# Submission to the Competition Policy Review

June 2014

# 1. About QBE

For over 127 years, QBE has been an integral part of the Australian business landscape providing peace of mind to Australians during normal business and times of crises. Our business has been a significant feature of Australia's commercial landscape since its early beginnings in Queensland. QBE is proud of its heritage and the support that it has provided to our customers and policy holders during this time.

Listed on the ASX and headquartered in Sydney, stable organic growth and strategic acquisitions have seen QBE grow to become one of the world's top 20 insurers with a presence in all of the key global insurance markets. QBE today is one of the few domestic Australian-based financial institutions to be operating on a truly global landscape with operations in 43 countries around the globe.

As a member of the QBE Insurance Group, QBE Australia operates in Australia primarily through an intermediated business model that provides all major lines of insurance cover for personal and commercial risk throughout Australia.

# 2. Background

QBE welcomes the Australian Government's broad ranging competition policy review (***Review***) and the opportunity to provide this submission. The Review, together with the current Australian Government's financial systems inquiry (***Inquiry***), creates an important opportunity to consider how we can promote completion across the Australian economy and position Australia to participate and compete in global markets that are increasingly converging and interdependent.

Our submission for the Review focuses primarily on two key areas:

- Regulatory impediments to competition; and
- Statutory insurance schemes – government participation and competitive neutrality.

# 3. Regulatory impediments to competition

Overlapping, duplicative and inconsistent regulation between the states, territories and Commonwealth on the same activity creates significant inefficiencies and, in some instances, inequities and adds considerably to the cost of doing business in Australia which impacts competition.

Over-regulation at the federal, state and territory levels, including regulatory overlap, is a major contributor to our comparatively high domestic cost structures. The regulatory burden is made more costly and onerous in areas where there is no national consistency or alignment of regulatory regimes, such as in workers compensation, CTP and certain liability legislation.

Differing levels and structures of federal and state government regulation also add unnecessarily to the costs and complexity of providing affordable insurance services. These additional cost burdens often have a direct negative impact on productivity without any significant benefit to consumers.

## 3.1. Statutory compensation schemes

The historical and political dimensions influencing the development of our compensation schemes have tended to obscure the true role and function of the scheme arrangements. These schemes have developed in an incremental fashion often with little regard to the origins or long term rationale for particular developments and there has been very little articulation of the interfaces of the compensation schemes and the wider political and social system. Similarly, the interaction and interface with the operation of the proposed NDIS and NIIS is currently extremely unclear.

Where the boundaries of one scheme are opaque or there is benefit arbitrage between schemes or where there is stigma associated with certain claims, cost shifting is incentivised with injured persons motivated to seek compensation from alternate systems.

State and territory governments have been fiscally challenged by managed fund schemes with unfunded deficits at different times which drives political responses that invariably lead to increased premiums or reduced benefits. The underlying root cause of why claims are still occurring or claims costs are increasing needs further in depth consideration.

In essence, one of the key objectives for an effective personal injury scheme is that the amounts paid to injured parties should constitute the vast majority of the costs which are met by an insurance company.

Under the current complex arrangements far too much is being spent by insurance companies tailoring to the multitude of schemes. IT requirements vary markedly across the different jurisdictions, driven by both differences in legislation as well as the regulatory requirements imposed in each state and territory. Legal costs and the costs of rehabilitation providers have escalated.

Constant changes to legislation, benefits, administrative coding and similar requirements is costly to maintain, means that investment which could otherwise be directed toward capability development or case management innovation, is being used to fund systems maintenance across multiple jurisdictions.

At the most operational level, different benefit structures, definitions and case management practices across the states and territories means that operational personnel within the insurance company cannot seamlessly operate across different states and territories. Additional costs are incurred in terms of training and development and affect an insurance company's ability to create synergies and direct more attention to the effective management of workplace injuries.

Australia's varied compensation schemes mean that there is a significant cost burden borne by insurance companies and agents. A more effective deployment of these resources would be to invest in practices which would assist to reduce risks, for example, focusing on practices to educate drivers on road safety or assist employers remove work health risks or the investment in research to better understand how to improve return to work outcomes for injured persons.

Additionally, the layers of regulatory responsibility and overlapping regulatory requirements and objectives between the various state regulators and the federal prudential regulator, APRA, creates complexity, rework, inconsistencies and additional costs and operational issues for insurance companies.

## 3.2. Harmonising regulation

There is extensive literature and debate on the benefits and disadvantages of a federated system. Regardless of your view, in the context of lifting national efficiency and productivity there is a pressing need to ensure greater national consistency and uniformity of regulation.

QBE recognises this is a complex issue and also that there has been progress in a number of areas. However the degree of economic integration that now exists within the country creates increased pressure for greater uniformity to reduce inefficient duplication of regulations and service delivery (including at the public service level) which impedes competition and innovation.

Nowhere is this more apparent than in our arrangements with employees. Great progress has been made with the implementation of a consistent model for work, health and safety in most states, but the workers compensation arrangement in Australia is an ambiguous, inconsistent and often nonsensical system characterised by multiple regimes. The differences across jurisdictions produce potential inequities between workers in different jurisdictions and added costs for employers operating nationally.

QBE, as a national employer, is obviously directly impacted by these arrangements. Employers that operate or wish to operate across states and territories are faced with the following challenges:

***Barriers to competition:*** Small and medium sized enterprises face difficulties in extending operations across state borders due to differing workers compensation regimes which impacts on mobility of workers and creates barriers to competition.

