

8 July 2004

Mr Gary Banks  
Presiding Commissioner  
NCP Inquiry  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

## **ABL SUBMISSION TO NCP INQUIRY**

Dear Mr Banks

Australian Business Limited (ABL) wishes to suggest a number of issues for consideration in the Productivity Commission's review of the impact of national competition policy (NCP).

### **Australian Business Limited (ABL)**

ABL is an independent member-based organisation, with over 21,000 small to large business members. ABL has regular contact with its members and this exposure to business concerns informs our contribution to government policy development. Most recently, ABL undertook a survey of its members ('Business Priorities 2004') to identify the issues of most concern for business and the areas on which government action is required.

### **Introduction: key messages**

The review is to consider reforms taken to date and identify areas offering opportunities for significant gains to the economy through removal of impediments to efficiency and enhancing competition. It is in relation to the second point that ABL wishes to focus its submission. I note that the Commission has been asked to focus activity on areas where there is *clear potential* for gain. This submission firstly considers the future role of competition policy, particularly as it relates to productivity and innovation. It then addresses specific competition issues in relation to the regulatory, workplace relations and vocational education and training systems. The central argument is that as the opportunities for gains in traditional areas of competition policy wane, Australia will need to look to a new competition reform agenda that better facilitates the development of likely future sources of productivity.

## **National competition policy: where to now?**

NCP measures have involved the extension of legislative-based anti-competitive provisions, deregulation of the financial system, changes to labour market regulations and reduction of trade barriers. A program of review and reform of legislation impacting competition has also been undertaken. These NCP activities have been implemented over almost a decade and prior to that, a broad program of economic reform has existed since the early 1980s.

The achievements of NCP and related reform have been significant. However, ABL considers that it seems likely that the 'big wins' from NCP measures have been achieved in most areas. We suggest that the current issue for NCP is how best to sustain gains following the first raft of major initiatives. There will be a need to refocus and re-energise competition measures as Australia comes to the end of the 'do-able' measures in the first wave of reform. A need exists to recapture the transformational function of the original NCP reforms.

The purpose of competition policy is to improve consumer welfare by using markets to maximise allocative and productive efficiencies. Allocative efficiency is achieved when resources are used to produce the goods and services most preferred by consumers – removing legislative barriers to the operation of markets should lead to improved allocative efficiency. This has been the focus of much of the NCP to date.

However a pre-requisite for allocative efficiency is productive or technical efficiency – the ability to extract the maximum output from a given level of inputs. It is in this area that there may be an opportunity for further work, especially in relation to institutional impediments preventing the full realisation of productive efficiencies from 'soft' issues like skills and innovation.

## **A broader view of competition required**

ABL considers that a broader view of 'competition' is required. The focus to date has been on allocative efficiency, and as argued above, ABL considers that there may be only marginal future returns from 'more of the same'.

ABL considers that the issue is not just competition, but the productivity and performance of Australia's economy. A broader review of competition policy would recognise that Australia competes in an increasingly global and knowledge based economy and would support innovation.

ABL's business research think-tank, the Australian Business Foundation (ABF), argues the pursuit of further opportunities for worthwhile productivity gains need to take into account two realities:

- The likely future sources of productivity gains and the role of knowledge/innovation influencing long run growth; and
- Local firms will need to acquire a broader range of capabilities to meet the challenges and capture the opportunities presented by globalisation.

It is not sufficient to focus on sound economic management and efficiency as the only policy objectives. Professor Keith Smith, who has worked for the OECD and the

EU on national innovation systems, suggests in an ABF study<sup>1</sup> that Australia needs to focus on its global competitiveness and integration, and on the long-term growth potential of the economy through industry capabilities.

A new reform agenda would emphasise enhancing the innovative capacity of the economy/firms if Australia is to be confident of achieving sustainable levels of productivity growth over the long term.

## **Regulation and innovation**

ABF research intelligence indicates that regulatory frameworks are an important factor in supporting or constraining innovation and are increasingly internationalised. The research suggests regulation should be focused on innovation creation in business, through two broad ways;

- An institutional, regulatory and cultural environment which stimulates innovative behaviour and the ability of firms to move quickly to capture emerging market opportunities.
- The importance of policies which facilitate global integration to promote access to technology, knowledge, and markets.

