

Advisory Report on the Competition and Consumer (Price Signalling) Amendment Bill 2010 and the Competition and Consumer Amendment Bill (No. 1) 2011

House of Representatives Standing Committee on Economics

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Chair's foreword

In this inquiry, the committee conducted the rare task of comparing two Bills that have the same purpose, in this case to control price signalling in Australian markets.

In November 2010, the Hon Bruce Billson MP introduced a Bill to this effect and the Treasurer, the Hon Wayne Swan MP, introduced a government Bill in March 2011. The government Bill followed a consultation process, including an exposure draft in December 2010.

Although the Bills have similar aims, they take different approaches. Mr Billson's Bill only applies to the communication of price related information to a competitor, for the purpose of encouraging the competitor to vary their price, and where the communication has the effect of substantially lessening competition. This Bill applies to the economy generally.

The Treasurer's Bill creates two prohibitions. The first is where a firm privately communicates price related information to a competitor. This is described as a *per se* offence because the conduct of itself is so unredeeming that no further elements are required for liability. The second prohibition is where a firm generally communicates information relating to price, business strategy, or its capacity, and does so with the purpose of substantially lessening competition.

The Treasurer's Bill applies to sectors of the economy stipulated in regulations. The Treasurer has committed to applying the Bill initially to the banking sector and conducting a review before extending it further.

It is immediately apparent that the Treasurer's Bill would have a stronger effect and this is the reason why the committee is supporting it over Mr Billson's Bill. The committee's conclusion is consistent with evidence provided by the competition regulator, the Australian Competition and Consumer Commission. It

stated that elements of Mr Billson's Bill would meant that it would be of little practical use to the Commission in controlling price signalling.

I would like to thank those organisations and individuals that assisted the committee during the inquiry through submissions or participating in the hearing in Canberra. I also thank my colleagues on the committee for their contribution to the report, including Mr Billson, who joined the committee as a supplementary member for the inquiry.

Craig Thomson MP
Chair

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Membership of the Committee

Chair	Mr Craig Thomson MP
Deputy Chair	Mr Steven Ciobo MP
Members	Mr Scott Buchholz MP Mr Stephen Jones MP Dr Andrew Leigh MP Ms Kelly O'Dwyer MP Ms Julie Owens MP
Supplementary Member	The Hon Bruce Billson MP

Committee Secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Mr David Monk (from 30 April 2011) Dr Andrew Gaczol (until 29 April 2011)
Research Officer	Dr Phillip Hilton
Administrative Officer	Ms Natasha Petrovic



Terms of reference

On 24 November 2010 the Selection Committee asked the Committee to inquire into and report on the Competition and Consumer (Price Signalling) Amendment Bill 2010.

On 12 May 2011 the Selection Committee asked the Committee to inquire into and report on the Competition and Consumer Amendment Bill (No. 1) 2011.

Under Standing Order 222(e), the House is taken to have adopted the Selection Committee's reports when they are presented.



List of abbreviations

ACCC	Australian Competition and Consumer Commission
EM	Explanatory Memorandum
RBA	Reserve Bank of Australia



Recommendation

2 Comparison of the Bills

Recommendation 1

The House of Representatives pass the Competition and Consumer Amendment Bill (No.1) 2011 and reject the Competition and Consumer (Price Signalling) Amendment Bill 2010.