

Reference number CR1759

**Contact name**

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**Is your submission confidential?**

No

**Submission type**

Have Your Say

**Comment**

Planning

I support the Panels recommendation that State Planning systems should take account of the competition matters as part of the assessment process for new development. I believe that councils need guidelines on how to do this.

Section 46

I support the addition of an effects test as the current purpose test prevents the proper application of s46. However, the replacement of what constitutes a breach of s46 from damage to a competitor to a substantial lessening of competition in a market,unnecessarily complicates what is currently a clear and sensible prohibition. The SLC testin s50 has been very difficult to understand and lessens the effectiveness of s46 as it is now

Re Defences too s46

I don't support the proposition that a dominant market player should be able to claim a defence for misusing its market power. The misuse of market power by a dominant market player should simply be prohibited. If a defence is to be given to dominant market players then it should be very clear what that defence is.

Th current proposal based on what a small player would rationally do is vague and will render s46 useless.

Access to justice

Currently competition laws are unable to be enforced due to the possible huge cost orders for failing which are outrageously disproportionate to the damage caused by the misuse of market power, or by the acquisitions that substantially reduce competition. Even the ACCC are, like small business constrained by the the implications of the extent of cost orders. Access to justice must enable meritorious cases to proceed. There could be ways implemented to stop vexatious claims becoming an issue.