



3rd March 2016

BUSINESS GROUPS UNITED TO STRENGTHEN COMPETITION LAWS

JOINT STATEMENT

An alliance of more than 20 peak business bodies, is calling on the Federal Government to now enact changes to the laws governing the misuse of market power (s46 of the Competition and Consumer Act), following the end of a series of consultations held by Assistant Markets Treasurer and Minister for Small Business the Hon Kelly O'Dwyer.

This unprecedented alliance, formed in October 2015, comprises small, medium and large businesses and represents more than 1 million businesses employing more than 5 million people across a broad spectrum of Australian industries.

The business alliance notes that it is now almost one year since the Federal Government - appointed Harper Panel Review into Competition Policy, who after lengthy and exhaustive consultations, made its final report on March 31, 2015. The Review Panel, comprised of independent experts, recommended changes to s46, including the introduction of an effects test.

The Business Alliance believes that all businesses, large or small, should be able to engage in rigorous competition based on their merits. For this to be achieved Section 46 of the CCA must be strengthened.

There is a serious deficiency in the competition dynamic in Australia. We urgently need a practical mechanism to ensure healthy competition in markets comprising business enterprises of all sizes.

The proposed amendment would alter section 46 to read:

“A corporation that has a substantial degree of power in a market shall not engage in conduct that has the purpose, effect or likely effect of substantially lessening competition in that or any other market”

The proposed amendment will mean more competition, a better deal for Australian consumers and improvements to productivity, innovation and entrepreneurship.

The proposed reforms are good policy and good politics. In short, they are good for the competitive process and therefore good for the Australian consumer.

After carefully evaluating all arguments the Harper Competition Policy Review Panel last year recommended changes to give the ACCC more power to deter anti-competitive practices. The net result of this is more, not less, competition.



The ACCC has restated this position during the Assistant Treasurer's consultations. Other competition experts, including Professor, Allan Fels, endorse that position.

The proposed change to section 46 moves Australian law closer to international best practice, which prohibits unilateral conduct by a dominant firm that has a harmful effect on competition. Australia's current approach, focusing solely on the purpose of the dominant firm to establish a contravention of unilateral conduct prohibitions, is rare.

There have been exaggerated claims from a small number of loud voices about the impact on price, a "chilling" effect on competition and even the grab-bag "unintended consequences". However the Harper Review, as independent umpire, has addressed these questions. Australia's leading voice for consumers, CHOICE, agrees that this change is in the best interests of consumers.

There is strong support for change from the National Farmers' Federation and Australian Dairy Farmers, whose members have suffered because of the major retailer power over suppliers.

A national survey commissioned by Master Grocers Australia in 2015 found that three quarters of Australians want stronger competition laws in relation to supermarkets.

We urge the Federal Government to now act on a reform which is "Good Public Policy" and in the national interest. We urge the government not to further succumb to the interests of an elite group of the country's very biggest businesses, which has become accustomed to getting its own way.

We urge the government to keep faith with its broad base of business support and with the millions of ordinary Australians who simply want a fair go at building their own enterprises.

Yours sincerely,

Alliance of Industry Associations for change to s 46:

Mark McKenzie
CEO
Australasian Convenience and Petroleum Marketers Association

Kate Carnell
CEO
Australian Chamber of Commerce and Industry



Joel Becker
CEO
Australian Booksellers Association

Stephen Ferguson
National CEO
Australian Hotels Association

Russell Zimmerman
Executive Director
Australian Retailers Association

Simone Jolliffe
ADF President
Australia Dairy Farmers

Peter Strong
CEO
COSBOA

Alfonso Maccioni
CEO
Australian Newsagents Federation

Sandy Chong
CEO
Australian Hairdressing Association

David Gandolfo
Director and President
Commercial Asset Finance Brokers Association of Australia

Domenic Greco
Executive Director
Convenience and Mixed Business Association Incorporated

Gail Woods
Executive Director
Fresh Markets Australia

Angelo Demasi
Secretariat for CMAA
Central Markets Association of Australia



Ken Phillips
Executive Director
Independent Contractors Australia

Jos de Bruin
CEO
MGA Independent Retailers

Richard Dudley
CEO
Motor Traders Association of Australia

Phil Johns
CEO
National Credit Providers Association

Simon Talbot
CEO
National Farmers Federation

Robert Chizzoniti
Director
Post Office Agents Association Limited

David Quilty
Executive Director
The Pharmacy Guild of Australia

Robert Mallet
CEO
Tasmanian Small Business Council