

Athena Wicks

From: National Competition Policy
Sent: Tuesday, 21 May 2024 9:23 AM
To: Aaron Korczak-Krzeczowski
Subject: FW: Submission Addendum - National Competition Policy analysis
Attachments: Babina working paper 31597.pdf;
ParkerandNielsenTheFelsEffectResponsiveRegulationandtheImpactofBusinessOpinionsoftheACC
C20112.pdf

Hi Aaron, this is an addendum to Allan Fels submission – can you please check it and then I can process the additional papers.

Thanks

Athena

Athena Wicks | Executive Assistant to Dr Catherine De Fontenay, Mr Martin Stokie and Mr Benjamin Mitra-Kahn | |

From: Allan Fels
Sent: Monday, May 20, 2024 12:59 PM
To: National Competition Policy <ncp@pc.gov.au>
Subject: Submission Addendum - National Competition Policy analysis

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Dear Sir/Madam,

SUBMISSION ADDENDUM NATIONAL COMPETITION POLICY ANALYSIS

I refer again to the econometric study of the impact of competition policy. I touched on it in an earlier short submission below.

I refer to an NBER working paper by Tania Babina and others dated August 2023, No. 31597 entitled 'Antitrust enforcement increases economic activity' as attached.

It is an econometric study accompanied by a thorough review of the literature.

It is, I believe the best study of this subject available, and points to strong positive economic benefits of antitrust enforcement.

As I recall it (I have not checked) the Productivity Commission study of National Competition Policy omitted analysis of the effect of the large, step-up in enforcement from around 1991.

How could this be measured? The NBER study may/may not be replicable.

Regarding the measurement of enforcement activity by the ACCC (and the Trade Practices Commission its predecessors) I raise these possibilities:

1. number of cases
2. media releases/media coverage
3. fines

There was also a study by Christine Parker and Vibeke Lehmann Nielsen which was called the 'Fels Effect', Responsive Regulation and the Impact of Business Opinions of the ACCC as attached.

Some quantitative work on fines etc. was undertaken by Caron Beaton-Wells.

There is the issue of general deterrence effects e.g. the deterrent effect of actual cases on other business and sectors.

To sum up I believe that measuring past impact of NCP should have included an attempt to measure the impact of step-up in ACCC enforcement and the above points are meant to be a contribution to how you think about measuring that impact.

I am happy to discuss if you are interested.

Professor Allan Fels AO
Melbourne and Monash University

From: Allan Fels
Date: Tuesday, 16 April 2024 at 11:10 am
To: ncp@pc.gov.au <ncp@pc.gov.au>
Subject: Submission - National Competition Policy analysis

Dear Sir/Madam,

**SUBMISSION
NATIONAL COMPETITION POLICY ANALYSIS**

I welcome the inquiry.

Many detailed and sophisticated submissions will be made.

I will stick to a few general points.

Modelling

In reviewing the benefits of NCP in 2005, the study despite its virtues had as I recall shortcomings:

- The impact of the ACCC was not included in the NCP study. During the period 1991-2005 there was a very sharp step-up in ACCC enforcement activities. Critical measures of this would be: number of cases; fines; media coverage and ACCC releases.
- I also had the impression that some of the 'gains' were not substantiated. Speaking from memory, I think electricity and taxis were mentioned. I do not think there was an NCP foundation for the electricity findings. They preceded the NCP. Taxi reform did not occur. I stand to be corrected on this.
- It is important that overstatements of the effect of the NCP are not made.
- I am concerned that quite a few economic studies of market power and concentration use much wider 'definitions' of markets than used in competition law e.g. fish is excluded from meat markets in competition law but not in some economic studies.

National Competition Policy

I would like to draw attention to some gaps in the former NCP.

- The Commonwealth, despite 'pointing the finger' at states and territories turned a blind eye to some activities in its jurisdiction. Examples include transport – especially aviation, communications, especially TV, health (restrictive practices by specialists) and others.
- A proper national policy would cover sectors such as:
 - health
 - education
 - care services (aged, disability, mental health etc.)
 - defence, especially procurement
 - the transition to net zero
 - trade
 - foreign investment
 - tax (where it affects competition)

I myself with Darryl Biggar wrote a paper on this which I attach.

Kind regards
Professor Allan Fels AO

Attached:

1. Competition in public markets (Fels and Biggar)
2. Institutional design of competition policy (Ergas and Fels)
3. ACTU Price Gouging Inquiry Report