

Professor Ian Harper  
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## **RE: Call for Submissions to Competition Policy Review**

Dear Prof. Harper and Panel

I read an advertisement in the Sydney Morning Herald, May 10-11, calling for submissions from consumers to the Competition Policy Review Panel.

So as a good citizen of this vibrant democracy, I determined to share my views on certain relevant issues with the panel.

I'm not interested in the nitty gritty of 'how' legislation should be worded or operate, but as a consumer, I'm far more interested in the effects of such legislation.

I am often perplexed by the apparent discrepancies in competition policy, and specifically the impact these discrepancies can have on me and my fellow Australians.

The attached paper includes my thoughts on some of these issues, and ideas that might provoke thought among the powers that be.

I hope they are of some interest.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Walker', written in a cursive style.

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## Fuel docketts

The ACCC recently took the two main supermarket chains, Coles and Woolworths, to task for offering additional incentives to shoppers in the form of increased discounts for fuel purchases from participating fuel outlets.

Clearly, the ability to purchase cheaper fuel is a better deal for the consumer, so we poor benighted consumers don't really understand why the ACCC is using 'competition policy' to restrict the supermarkets ability to compete for customers by offering fuel discount incentives.

Unlike most consumers, I am aware that ACCC took this action because this particular activity by Coles and Woolworths had a potentially negative impact on the commercial competitiveness of other grocers like IGA.

But I have to confess myself puzzled as to the obvious discrepancy between policy and outcome.

In this case, a competitive activity (using fuel discounts to attract and retain customers) is clearly in the public's interest, with the principle benefit being to consumers through lowered fuel costs.

It appears to me that, rather than preventing Coles and Woolworths offering such incentives, other grocers ought to be encouraged to adopt similar mechanisms to retain or grow their market share. Coles has an alliance with Shell; Woolworths with Caltex – leaving BP, United and other petroleum distributors available for competing grocers to partner with.

Surely restricting competition in the way ACCC did recently only benefits the shareholders of those other grocers, by preventing Coles and Woolworths from attracting the customers of the other grocers and thereby maintaining the profit margins of these other grocers? Effectively, a restriction on competition resulting in no public benefit, only a private benefit to shareholders of grocers other than the big two.

If you want to make it more competitive, require the fuel retailers to accept docketts from ALL grocers who wish to make a deal with them. This would immediately remove any 'competitive advantage' Coles and Woolworths may consider they have, and still provide cheaper fuel for consumers.

Are Coles and Woolworths (and their respective fuel supply partners) effectively blocking other grocers from entering the fuel discount market by the nature of their commercial arrangements with Shell and Caltex respectively? Surely that is anti-competitive behaviour?

If the belief in the ACCC is that Coles and Woolworths will put their prices up as a result of 'buying' customers with fuel discounts, thus earning super-profits from consumers who don't realise that the fuel discounts are not enough to counter the higher grocery prices, it should be pointed out that the barrier to these discounts is only a \$30 spend at Coles or Woolworths.

For most families with food budgets exceeding \$200/wk, there is nothing stopping them doing the bulk of their shopping at a cheaper retail outlet, and accessing the fuel-docket-supplying grocers only for the minimum amount necessary to secure the fuel discount.

Under such a scenario, the two main grocers would soon realise they were losing sales, and lower (previously raised) prices to regain customers who'd skipped off to another grocer for most of their grocery purchases.

In other words, let them do what they like, and the market (we consumers) will, over time, sort the sheep from the goats. We \*LIKE\* the extra fuel discounts and don't really give a bugger if it affects the shareholders of IGA.

## Utilities pricing model is broken

This is an area of some contention, and recent competition policies enacted in Victoria (and soon to roll out in NSW) have provided consumers with considerably greater choice in potential suppliers of power, some of whom are able to offer slightly lower energy pricing structures to attract customers. So there is some increase in 'competitors', but this does not necessarily translate into significant competition, never mind significant savings for consumers.

The entire energy market is, effectively, a 'closed shop', with significant barriers to entry by potentially competitive energy suppliers with a different business model to the existing market participants. Any new entrant is required to accept the existing 'status quo' which potentially is limiting to competition.

One such area of potential competition could come from small-scale embedded generators, either singly or aggregated by a third-party. Yet the networks resist such a model at every turn, erecting significant barriers to such competitors, mainly through a 'closed shop', 'status quo' mentality within the industry and the agencies governing it.

The ACCC should be requiring the networks and distributors to provide access to the grid to any and all (safety compliant) small generators, such as solar, wind, biomass and co-generation.

The reason for this is two-fold:

- firstly, it is in the long-term public interest to encourage the transition from fossil-fuel-based power sources to renewable sources such as solar, wind and biomass;
- secondly, the current 'model' for domestic power supply is already 'broken' – price-wise – and only radical interventionist policies can see this fixed to the consumers advantage. Not to do so is in and of itself anti-competitive

The first point goes without any further explanation being necessary. Unless of course you are of the 'denialist' persuasion, in which case you need to go back to school and re-read the science.

