

Spiliopoulos, Maria

From: Lattimore, Ralph
Sent: Friday, 26 March 2021 9:34 AM
To: leah.won@accc.gov.au
Subject: Complaint of breach of the CCA arising from a broader complaint made to the Australian Government Competitive Neutrality Complaints Office of the productivity Commission [SEC=OFFICIAL:Sensitive]
Attachments: Business Growth Fund Complaint On-Market BookBuilds.pdf

OFFICIAL:Sensitive

Dear Leon

Professor Stephen King, the responsible commissioner for competitive neutrality complaints lodged with Productivity Commission recommended you as the appropriate (at least initial) ACCC contact for this matter.

In December 2020, the Australian Government Competitive Neutrality Complaints Office (AGCNCO) received a complaint concerning an alleged breach of competitive neutrality. The complaint concerns the Australian Business Growth Fund (ABGF), a private equity fund partially owned by the Australian Government, which is designed to improve the availability of equity finance to small business.

In addition to the alleged breach of competitive neutrality, which the Commission is currently investigating, the complaint also made allegations of anti-competitive conduct. The AGCNCO of the Productivity Commission does not consider this to be within its remit.

The complainant alleges that the ABGF and its shareholders have breached multiple provisions of Part IV of the *Competition and Consumer Act 2010* (Cth) (CCA), as outlined on pages 15 to 26 of the complaint. In particular, the complaint alleges breaches of:

- The prohibition on cartels (CCA, ss. 45AF-45AG; outlined on pages 16-19 of the complaint)
- The prohibition on arrangements for the purpose or effect of substantially lessening competition (CCA, s. 45; pages 20-21 of the complaint)
- The prohibition on misuse of market power (CCA, s. 46; pages 21-24 of the complaint).

The complaint is attached, noting that the relevant section is part 6.

While outside the scope of the AGCNCO, these may be matters that the ACCC could choose to consider. As such, we are forwarding you this complaint for your consideration. We have informed the complainant that we have passed these specific concerns to the ACCC as the relevant body.

Please feel free to contact us if you would like further information.

Kind regards

Ralph Lattimore
Executive Manager, Canberra
Productivity Commission