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14 November 2014

Response to Draft Report of the Competition Policy Review

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Please find the response from COSBOA to the draft report of the Competition Policy Review.

There are also various submissions from our member organisations and other organisations that provide solid examples of the impact of poor competition policy and suggestions for improving the current system and situation. These submissions address specific issues of importance

These submissions include: Spier Consulting; the Master Grocers' Association; the Australian Booksellers Association; the Law Council of Australia; the Pharmacy Guild of Australia; and the Australian Newsagents Federation.

Thank you for this opportunity and I can be contacted at ceo@cosboa.org.au or 0433 644 097 for further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Strong', written over a light blue horizontal line.

Peter Strong
CEO



Response to the Draft Report of the Competition Policy Review 2014

After some consideration and review of the draft report, COSBOA is concerned at the lack of a strategy for competition policy that addresses issues such as productivity, choice and fairness.

The report applies a convoluted and piecemeal approach to addressing the modern issues of competition and the profound effect that certain behaviours have on an economy, on culture and on choice for consumers.

We believe the report also fails to take on the vision provided by Minister Bruce Billson, a vision that looked to the future; that sought to move away from the same old debate and into a new era of focusing on reality not ideology.

The report addresses most issues yet the language, the approach, the values are those reflected by the largest companies and by academics. There appears to be no real attempt to address the issues raised by the majority of businesses or by consumers.

If this approach continues into the final report then the impact upon the productivity of Australia, on choice for consumers and the ability of industry and the economy to deal with change will continue to be eroded. This becomes more and more important as new Free Trade Agreements are signed and access to new markets, and access to the domestic market from overseas businesses is increased.

Competition policy should not just be about rules and regulations and it should be about a healthy economy based on choice for consumers through real competition.

The draft report seems to rely too much upon the opinion of big business apologists. For example one quote from the report states on the issue of extending trading hours for retailers states "*The Panel notes the ability of independent and small businesses to differentiate their offerings to fulfil consumer demands and compete in the face of deregulated trading hours. The Panel also notes that, where restrictions apply to a particular sector or type of business, this can result in consumers having less flexibility and choice.*" This quote is a motherhood statement taken from a text book or indeed from a person completely remote from reality. This statement does not reflect issues around access to the smaller businesses by consumers, the behaviour of big business who will undercut the prices of small business with no other aim but to force them from business. That particular statement is a shallow statement supporting those who want to extend hours.

Another statement must have come direct from big business- "*The relevant policy question is whether the restrictions are in the public interest, not whether they are in the interest of*

particular competitors” – this fails to consider that there are really only two competitors that have a vested interest in those types of statements. Those that already have market dominance will trot out hackneyed statements and expect to continue to dominate. Those two competitors opinions are sought and valued, the opinions from the rest of the world of small business is often ignored as we cannot argue our case as well as the big end of town; or compete with the opinions of those that already dominate the marketplace. Those with dominance have and hide information that can be used to show the failed nature of current competition.

Those in academia also base their beliefs and thoughts on out dated text books and the lack of information that, as mentioned above, is kept from scrutiny by the dominant players.

The use of on-line shopping as an example “*of consumers ... demanding more diversity in how and when they shop*” shows a lack of understanding of the complex issues in retail. Consumers are often tired of being forced into the underground car parks of huge shopping centres where they need to walk a long distance past many other shops to get to the one they want. It is quicker and easier to get the goods on-line. It is not just cheaper prices but also a failure of urban planning and an outcome of domination by a few that creates a need to shop on line.

The notion that “*pharmacy ownership and location rules should be removed in the long-term interests of consumers*” is copied straight from the manifesto of the biggest retailers. The idea that remote boards of Directors would consider the health and wellbeing of members of local communities above their profits is nonsensical. This finding shows that the draft report is compromised by a lack of understanding of reality. If pharmacy is given to the biggest retailers than the health of the community must suffer as expertise is removed, profit becomes more important than individual reputation and flexibility in times of community stress such as droughts and natural disasters is removed.

The idea of “*replacing the current Commission with a Board comprising executive members, and non-executive members with business, consumer and academic expertise*” has no real justification, the panel notes that “*ACCC decision-making is sound*” yet decide to still recommend changes. The idea of bringing in more academics would be music to the ears of the small number of dominant businesses. The thought that the biggest businesses could have more influence through the change from a commission to a board should be enough to maintain the current structure. This recommendation does not seem to have any place in the overall approach to enhance or develop competition.

The draft report is also overly complicated. Excess complication will always be to the good of big business who have the resources to manipulate data and develop confusing and convoluted arguments to support their case. Small businesses and consumers will never match the capacity of the few large businesses and their advocates.

The final report from the panel needs to step away from the views of a few well-resourced businesses and advocates and freely consider the impact on productivity, culture and choice for the consumer.

A Competition Policy Club

In the world of workplace relations it is accepted that there is an “Industrial Relations Club” where the members from the legal profession, unions and big business, maintain complexity so that they can maintain their jobs and fight for their particular ideology. It is also becoming more and more accepted that for a better workplace relations system policy needs to reflect reality rather than ideology.

The development of a “competition policy club” has also occurred over the last decade as fewer and fewer companies dominate important sectors and they need their own experts to justify their action actions and activities. It seems that this club of big business supporters, academics and ideologues believe there is no need to address issues around productivity. This we assume is the largest businesses and the members of the “club” deciding that issues outside their scope of understanding should not be considered.

The small business sector by its nature will struggle to find resources to match these giants of industry. Small business, the consumer, communities need independent advocates to develop arguments to support their needs and to challenge the largest businesses. This may be the role of the new Small business Ombudsman proposed by Bruce Billson.

Competition has failed the test of productivity and a lack of competition has created a small group of people; the developers, competition ideologues, the biggest retailers and the biggest unions; who wish to maintain the status quo through increased complexity and ignoring the reality of what is happening to productivity and innovation in manufacturing, on farms, in urban centres and in rural centres across Australia.

We hope the final report has vision and foresight.

To be read in conjunction with this document. Submissions that address specific issues from:

- The Pharmacy Guild of Australia
- The Master Grocers’ Association
- The Australian Booksellers Association
- Spier Consulting
- The Australian Newsagents Federation
- The Law Council of Australia