

**Submissions to the Panel for the Root and Branch Review
Under the Competition and Consumer Act**

1. CMCA is the largest RV Club in the southern hemisphere, having more than 60,000 members living in all States and Territories throughout Australia.
2. On 22 August 2014, the solicitor representing the Campervan and Motorhome Club Australia Ltd ("**CMCA**"), David Grace, met with Professor Ian Harper.
3. We understand that Mr Grace discussed the emergence of the RV industry over the past 25 years, the different facilities supplied in caravan parks and those required by owners of self-contained motorhomes and campervans and the implications for the competitive neutrality concerns of the CMCA.
4. The matter is one of choice. As the Panel recognised at page 17 of your draft Report (September 2014), "Choice is a powerful dynamic force for improving our lives. By expressing our individual requirements and preferences, government services can be adapted to better serve our needs". Those words go to the heart of our concerns.
5. Camping first became popular with Australians around the 1950s and 1960s. At this time required facilities included toilet and other amenities, pools, power sources. There is a continuing need for this sort of campsite and caravan park facilities (together "**Caravan Park**"), However in the latter part of the 20th and the first 14 years of the 21st Century there has been a significant increase in the use of self-contained campervans and motorhomes ("**RVs**"), and with this change has come a change in the facilities required by RV users.
6. This new industry of RV users does not require toilets, cooking facilities or other general facilities that are found in Caravan Parks. Caravan Parks do not meet the needs of this new RV user, needs that can be simplified to a dump point and a place where the RVs can be parked without adverse impact on the environment. It is submitted that it is clear that the needs of those who seek to use Caravan Parks are significantly different to the needs of RV users. These new vehicles are equipped with new technology which enables vehicle owners/users to be self-contained and in doing so it means owners can stay overnight at places that have no or very limited facilities, namely an area to park and a dump point in close proximity and no more.
7. Competition is about substitutability of goods and services. It is therefore clear that given the needs of Caravan Park users who do not have self-contained capabilities are far greater than the needs of the RV users **these parties are not in competition with each other.**
8. It is important that the Panel understand that this is not a battle between campervans and motorhomes on the one hand and Caravan Parks on the other. Indeed 50% of our members use Caravan Parks at one time or another. Only 16 % will never use Caravan Parks. Rather it is about the freedom to choose between the two facilities and the need to provide the consumer alternatives, given the economic benefits it creates.
9. There is also an important issue of **road safety** in not having tired campervan drivers driving through towns and onto the next town because the needed facilities are not provided.

10. The only reason RV users are still being treated by some as traditional Caravan Park campers, is the out-dated perception that all RVs should be required to stopover in a designated camping ground or Caravan Park. The actual state of affairs, as summarised in this submission, should be recognised in determining relevant definitions for competition policies so that RV users are not unfairly treated for making a choice as to the way they enjoy their tourist activities. Caravan Parks argue to Councils that they (Caravan Park owners and operators) should have a level playing field and that any facilities created for RV users should have the same facilities as Caravan Parks. These are not required as stated in paragraph 6.
11. The experience of many providers of low cost facilities for short or overnight stays, as shown on the attached "Economic Impact of Opening Low Cost/ Free Camping Grounds" is that local businesses are supported by these and this generates economic activity for towns/regions which but, for these facilities being provided, may be missed by the towns or regions.
12. Australians have always enjoyed the traditional freedom of being able to pack up and head off down the road to pitch a camp where they desire. RVs with their self-contained waste and other facilities do not pose a threat to the environment or require other facilities that would mandate their occupancy in a Caravan Park, and so should have the freedom to choose where they camp based on their needs. Australians have a fundamental right to choose their mode of camping, the facilities they require, and to pay prices that fairly reflect the services provided.
13. Given the evolution of the tourism industry over the past 50 years and the argument that these parties are not in competition, a new competitive neutrality agreement is required to better reflect the post-1995 evolution of this industry and the participants' needs. The failure to recognise the distinction, referred to in the preceding paragraphs of this submission, results in councils applying cost structures that are unreasonable, fearful that their failure to do otherwise might be a breach of competitive neutrality principles. Failing to recognise the distinction also leads to conduct by councils that could be perceived as being a conflict of interest given that they own many of the Caravan Parks.
14. A new competitive neutrality agreement would be best served by recognition of two things.
 - a) First, that the needs and expectations of self-contained vehicle owners are not met by Caravan Parks. Those needs include the freedom to stop away from the high density living of Caravan Parks without having to pay a cost which reflects the cost of providing facilities which the RVs do not need or want.
 - b) Secondly, Caravan Parks should not have a right to dictate the terms of camping to RV users. In the interests of preserving competition, this should not be allowed. The current effect is that RV owners, who have invested more monies in self-contained vehicles with the intention to offset this initial cost by limiting costs associated with camping, must incur costs similar to those of Caravan Parks and therefore avoid those places imposing such costs that generally do not have the facilities available to substantiate the cost.
15. Local government protection of Caravan Parks is defeating competition and attempting to defeat the needs of RV users. Given the Caravan Park Industry Association's own admission to strong growth over the past 10 years of around 8-10%, it is clear that this protectionist attitude of governments is unfounded and backward in failing to recognise and cater for the

evolution of the RV users industry. Local Governments themselves are owners of many Caravan Parks and in that sense have a conflict of interest.

16. On the basis of the Competitive Neutrality Principles being limited to substantial business activities, it is difficult to conceive of Caravan Parks constituting significant business activities and much less so facilities required for RVs. A definition of **significant business activities** should be developed as” *activities having a commercial purpose or character having regard to the fact and degree of operations, taking all factors into consideration and having the essential quality of trade and which in the context is significant*”.

However, the Caravan Park Owners and Operations Industry Lobby Group have been arguing that councils might be breaking the law, stating that the Competitive Neutrality Principles may apply, and consequently that councils cannot act to provide facilities except by application of these principles, in an attempt to impose costs on facilities for RVs where they should not apply.

17. The needs of the parties are not substitutable and therefore not in competition. Consequently, the provision of low cost facilities for RV users represents freedom of choice and is not subject to Competitive Neutrality Principles.
18. The CMCA agrees with Draft Recommendation 13 of the Competitive Law Policy Draft Report, that all Australian governments review their Competitive Neutrality Principles, and submit that an issue for consideration in relation to those principles should be the emerging RV tourism industry.

Yours faithfully



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Chairman
Campervan & Motorhome Club of Australia Limited