



SUPPLEMENT
TO THE
NEW ZEALAND GAZETTE
OF
THURSDAY, 3 JUNE 1976

Published by Authority

WELLINGTON: TUESDAY, 8 JUNE 1976

Commerce Commission Decision No. 7, 8 June 1976

IN THE MATTER of the Commerce Act 1975, and IN THE MATTER of an Inquiry pursuant to section 104 (b) between BREWERS' ASSOCIATION OF NEW ZEALAND INCORPORATED and the SECRETARY and the COMBINED STATE SERVICE ORGANISATIONS before the COMMERCE COMMISSION:

Mr B. Bornholdt, Chairman.
Mrs M. A. Hercus, Deputy Chairman.
Mr R. H. Busfield, Member.
Mr K. B. O'Brien, Member.

HEARING at Wellington on 4, 5, 6, 7, 11, 12, 13, 18, 19, 20, and 25 May 1976.

Counsel: Mr L. H. Southwick, q.c. and Mr C. G. Pottinger, Brewers' Association of New Zealand Incorporated; Dr D. L. Mathieson and Mr J. R. A. Stevenson, the Secretary.

Agent: Mr R. J. Campbell, C.S.S.O.

(For the purposes of this decision the Commission has included Mr R. J. Campbell within the term "Counsel" used through the text of this decision.)

For the purposes of this decision the Commission has referred to Brewers' Association of New Zealand Incorporated as the Association, the Secretary as the Secretary, Combined State Service Organisations as CSSO.

1. On the 24th day of December 1975 the Association made application to the Secretary of Trade and Industry seeking pricing relief by way of increases in the ex-brewery price of beer in order to recover cost increases which at that date amounted to \$6,974,000. This figure was subsequently amended by the Association on 10 March 1976 to \$6,903,000.

2. On the 24th day of February 1976 the Minister of Trade and Industry in terms of section 104 of the Commerce Act 1975 referred the Association's application to the Commerce Commission for public inquiry.

3. Upon receipt of this referral the Commission proceeded to advertise on the 10th day of March 1976 the public inquiry and to hold preliminary hearings to deal with the admission of parties to the inquiry and the dissemination of evidence and documents to any parties so admitted.

4. The Commission held the public inquiry over a period of 11 days between 4 and 25 May 1976.

5. During the hearing the Commission heard a substantial volume of evidence upon which it must now reach a conclusion.

6. The Commission has been criticised over the length of time taken to reach the actual date set for the public inquiry and also to the lengthy period of the inquiry.

7. The Commission makes no apology for the time taken and has always acted with the interests of the Association

in mind. The Commission is bound by procedure pursuant to the Act and until preliminary matters are settled and the parties to the inquiry are given adequate time for preparation of their cases then a hearing date cannot be fixed.

As to the duration of the inquiry, again the Commission is bound by the Commerce Act to traverse all those matters which the Commission deem to be relevant in the interests of justice to all. The Association's claim was a substantial one and required detailed examination. It is pertinent to note that senior counsel for the Association at the commencement of the inquiry placed no blame upon the Commission for any delays occasioned from the date that the application was lodged with the Secretary of Trade and Industry on 24 December 1975 and the commencement of the inquiry on 4 May 1976.

8. As referred to earlier in this decision the Commission is mindful of the Association's position and the losses that it is suffering through non-recovery of its increased costs while awaiting the Commission decision and it is for this reason that the Commission has decided to notify its decision without attaching the reasons for it. The Commission was also informed during the hearing that an application for pricing relief by retailers is in course of preparation. The Commission's decision on the present application is necessary to finalise that application and any delay in the present matter would have the effect of delaying the time when those retailers can recover any increased costs, other than the cost of beer, which they may have incurred. A formal decision incorporating the Commission's reasons will issue later.

9. The majority of the members of the Commission, namely Mr B. Bornholdt, Chairman; Mr R. H. Busfield and Mr K. B. O'Brien (Members) have determined that the industry is entitled to relief to the extent of \$6,903,000.

10. The minority decision of Mrs M. A. Hercus (Deputy Chairman) with reasons will also issue later.

The Commission by majority hereby resolves to increase the current ex-brewery price of beer by the following amounts:

| | | | |
|--------------|-------|-------|----------------------------|
| Draught | ..... | ..... | 4 cents per gallon. |
| Flagons | ..... | ..... | 6 cents per flagon. |
| Quarts | ..... | ..... | 20 cents per dozen. |
| Pints | ..... | ..... | 5 cents per dozen. |
| Cans (12 oz) | ..... | ..... | 12 cents per dozen. |
| (16 oz) | ..... | ..... | 27 cents per carton of 20. |

These increases to be effective on and from 8 June 1976.

Dated at Wellington this 3rd day of June 1976.

The Seal of the Commerce Commission was hereunto affixed in the presence of:

B. BORNHOLDT, Chairman.