

REIA SUBMISSION TO THE PRODUCTIVITY COMMISSION
REVIEW OF NATIONAL COMPETITION POLICY REFORMS

BACKGROUND

1. During 2004, the Productivity Commission has been undertaking an inquiry into the impact of current National Competition Policy arrangements and will report on future competition-related reform priorities to the Government. The inquiry will provide input to Council of Australian Governments (COAG) deliberations on a possible future competition policy agenda, which are due to be completed by September 2005.
2. The Real Estate Institute of Australia (REIA), which represents the professional interests of the real estate industry, provided a submission in response to the National Competition Policy Issues Paper in June 2004. The REIA proposed that further reform of Queensland legislation be undertaken by the Queensland Government to deregulate commissions of real estate agents to be consistent with all other States, in order to provide for more flexible service delivery, increased fee competition between agents, higher levels of accountability, and to encourage a free market economy in the public interest. The REIA's views were noted in the Productivity Commission's Discussion Draft (October 2004).
3. The October 2004 Discussion Draft made recommendations relating to consumer protection regulation, and discussed the regulation of occupations and professions including those in the real estate industry. The REIA wishes to provide further comment to the Productivity Commission National Competition Inquiry into these matters.

PURPOSE

4. This submission outlines the views of the REIA on issues relating to consumer protection regulation and the regulation of real estate occupations, as detailed in the Productivity Commission's Discussion Draft (October 2004).

ISSUES

5. The REIA supports the Discussion Draft recommendation that a national review be established to look at consumer protection policy and administration in Australia. In particular, REIA supports the call for a review of mechanisms for coordination policy development and application across jurisdictions. In an increasingly globalised business environment and with the increasing use of technologies such as the Internet, it is inefficient and contrary to the principles of the National Competition Policy for different consumer protection regimes to be operating in each of the eight jurisdictions in Australia. Further, the consumer protection responsibilities of the States and Territories need to be better coordinated

with federal consumer protection responsibilities to avoid regulatory duplication, and in some cases, regulatory oversight.

6. As noted in the REIA submission to this Review, further reform of Queensland legislation should be undertaken by the Queensland Government to deregulate commissions of real estate agents to be consistent with all other States, in order to provide for more flexible service delivery, increased fee competition between agents, higher levels of accountability, and to encourage a free market economy in the public interest.

7. In its submission to the Productivity Commission's 2004 Competition and Consumer Protection Regimes Study, the REIA noted its concern that there are significant differences in the legislation and regulations governing the real estate industry amongst the Australian states and territories, e.g. vendor bidding is treated in different ways in several states.

8. The REIA submission to the Productivity Commission's 2003 review of Mutual Recognition Arrangements noted that the practice of offering real estate services is regulated by registration and licensing in all States and Territories. Whilst there is commonality between the jurisdictions in the way that the industry is regulated, there are also significant differences in the regulatory models that apply.

9. The current differences between jurisdictions in respect to entry levels for licensing and registration to operate in the real estate industry are creating problems and inefficiencies within the industry. Labour mobility between the states is being restricted. The need to retrain new entrants who have originated from another state is inefficient, time-consuming and costly.

10. In September 2004, REIA provided input to the Standing Committee of Officials of Consumer Affairs (SCOCA) review of harmonisation of estate agent regulation. REIA noted that a consistent nation-wide approach to education and licensing is the first step in the broader harmonisation of estate agent regulation, a goal which the REIA believes must be attained in a marketplace that is increasingly without borders, both through commercial practice and legislation such as the Mutual Recognition Act 1992.

11. In its submission to SCOCA, REIA noted its strong support for the National Competition Policy 2001 assessment of occupational licensing of real estate agents which found that 'real estate services are regulated to protect consumers from problems due to information imbalances between agents and their clients, and from the risk of financial loss caused by agents' criminal or fraudulent conduct. Consumers, particularly residential homeowners, often lack experience in purchasing real estate services, because they are generally infrequent participants in the real estate market. Residential home transactions are one of the largest investments for many people so there is the potential for significant loss if consumers receive poor marketing and advice. As well, the sale of property has legal implications. Financial loss may arise from the misappropriation of funds (such as deposits on transactions and rent) held in trust.'

SUMMARY

12. The REIA supports the Productivity Commission's call for a national review of consumer protection policy and administration in Australia, particularly with regard to mechanisms for coordinating policy development and application across jurisdictions. In relation to the real estate industry, such a review should consider harmonisation of education and licensing requirements, as well as broader legislation pertaining to the real estate industry. REIA supports earlier findings by the National Competition Council that real estate occupations should be regulated in order to assure consumer protection objectives are met.

13. As noted in the Submission to this Review, the REIA calls for deregulation of real estate agent commissions in Queensland, in line with the policies in place in all other Australian jurisdictions.

RECOMMENDATIONS

14. REIA recommends that:

- a. a national review of consumer protection policy be undertaken, with a particular focus on mechanisms for coordinating policy development and application across jurisdictions, as this pertains to the real estate sector;
- b. there should be consistency in education and licensing for real estate agents across all jurisdictions in Australia; and
- c. real estate agent commissions be deregulated in Queensland, in line with the policies in place in all other Australian jurisdictions.

Prepared by:

Secretariat
Real Estate Institute of Australia

22 December 2004