

30 September 2024

Director
National Competition Policy Unit
Competition Taskforce Division
Treasury
Langton Cres
Parkes ACT 2600

Dear Sirs,

Revitalising National Competition Policy

Thank you for the opportunity to respond to the Revitalising National Competition Policy (NCP) released on 26 August 2024. Our submission is attached.

Clubs Australia represents over 5,000 clubs across Australia that employ more than 140,000 people. Clubs are not-for-profit, member-owned organisations that provide sporting and recreation infrastructure to their members and the wider community.

Clubs Australia supports the NCP review and seeks reforms that recognise clubs' unique role in responsible alcohol management and their contribution to the local economy. We advocate for balanced changes that enhance competition while considering the diverse operational capabilities of clubs.

Our detailed response is set out in **Appendix A**.

Should you require any further information from Clubs Australia regarding this submission, please do not hesitate to reach out at [REDACTED] or [REDACTED]

Yours sincerely,

Alison Tehan

Alison Tehan
Deputy Executive Director
Clubs Australia



Executive Summary

Clubs are not-for-profit organisations, providing their local communities with valuable social, cultural, and economic benefits across Australia. This submission emphasises the importance of ensuring that the competition policy settings account for the unique contributions and challenges of not-for-profit, member-owned organisations.

Key Themes:

- **Competitive Neutrality Principle:** Clubs Australia recommends expanding the Competitive Neutrality Principle to include federal guidance on overcoming the challenges clubs face in maintaining competitiveness. This could include addressing barriers such as access to greenfield or development land access, construction costs, and access to funding. By providing a framework that promotes fair competition for land and efficient construction practices, federal policies can help alleviate the competitive disadvantages clubs face, allowing them to modernise facilities and reinvest in their communities.
- **Access to Infrastructure and Essential Services:** Many clubs, especially in rural and regional areas, face challenges in accessing affordable and reliable services such as electricity and internet. Expanding the Access Principle to prioritise clubs is essential to ensure they are not disadvantaged in accessing critical infrastructure.
- **Regulatory Simplification and Efficiency:** Clubs Australia advocates for simplifying regulatory frameworks, which are often disproportionate to the size and risk profile of smaller clubs. Reducing these administrative burdens will allow clubs to focus more effectively on their operations and continue their diverse contribution.

A. Legislation Review Principle

Question 1: Is the Legislation Review Principle and its implementation effectively ensuring regulation does not restrict competition unless it is in the public interest? If so, how? If not, why not?

Question 2: Are changes required to the Legislation Review Principle or its implementation to make it more effective and/or to address new challenges? If yes, what changes could be made.

The Legislation Review Principle (LRP) has encountered challenges in effectively preventing regulations from unnecessarily restricting competition, particularly for smaller not-for-profit clubs. While licensing and compliance are regulated primarily at the state level, federal competition policy can play a role in reducing duplication or conflicts between federal and state regulations. Compliance requirements often do



not properly consider the unique operational needs of clubs, imposing constraints that hinder their ability to focus on service delivery.

Clubs in Australia face many regulatory and compliance obligations, creating administrative hurdles that are disproportionate to their scale and risk profile, particularly for under-resourced clubs. This complexity impacts their capacity to compete and support their local communities effectively.

The NCP review provides an opportunity to address these burdens by ensuring that federal regulations support competitive neutrality and operational efficiency. Simplifying these regulations will reduce unnecessary costs, allowing clubs to focus on their communities while remaining competitive.

1. **Recommendation: Clubs Australia recommends** that the LRP acknowledge the unique roles of clubs in their communities and promote find ways to simplify regulatory and compliance requirements, thereby reducing administrative burdens.

B. Competitive Neutrality Principle

Question 3: Has the Competitive Neutrality Principle been effective in supporting competition?

Question 4: Do the Competitive Neutrality Principle and jurisdictions' related policies that flow from the Principle capture the right government business activities? Appropriately address government advantages and disadvantages to support competition? If not, what changes could be made to improve the Principle?

While the Competitive Neutrality Principle captures significant government business activities, it does not adequately address the broader structural challenges that clubs face in maintaining competitiveness. Barriers such as access to greenfield or development sites, rising construction costs, and limited opportunities for expansion impact clubs' ability to modernize and reinvest in their communities. Although some of these issues are state-regulated, federal guidance can play a key role in ensuring fair competition and supporting clubs in overcoming these obstacles.

2. **Clubs Australia recommends** expanding the Competitive Neutrality Principle to include federal guidance that addresses broader challenges to competitiveness faced by clubs.

C. Access to Services Provided by Means of Significant Infrastructure Facilities Principle

Question 7: Has the Access Principle been operating effectively?

Question 8: Are there any issues with the Access Principle that have not been identified in this paper?