A greater focus on the important role of regulation for innovation suggests future opportunities for regulatory reform are likely to be found in the following areas<sup>2</sup>:

- Where domestic regulation/standards are impeding access to global markets (i.e. firms have to provide different solutions for domestic and overseas markets);
- Where the compliance burden is impacting negatively on entrepreneurial activity;
- Where an outcomes approach to regulation can increase the incentive to deliver new (and innovative) products and services or reduce costs of products or services by focussing on outcomes rather than processes, for example, the reform of the Australian Building Code from a prescriptive to a performance based approach; and
- Where regulation might be used to create competitive advantage in global markets by regulating attributes such as quality e.g. wine and mining, or provide an incentive to find solutions to particular problems, for example, by imposing stricter environmental standards. Case studies in the wine and mining industries demonstrate how regulation can underpin an industry “brand” focussed on quality which provides a competitive advantage in the global market place.

In relation to the third dot point above, a recent UK Department of Trade and Innovation report<sup>3</sup> considers the government’s role as regulator and why regulation matters for innovation. It suggests that regulation should focus on the desired outcome rather than prescribing in detail how things should be done and in this way

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<sup>1</sup> ‘The Knowledge Economy in the Australian Context’, Australian Business Foundation, 2004

<sup>2</sup> Insights from Australian Business Foundation research messages by researcher Bev Clarke, Graham Chalker & Associates

<sup>3</sup> ‘Innovation Report - Competing in the Global Economy: the Innovation Challenge’, UK Department of Trade and Industry, 2003. <http://www.dti.gov.uk/innovationreport/>

reduces the constraints on innovation. It notes that an outcome-based approach offers the opportunity for business to work with government in designing regulations and implementation. A feature of such an outcomes-based approach is that businesses have the choice about *how* to comply with regulation.

While some of the issues discussed above can be adequately addressed within an NCP-type framework it may be necessary to consider a parallel process, which could address issues such as:

- Corporate governance. What are the institutional or regulatory impediments to firms and institutional investors adopting a longer term approach to investment decisions?
- International harmonisation and /or mutual recognition of standards, regulation and qualifications.

### **Specific competition issue**

In addition to the issues identified above, ABL suggests that there is considerable potential for economic benefit through the removal of impediments to efficiency and enhanced competition in the area of education and training.

The Issues Paper identifies that competition related reforms have also taken place *outside* the NCP framework, for example, through the introduction of competition and market-based funding and delivery mechanisms such as 'user choice' in vocational education and training.

#### User Choice Policy

In 1997, relevant State and Territory Ministers considered the User Choice policy and agreed to full implementation nationally from 1 January 1998. Under User Choice public funding for training would flow to an individual training provider as selected by employers involved in New Apprenticeships. This shift in funding arrangements promised to:

- allow employers to select the training provider of their choice,
- empower employers to negotiate about aspects of training including content, location and timing, and
- provide a greater level of contestability amongst training providers, therefore improving the responsiveness and diversity between public and private providers<sup>4</sup>.

A number of commitments are made in the User Choice policy to achieve the level of responsiveness needed to satisfy users of the system. An important commitment of the policy was the responsibility resting with State and Territory agencies to implement these arrangements and ensure a flow of information about User Choice

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<sup>4</sup> Training and User Choice – The employer Perspective, Australia Chamber of Commerce and Industry, April 2002.

to all stakeholders. Despite this, a recent survey undertaken by ABL revealed that 69% of employers have never heard of the term User Choice.

While it is acknowledged that each jurisdiction supports User Choice, full implementation is yet to be achieved. The concern is that this lack of full implementation will lessen demand as employers may feel their role and influence has diminished and they may begin to withdraw from participating in training.

In 2003, KPMG was commissioned by the Australian National Training Authority to assess<sup>5</sup> User Choice policy in the vocational education and training sector. The assessment confirmed that the lack of implementation of User Choice policy has led to employers, employees, learners, apprentices and trainees not understanding their rights and responsibilities when making training decisions.