The second point is based on the premise contained within the Australian Energy Laws and Regulations that the test for competitiveness in electricity pricing from the grid is that power cannot be sourced more cost-effectively from an alternative source.

It can. Rooftop solar.

My own rooftop solar photo-voltaic array currently generates more power than I need on a daily basis. I am not alone, and the number of consumers generating enough power to meet their own needs is growing.

However, the dilemma for me as a consumer is this: do I connect to the grid, so I can export my surplus during daylight hours, and purchase back from the grid what I need when the solar PV is not generating, OR, do I go off-grid, invest in a large battery bank and store the power I generate during the day and use it myself at night?

For me, the first option is my current situation, but the latter is currently where I'm planning to be once the NSW Solar Bonus Scheme runs its course and I am then only able to access a pathetically inadequate return for my exported power.

At present, the structure of the industry and the lack of regulated, real-time, spot-pricing for power generated by small generators effectively prevents my ability to compete on a level footing with larger, established mainstream generators.

Under the NSW Solar Bonus Scheme, my 2kW solar array has already paid for itself, and is currently cash-flow positive, completely offsetting the \$1100 cost of my 'actual' power usage.

Even based on current pricing for lithium iron phosphate batteries (the best solution but also the most expensive), a suitably-sized stand-alone battery bank to store energy to meet my modest consumption needs is about \$8,000. Such an install would pay for itself in less than 8 years, after which I'd be revenue positive and, given the battery has an expected life of not less than 20 years, and the solar panels are guaranteed to produce 100% of their capacity for at least 25 years, I stand to be in profit even if I'm saving for the eventual replacement of the entire system.

Ergo, the 'cost effective' test in the existing regulated electricity market has already failed. It **\*is\*** possible to source energy for a lesser cost than from the grid.

Sadly, for most families with large energy consumption (mine is minute by comparison), the cost of a battery bank large enough to store the power they'd 'need' is not yet cost-effective. But this will change as new battery and super-capacitor technologies currently in development are brought to market.

Ergo, the existing 'poles and wires' energy market is on a hiding to nothing. Over time, they will lose more and more customers who 'opt out' – or more correctly, opt 'off' – the grid, thus necessarily incurring an increase in the price of power to those remaining on the grid, thus, over time, driving everyone off the grid except large businesses and industry, and even those will probably be looking very closely at the relative cost-effectiveness of self- or co-generation.

Like I said, the existing model is broken, and only continues to exist thanks to regulations that limit competition from more efficient providers and energy sources.

The only way for the grid to survive is to radically reinvent itself, making existing costs and charges fairer to all consumers, pay a fair market price for embedded generated power, and thus help to prevent the 'drain' of canny consumers off-grid.

## Anti-competitive effect of service charges

Another barrier to new entrants into the energy market, is the requirement to shift all the on-costs of the industry into a 'service charge' that is required to be charged by any and all entrants into the 'market'.

Thus any new market entrant with a more efficient cost-of-delivery model is effectively penalised by being forced to charge the so-called 'service charge', and is thus less competitive price-wise than they might be if that requirement were not there.

The problem with this model for consumers is that the minor changes available through existing 'competition' are piddling, and amount to maybe \$50 per quarter. Big deal. On a bill of \$1000 this is a drop in the ocean.

Given the recent, massive hikes in pricing of the past several years, which have resulted in up to 106% increases in the cost of energy to consumers, we're looking for savings of 30%-50% - not a miserable 5% or 10%.

*[NB: Country Energy (now Origin) pricing 2006, 15c/kWh; Origin Energy pricing 2013 31c/kWh. Increase 106%].*

For smaller consumers, the 'service fee' can be as much as 50% of the total bill (in my case 14% more than the cost of power consumed, 53% of total charges), and thus is a significant impost that cannot be avoided, at present.

It is well known in the industry and in government agencies that smaller, lower usage consumers are effectively subsidising the costs of higher usage consumers via this 'service fee' which is a flat fee based on each connected premise, rather than being proportional to the consumption at a premise.

I have been unable to get an adequate (or accurate) breakdown of the 'actual' components that make up this charge, but I understand from a conversation with staff of the AER (Australian Energy Regulator) that it consists of various elements including the cost of running the AER and AEMC, the cost of providing call centres and other requirements placed on retailers by the AER and so on.

Perhaps controversially, it is my carefully considered opinion that the elements that make up this 'service charge' should be absorbed by the market participants, and the costs associated reflected only in the unit price per kWh. Any government agencies or network participants requiring funding should be billing retailers on the basis of their market share, consumption, or some other, suitable mechanism.

