5 of 112 DOCUMENTS

The Australian

August 11, 2008 Monday
1 - All-round Country Edition

Fearless watchdog or his master's voice

BYLINE: **Henry Ergas**

SECTION: FEATURES; Pg. 26

LENGTH: 1197 words

The Australian Competition and Consumer Commission will lose its reputation for independence if it keeps coming up with politically convenient schemes for the Government, warns **Henry Ergas**

ANOTHER day, another Australian Competition and Consumer Commission backflip. Only weeks ago, ACCC chairman Graeme Samuel told the ABC's 7.30 Report that ``there would be very few observers in the marketplace that would say to you, `Coles and Woolworths are not vigorously competing against each other.''' Now, in a somersault worthy of an Olympic gold medal, Samuel has concluded that ``the grocery market is workably competitive. That term is used to describe a market in which competition exists but it is definitely not as competitive as it should be.''

This statement stands 40 years of Australian competition law on its head. Since 1976, workable competition has been the touchstone of Australian competition law. Recognising that perfect competition is rarely, if ever, of this world, the then Trade Practices Tribunal, in a decision repeatedly endorsed by the Federal Court and the High Court, determined that workable competition is pretty much as good as it gets: simply put, a workably competitive market is one that is doing exactly what we want markets to do.

Of course, the ACCC chairman is free to define words as he wishes. As Humpty Dumpty famously said, ``When I use a word, it means just what I choose it to mean, neither more nor less.'' But what Samuel is doing is redefining the benchmark at which government intervention is justified. Until now, it has been widely accepted that where markets are workably competitive, governments should let them be. Samuel wants to push that boundary back, extending the oil slick of intervention that began with FuelWatch.

It is true the interventions proposed for retail grocery are far more light-touch than those involved in the FuelWatch scheme. Indeed, they look like the interventions governments make when they know that they really shouldn't intervene at all.

This is especially so with the GroceryChoice website. The trouble with GroceryChoice is that there is no simple way of comparing prices between supermarkets in a manner that will be of much use to individual shoppers. Supermarkets carry tens of thousands of individual products; there are innumerable issues of comparability between products, accentuated by differences between stores in their reliance on own brands; for many products, especially fresh produce, quality matters greatly and varies between retailers in ways difficult to measure; prices fluctuate daily and weekly, all the more so as a result of specials, promotions and mark-downs; and consumers differ greatly in their shopping baskets, so comparisons informative for one are of no value to another.

But even putting myriad practical considerations aside, it is reasonable to ask why taxpayer dollars should be used for this purpose. What is the market failure that GroceryChoice is intended to correct?

Samuel has been clear on this point. Launching the site, he declared that ``before today, (consumers) didn't have any information''. Lack of consumer information supposedly reduces the pressures on stores to compete, perpetuating what the ACCC describes as muted price competition.

The problem with Samuel's claims is that even going on the ACCC's own report, they have no basis in fact.

Far from lacking price information, the report finds that consumers are deluged with material advertising prices and that ``a significant number of consumers do use the prices of specific items to choose the grocery store they will visit''. As a result, the ACCC concludes, ``the majority of consumers either compare prices on a limited range of products shortly before visiting the store, or compare prices over a longer period of time''.

Indeed, retail grocery consumers are uniquely well placed to make price comparisons. Grocery shopping is a repeat activity that accounts for a substantial share of household expenditure. Shoppers are frequently exposed to prices and have incentives to invest in being well-informed. Additionally, most shoppers buy regularly in more than one type of store: say, doing a large shop at a main chain and then topping up with purchases from an independent. They therefore observe prices across outlets and can switch their purchases in line with changes in competitiveness.

As if all this were not enough, the ACCC's own theory about why price competition is muted relies on consumers being both well-informed and willing to switch. The theory says that no chain has an incentive to cut prices as its competitors will readily observe that cut and follow suit to avoid losing customers. But if customers are poorly informed and hence unlikely to switch, as Samuel claims, no such loss of customers would occur and price-matching would be irrational.

This is not to suggest the ACCC's claims about muted competition are correct. In fact, the ACCC finds that promotions are extremely frequent, especially on items that consumers regard as significant. Moreover, quite unlike what would happen in a cosy oligopoly, there is little sign of the main chains following each other's prices up; rather, prices that are above those of a main rival get cut. This asymmetry in price response, together with the speedy pass-through into prices of changes in costs, suggests a market that is strongly competitive, rather than one trapped in oligopolistic price rigidity. Last but not least, there is vigorous competition on location, quality, range, layout and convenience.

No less questionable are the ACCC's strident criticisms of Metcash, the main wholesaler to the independents. Metcash, the ACCC implies, acts as a monopolist, undermining the independents' ability to compete. This is fanciful. Metcash arose from mergers that were approved precisely because they would create a wholesaler large enough and capable of exercising sufficient discipline over retail outlets to achieve scale efficiencies and reverse the precipitous decline in the independents' market share. This is what Metcash has done and has every incentive to do.

The best that can be said is that though the analysis on which it is based is shallower than a Murray dam, GroceryChoice does not seem as harmful as FuelWatch. But surely the public can expect better of the competition regulator. Is the ACCC really incapable of looking at a market without wanting to tinker with it? Why wouldn't the ACCC give frank advice that gimmicks such as GroceryChoice merely waste taxpayers' money?

The ACCC is vital to our economic future; it is important that, like the Productivity Commission, it acts with rigour and independence. Until it does, governments will view it as a soft touch, sure to come up with solutions that are as superficial as they are politically convenient. If the present ACCC allows itself to be reduced to that, it will not only have failed the Australian community but also undermined, perhaps fatally, the standing that the careful and patient work of its predecessors so successfully allowed it to acquire.

Henry Ergas is chairman of Concept Economics, which has provided advice to Woolworths on economic issues.

LOAD-DATE: August 10, 2008

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

JOURNAL-CODE: AUS