Employers are concerned that implementation has stalled, bogged down by States and Territories concerned about the impact of User Choice on existing public providers. This has severely limited the achievement of the desired policy outcomes. Employers strongly believe that they are not able to achieve the level of customisation of training or information to which they are entitled under the User Choice policy. The major issue of contention for States and Territories are:

- lack of a clear definition of User Choice and its purpose,
- concerns of the impact of an introduction on TAFE, particularly in regional areas where it is claimed “thin markets” will threaten the viability of some TAFE campuses,
- need to ‘control’ training activity through central planning processes or managed competition through select tendering,
- issues over quality of training provided, particularly by small private training providers, and
- fundamental flaws in the pricing system of training through ‘nominal hours’ allocated to training undertaken by providers rather than a set fee based on outcome.

ABL maintains that User Choice is a key element in employer engagement in training as well as essential to the on-going performance of the vocational education and training system to provide skills appropriate to the current and future economic development of Australia. Full implementation of User Choice is therefore critical and ABL advocates the need for real financial impetus for States and Territories to introduce User Choice Policy for all entry level training activity.

### Competitive Tendering and Contracting

In NSW, registered training providers who deliver training under User Choice arrangements must tender each year for the NSW Apprenticeships and Traineeship Training Program, administered by the NSW Department of Education and Training

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<sup>5</sup> Impact of User Choice policy on the VET System, KPMG, November 2003.

(DET). Registered training providers are invited to tender over a 6 week period to deliver training in traineeships and specific apprenticeships.

Successful tenderers are placed on the DET Approved Providers List (APL). To be eligible to tender for inclusion on the APL, training providers must be registered with the Vocational Education and Training Accreditation Board once they have undergone an audit against the Australian Quality Training Framework (AQTF). The AQTF contains twelve standards that ensure the quality and integrity of registered training providers who deliver accredited training in the formal training system.

In the past, the APL tender used to be open to all registered training providers, however management of the tender process has resulted in an invitation only process. The DET now invites registered training providers to tender based on a completion rate percentage (that is, the percentage of students who have completed training with that provider). Those registered training providers who fall short of a certain percentage are allowed to complete training for trainees and apprentices from the previous year but are not allowed to take on any more participants despite immediate demand supporting their continuation. This poses a threat to the sustainability of the registered training provider as a business.

Performance based data collected by the DET does not capture economic discrepancies that may affect a registered training provider's performance from year to year. This results in a further consultation requirement to provide evidence of eligibility to tender.

Furthermore *Clause 16 of Contract for the NSW Training Market 2004 APL*, states that total activity for registered training providers not previously on the APL will be limited to 200 new entrant commencements and 600 for those who were on the 2003 APL contract. Registered training providers who wish to exceed the 600 new entrant commencements limit, must apply to the DET and will only be approved if their request meets the NSW determined strategic skill needs.

The rationale for activity limits is to maintain quality standards in the NSW training market. The change was introduced to assist the NSW Government effectively manage traineeship growth and ensure better system responsiveness to strategic skill priorities. While industry appreciates the reasons for the Government's approach, there is concern about the lack of transparency and clarity around the setting of activity limits.

In response to registered training providers requesting to apply for additional funding of new commencements above 600, the DET compiled guidelines for written submissions to increase activity limits which are currently being trialled.

The guidelines are very specific, requesting registered training providers to demonstrate that the proposed increased activity is aligned to strategic skill needs for NSW. Providers must also specify their capacity to meet increased demand as well as explain the types of traineeships and apprenticeships they are going to deliver. The DET base their decision to grant increased activity based on an assessment of evidence provided by the applicant as well as their current and past performance.

In summary, despite the previous open tender for training market programs in NSW, it is now a closed process which precludes registered training providers from entering an open training market for contestable programs. Furthermore, there is an unnecessarily high administration burden for training providers associated with the contracting and tendering process used for selecting providers in NSW.

ABL recommends, in line with full implementation of User Choice Policy, that the current tendering process be reviewed to reflect an open market where training demand has the ability to drive supply.

I would be pleased to discuss the issues raised here with you. My contact details appear below should you wish to do so.

Yours sincerely

[signed]

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