This would enable a better realisation of the concept of 'user pays' to the electricity market, than exists at present, and prevent the subsidisation of the profligate by the careful and/or conservative consumer.

Couple this with a 'competition requirement' on retailers to accept customers from wherever they are located geographically, regardless of the ownership of the local poles and wires, and this would see dramatic improvements in the competitiveness of the market, as consumers would be able to change to a retailer, located anywhere in Australia, that was able to offer a cheaper unit price, which could see \*significant\* lowering of total bills.

Okay, so in the immediate short term, the cost per kWh would be seen to rise, and some of the more profligate households might see a slight overall rise in total charges, but this would then provide them with an incentive to reduce their consumption patterns, as doing so would see an immediate reduction in the whole bill, not just a small reduction in one component of the bill, as at present.

However, a further effect of such a price structure change would enable those newer market entrants with better risk-management and business management models to offer a lower unit cost to consumers, thus providing more real competition in the energy market, and significantly lower prices to consumers.

Similarly, the gas industry has flat-fee 'service charges' that also impact negatively on lower usage customers. In cities with mains gas, the service charge is apparently charged in much the same manner as that for the electricity sector, to cover various government costs and so on.

In regional areas where gas is supplied in cylinders, the need for a service charge is much less clear, and appears to be at best poorly justified and at worst, blatant gouging.

Either way, it's a flat fee and discriminates against lower usage consumers.

For example, I use bottled gas only for a small, instantaneous hot water heater, which is back-up to a solar hot water service, so it doesn't get used much and therefore has a low gas consumption. I seldom get through one 45kg cylinder per annum, yet I have to pay the same \$75 flat 'service charge' as a household using 4-6 cylinders per annum. As the cost of delivering one cylinder per annum is much less than the cost to the distributor of delivering 4-6 cylinders per annum, I am effectively subsidising the supply cost of the higher user.

The fact of the existence of this regulated flat fee effectively prevents new market participants from offering a different business model – for example, paying only for the gas used, with perhaps a small one-off fee for cylinder delivery. Such a model would enable access to cheaper gas in smaller quantities for lower users, yet the nature of the structure of the industry prevents any such provider becoming established.

## Anti-competitive behaviour of the networks

Another significant barrier to competition in the electricity market is the existing lack of requirement for retailers to pay a fair price for power generated by small generators.

Note that in the case of solar PV generators, the maximum generation occurs at the same time as retailers are having to spend the most on supply from mainstream generators – on hot summer days when everyone's air-con is switched on and sucking power like there was no tomorrow.

At present, retailers are not obliged to pay small generators anything other than a flat, minimum, 'background wholesale' price, which does not necessarily reflect the true 'spot price' on the market. If small generators were required to be paid the actual spot price, then this would make the installation of small-scale generators more viable, encouraging installation of small-scale generators, and thus driving competition with existing mainstream generators in the electricity market.

Alternately, retailers could negotiate a fairer flat 'buy back' rate with small-scale generators, perhaps coupled with a lesser charge for power used, that would be in the consumer's (small generator's) interest.

Either way, it would encourage more small-scale and embedded generation, and thus more competition with the existing monopolistic generators and networks, driving innovation in mainstream generators and/or lowering of their prices once the market is no longer 'captive'.

Clearly, there is not enough competition in the area of the price being paid for small-scale-generated power, so the ACCC should be looking into ways to facilitate competition in this area.

Another example of the anti-competitive nature of the network is the so-called 'voltage balance' \*issue\*, that is used by networks and distributors to limit the number of 'small generators' connecting to the grid within distinct geographic (grid) areas.

This is anti-competitive behaviour.

It is perfectly possible for grid operators – distributors and networks – to install 'voltage balancing' equipment and methodologies into any area of the grid. At present there is no requirement for them to do so. Instead, they limit the number of small generators able to be connected in a given area.

Thus, effectively, this practice prevents competition from small generators – or more to the point – from consumers who might like to \*become\* small generators, once that arbitrary 'local grid capacity' figure for small generators is reached.

Of course, as I mentioned previously, if such anti-competitive practices from retailers continue, eventually they will price themselves out of the market, and it will be more cost-effective for consumers to go entirely off-grid.

So the incentive for the existing networks is that, in order to retain customers who would otherwise go off-grid, they need to provide the most cost-effective way for consumers to buy and sell power.

This is via a grid-connected inverter \*without\* the need for a costly battery-bank.

There is already a limit to small-scale generation of 10kW array size under other Federal government regulations, never mind the available rooftop area facing north at any given premise. Even with the maximum-sized array, which might generate an average of 40kWh per day (annualised), there are plenty of consumers for whom this still won't be enough power.

The average sized install, however is a 2kW array size, generating 8kW per day (annualised), while the average consumption is around 17kW per day.

