

Dear Sir

I write in relation to the review of the Trade Practices Act and the recently released discussion paper.

In a globalised economy in which Australia is a relatively small participant, with minimal restrictions on trade in both goods and services, (see the Mortimer Review paper *Winning in World Markets*) Australia must develop business regimes that are predominantly focused on creating a competitive advantage. We are a country that is well outside the normal trading routes, which are equatorial, and with a small population, about the same size as Malaysia, Taiwan and half that of the Republic of Korea. We also cover a vast area equivalent to the continental United States of America and China but with a water availability that will probably restrict population to below 25 million people. This means that the cost of moving around Australia's population centres is disproportionately high and that we contain effectively seven separate markets (the ACT is part of the Sydney market).

Australia is therefore significantly disadvantaged in several of the critical areas of trade, not least of which is the overall size of the combined domestic Australian market.

With a relatively open market where tariff and non-tariff barriers are minimal by international standards most international goods and services providers (with the exceptions of some sectors like legal services and deposit taking banks) have open access to the small Australian market. This has a significant impact on competition and what should be considered as the Australian competition regime.

Competition in the Australian market therefore cannot be limited to the nineteenth century view which was restricted to existing domestic participants.

Many goods and services, including retailing of items such as books, provision of education services, engineering services, architectural services, and even many health services (eg plastic surgery tourism), etc, are provided across Australia's international borders with minimal restrictions. This commercial trend has been strengthened by the Free Trade Agreements which Australia has signed across the globe, and most recently with Chile.

Competition within the Australian market, and therefore the intent and application of the competition sections of the Trade Practices Act, must therefore be cognizant of the globalised economy and Australia's participation in it.

While the impacts of the globalised economy have been clearly demonstrated over mid September by the Government's wise move to stop short selling in Australia, it seems that a schizophrenic attitude to the Australian market persists. In much of its operation it is acknowledged as global but in competition policy it might as well still be behind the mediaeval walls of Constantinople.

There will remain some sectors of any economy, especially a remote one like Australia's, that have significant natural barriers. One example is perishable goods such as bread. It is not economically viable to move high volume, low value perishable goods around much of Australia or across Australia's international borders, unlike occurs in Europe. In such sectors of the Australian economy competition will continue to be local and regulation should reflect this reality.

However, it is most important that the market maintenance needs of localised industry sectors not spill over into regulation of those sectors that are subject to the cleansing winds of global competition.

Competition policy, and the legislative force of the Trade Practices Act, must reflect the global reality within which the Australian economy works. It must not continue to be a distorting regime to protect certain sectors of the Australian community from competition. Most importantly, the Trade Practices Act must not remain legislation that denies the operation of market forces and limits Australian businesses from growing to internationally competitive size on the fallacious basis that such restrictions protect small businesses.

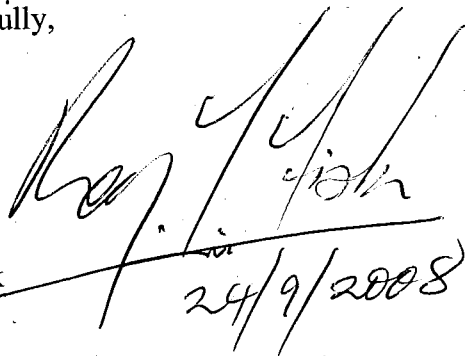
Some nations, such as Finland, have taken a globalised perspective to their domestic competition, in that case since its return as a nation state from behind the Iron Curtain. Taking Finland as an example; a population about the size of Sydney or Singapore; it has created, nurtured and grown, and then internationalised a business, such as Nokia, which has repatriated enormous wealth for its originating nation state. It is arguable that the Trade Practices Act prevents any Australian domestically focused company from now becoming a sufficient size to properly enter the much riskier international market, like Nokia.

This damages the Australian economy and the barriers to growth are cloaked in the spurious arguments of increased domestic competition.

Review of the competition and acquisitions provisions of the Trade Practices Act should reflect the two sided nature of a remote economy such as Australia's. It should protect domestic competition where a globalised market cannot operate and not restrict growth where it can be demonstrated by the participant companies that the market is effectively global.

Yours faithfully,

Reg. T. Fisk



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