Question 9: Do you think any potential changes to the Access Principle or its implementation should be considered? What are they and why are they important?

The Access Principle has not been fully effective in ensuring equitable access to essential infrastructure for not-for-profit, member-owned clubs, particularly in rural and regional areas. Clubs often face high costs and reliability issues when accessing essential services like electricity and internet connectivity. These challenges are compounded by limited service providers in certain areas, leading to monopolistic control over pricing and service quality. As a result, clubs are at a disadvantage in maintaining consistent operations and offering quality services to their members and communities.

Electricity is largely regulated at the state level, but the federal government plays a key role in energy policy and infrastructure investment, particularly in telecommunications through initiatives like the National Broadband Network (NBN). Expanding the Access Principle to prioritise clubs would ensure they have fair access to essential services. Federal policies encouraging competition among infrastructure providers, especially in underserved regions, could reduce monopolistic control, lower costs, and improve service quality for clubs, particularly in rural and remote areas

3. **Clubs Australia urges** the government to expand the Access Principle by implementing targeted measures that ensure not-for-profit organisations like clubs have access to affordable and reliable essential services, particularly in rural and remote areas.

D. Prices Oversight of Government Business Enterprises Principle

Question 12: Has the 'public interest test' in the Principles been effective?

Question 13: Are changes required to the 'public interest test' in the Principles to make it more effective? If so, what changes could be made and why?

While the test has been useful in some areas, such as energy pricing and transport access, its application has been inconsistent.

This inconsistency can lead to concerns about transparency and fairness. Ensuring that the public interest test is applied uniformly across all sectors, including those involving smaller, not-for-profit organisations like clubs, can help build trust and ensure that decisions are made in the best interest of all stakeholders. As such, the needs and perspectives of local clubs are adequately considered in decisions that directly affect them, fostering a more inclusive and supportive environment.

Recommendation: Clubs Australia recommends:

4. Strengthening the application of the public interest test by ensuring consistent and transparent processes.



5. Incorporating a public engagement or consultation requirement to ensure that the voices of local community groups are heard and considered in decision-making processes
6. Introducing clear criteria for assessing community impact within the public interest test. This should include metrics such as social value, community well-being, and economic contributions, ensuring that community benefits are prioritised in decision-making processes.

E. Format of the Principles

Question 14: Is the format of the Principles in the CPA user-friendly?

Question 15: Are changes required to the format and/or drafting style of the Principles to make them more user-friendly? If so, what changes could be made and why?

The current format of the CPA Principles may be challenging for smaller organisations with limited legal resources to quickly and easily understand. The language and structure are often more suited to large commercial enterprises, making navigating difficult for clubs.

Revising the format to include plain language summaries and case study examples relevant to clubs would make the Principles more accessible and easier to apply in practice, especially for smaller, less-resourced organisations without significant legal resources.

7. **Recommendation: Clubs Australia recommends** revising the format of the CPA Principles to include plain language summaries and case study examples relevant to clubs.

F. Purpose Statement for the Principles

Question 16: Should the Principles include a purpose statement/principle?

Question 17: Are there any issues related to the purpose statement/principle that have not been identified and should be considered?

Question 18: What considerations should be taken into account in drafting and implementing a purpose statement/principle?

The absence of a clear purpose statement may lead to varying interpretations of the Principles, potentially undermining their effectiveness. By outlining the overarching goals of promoting fair competition and protecting consumer interests, the purpose statement can ensure that the application of the Principles remains consistent and focused across different sectors.

When drafting a purpose statement, several key considerations should be considered:



- **Community Impact:** The statement should prioritise the broader social contributions, particularly in regional and disadvantaged areas. Clubs provide significant value to their communities, and the purpose statement should reflect the importance of maintaining access to these contributions
 - **Balancing Competition and Public Interest:** The statement should balance promoting competition and ensuring that public interest is not compromised. For example, while promoting competition is vital, it should not come at the expense of the social and economic contributions made by clubs and other not-for-profit organisations.
 - **Simplicity and Clarity:** The statement should be drafted in a way that is accessible to all stakeholders, including smaller organisations that may not have significant legal or financial resources to interpret complex language.
8. **Clubs Australia supports** including a purpose statement, suggesting it emphasises promoting fair competition, protecting consumer interests, and reflecting long-term objectives to ensure sustainability in the principles' application across different sectors.
 9. **Clubs Australia suggests** that the drafting and implementing a purpose statement/ principle should consider community impact while balancing competition and public interests. Emphasising simplicity and clarity will ensure that the statement is meaningful and accessible to all stakeholders.

G. Principles Promoting Competition

Question 19: Should the Principles include a requirement to promote competition?

