



HIGH COURT OF AUSTRALIA

Public Information Officer

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VISY PAPER PTY LIMITED, WILLIAM GUTHRIDGE AND STEVEN RICHARDS v
AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

The High Court of Australia today dismissed an appeal by Visy Paper and two Visy executives against a decision of the Full Court of the Federal Court that the company attempted to enter into a contract with another waste paper collector in breach of the Trade Practices Act (TPA).

Visy proposed to make an agreement with Sydney-based Northern Pacific Paper Pty Ltd under which NPP would not acquire waste paper from Visy's suppliers or potential suppliers.

Visy's business including collecting and processing waste paper into recycled paper and cardboard. NPP collected waste paper which it sold to recycling companies including Visy. They competed in acquiring waste paper and also dealt with each other as supplier and customer.

The principal issue in the appeal concerned the inter-relationship between certain provisions of the TPA.

In the Federal Court, the ACCC sought declarations, restraining orders and fines against Visy, but Justice Ronald Sackville dismissed the proceedings, holding that section 45(6) would have applied to save the potential contract from the prohibition in section 45(2)(a)(i). The Full Court, by majority, allowed the ACCC's appeal. Visy appealed to the High Court.

The High Court, by a 5-1 majority, upheld the decision of the Full Court.

- *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.*