



14 March, 2014

Inquiry into the Services Sector
New Zealand Productivity Commission
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The Terrace
Wellington 6143

By email: info@productivity.govt.nz

**SUBMISSION on
Boosting productivity in the services sector
2nd Interim Report Competition and ICT topics**

Thank you for the opportunity to make a submission. This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

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1. General comments on the 2nd Interim Report

- 1.1 Consumer NZ congratulates the Productivity Commission for this excellent report. It also appreciates the process the Commission has undertaken to reach its findings. Consumer NZ will restrict its comments to chapters 3 and 4.

2. R3.1

- **Thorough cost-benefit analysis around reducing search and switching costs**
 - **If government decides there is case to reduce search and switching costs in services markets, then initiatives should be appropriately funded.**
- 2.1 Consumer NZ agrees with this view. The Consumer-run Powerswitch website could only survive with significant government funding and industry-levy (via the Electricity Authority What's My Number campaign). Other competitors

(Switchme being the only viable competition) have not been able to attract the traffic or commercial success to stand alone. Without Government support, consumers would not have this service.

- 2.2 There are service areas in New Zealand which would significantly benefit consumers if there were comparison websites. General insurance is one example. Overseas (the UK significantly) insurance comparison and switching websites have substantially changed how the market operates, to the benefit of consumers. Insurance companies here have been able to resist this move because it's probably not commercially viable to set up a comparison site and organisations such as Consumer NZ do not have the resources to commit to such a substantial investment without support.
- 2.3 One alternative would be for the industry itself to be levied to fund such independent websites where it could be clearly demonstrated that easy comparisons would benefit consumers or that industries were using confusion to hold up prices.

3. R3.2 Improving KiwiSaver periodic disclosure statements

- 3.1 Consumer NZ agrees with this and would also happily host the disclosure forms.
- 3.2 Providers of KiwiSaver products might be compelled to have a link to the Financial Markets Authority website on their own sites to ensure consumers know where to look for these documents if they want to view them. The Office for Financial Literacy and Retirement Commission also runs the popular "sorted" website, which should contain this information.

4 R3.4 The Commerce Commission should include information in the updated Fair Trading Act guidance re provisions relevant to providers of comparison websites

- 4.1 Consumer NZ agrees with this.
- 4.2 Specific guidelines for accreditation schemes of any sort should be regulated by the Commerce Commission.

5. R3.5 Unfair contract term provisions

- 5.1 Consumer NZ agrees with this, particularly so with utilities whose terms may contain heavy penalties for breaking contracts. There have been instances of this in the electricity and telecommunications industries, which mean consumers cannot easily switch.
- 5.2 Insurance companies have been exempt from the new unfair contract terms in consumer legislation. Consumer NZ will be campaigning for insurance company contracts to be included in the new provisions. It's the organisation's understanding the government will be looking at insurance legislation in the near future.

6 R3.6 Payments NZ should improve transparency of bank switching process

- 6.1 Consumer NZ agrees with this. It will also look to publish a summary of the rules to switching on its website, including a fact sheet setting out the process and timeframes, and frequently asked questions.

7 R3.7 Payments NZ should publish statistics showing current account switches each year and how long the process took

7.1 Consumer NZ agrees with this.

8. R3.8 The Telecommunications Forum should develop industry guidelines to create a low-cost user-pays system that enables customers to access emails after they have switched provider

8.1 Consumer NZ agrees with this.

9 R3.9 International development in bank switching should be monitored and account number portability

9.1 Consumer NZ agrees with this.

10. Licensing or certification, and registration and governing bodies

10.1 Consumer NZ agrees that governing bodies should have members whose responsibility is to act on behalf of consumers.

10.2 It agrees a purpose for a governing body should be fostering a competitive market place.

10.3 It also agrees that explicit in the expectations of those bodies (enshrined in legislation) should be their obligations to support competition, and complaints resolution and reporting. On complaints the service should be free to consumers and binding on the industry body. The complaints services should be adequately funded and be mandated to resolve issues in a timely fashion. Consumer NZ is concerned at the lack of effective complaints resolution available in the building industry. Consumers have more protection when they buy a car than when they build a house.