We agree that the Principles should include a clear requirement to promote competition. Competition drives efficiency, innovation, and better outcomes for consumers and communities. However, promoting competition must be done in a way that acknowledges the differences between large commercial enterprises and member-based and not for profit organisations.

10. **Recommendation: Clubs Australia supports** the inclusion of a requirement to promote competition, ensuring that it accounts for the specific needs of non-profit organisations that contribute to public benefits.

Question 20: In your experience, are there any issues related to promoting competition through the Principles that have not been identified and should be considered?

While competition can drive innovation and efficiency, excessive focus on competition may discourage cooperation among not-for-profit organisations such as clubs that aim to achieve common social goals. Clubs often collaborate on events or community initiatives, but a strict competitive focus may hinder such partnerships, negatively impacting community engagement.



11. Recommendation: Clubs Australia suggests balancing the promotion of competition with recognition of the value of collaboration among clubs.

Question 21: What considerations should be taken into account in drafting and implementing a requirement to promote competition?

In drafting a requirement to promote competition, it is important to ensure that smaller clubs have equal opportunities compared to larger commercial enterprises.

In drafting a requirement to promote competition, several key considerations should be considered:

- **Fairness in competition:** Ensuring that smaller clubs have the same opportunities as larger commercial enterprises.
- **Infrastructure access:** Addressing access to essential infrastructure for clubs to provide services.
- **Market sustainability:** Avoiding competition that undermines the contributions of clubs or leads to unsustainable practices..

12. Recommendation: Clubs Australia suggests that any requirement to promote competition within the National Competition Policy (NCP) framework should prioritise fairness, infrastructure access, and market sustainability.

H. Promoting Consumer Empowerment through the Principles

Question 22: Should the Principles promote ‘consumer empowerment’ or the ‘demand-side’ of competition? What are the costs and benefits?

Question 23: In your experience, are there any issues related to promoting consumer empowerment or the ‘demand-side’ that have not been identified and should be considered?

Question 24: What considerations should be taken into account in drafting and implementing a requirement to promote competition?

We support the Principles that promote consumer empowerment, as this allows individuals and communities to make informed choices about the services they use. In the context of clubs, consumer empowerment means ensuring people can access affordable, quality services that meet their needs, whether in leisure, food and beverage, social activities, or health.

13. Recommendation: Clubs Australia supports the promotion of consumer empowerment within the Principles.

I. Market Design and Stewardship

Question 25: Should a market design and stewardship principle be incorporated into the Principles? What are the costs and benefits?



Question 26: In your experience, are there any issues related to market design and stewardship that have not been identified and should be considered?

Question 27: What considerations should be taken into account in drafting and implementing a market design and stewardship principle?

We are supportive of incorporating a market design and stewardship principle would help ensure that competition is structured in a way that benefits the public and sustains the long-term viability of services, including those offered by clubs. Well-designed markets promote competition and efficiency while protecting the public interest.

14. Recommendation: Clubs Australia supports the inclusion of a market design and stewardship principle to be incorporated into the Principles.

J. Data Sharing Principle

Question 28: Should data sharing be incorporated into the Principles? What are the costs and benefits?

Question 29: In your experience, are there any issues related to data sharing that have not been identified and should be considered?

Question 30: What considerations should be taken into account in drafting and implementing a data sharing principle?

We support incorporating data sharing into the Principles, as it can significantly enhance decision-making and service delivery within clubs. Effective data sharing can help clubs better understand and meet the needs of their communities, ultimately fostering a more responsive and impactful sector. However, ensuring that data security remains a top priority is essential.

However, the capacity of smaller organisations, such as local clubs, to participate in data-sharing initiatives, requires further consideration. Many of these clubs lack the technical infrastructure and resources required for large-scale data sharing, which could place them at a disadvantage in a market increasingly driven by data insights.

15. Recommendation: Clubs Australia supports the development of a data sharing principle that emphasises responsible practices. This principle should ensure transparency while protecting the privacy and security of both consumers and organisations

16. Recommendation: Clubs Australia recommends that any data-sharing principle considers provisions for supporting smaller organisations in building the necessary infrastructure and skills.

K. Reform Themes

Question 31: Do the reform themes adequately capture existing and emerging competition issues?



Question 32: What specific reform actions could governments pursue in the National Competition Reform Agenda? What are the potential benefits and costs?

The reform themes capture many existing competition issues but could be expanded to address regional inequities and the unique challenges faced by clubs. Current themes focus heavily on commercial enterprises, and while competition is essential, the social and community impact of organisations like clubs should also be considered.

Additional Objectives could include:

- **Equitable Access to Services:** Ensure competition reforms do not disadvantage smaller clubs, particularly in regional or remote areas.
- **Social and Environmental Responsibility:** Encourage reforms that promote economic efficiency and social and environmental responsibility. For instance, support clubs that provide community efforts, such as providing disaster relief.

