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Competition Policy Review Secretariat
The Treasury
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Competition Policy Review Draft Report

The Business Council of Co-operatives and Mutuals (BCCM) welcomes the Competition Policy Review Draft Report. We believe the Competition Policy Review will be a watershed contribution to Australian competition policy.

We have prepared a brief submission in response to the Draft Report. The submission articulates the specific ways in which the BCCM supports the draft recommendations of the Draft Report. Our submission also provides an update on the BCCM's public service mutuals work; notes the regulatory impediments faced by co-operatives; and makes some suggestions about the role of the proposed Australian Council for Competition Policy.

Please feel free to contact me if you would like to discuss our submission or competition policy matters more generally in relation to the co-operatives and mutuals sector.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Melina Morrison".

Melina Morrison
Chief Executive Officer
Business Council of Co-operatives and Mutuals

Submission on the
Competition Policy Review Draft Report

November 2014

1. The Business Council of Co-operatives and Mutuals (BCCM) strongly supports the need to reinvigorate the National Competition Policy. We agree that the institutional framework is crucial to delivering competition reform and that institutional changes are needed.

The enormous difficulty of achieving vital national co-operatives law reform is clear evidence of the need for stronger institutional drivers.

Work on the reform of co-operatives laws across jurisdictions started in 2003. It took nine years before a model law to remove some of the competitive disparities between co-operatives and other corporate enterprise forms was agreed in 2012. However, so far only two jurisdictions have adopted and commenced the model law.

Having agreed to the model law, the remaining States and Territories should adopt and commence the Co-operatives National Law, or consistent legislation with mutual recognition, in their respective jurisdictions.

To complement the Co-operatives National Law, States and Territories need to develop:

- consistent policy statements and regulatory guides; and
- consistent registry and administrative services to enable efficient and simplified access to information on public registers and to regularise registration details for co-operatives.

Without stronger institutional drivers, the prospect of this important work achieving its goal of removing competitive barriers to co-operatives is problematic.

2. The BCCM welcomes the discussion in the draft Review of the value of public service mutuals for delivering public services. The BCCM believes that the mutuals model is a compelling option for the delivery of public goods and services.

Following the release of its White Paper, the BCCM has ratified an implementation plan to underpin the development of public service mutuals. The implementation plan includes a significant financial commitment to establish or enhance up to three mutuals. These mutuals will be exemplars to guide the creation of new public service mutuals. The BCCM will also research and report on four Pathfinder Case Studies. These Case Studies will be the basis of a user manual on how to establish public service mutuals.

3. The BCCM welcomes the draft Review's recommendations on competitive neutrality policy. It is critical to effective competitive processes that government business enterprises compete on a level playing field with private firms.

As set out in our previous Submission, we believe it is also important that there is a level playing field for all types of private enterprise. This is not so at present. New and existing co-operatives face regulatory impediments not borne by companies. We believe there is no public benefit to these additional impediments. The BCCM urges the Review to examine this matter further. An example of the need for further work is the duplicated disclosure requirements for co-operative securities imposed by the Federal government and State and Territory governments.

4. The BCCM supports the proposed Australian Council for Competition Policy. We note that some competition policy issues will apply across a range of industries or sectors. Many of the competition issues facing co-operatives apply across all markets. These would seem to be relevant matters for the ACCP. In setting out the role of the proposed ACCP, it would be useful to contemplate explicitly the ACCP examining national and industry-wide competition policy issues.
5. The BCCM welcomes the recognition in the draft Review of the role co-operatives may have in assisting small businesses bargain with large businesses. Co-operatives in the dairy industry have shown their strength in providing leverage for small dairy farmers in a globally competitive market. To do this, dairy co-operatives have made use of the notification and authorisation processes under the Competition and Consumer Act.

Regrettably, the co-operative model is rarely used for this purpose. The BCCM believes the key reason for this is a lack of awareness of the model. At present there is no institutional responsibility for raising awareness. Such a role could be part of the educative function of the proposed ACCP.