



29 May 2015

SUBMISSION ON THE COMPETITION POLICY REVIEW'S FINAL REPORT

BACKGROUND

The Queensland Consumers' Association (QCA) is a non-profit organisation which exists to advance the interests of Queensland consumers. QCA's members work in a voluntary capacity and specialise in particular policy areas.

QCA is a member of the Consumers' Federation of Australia (CFA), the peak body for Australian consumer groups, which is a member of Consumers International, the global voice for consumers.

QCA participated in the Panel's public forum in Brisbane in October 2014, made a written submission on the Draft Report and contributed to submissions made by CFA.

QCA welcomes the opportunity to make this submission which, due to lack of resources, can only be very brief.

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GENERAL COMMENTS

QCA strongly welcomes the much greater recognition of the importance of consumers and the demand side of the competition equation in the Final Report than in the Draft Report.

Examples of this include:

- A specific principle that "Competition policies, laws and institutions should promote the long-term interests of consumers", and
- Recommendation 21 - Informed Choice:

"Governments should work with industry, consumer groups and privacy experts to allow consumers to access information in an efficient format to improve informed consumer choice.

The proposed Australian Council for Competition Policy (see Recommendation 43) should establish a working group to develop a partnership agreement that both allows people to access and use their own data for their own purposes and enables new markets for personal information services. This partnership should draw on the lessons learned from similar initiatives in the US and UK.

Further, governments, both in their own dealings with consumers and in any regulation of the information that businesses must provide to consumers, should draw on lessons from behavioural economics to present information and choices in ways that allow consumers to access, assess and act on them."

SPECIFIC COMMENTS

1. In general, QCA supports the submissions made by Choice and the Consumer Action Law Centre.
2. QCA notes and regrets that the Fact Sheet issued in connection with this consultation on the Final Report only mentions consumers twice and asks no specific questions about consumers.
3. As indicated in QCA's submission on the Draft Report any objectives and principles of competition policy should recognise the relevance of, and complement, consumer policy. Therefore, QCA considers that the Government should adopt an objective (or objectives) for competition policy that goes beyond just the first principle in the Final Report. This would recognise the many components of consumer policy including consumer protection, right to redress, complaint processes and mechanisms, education, etc. as well as access to information which is the primary focus of Recommendation 21.

In this regard, we emphasise that consumer protections and other components of consumer policy can, and do, play key roles in facilitating the effective functioning of markets and the promotion of competition. This is because they increase consumer ability and confidence to participate in markets, provide a level playing field for market participants, and reduce the information and power imbalance between consumers and industry in many markets.

4. As also indicated earlier, we strongly welcome the inclusion of Recommendation 21 – Informed Choice in the Final Report.

We particularly welcome the recommendation that:

“governments, both in their own dealings with consumers and in any regulation of the information that businesses must provide to consumers, should draw on lessons from behavioural economics¹ to present information and choices in ways that allow consumers to access, assess and act on them.”

It is extremely important that this recommendation be actioned across the whole of government and that industry also be encouraged to voluntarily provide consumers with information that is easy to access, understand and use.

Far too often, the amount, type and quality of information is completely inadequate. This is despite some progress made, for example requiring lenders to show the comparison interest rate in the same size print as the headline rate, and some improvements in the provision of the total price, as opposed to the price before the addition of unavoidable additional costs, of some goods and services.

QCA considers that: **Fine print is not fine if it costs consumers money and reduces competition.**

5. There are numerous examples of non-provision or inadequate provision of the information consumers need to make informed choices and to be able to confidently participate in markets.

An example that we have been involved with for several years is the provision by grocery retailers of the unit price (price per unit of measure) for constant measure prepacked grocery products.

When unit prices are well provided, i.e. they are easy to notice, read, understand and use, they allow consumers to easily and quickly compare the price and value of:

- Different package sizes
- Different brands
- Special offers and regular prices
- Packaged and unpackaged products
- Packaging types

¹ The Chair of the UK's Competition and Markets Authority's speech in NZ on 21 April 2015 contains several examples of the relevance of behavioural economics to competition policy
<https://www.gov.uk/government/speeches/david-currie-speaks-about-the-cma-experience-of-behavioural-economics>

- Substitute products.

As indicated in detail in our submission² on the Draft Report, since late 2009 a compulsory code of conduct administered by the ACCC requires large grocery retailers and on line grocery sellers to provide “prominent” and “legible “ unit prices and generally to provide the unit price whenever the selling price is shown.

However, due mainly to unsatisfactory display methods and non provision, the quality of the unit pricing provided by most grocery retailers is well below that achieved in other places, (for example in Sweden and in some states in the USA) and well below what is needed in Australia needed for consumers and the economy to obtain the full benefits of unit pricing.

The Final Report recognised the importance of grocery retailing and the need for it to be competitive “because these products are frequently purchased, largely non-discretionary for most consumers, and account for a significant proportion of consumer spending”.

Accordingly, QCA considers that:

A. The Grocery Industry (Unit Pricing) Code of Conduct should be reviewed as soon as possible and that the review should:

- Be independent.
- Be fully transparent with the opportunity for stakeholders to participate and the results made public.
- Be undertaken by more than one person, with at least one having recognised expertise and experience in consumer affairs.
- Be sufficiently resourced to be able to undertake or commission research/investigations on relevant matters.
- Consider and report on whether:
 - a. Changes are required to: the provisions of the Code; implementation by grocery retailers; and the ACCC’s monitoring and enforcement of compliance (including the adequacy and practicality of penalties for persistent non-compliance).
 - b. Other types of retailers should be required to provide unit prices, or if providing voluntarily should be required to comply with national standards.
 - c. Responsibilities and requirements for consumer awareness and education should be changed.

B. Infringement notices and penalties and court imposed penalties should be allowed for non compliance with the Grocery Industry (Unit Pricing) Code of Conduct.

² <http://competitionpolicyreview.gov.au/files/2014/11/QCA.pdf>