

14 October 2015

## BUSINESS GROUPS UNITED TO STRENGTHEN COMPETITION LAWS – OPEN LETTER TO FEDERAL CABINET

A broad coalition of more than 25 peak business bodies has formed an unprecedented alliance to advocate for change to the laws governing the misuse of market power (s46 of the Competition and Consumer Act).

The coalition comprises small, medium and large businesses and represents more than 2 million businesses employing more than 5 million people across the spectrum of industries.

There is a serious deficiency in the competition dynamic in Australia. We 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.

After carefully evaluating all arguments, the Harper Review earlier this year recommended the introduction of an “effects” test. This gives the ACCC more power to deter anti-competitive practices. This means more, not less, competition.

Strengthening the abuse of market power laws is part of a suite of changes Harper has recommended to make the competition laws fit for purpose in 21<sup>st</sup> century Australia. 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 about the impact on price and a “chilling” effect on competition. However the Harper Review, as independent umpire, has



CAFBA



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 this year found that three quarters of Australians want stronger competition laws in relation to supermarkets.

We seek your leadership on a reform which is in the national interest and urge you not to succumb to the interests of a small, elite group of the country's very biggest businesses.

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.

**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

**Noel Campbell**  
ADF President  
Australia Dairy Farmers

**Peter Strong**  
CEO  
COSBOA



CAFBA



**Alfonso Maccioni**  
CEO  
Australian Newsagents Federation

**Sandy Chong**  
CEO  
Australian Hairdressing Association

**David Gandofo**  
Director and Vice President  
Commercial Asset Finance Brokers Association of Australia

**Domenic Greco**  
Executive Director  
Convenience and Mixed Business Association Incorporated

**John Roach**  
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