

Ai GROUP

Revitalising National Competition Policy

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Australian Industry Group (Ai Group) welcomes this opportunity to support the revitalisation of National Competition Policy (NCP). We provide comments on a selection of issues of interest to Ai Group and our members.

1. National Competition Principles

Legislation Review Principle

Ai Group supports the Legislation Review Principle playing a continuing role in NCP. This should include picking up the considerations put forward in the Consultation Paper to broaden the scope of the principle to include policies and processes that have the potential to significantly lessen competition; to require competition be promoted where it is in the public interest; and to conduct targeted reviews to assess legislation that might impact competition.

Ai Group strongly supports giving greater emphasis to the impacts on competition and business dynamism of compliance tasks associated with existing and new regulation. This is an area that of growing concern for businesses of all sizes and particularly small and medium-sized businesses. As noted in the Consultation Paper, it is an area raised by the Harper Review and by the 2012 review of Regulatory Impact Analysis.

The concerns of businesses relate both to the direct compliance burdens and the indirect compliance burdens associated with information that other organisations require from participants in their supply chains in order to meet their own regulatory compliance obligations.

Competitive Neutrality and Structural Reform of Public Monopolies Principles

Ai Group supports both these principles and we see merit in the considerations put forward in the Consultation Paper to revitalise their operation. This extension should include the range of monopolistic positions related both to public sector provision of goods and services and contracts governments enter into that create or might create monopolistic positions in the provision of goods or services.

We also see merit in the view that competitive neutrality and structural reform of public monopolies has not always been implemented as well as might have been the case. In particular, greater consideration could have been given to activities and services previously provided by the public sector that may have been considered “non-core” and were discontinued once organisations were more exposed to competitive forces.

The dominant example concerns the important role many public utilities played in the training and skilling of apprentices. Prior to exposure to the adoption of competitive practices, there may well have been an over allocation of resources to training and workforce development in many organisations, at least when viewed from a narrow perspective. While this may not have been the most

efficient way to finance training and workforce development, in many cases it is likely to have been more efficient than the outcome of removing these activities without a plan for their replacement. Certainly, it was a transition that could have been much better managed.

A further example is provided by the closure by Ausgrid of the Lane Cove Testing Station that previously provided certification and testing to Australian and International Standards for electricity transmission and distributed network equipment. While understandable from the singular point of view of Ausgrid's new owners in the absence of an undertaking to consider the value of the ongoing supply of these services, the sudden closure left a large and unexpected gap in Australia's testing and certification infrastructure. Greater consideration of the benefits of the testing station by the NSW Government prior to the effective privatisation of Ausgrid could have seen a more considered transition with many fewer disruptive and damaging impacts.

These examples suggest an underappreciation of benefits that had been generated under legacy practices; and/or inadequate attention to the risks associated with changed stewardship responsibilities. Greater consideration of these possibilities should be built into future NCP arrangements.

Another pitfall associated with the structural reform of public monopolies and the creation of monopolistic positions is the conflict of interests that governments can experience when considering and negotiating the sale or long-term lease of public monopolies and any contracts associated with the creation of monopolistic positions.

As well as their interest in adhering to good policy outcomes including their commitments under the NCP, governments and their agencies have an interest in securing an attractive price from interested investors. With investors willing to increase their bids depending on the terms of the sale or lease arrangement, and the government and its agencies perhaps overly interested in the upfront price they achieve, there is scope and temptation for anti-competitive terms to feature in privatisations and contracts that create monopolistic positions. Once written into contracts and paid for by investors, these are difficult eggs to unscramble to the detriment of consumers, competitive pricing and broader economic outcomes.

A revitalised NCP could ensure that these risks are more adequately recognised and mitigated.

2. Reform Program

Ai Group supports the development of a National Competition Reform Agenda to help maintain the NCP focus on major areas of impact. The provisional themes put forward in the Consultation Paper for further analysis have merit.

We applaud the recognition of the role that more efficient regulation can play in freeing up business time and resources for better use and in the service of better economic and social outcomes.

We also recognise the importance of competition in meeting Australia's emissions reduction targets; the role of labour mobility in a dynamic economy; the scope for gains in human services; and the ongoing opportunities from improved use of data and digital technologies.

In any selection of themes, we recommend that some contingency arrangements are available to substitute more prospective themes should circumstances warrant this.

In this connection, and as an example, we are wary of how definitive the evidence is in relation to a structural shift in labour mobility as opposed to lower mobility stemming from the generally sluggish growth of economic activity since the GFC. We are alert to the strong possibility that a good part of any slowdown in labour mobility could reverse given the current tight labour market and its interaction with demographic forces including the expected normalisation of immigration patterns. If market forces did correct for a lull in mobility in this way, it may well be the case that NCP attention could be better reallocated.

3. Implementation

Ai Group supports strong institutional arrangements to foster ongoing support and momentum for the revitalised NCP.

Raising the level of information about progress and lack of progress and driving accountability are worthy initiatives.

Ai Group strongly supports providing incentives and rewards for action through a rigorously-assessed and transparent system of competition payments. We see merit in setting payments with reference to net revenue gains.

About Australian Industry Group

The Australian Industry Group (Ai Group®) is a peak national employer organisation representing traditional, innovative and emerging industry sectors. We have been acting on behalf of businesses across Australia for over 150 years.

Together with partner organisations we represent the interests of more than 60,000 businesses employing more than 1 million staff. Our members are small and large businesses in sectors including manufacturing, construction, engineering, transport & logistics, labour hire, mining services, the defence industry, civil airlines and ICT.

Our vision is for *thriving industries and a prosperous community*. We offer our membership high quality services, strong advocacy and an effective voice at all levels of government underpinned by our respected position of policy leadership and political non-partisanship.

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