

Productivity Commission

National Competition Policy analysis 2025

Dear Commissioners,

RE: Call for submissions – September 2025

I am Professor of Public Health Policy at Deakin University. I am Co-Director of the Global Centre for Preventive Health and Nutrition (GLOBE) at Deakin. GLOBE is a World Health Organization (WHO) Collaborating Centre for Obesity Prevention, with strong links to governments, civil society organisations, and a diverse range of collaborators nationally and internationally. Our vision is to catalyse improvements in population health, with a focus on prevention, through innovative research that empowers people and enables healthier environments. My own research program focuses on improving the healthiness and environmental sustainability of food systems, including assessment of the impact of food companies on health and sustainability.

I note the Commission's Interim Report (released in August 2025) and the open invitation to make a submission on any topic relevant to the analysis. My submission does not relate to the detail of the Interim Report, but instead serves to highlight potential future areas of analysis related to competition policy. I would welcome the opportunity to speak with the Commissioners about these ideas, and discuss how they may feed into future work of the Productivity Commission and the Treasury.

Firstly, I note that the Interim Report explicitly focuses on potential reforms that would increase Australia's GDP. While I appreciate that there was a process undertaken to arrive at the particular focus areas of the Interim Report, I consider that this "narrow" focus on efforts to increase GDP does not explicitly allow consideration of other issues,

such as promoting population health, protecting environmental sustainability and other related issues that could be seen as critical aspects of a wellbeing economy. While the Treasurer's advice (2023) when announcing a Competition Review referred to the importance of "modernising the Australian economy" and assessing the extent to which current policy settings are "fit for purpose for modern economic needs", I note, with disappointment, that it appears that the interpretation of "modern needs" by the Review did not include explicit consideration of population health and wellbeing.

Secondly, my team has recently led innovative research papers that have explored the potential role of competition policy in promotion population health and wellbeing. I would like to refer the Commissioners to this work:

1. 'Is Competition Law Making Us Sick?' – available here (open access):

<https://www.promarket.org/2025/07/31/is-competition-law-making-us-sick/>

Summary: *Competition underenforcement and a narrow regulatory focus on prices and output has allowed industries that produce harmful consumer products, such as tobacco or ultra-processed foods, to increase demand and, consequentially, harm to society. They argue that competition law must evolve to consider health impacts.*

2. 'Time for a paradigm shift? Exploring competition regulation and its relationship with the rising global burden of industrial epidemics' – available here (open access):

<https://www.cambridge.org/core/journals/health-economics-policy-and-law/article/time-for-a-paradigm-shift-exploring-competition-regulation-and-its-relationship-with-the-rising-global-burden-of-industrial-epidemics/0A5E3A5A09E49AB7976EB721419C06F5>

Summary: *Competition regulation plays a key role in determining firm size, market structure, and what firms can do with their market power. In this paper, we explore how competition regulation in many countries has largely tolerated rising industry concentration and market power in harmful consumer product industries, which, in turn, has likely facilitated an increase in preventable death and disease associated with such industries (ie. industrial epidemics). One important reason for this tolerance has been the rise of the ‘consumer welfare’ standard, which contends that competition regulators should only focus on a narrow set of concerns mostly relating to consumer price and output. Yet, recent developments shed light on potential avenues through which competition regulation could work more synergistically with public health policies and programmes. While discussions on how to leverage competition regulation along these lines are invariably contested and complex, we argue that it is critical that public health advocates engage with these discussions.*

3. ‘Protecting whose welfare? A document analysis of competition regulatory decisions in four jurisdictions across three harmful consumer product industries’ – available here (open access):

<https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-024-01076-2>

Summary: *Competition regulation has a strong influence on the relative market power of firms. As such, competition regulation can complement industry-specific measures designed to address harms associated with excessive market power in harmful consumer product industries. This study aimed to examine, through a public health lens, assessments and decisions made by competition authorities in four jurisdictions (Australia, South Africa, the United States (US), and the European Union (EU)) involving three*

harmful consumer product industries (alcoholic beverages, soft drinks, tobacco). We analysed legal case documents, sourced from online public registers and dating back as far as the online records extended, using a narrative approach. Regulatory decisions and harms described by the authorities were inductively coded, focusing on the affected group(s) (e.g., consumers) and the nature of the harms (e.g., price increases) identified.

We identified 359 cases published by competition authorities in Australia (n = 202), South Africa (n = 44), the US (n = 27), and the EU (n = 86). Most cases (n = 239) related to mergers and acquisitions (M&As). Competition authorities in Australia, the US, and the EU were found to make many decisions oriented towards increasing the affordability and accessibility of alcohol beverages, soft drinks, and tobacco products. Such decisions were very often made despite the presence of consumption-reduction public health policies. In comparison, South Africa's competition authorities routinely considered broader issues, including 'Black Economic Empowerment' and potential harms to workers.

Many of the competition regulatory decisions assessed likely facilitated the concentration of market power in the industries we explored. Nevertheless, there appears to be potential for competition regulatory frameworks to play a more prominent role in promoting and protecting the public's health through tighter regulation of excessive market power in harmful consumer product industries.

As part of a new \$8-million VicHealth-funded Centre (preliminarily entitled 'Research Translation Centre on the Commercial and Economic Determinants of Health) (2025-2030) that I am directing, we plan on further exploring the potential role of competition policy in promoting health, and we'd welcome your input into that work and in setting our research agenda.

I'd like to thank the Commissioners for their work, and hope that this submission helps prompt future work that can position competition policy as an integral part of efforts to improve prosperity, population health and environmental sustainability in Australia.

Yours sincerely,

Gary Sacks

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