



HIGH COURT OF AUSTRALIA

Public Information Officer

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BORAL BESSER MASONRY LTD (now Boral Masonry Ltd) v AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

The High Court of Australia today allowed an appeal by concrete brick and paver manufacturer Boral Besser Masonry Ltd (BBM) against a finding that it contravened section 46 of the Trade Practices Act by its conduct during a price war in Victoria between 1994 and 1996.

The price war, sparked by a severe downturn in the Victorian building industry, broke out in 1993 between BBM and its four rivals in tendering for major projects. The ACCC alleged BBM used its market power for a proscribed purpose between April 1994 and October 1996.

In the Federal Court, Justice Peter Heerey at first instance found against the ACCC, holding that BBM did not have substantial market power and did not take advantage of that power in pricing its products. The Full Court of the Federal Court unanimously allowed an appeal, upholding the contention of the ACCC.

The High Court, by a 6-1 majority, allowed BBM's appeal and reversed the decision of the Full Court and upheld the decision of Justice Heerey.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*