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Competition Assessment in Policy Formation Process: Experience from Australia

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Competition assessment in policy formation process: Experience from Australia

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Xin chào, xin lỗi tôi không
nói được tiếng Việt. Tôi hy
vọng các bạn có thể hiểu
giọng Úc của tôi

Today's discussion

- Purpose of market reform
- A few thoughts on institutions
- Competition reform in Australia
- APEC-OECD principles in Australia – a retrospective
- Current and future state of Australian competition policy

What should the objectives of a competition framework be?

- *Support the well being of the people as a whole:*
 - Foster the development of markets
 - Deliver long term benefits for domestic consumers
 - Strengthen economic development through supporting trade exposed sectors
 - Encourage improved distribution of income through market entry and growth
 - Support innovation and technology transfer

What tools are available to do this?

- Development of markets
- Separating market and administrative roles
- Competition laws to prevent collusive behaviour and the abuse of market power
- Regulation, but only where competition is unlikely to be fully effective
- Competitive neutrality policies

Policy accountability is important in market development

- Periodic review of policy is essential to ensure policy objectives are being met:
 - Entry and other market developments may reduce, or remove the need for regulation or change the appropriate form
 - Regulation can change the behaviour of firms, for better or worse
 - Interactions with other areas of government policy need to be monitored
 - Regulatory costs need to be kept to a minimum
- Reviews should provide public advice to government for appropriate policy action

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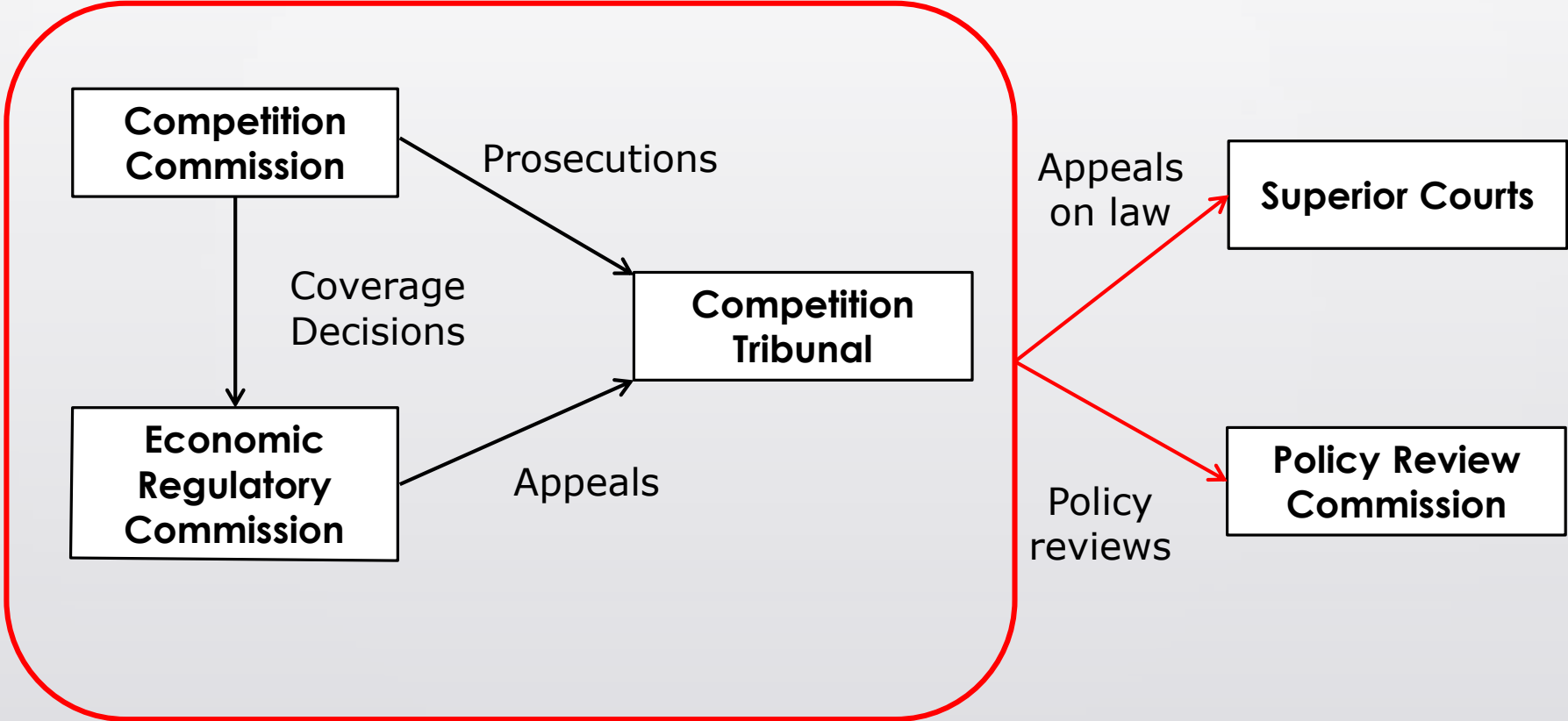
Some basic principles for institutional design

- Regulatory institutions should have clear, separate functions
- They must be separate from each other and from policy ministries and agencies
- Merit appeals where appropriate should be provided for and access to courts where decisions may be unlawful
- Special purpose inquiries may occasionally be desirable

