



Civil Contractors Federation

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Civil Contractors Federation Submission to the Review of the Trade Practices Act 1974

The Civil Contractors Federation is the representative voice of the civil construction industry in Australia. Its membership is made up of contractors ranging from the very small to the very large with most being in the small to medium size businesses.

The construction industry has clearly demonstrated in recent years that misuse of market power and collusion exists. It is also an industry where misuse of market power in the form of the treatment of small sub contractors by some major contractors in relation to contractual conditions and payment and payment terms is possible and does occur.

Criminal Sanctions

CCF submits that in order to deter individual executives and employees of large businesses, the courts should be empowered to deliver jail sentences as a deterrent as the current penalties of fines is not sufficient.

Current Occupational Health & Safety legislation in some states now holds company directors personally responsible for a duty of care and in serious breaches, directors now face the possibility of jail terms. This deterrent has had a very positive effect in the industry.

The maximum penalty should be lifted from the present \$10 million for a corporation to include penalties of up to 3 times the value of any commercial gain from collusion or if this is unable to be estimated, up to 10% of the corporation's turnover.

Misuse of Market Power – Section 46

As business operates increasingly operates in a global market, Australia's anti-monopoly laws should be brought into line with North America and Europe by making it unlawful for large business to take advantage of their power to reduce or damage competition.

Currently the time taken to bring prosecution to a conclusion is far too long. The ACCC should have access to a process allowing it to issue 'cease and desist orders' of the kind available in most countries to enable it to temporarily stop anti-competitive behaviour by big business.

Small business being adversely affected by anti-competitive behaviour can often be driven out of business or seriously harmed before current remedies take effect. Access to temporary 'cease and desist' relief would prevent this from occurring.

Section 46 currently contains sufficient safeguards to protect the legitimate competitive processes, as the High Court has made clear.

Collective Bargaining

Small business would like to see a more streamlined, faster and less expensive process for collective bargaining where small business is dealing with large businesses.

Mergers

CCF submits that the current merger law works well and allows for speedy merger assessment and decision and therefore require no change.

Accountability and Procedures

The framework under which the ACCC operates is open, fair and accountable through courts, tribunals, Parliament and the Commonwealth Ombudsman.

CCF submits that the media plays a vital role in bringing information about cases involving breaches of the Act to the attention of the business community and consumers.

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Civil Contractors Federation
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