

General Manager

Market and Competition Policy Division

The Treasury

Langton Crescent

PARKES ACT 2600

**Consultation Title: OPTIONS TO STRENGTHEN THE MISUSE OF
MARKET POWER LAW**

Submitted by: Mr. Kirit Ruparelia

Submitted on behalf of Company:

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Australia Marketing Pty Limited welcomes the opportunity to submit comments to the above Consultation Paper.

The Government recognises that the dealings between small and large businesses can be affected by an imbalance and misuse of market power.

Effective misuse of market power provisions have been the subject of debate in Australia for over 40 years and are one of the few countries that does not have a “fit for purpose misuse of market power provisions.”

Australia has over 2 million small businesses and collectively they employ over 4.5 million Australians. An effects test would assist in levelling the playing field for small business. Australia needs to ensure there are safeguards in place to ensure that market power is not abused by exclusionary behaviour by large businesses and small businesses are given equal opportunity to compete.

Harper Review was the most comprehensive review of Australia's competition policy in recent decades. The majority submissions related to misuse of market power provisions in the Australian Competition and Consumer Act 2010, and it unambiguously recommended the introduction of an effects test to better protect unfair use of market power.

Australia needs competition law that is fit for purpose.

The current misuse of market power provisions in section 46 of Competition and Consumer Act 2010 are deficient.

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