Challenges faced in developing new institutions

- Developing credibility with businesses, consumers and international investors
- Reshaping existing power and economic relationships
- Resourcing
 - Financial resources
 - Suitable leaders
 - Qualified staff and consultants

An indicative institutional design



Indicative functions of these bodies would be

- *Competition Commission* – educate businesses and consumers on rights and obligations, investigate and prosecute potential offences, enforce CT decisions, make regulatory coverage decisions (where applicable)
- *Economic Regulatory Commission* – undertake price and other regulation for designated industries, administer access regimes
- *Competition Tribunal* – decide offences, hear appeals from ERC
- *Policy Review Commission* – undertake periodic reviews of industry and economy wide regimes and other reviews as directed by Government
- *Superior Courts* – hear appeals on matters of law

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Context

- Real concerns were developing about national competitiveness in the 1980s, largely driven by external macroeconomic imbalance
- A large range of important markets were regulated by state and territories on an inconsistent basis
- Many financial services businesses and essential and non-essential service businesses were owned by national and state governments
- Substantial financial market reform, including floating of the currency and licencing of new domestic and foreign banks, was occurring

Reform process

- Reforms in late 1980s and 1990s including commercialisation of SOEs began
- Regulatory harmonisation commenced in areas such as road transport and pharmaceutical regulation
- In 1993 an Inquiry into competition policy (Hilmer Review) recommended principles for achieving CN between public and private businesses
- In 1995 all Australian governments committed to CN principles (as part of a Competition Principles Agreement)

Competition Principles Agreement 1995 – towards a national competition policy

- Prices oversight of government business enterprises rather than ministerial approval of prices
- Competitive Neutrality Policy and Principles
- Structural reform of public monopolies
- Legislation review with national government incentive payments to remove competition and competition obstructing regulations
- Access to significant economic infrastructure
- Application of general competition law to SoEs and local government

The benefits of reform

In 2005, the Productivity Commission estimated:

- selected infrastructure related reforms added 2.5% to GDP
- Electricity prices had fallen 19% in real terms
- Rail freight rates fell 8-42% in real terms
- Real port charges fell by up to 50%
- Real telecom prices fell 20% in real terms
- Real price of mild fell around 7% in real terms

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The APEC-OECD Competition Checklist identifies four areas of concern

- Limits on the number or range of suppliers
- Limits on the ability of suppliers to compete
- Reduction of incentives of suppliers to compete
- Limits on the choices and information available to consumers

Limits on the number or range of suppliers

- Geographic restrictions on trade in goods are unconstitutional and there was no history of problems with investment for historical reasons. That said, geographic restrictions exist on pharmacists who can access government medicine subsidies, effectively limiting number of pharmacies in any given area
- Exclusive rights of provision not common although private sector was prohibited from competing with SoEs eg electricity, carriage of some commodities restricted to some government railways
- Many trade and professions were licenced on a state basis. Suppliers needed to register in each state, often under slightly different rules – mutual recognition fixed this although not complete.
- Licencing in some areas removed (eg hairdressers) although little progress made in other areas until market disruption (eg taxis)
- Self regulating professions, eg surgeons, restricted number of practitioners

Limits on the ability of suppliers to compete

- Prices and/or output restricted for many agricultural products under the name of “orderly marketing”. Most restrictions removed during the 1990s but restrictions on marketing of potatoes in Western Australia were not removed until the end of 2016
- Restrictions were placed on many medical and legal professions to advertise services. Restriction remain in some states in relation legal services
- Little evidence of product standards to benefit incumbents

Reduction of incentives of suppliers to compete

- Exemptions to general competition law only existed for governments, local governments and their agencies. These were removed with the competitive neutrality reforms of the 1990s
- Some areas of self- regulation, especially in medical professions removed

Limits on the choices and information available to consumers

- Competition introduced or enhanced in many areas, eg financial services, aviation, energy
- Policy to facilitate switching, eg mobile phone number portability, prohibition of certain types of back fees
- Policy action to simplify consumer information, especially in financial products, real estate
- Restrictions on advertising certain professional services (eg lawyers, some medical professions)

So where did Australia do well?

- Removing inter-jurisdictional restrictions
- Removing external barriers to international trade (tariffs, quotas)
- Investment was not really an issue until recent times although foreign ownership restrictions remain (banking, telcos, aviation, national interest issues)
- Encouraging competition against, or by privatising, incumbent SoEs where that was possible and sensible to do so

So where did Australia do not so well?

- Achieving lower concentration in some key industries – grocery and department store retailing, domestic aviation, financial services, telcos
- Developing a national energy market to handle the transition to a low/zero carbo economy
- Extending competitive neutrality to ensure governments don't distort market outcomes through fiscal policy
- Achieving community understanding of the benefits of competition

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Current state of Australian competition policy

- Has reached a mature state
- Periodic reviews (recent reviews of banking, general competition law, airport regulation)
- Emphasis on RIA and general stock of regulation slipping
- Entry into markets increasingly rare

Future issues for Australian competition assessment

- Increasing tendency to regulate, or regulate poorly, for political gain without regard for competition or efficiency, often motivated by consumer protection considerations
- Privacy concerns around the use of data may impact on innovation
- Vested interests may obstruct disruptive innovation
- Evidence of lack of consumer responsiveness by concentrated industries

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Thank You

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