



# Submission - Options to strengthen misuse of market power law

February 2016

## Options to strengthen the misuse of market power law

QBE welcomes the opportunity to respond to the Treasury's discussion paper of 11 December 2015, '*Options to strengthen the misuse of market power law*' (**Discussion Paper**) and appreciates the Government's further consultation on this matter given the significant potential impacts for business that will flow from changes to the current section 46 of the *Competition and Consumer Act 2010* (section 46).

QBE is one of the few domestic Australian-based financial institutions to be operating globally, with operations in and revenue flowing from 38 countries. Listed on the ASX and headquartered in Sydney, stable organic growth and strategic acquisitions have seen QBE grow to become one of the world's top 20 insurers with a presence in all of the key global insurance markets.

QBE has participated in and supports the Insurance Council of Australia's submission to the Discussion Paper. QBE continues to have significant concerns with the proposed changes to section 46 and strongly supports Option A – that no amendments be made to the current provisions.

QBE has outlined our concerns in our previous submissions to the Competition Policy Review in May 2015 and June and November 2014 and refer Treasury to these submissions. In particular, QBE's previous submission on the Panel's draft report outlined our serious concerns with the proposed introduction of an "effects test" and the undoubted capture of pro-competitive conduct that will fall within its ambit (as has been recognised). QBE considers the introduction of the test will almost certainly have a detrimental impact on productivity. The difficulties of determining between conduct that is permitted, and conduct which is not permitted, cannot be underestimated. This is particularly so given the subjective nature of the judgements that will be required.

As previously indicated, there have been a large number of independent reviews and parliamentary inquiries that have previously debated the sole 'purpose' vs 'effects' test which QBE notes overwhelmingly did not recommend an effects test. There has also been a lack of evidence and examples of the misuse of market power which the proposed change would seek to rectify. In these circumstances, given the potential cost and reputation implications for corporates, QBE considers that Option A is the appropriate and preferred option outlined in the Discussion Paper.

If there is any further detail or information QBE could provide that would assist, please do not hesitate to contact Kate O'Loughlin, Head of Government Relations & Industry Affairs [kate.oloughlin@qbe.com](mailto:kate.oloughlin@qbe.com).