

Please refer to:

5.1/J5257
606505.2

30 August 2007

The Commissioners
Consumer Policy Inquiry
Productivity Commission
PO Box 80
Belconnen
ACT 2616
AUSTRALIA

Dear Sirs

Review of Australia's Consumer Policy Framework

This is a submission on the current review of Australia's Consumer Policy Framework (Productivity Commission Issues Paper, January 2007 [the Issues Paper]), by the Australia New Zealand Leadership Forum's Working Group on Trans-Tasman Competition & Consumer Issues [the working group].¹

The working group represents Australian and New Zealand businesses with significant interests in trans-Tasman trade, and competition and consumer specialists.² The working group operates under the auspices of the Australia New Zealand Leadership Forum. As you will be aware, the Forum was established with the support of the Australian and New Zealand governments, and is intended to encourage dialogue about the opportunities to build on the existing levels of trans-Tasman coordination under the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA).

Given the close economic relationship between the two countries, the working group's submission focuses on the desirability of enhancing coordination between the Australian and New Zealand consumer law regimes. As an important basis for this, the group believes it would be highly desirable for the review to assist in identifying and eliminating any unnecessary divergence between the two countries' consumer law regimes.

¹ Please note this is a collective submission and does not reflect the views of individual members of the group on the substantive issues raised in the Issues Paper. Where they think it necessary, members will make their own submissions on the substantive issues.

² Details of the working group's mandate and membership are attached.

Trans-Tasman coordination

The governments of Australia and New Zealand have recognised the importance of strengthening the trans-Tasman relationship and trade, with a focus on further coordination of significant areas of business law, including consumer law.³

The two countries have already achieved a significant degree of coordination in a number of areas, including competition and consumer laws - New Zealand's Commerce Act 1986 and Fair Trading Act 1986 are very similar to Australia's Trade Practices Act, and the Credit Contracts and Consumer Finance Act 2003 is very similar to the Australian Consumer Credit Code. However, as the Issues Paper makes clear, the current framework for consumer policy in Australia is complex, with responsibilities divided between the Australian, State and Territory governments, and between various agencies within each jurisdiction. And, of particular note, is the growing divergence in consumer regulation across Australia. This presents a major challenge for trans-Tasman consumer law coordination.

The working group is encouraged to see that trans-Tasman considerations have been included in the scope of the Productivity Commission's review. Its terms of reference require the Commission to have regard, amongst other things, to "the implications of its recommendations for the consumer policy framework of New Zealand," and the Commission's report must include "ways in which the consumer policy framework may be improved so as to facilitate greater economic integration between Australia and New Zealand and ways to remove any barriers to international trade in consumer goods and services created by the current consumer policy framework."

As the Issues Paper notes, jurisdictional inconsistency – as currently exists in the Australian consumer policy framework – can act as a barrier to greater economic integration between Australia and New Zealand, and international trade more generally.⁴ The Issues Paper also addresses the potential for improvements to be made to the configuration and operations of the key consumer regulators, the Ministerial Council on Consumer Affairs and other policy oversight bodies.⁵

The working group looks forward with interest to the Commission's conclusions on these issues, when the Commission's draft report on the review is released.

³ Clauses 1 & 3, Memorandum of Understanding between the Government of New Zealand and the Government of Australia on Coordination of Business Law, 22 February 2006 (the Business Law MOU).

⁴ Consumer Policy Framework – Productivity Commission Issues Paper, January 2007, p22.

⁵ Ibid, p24.

If you have any queries or need further information about the working group's submission, please do not hesitate to contact me.

Yours faithfully



Paula Rebstock

Chair of the Australia New Zealand Working Group on trans-Tasman Competition & Consumer Issues (Australia New Zealand Leadership Forum)

Level 6, 44-52 The Terrace, Wellington

Tel. +64 4 924 3602

Fax +64 4 924 3700

paula.rebstock@comcom.govt.nz

Encl.

Attachment 1:
Australia New Zealand Competition & Consumer Issues Working Group

Mandate

The working group's mandate is to identify policy priorities for advancing trans-Tasman coordination of the Australian and New Zealand competition and consumer regimes, in support of the two countries' ultimate goal of achieving a single economic market.

Membership

Australian members:

- Richard Willcock, Group Secretary & General Counsel, Westpac Banking Corporation
- Tony Warren, Executive Director of Regulatory, Telstra
- Gail Hambly, Group General Counsel & Company Secretary, John Fairfax Holdings Ltd
- Peter Horton, Group General Counsel & Company Secretary, Woolworths Ltd
- Gerard Rohl, Group Legal Manager Commercial Compliance, Woolworths Ltd

New Zealand members:

- Paula Rebstock, Chair Commerce Commission (Chair of the working group)
- Debra Blackett, Assistant General Counsel - Group Competition and Regulatory, Telecom New Zealand
- David Matthews, General Counsel, Fonterra
- Phil Taylor, partner Bell Gully
- Kerrin M. Vautier, research economist and company director
- Rebecca Holbrook, General Counsel / John Bongard, CEO, Fisher & Paykel
- Sue Chetwin, CEO, NZ Consumers' Institute

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