***Administrative burden:*** There are significant differences in legislation across the states and territories, including differences in the definition of "workers", the definition of wages, the structure of benefits, the level of rehabilitation and so on. All of these differences create additional red tape and impose a costly administrative burden for employers who operate across multiple jurisdictions.

***Cross jurisdictional benefit inequity:*** Each state and territory workers compensation scheme has different benefit structures, including differences in the calculation of benefits, differences in the "step downs" (the periods when wages are reduced), the amounts paid for permanent impairment, access to rehabilitation and the right to sue under common law. The variability in the types of injury covered, and the benefits payable, have the potential to create significant variability in the way in which two employees engaged by the same organisation are treated, depending upon where they are engaged. The impact of this variability creates industrial relations issues within an organisation creating further inefficiencies for multi state employers impacting mobility and affecting productivity.

***Other inequities:*** Organisations which operate across jurisdictions are also faced with the challenges of variability in cover (the definition of who is covered and who is not varies from state to state), differences in dispute management approaches and appeal rights.

QBE believes Australia's federated approach to the management of injury compensation arrangements creates a range of efficiency, affordability and equity issues that impact on productivity and competition. Although unquestionably challenging and complex to address, establishing national (or nationally consistent) compensation schemes that interface appropriately with the other compensation systems will enhance Australia's standing as an attractive place to do business, increase competition and have a positive effect on productivity.

Using workers compensation as an example, this would:

- Remove barriers for small and medium sized enterprises to operate across state borders increasing mobility and competition;
- Remove the administrative and regulatory burden currently faced by employers who engage staff across a number of jurisdictions in Australia, enabling a greater focus on the management of Work Health and Safety practices and workers compensation issues within their own operations, rather than managing administration and regulatory differences;
- Remove the administrative and regulatory burden for insurers associated with managing 10 different workers compensation arrangements across Australia. Removing the costs associated with these management challenges, allows a greater investment in innovation to develop systems and practices to drive for better social and financial outcomes. Innovation developed by insurance companies can be applied across the state and territory boundaries, allowing all employers and employees to benefit, as opposed to the current restrictions which may limit the application of innovation due to state regulatory arrangements;
- Increase competition in establishing best practice models focusing on health outcomes that will facilitate increased workforce participation rates and enhanced productivity;
- Remove the current inequity in benefits applied to the same injury, across the states/territories and remove the current inconsistency in coverage ie who is covered and for what;
- Reduce volatility in premiums charged; and

- Establish a level playing field so that no one organisation is given advantage over another by virtue of their ability or otherwise to access different insurance options. All organisations would be subject to the same legislation and funding arrangements facilitating better competitive outcomes.

# 4. Statutory insurance schemes – government participation

Australia has 10 separate workers compensation systems and eight separate compulsory third party systems. The role that various governments play in these schemes ranges from regulatory supervision to total scheme administration and underwriting depending on the class of insurance and jurisdiction involved.

Various governments have embarked on scheme reviews and reform programs in recent years, leading to overhauls of scheme administration arrangements focused on addressing rising scheme costs, substantial funding deficits and slower injury recovery and return to work rates. Further reform remains on the agenda:

- in the Northern Territory where a major review of the workers compensation scheme is underway;
- in New South Wales where the proposed introduction of a no-fault CTP scheme was put on hold in 2013 due to stakeholder opposition;
- for the Comcare workers compensation scheme where the findings of two reviews under the previous Labor Government are being reconsidered.

To date, however, there has been limited consideration of the benefits of opening up the injury compensation schemes to private capital underwriting.

Governments at both state and federal level have significant exposure and fiscal liability for personal injury schemes. Additionally, unlike APRA prudentially regulated insurers, government monopoly schemes are not subject to consistent prudential or pricing oversight and can be subject to and influenced by conflicting social and political pressures.

QBE believes it is timely to consider whether it is appropriate or necessary for governments to continue to underwrite non-catastrophic personal injury compensation schemes, such as workers compensation and CTP.

Insurance is not “core business” for government. Opening up these statutory compensation schemes to private capital underwriting has a range of benefits over the current arrangements including:

- Greater competition and certainty in pricing with less potential for volatility driven by underlying political objectives;
- Greater innovation in claims management with more incentive for private insurers to invest in systems and practices to ensure the best community and financial outcomes are achieved for all parties;
- Less potential for conflict with the regulator able to focus on scheme design principles and regulating the scheme rather than underwriting, managing and administration of the scheme;
- Increased clarity and delineation of roles between scheme regulators and the prudential regulator (APRA). Put simply, APRA can focus on the prudential and capital adequacy aspects of the scheme insurer and the scheme regulator can focus on the delivery of the scheme legislative and regulatory intent, avoiding any duplication of effort or conversely, avoiding gaps in regulation;
- Improved capital management of the schemes, with prudential oversight by APRA, reducing the probability of schemes falling into deficit;

- Reduced fiscal volatility for governments (and flow through implications for taxpayers) through removal of the potential for ratings agencies to consider scheme deficits when assessing state credit ratings.

# 5. Competitive neutrality

Additionally, when considering the application of competition policy in the context of the provision of government provided goods and services, QBE believes that governments providing insurance should do so in a competitive market. As such, the principles of competitive neutrality should apply and Governments providing insurance should be subject to the same prudential and other regulatory requirements that apply to the provision of insurance in Australia.

# 6. Conclusion

QBE welcomes the Australian Government's broad ranging competition policy review and the opportunity to provide this submission. If there is any further detail or information QBE could provide that would assist the panel in its Review, please do not hesitate to contact Kate O'Loughlin, Head of Government Relations & Industry Affairs at kate.oloughlin@qbe.com.