



General Manager
Small Business, Competition and Consumer Division
The Treasury
Langton Crescent
PARKES ACT 2600

26 May 2015

Dear Sir/ Madam,

Harper review on Australian competition policy and law - Final report

Optometry Australia welcomes the release of the findings from the review into competition policy and law in Australia, led by Professor Ian Harper.

The 539-page final report very briefly acknowledges the issues raised in our submission regarding preferred provider arrangements within the Private Health Insurance (PHI) sector and their potential to distort fair competition and consumer choice, particularly for patients accessing ancillary services such as optical appliances.¹

Despite the review recommending a stronger focus on establishing competition policy and principles that promote informed consumer choice more broadly, we are disappointed our ongoing concerns have not been specifically addressed; we believe the review has missed an opportunity to appropriately examine the growing anti-competitive issues relating to preferred provider arrangements. Such action readily achievable would be examination of the introduction of a Code of Conduct to require Private Health Insurers to explain in plain English that a policy holder can select the health professional they require and still receive a rebate, rather than the common focus on attend practice 'xx' as we have arrangements in place for no gap products.

Further, in the absence of appropriate amendments being made to Section 46 of the CCA relating to third line forcing, we oppose any move to repeal Section 47 of the CCA (recommendation 33).

¹ Competition policy and law review, pp.



As detailed in our submission, Optometry Australia is concerned some preferred provider arrangements may:²

- Facilitate the provision of consumer information by PHI providers that is inaccurate or misleading in nature, for the purpose of channelling patients toward preferred provider networks;
- Promote exclusive dealing (third line forcing) where policy holders are encouraged to attend preferred providers to receive higher health insurance rebates for optical appliances, independent of any pre-existing provider-patient relationship; and
- Restrict some health care providers from the opportunity to participate in preferred provider arrangements, solely on the basis of their business footprint.

Given the growing frequency of anecdotal reports received from our membership, we strongly believe this area of health care competition policy and/or regulation requires a renewed focus and measures must be developed that ensure preferred provider arrangements do not inadvertently disadvantage smaller health care provider entities and their patients.

Finally, we bring specific attention to recommendation 51 of the report; which recommends streamlining ACCC governance by abolishing the requirement for sectoral Commissioner positions – that is one Commissioner to possess knowledge/experience of small business matters and one Commissioner to possess knowledge/experience of consumer protection matters. Optometry Australia does not support this recommendation as we believe it is paramount the ACCC maintains the appropriate sectoral expertise and insight at the Commission level, in the best interests of small business and consumers. We have written separately to the Small Business Minister on this matter and attach a copy.

Please don't hesitate to contact me for further information regarding any of these matters.

Yours sincerely

A handwritten signature in black ink that reads "Genevieve Quilty".

Genevieve Quilty
CEO, Optometry Australia

² Optometry Australia submission into the Harper competition review. May 2014.

The Hon. Bruce Billson MP
Minister for Small Business
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Via email: SBMinister@TREASURY.GOV.AU; B.Billson.MP@aph.gov.au; bruce.billson@treasury.gov.au;
Cc: Via email: Vincent.Sheehy@TREASURY.GOV.AU; Sally.Branson@treasury.gov.au

Dear Minister

As Chief Executive Officers, Chairpersons, and Representatives of Australia's leading small business organisations, and prominent small business community practitioners, we write to express our concerns regarding Recommendation 51 of the Harper Review of Competition Law in Australia.

We strongly believe the current structure, governance, programs and mechanisms of the Australian Competition and Consumer Commission (ACCC) are satisfying the needs of the Australian small business community, industry participants and consumers.

The focused attention, facilitation and consultation for the small business community has been decades in the making. The current structure of the ACCC and the consultative groups it facilitates provides significant capacity for small business representatives to interact with the ACCC.

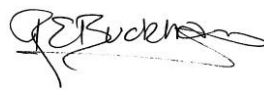
The current role of the ACCC Deputy Chair, with a focus and strong understanding on small business, provides a highly valued direct voice and perspective at the commission level. When combined with the soon to be legislated Small Business and Family Enterprise Ombudsman, the recognition, needs and regulator engagement model for the small business community will be approaching best practice.

These consultation / engagement mechanisms, and other government initiatives have generated a significant amount of goodwill and progress for the small business sector and therefore the government is strongly encouraged to reject Recommendation 51 of the Harper Review.

Please note we would be more than happy to further discuss our concerns.




Yours faithfully,



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 Lorelle Frazer Director Asia-Pacific Centre for Franchising Excellence Griffith University	 Jeff Rogut Chief Executive Officer Australasian Association of Convenience Stores	 Robin Buckham Chief Executive Officer Family Business Australia	 Richard Dudley Chief Executive Officer Australian Motor Industry Federation
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 Stephen Ferguson Chief Executive Officer Australian Hotels Association	 Russell Zimmerman Executive Director Australian Retailers Association	 Yolanda Vega Chief Executive Officer Australian Women Chamber of Commerce and Industry	 Mike Hawkins Executive Officer Business Enterprise Centres Australia
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 Phillip Kemp Executive Director Business Foundations	 Peter Strong Chief Executive Officer Council of Small Business of Australia	 Colin Gray Chief Executive Officer Freshmark, NSW Chamber of Fruit and Vegetable Industries	 Professor Andrew Conway FIPA Chief Executive Officer Institute of Public Accountants
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 Jos de Bruin Chief Executive Officer Master Grocers Australia	 Genevieve Quilty National Chief Executive Officer Optometry Australia	 Amanda Lynch Chief Executive Officer Real Estate Institute of Australia
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 Dr Paull Weber B.Com (Honours), M. Com (Marketing), PhD. Management Senior Lecturer, Small Business & Entrepreneurship	 Derek Sutherland Special Counsel HWL Ebsworth Lawyers
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