon tax take the blame". Two solar companies, Polaris Solar and ACT Renewable Energy, were found to have made misleading comments about the impact of the carbon tax on electricity prices earlier in June.

The ACCC has received a four-year, \$12.8 million funding boost to monitor prices in the wake of the new carbon pricing. Small businesses are well advised not to blame any price increases on the carbon tax, unless they can fully substantiate their claim through economic analysis and can justify their strategy. Businesses do not have to ask permission to increase their prices, but they should be careful when blaming price rises on the carbon price if this would constitute misleading conduct.

Where the ACCC discovers conduct that may be of concern, the ACCC can issue warning letters, infringement notices of \$6,600 or take court action with penalties up to \$1.1 million for each breach of the act. It is a difficult time for small and medium sized enterprises because there is no specific percentage price rise that can be specifically used to attribute to the carbon tax. Instead, each and every business will have to see what part of their input cost

increases are due to the new carbon cost. It mostly depends on the extent to which a business is energy intensive. The more energy consumed within a business, the more impact will be felt throughout the supply chain. If an electricity retailer, for instance, raises electricity prices by 20% and the electricity represents 10 % of the total operating costs then a business may be able to justify a 1 % increase in prices. Most commercial organisations would only spend 1 to 4 % of their total cost on electricity and could thus not be able to justify a 1% price increase.

The important thing to note is that if an input cost upstream of an organisation increases and the organisation wants to pass this on to their consumers and link it to the carbon price, they need a statement from the supplier that the initial rise was due to the carbon price. In the case of the most recent electricity price increase that is expected to come through in this month's bill for NSW, only half of the price increase would be attributable to the carbon price, as the other half is due to the massive investment in the poles and wires infrastructure that get the electricity from the power station to the end user.

The other problem is that businesses cannot force their suppliers to give them carbon-specific information. A supplier may raise prices and blame it on the carbon tax and may not be cooperative when being approached for substantiating information. In that case passing on the increased cost may pose a problem. In the worst case organisations should consider ringing the ACCC carbon tax hotline.

Businesses need to exercise caution when determining price increases and attributing increases to the carbon tax. Instead, businesses should use "a range of factors" as explanation for the price increase and be able to substantiate any claim of percentage due to the carbon tax.

If you would like any further information on this topic or if we can assist in any way, please contact Barbara Albert, Principal Consultant on 0408 487 648. SBC July 2012