
D Competitive neutrality complaints

The Productivity Commission Act and the Government's Competitive Neutrality Policy Statement require the Commission to report annually on the number of complaints it receives about the competitive neutrality of government businesses and business activities and the outcomes of its investigations into those complaints. The Australian Government Competitive Neutrality Complaints Office (AGCNCO) received one formal complaint in 2006-07. Details of the action taken in relation to this complaint are summarised in this appendix.

Complaints received in 2006-07

Real Estate Institute of Australia

In May 2007 the AGCNCO received a competitive neutrality complaint from the Real Estate Institute of Australia (REIA) regarding Defence Housing Australia's (DHA) exemptions from licensing requirements for the provision of property sales and management services.

The REIA alleged that DHA acts as a real estate agent in the sale of its properties and the lease back arrangements it has with private investors and, as such, licensing exemptions for DHA staff involved in the conduct of real estate business are 'anti-competitive, providing a more favourable business environment for DHA than for private sector real estate business'. In particular, the REIA considered that the advantage afforded to DHA as a result of government ownership was a result of:

- DHA being exempt from having to employ licensed real estate agents and from subsequent continued professional development which is mandated in some jurisdictions
- DHA not being required to maintain a registered office
- DHA being exempt from prudential requirements in its property management capacity — it does not need to maintain trust accounts for bonds paid by customers or pay insurances such as professional indemnity and fidelity insurance.

After an initial investigation, which included meetings with both REIA and DHA, the AGCNCO decided to proceed to a formal investigation. DHA subsequently provided the AGCNCO with a written response to the REIA's complaint, as well as formal legal advice from the Australian Government Solicitor on the application of State and Territory real estate legislation to DHA. This investigation has been carried over to 2007-08.