17. Recommendation: Clubs Australia suggests expanding the reform themes to address regional disparities and promote social and environmental benefits alongside competition.

L. Institutional Arrangements

Question 33: What institutional, governance, and other arrangements, including mechanisms to share the economic growth and revenue benefits of reforms, would best support the implementation phase of a revitalised NCP?

Question 34: What institutional arrangements would best support continued adherence to the competition principles beyond the end of the 10-year reform agenda?

The successful implementation of a revitalised NCP requires clear governance structures that promote transparency and accountability, ensuring that all stakeholders, including smaller organisations, are represented.

- 18. Recommendation: Clubs Australia suggests** that governance arrangements include mechanisms for regular consultation with community organisations, ensuring their voices are heard in the implementation phase of the NCP.

M. Ongoing Consultation with Clubs Australia

To ensure the continued effectiveness of NCP reforms, ongoing consultation with Clubs Australia is critical. This will allow for policies that reflect clubs' unique role in economic contribution and social support, ensuring that reforms are well-informed, aligned with the practical realities of clubs, and supportive of their long-term viability.



19. Recommendation: Clubs Australia recommends consulting with us on any future regulatory changes. This will ensure that reforms support the real needs of clubs and their communities.



Summary of Clubs Australia Recommendations

Rec. No.	Theme	Recommendation
1.	Legislation Review Principle	Clubs Australia recommends that the LRP acknowledge the unique roles of clubs in their communities and promote find ways to simplify regulatory and compliance requirements, thereby reducing administrative burdens.
2.	Competitive Neutrality Principle	Clubs Australia recommends expanding the Competitive Neutrality Principle to include federal guidance that addresses broader challenges to competitiveness faced by clubs.
3.	Access to Services Provided by Means of Significant Infrastructure Facilities Principle	Clubs Australia urges the government to expand the Access Principle by implementing targeted measures that ensure not-for-profit organisations like clubs have access to affordable and reliable essential services, particularly in rural and remote areas.
4.	Public Interest Test	Strengthening the application of the public interest test by ensuring consistent and transparent processes.
5.	Public Interest Test	Incorporating a public engagement or consultation requirement to ensure that the voices of local community groups are heard and considered in decision-making processes.
6.	Public Interest Test	Introducing clear criteria for assessing community impact within the public interest test. This should include metrics such as social value, community well-being, and economic contributions, ensuring that community benefits are prioritised in decision-making processes.
7.	Format of the Principles	Clubs Australia recommends revising the format of the CPA Principles to include plain language summaries and case study examples relevant to community organisations.
8.	Purpose Statement for the Principles	Clubs Australia supports including a purpose statement, suggesting it emphasises promoting fair competition, protecting consumer interests, and reflecting long-term objectives to ensure



		sustainability in the principles' application across different sectors.
9.	Purpose Statement for the Principles	Clubs Australia suggests that the drafting and implementing a purpose statement/ principle should consider community impact while balancing competition and public interests. Emphasising simplicity and clarity will ensure that the statement is meaningful and accessible to all stakeholders.
10.	Principles Promoting Competition	Clubs Australia supports the inclusion of a requirement to promote competition, ensuring that it accounts for the specific needs of non-profit organisations that contribute to public benefits.
11.	Principles Promoting Competition	Clubs Australia suggests balancing the promotion of competition with recognition of the value of collaboration among clubs.
12.	Principles Promoting Competition	Clubs Australia suggests that any requirement to promote competition within the National Competition Policy (NCP) framework should prioritise fairness, infrastructure access, and market sustainability.
13.	Promoting Consumer Empowerment through the Principles	Clubs Australia supports the promotion of consumer empowerment within the Principles.
14.	Market Design and Stewardship	Clubs Australia supports the inclusion of a market design and stewardship principle to be incorporated into the Principles.
15.	Data Sharing Principle	Clubs Australia supports the development of a data sharing principle that emphasises responsible practices. This principle should ensure transparency while protecting the privacy and security of both consumers and organisations.
16.	Data Sharing Principle	Clubs Australia recommends that any data-sharing principle considers provisions for supporting smaller organisations in building the necessary infrastructure and skills.



17.	Reform Themes	Clubs Australia suggests expanding the reform themes to address regional disparities and promote social and environmental benefits alongside competition.
18.	Institutional Arrangements	Clubs Australia suggests that governance arrangements include mechanisms for regular consultation with community organisations, ensuring their voices are heard in the implementation phase of the NCP.
19.	Ongoing Consultation with Clubs Australia	Clubs Australia recommends consulting with us on any future regulatory changes. This will ensure that reforms support the real needs of clubs and their communities.