So there's still room for the networks to make a quid, even if every single rooftop is covered in solar panels. And room for the mainstream generators to make a quid if all consumer/generators are grid-

connected as, without a storage battery for their own generated power, they need to buy power at night.

So the networks and retailers should not be frightened of allowing more rooftop solar and small generation capacity, and the ACCC should be acting to remove barriers to this to encourage the adoption of a greater amount of renewable power, and helping to break the monopoly of mainstream generators.

Any excess capacity from existing mainstream generators would thus be looking for a buyer, and price competition would soon see the cost of power to consumers and industry drop as a result, thus making industry more competitive and/or more profitable.

## **The negative effect of competition policy**

There is no doubt that, if one adopts the assumption that 'all competition is good', that this is a somewhat simplistic view.

Even the ACCC has demonstrated it does not accept this simplistic view in some instances, such as the recent issue with supermarket fuel dockets referred to above.

However, apart from increasing competition and reducing prices to consumers, there can be other effects of competition policy, or the implementation of laws and regulations arising from the application of such policy.

One instance of this is the effect it has on local communities, for example, when a local manufacturer and employer is 'priced out' of a market by competitors from outside the Australian market.

Take vehicle manufacture as a case in point.

Australia has a small market by global standards, and it is one of, if not the most competitive markets in which to be selling vehicles. This results in excellent prices for consumers but has the negative effect of making local manufacturing of relatively small quantities of vehicles less viable.

This is not necessarily because local manufacturers are 'not competitive' in terms of innovation and practices, but is usually down to competitors making products on a much larger scale and/or manufacturing in regions with lower socio-economic on-costs than our local vehicle manufacturers have to contend with in their pricing structure.

In the past, tariffs were seen as a way to 'protect' local industry from offshore competition, however over time such protected industries became complacent and less competitive.

So, flat tariffs are clearly not the answer to this issue.

## **Socio-economic On-costs Index**

However, if we are to encourage manufacturing to continue in this country, and the employment and community wealth generated by such industries, local industries facing unfair competition from countries with lower socio-economic on-costs need a mechanism that provides for real competition with imported products.

So what are 'socio-economic on-costs'?

Australia is a rich country, with high wages, but also high costs. Health, education, social welfare nets, high infrastructure costs relative to population, a robust legal system, robust occupational health and safety measures, and a multiplicity of democratic institutions, all add to the 'on-cost' of doing business in this country.

Other countries don't necessarily face the same on-costs, and thus manufacturing done in those countries is cheaper and 'more competitive' than in this country – when viewed on price alone!

While 'price alone' appears to be the determining factor for many of the ACCC's recommendations to government, it is government's role – as representative of the people's wishes – to be responsive to imbalances in trade relationships where such imbalance has a negative impact on local manufacturing and thus on local employment and local communities.

In the past, various governments have sought to 'balance the ledger' by subsidising the manufacturers.

A better solution would be to require the importers to subsidise local manufacturing, such as took place under the old tariff protections regime.

But to re-implement such a tariff protection regime would be antipathetic to global trade arrangements, so an alternative that achieves the same ends is desirable.

One answer might be to establish a "Socio-economic on-costs" index, to measure the actual differences between the cost of production in this country relative to the cost of production in other countries.

Such an Index would be funded by the importers of goods to this country through a small 'levy'.

Importers, in order to avoid 'tariffs' (you could call them levies, or 'import taxes' if you prefer), would need to be able to demonstrate that the country they were importing from had similar socio-economic on-costs to Australia.

Such an index could include human rights issues, availability of free health care, availability of pension provisions and other welfare provisions that impact on the costs of labour and production in Australia.

So a truly 'free' trade would only exist between countries with similar Socio-economic On-cost Index ratings.

Any 'taxes' imposed would be on a sliding scale, based on the degree of compliance with the Index. So, for example, a Renault made in France, whose Index rating would be very close if not identical to Australia's, would attract no 'import tax', whereas the same vehicle constructed in China or Vietnam, would have a tax imposed.

Similarly, a Toyota made in Japan would attract no import tax, but if it was made in Thailand, it would.

And government would reap the benefit of any tax over and above the cost of administering the compliance regime.

An alternative might be to provide tax incentives to manufacturers making some vehicles in their line-up in Australia, thus enabling them to import 'tax free', other vehicles in their fleet that would otherwise attract the 'Socio-economic On-cost' import tax.

Okay, so the prices of some cars might rise somewhat, but if you asked Australian consumers what they'd rather have – local industry and local jobs, versus no industry, no jobs and slightly cheaper vehicle prices – most Australians being naturally fair and community-minded people would perhaps inevitably opt for the former.

At the very least, such a proposal needs investigation by a government task force and a proposition based on their deliberations put to the people.

Sometimes, 'pure competition' can have unintended and 'socially undesirable' consequences.

Advising government of such instances ought to be one of the functions of the ACCC.