



BUSINESS COUNCIL  
OF CO-OPERATIVES AND MUTUALS

26 May 2015

General Manager  
Small Business, Competition and Consumer Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir

I attach a Submission by the Business Council for Co-operatives and Mutuals in response to the Competition Policy Review Final Report.

Please feel free to contact me if there are any matters in relation to our submission that you or any of your officers would like to discuss

Yours faithfully

Melina Morrison  
Chief Executive Officer



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## Submission

Competition Policy Review – Consultation Period

prepared by

Business Council of Co-operatives and Mutuals

### Public Service Mutuals

Human services are identified in the Final Report as a priority area for competition policy reform. Greater competitive pressure would increase diversity among providers that would better meet people's preferences and needs, while also generating productivity gains. In this context, the Final Report identifies mutual providers as a new means of delivering human services. The Report observes that

As user needs evolve and preferences continue to evolve, public service mutuals could play a greater role in meeting individual and community needs, possibly in conjunction with other significant government initiatives (Final Report, 248).

The best test of how much greater that role should be is to allow new entrants to the market to offer alternatives and for people to be free to choose between these alternatives. To achieve this, governments need to promote low barriers to entry, while ensuring requisite service quality standards, as the Report concludes (249).

The BCCM strongly supports this policy position. We also want to make the point that not only should barriers to entry be low, they should be consistent as among different categories or types of entrants.

New mutuals forming as co-operatives face significantly higher Commonwealth and State regulatory barriers to entry than entities that establish themselves as companies. There is no public policy rationale for the higher barriers faced by co-operatives.

Achieving the reforms and outcomes being presented in the Final Report will require an institutional process to review the higher barriers facing potential new mutuals and recommend reforms to governments.

Although the particular interest here is fostering competition in the delivery of human services, the benefits of reforming entry requirements for new co-operatives would extend to all sectors of the economy, including retailing, transport and primary production.

### Australian Council for Competition Policy

We agree with the Final Report's emphasis on the importance of the institutional framework for delivering competition reform, and support the proposed new Australian Council for Competition Policy (ACCP). Effective reform programs need an institutional owner responsible for driving the changes and accountable for their results.

With 13.5 million members of Australian co-operatives and mutuals, the sector is part of the fabric of our society and economy. Co-operatives and mutuals can do two things. One is that just like publicly listed companies (PLCs), they can offer new products and services. The other is that, unlike PLCs, because of their community membership and governance they do so in a way that contributes to community cohesion and resilience.



The issues facing co-operatives and mutuals are sector wide. They are not confined to a specific market.

Achieving vital national co-operatives law reform has been slow and fraught.

Work on the reform of co-operatives laws across states and territories started in 2003. It took nine years before a model law to remove only some of the disparities between co-operatives and companies was agreed in 2012.

So far only three jurisdictions have adopted and commenced the model law.

Implementing the Co-operatives National Law requires:

- policy statements and regulatory guides; and
- registry and administrative services to enable efficient and simplified access to information on public registers and to regularise registration details for co-operatives.

Little of this work is being done, and none of it is being done cohesively across jurisdictions.

Our June 2014 Submission to the Review identified the additional regulatory approval, disclosure and reporting requirements imposed on co-operatives and not required of new companies.

Without stronger institutional drivers, the work of addressing the barriers facing potential new co-operatives will not be done.

For the ACCP to be effective, it will need to have a degree of independence from governments. For this reason, the BCCM supports the recommendation that the ACCP should have a five-member board (Recommendation 43), and that members take a national perspective and not represent jurisdictional interests (p76). The suggestion by the Final Report that funding be set aside for studies in addition to those referred by governments would be an important, practical way in which to give the ACCP a degree of independence (p78).

Designing governance arrangements that secure the right balance between accountability and independence will require careful consideration. Getting this right will be critical to the effectiveness of the proposed ACCP.