Submission on Services Sector – 1st Interim Report

Q8.1 **"**Which two of the three proposed topics rank most highly in relation to the selection criteria in the inquiry terms of reference?**"**

For this inquiry the first two (improved occupational licensing, stimulating services competition) rank higher in my opinion than the third (barriers to ICT). The first two topics are largely complementary, which means that there are likely synergies from doing both together, whereas the ICT issues involve a largely separate collection of issues and, moreover, ones that are as likely to be pertinent to agriculture and manufacturing as to services. It seems to me that ICT as an issue is an important topic, but better treated on its own, and from an overall national perspective. In addition, (a) the licensing and competition topics fit well with the research evidence from MBIE work that there appear to be low levels of competition and attendant low productivity in a number of markets in New Zealand and (b) there are too few advocates for competition in New Zealand, for a variety of reasons, and an authoritative body spelling out the productivity benefits in the services sector of competition, and identifying specific ways of increasing competitive pressures and widening consumer choice and voice, would be very helpful.

Q8.4 "To what extent do occupational licensing requirements create an unnecessary barrier to entry (and greater competition) in particular service industries?"

In this context we have, in the past, seen flagrant use of bogus licensing requirements to restrict competition in medical services, notably the instance of the Invercargill ophthalmologists[1] who used the requirement that visiting Australian surgeons, however eminent, needed local 'oversight' (and

[1] Reserved Judgement of Gendall J in *The Commerce Commission v The Ophthalmological Society of New Zealand Incorporated And Ors*, High Court, Wellington, CIV-1997-485-34 [1 March 2004]

then collectively declined to provide any, breaching the Commerce Act in the process). As the judge said,

"In general terms, what occurred was concerted action by members of a profession, and its professional body, to assist a colleague avoid legitimate competition to protect what he, and his profession, regarded as his exclusive domain. It was lamentable and the media release of the NZMC [the NZ Medical Council] (of 5 March 1997) aptly states the position that the arrangement of the defendants', and actions of some of them, was:

> an attempt by professional rivals to restrict the legitimate safe practice of medicine by an appropriately qualified doctor".

The potential for anti-competitive use of 'oversight' or other occupational requirements is clear.

Q8.6 "Should New Zealand adopt unilateral recognition of overseas occupational licensing regimes? Under what circumstances?"

Yes, and as widely as possible. There are multiple sources of information on the reputations of overseas providers of professional training and accreditation: it would not be difficult to identify accrediting bodies to grant recognition to. In some services, this is being made easier by the spread of global professional standards (eg the International Financial Reporting Standards, IFRS, in accountancy).

Q8.8 "Are online tools such as PowerSwitch an effective means of enhancing competition?"

In general, yes, though in this particular case the benefits are limited by the fact that effective competition is happening only at the retail distribution end of the supply chain (though it is of course better to have competition there than not have competition at all) while the bulk of the electricity costs are incurred at upstream levels (generation, lines businesses) that are less exposed to effective

consumer choice. Online tools and the like are more likely to have greater impact where the customer is dealing more directly with suppliers (eg with telcos re mobile pricing plans).

Q8.9 "Is there a role for government in further provision of consumer information and switching tools? If so, in which markets? "

There is one impediment to switching which I would like to raise, and that is the absence of e-mail address portability. In many services (such as banking), and even in parts of the telco business (thanks to landline and mobile number portability), switching suppliers has become steadily easier. But not in the case of ISPs, where if a business has an ISP-specific e-mail address (eg smallbusiness@xtra.co.nz) it is a major headache to change supplier. Newer businesses are likely getting savvier about using non-ISP addresses (eg smallbusiness@gmail.com) or setting up their own domain names (eg owner@smallbusiness.co.nz) , but there must still be a large legacy of SMEs for whom ISP switching costs remain excessively high.

Q8.10 "Are there specific issues relating to competition law that would be suited to examination in this inquiry (ie that meet the criteria set out in the terms of reference)?

You note that in the context of this inquiry any issues along these lines would need to be clearly contained. There is one that comes to mind, and that would be to give the Commerce Commission the explicit power to conduct 'market studies', i.e. broad ranging inquiries into the state of competition in different sectors. In overseas jurisdictions these are commonplace powers for a competition authority to possess. It would involve a very simple amendment of the Commerce Act.

Thank you for the opportunity to submit. It was an excellent report, which brought together a great deal of relevant material in a comprehensive and thoughtful way, and I was pleased to publicise it and encourage others to submit (http://economicsnz.blogspot.co.nz/2013/08/get-your-tuppence-worth-in.html).

Donal Curtin, Economics New Zealand