11. F4.1 Market studies are a tool that competition authorities around the world commonly use. Practices vary considerably.

11.1 Consumer NZ would support increased funding to the Commerce Commission to enable it to conduct market studies or to commission other organisations to undertake those studies.

11.2 New Zealand, by its nature and size, has some industries which are not that competitive (supermarkets being an example). The ability of the Commission to undertake independent investigations, without necessarily having to act on a complaint, would enhance its knowledge of business practices generally and of the market place. That must, in the long term, benefit consumers and businesses.

12. Q4.1 Is there a case for ongoing research or investigation into the state of competition in New Zealand markets? Which of the following would be more beneficial?

1. Granting the Commerce Commission a formal mandate to conduct market studies

Consumer NZ sees there would be advantages to allowing the Commission a mandate to conduct studies. It could also administer a contestable fund (point 4). To some extent it already has experience in this area when it is looking to give back funds to consumers where it has successfully litigated or come to a settlement. Consumer NZ

benefited from that in the past in setting up the telecommunications comparison website TelMe and also to look at KiwiSaver providers.

More resources would need to be given to the Commission but as above, the nature of New Zealand's size and distance, means competition (or lack of it) is a real issue for consumers.

2. More regular use of inquiries that are currently undertaken on an ad hoc basis

The issue with ad hoc inquiries in the competition space is whether they are politically influenced. MBIE undertakes many studies and policy analysis work. However, the trusted role of the regulator cannot be underestimated. The Ministry of Consumer Affairs was subsumed into MBIE, which means any policy work around consumer benefit/detriment has been dissipated.

3. Providing greater resources to the competition advocacy work of the Commerce Commission

Consumer NZ sees this as the Authority to be looking at competition. (See above points 1 and 2)

4. Establishing a small contestable fund available to organisations that research the performance of different markets, with an emphasis on improving market outcomes for consumers

Consumer NZ sees benefit in such a fund. The Productivity Commission notes the organisation undertook a mystery-shop of financial advisors in 2009. This was done to benchmark their activities before new regulations were introduced. The outcome of that research was widely reported and resulted in changes to the code for financial advisors.

It had been intended to revisit that work within two years of its completion to see if there had been any improvement in the services financial advisors provided to consumers. However, that work has not been done, simply because the funding has not been able to be found. A contestable fund might have enabled that to be completed.

Another area where consumers might benefit but Consumer NZ has been unable to sustain the cost of the development is in the provision of an independent site for general insurance comparisons and switching. Unlike other countries where the large populations make it commercially viable to set up these sites, NZ has been slow off the mark. This has been to the detriment of NZ consumers who remain confused about the offerings and find it difficult to make comparisons. Organisations like Consumer NZ are ideally placed to develop these kinds of switching sites.

13 Q4.2 If a market studies regime were introduced

- **Should the Commerce Commission have formal powers to compel the supply of information for market studies?**

Consumer NZ believes the Commission should have powers to compel the supply of information. Provisions of the Official Information Act might need to be looked at to

ensure businesses could divulge confidential and commercial information without it being discovered. But not to the extent of undermining the constitutional aspects of official information being public.

- **Should the Commerce Commission have discretion to launch market studies, or should this be the responsibility of Parliament or Ministers?**

The Commission should have the ability to launch market studies, but so should Parliament and Ministers. What shouldn't be allowed is for Parliament or Ministers to be able to prevent inquiries from the independent regulator.

Contentious issues may need to be considered by a Select Committee, the Speaker?

- **Should the Government have to formally respond to market studies?**

Where a response is relevant, or regulatory or legislative reform is required, or the commission has made a recommendation which requires a response, the Government should respond.

- **What other design features?**

A framework for the market studies should outline the basis an organisation was undertaking the study, the injury or detriment it was investigating, and how broad the harm might be if the activity it was investigating was occurring.

Consumer NZ is thankful of the opportunity to make this submission and also to have spoken with the Productivity Commission throughout its research of this large topic.

We are happy to provide further assistance if required.

Kind regards



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