

Dear Sir/Madam,

## **SUBMISSION NATIONAL COMPETITION POLICY ANALYSIS**

I welcome the inquiry.

Many detailed and sophisticated submissions will be made.

I will stick to a few general points.

### **Modelling**

In reviewing the benefits of NCP in 2005, the study despite its virtues had as I recall shortcomings:

- The impact of the ACCC was not included in the NCP study. During the period 1991-2005 there was a very sharp step-up in ACCC enforcement activities. Critical measures of this would be: number of cases; fines; media coverage and ACCC releases.
- I also had the impression that some of the 'gains' were not substantiated. Speaking from memory, I think electricity and taxis were mentioned. I do not think there was an NCP foundation for the electricity findings. They preceded the NCP. Taxi reform did not occur. I stand to be corrected on this.
- It is important that overstatements of the effect of the NCP are not made.
- I am concerned that quite a few economic studies of market power and concentration use much wider 'definitions' of markets than used in competition law e.g. fish is excluded from meat markets in competition law but not in some economic studies.

### **National Competition Policy**

I would like to draw attention to some gaps in the former NCP.

- The Commonwealth, despite 'pointing the finger' at states and territories turned a blind eye to some activities in its jurisdiction. Examples include transport – especially aviation, communications, especially TV, health (restrictive practices by specialists) and others.

- A proper national policy would cover sectors such as:
  - health
  - education
  - care services (aged, disability, mental health etc.)
  - defence, especially procurement
  - the transition to net zero
  - trade
  - foreign investment
  - tax (where it affects competition)

I myself with Darryl Biggar wrote a paper on this which I attach.

Kind regards  
Professor Allan Fels AO

Attached:

1. Competition in public markets (Fels and Biggar)
2. Institutional design of competition policy (Ergas and Fels)
3. ACTU Price Gouging Inquiry Report