



Will competition survive the current crises?

Speakers:

Mr Rod Sims, Chair

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ACCC Chair Rod Sims spoke via a special webcast edition of the Australian Financial Reviews Banking & Wealth Summit 2020 about the critical role competition has in getting the economy running again post the COVID-19 crisis. Mr Sims stressed that we must protect the economic structure we had going into the crisis, and continue to work on reforms that can set us up for success post-crisis.

Transcript:

Check against delivery.

Introduction

I had a great speech prepared for this summit a few weeks ago.

Then I largely junked it. The world has completely changed in that time, and so has my speech title and content.

My new topic, given to me by the AFR, is 'Will competition survive the current crisis?'

My answer is it must, and it will.

It must because an open, market economy is essential to the prosperity of all Australians, and such an economy depends for its success on robust competition.

I know I refer to Adam Smith too often, or so everyone tells me. But it was Adam Smith who came up with the idea of the 'invisible hand'; that we get our goods and services at sensible prices not because of the supplier's benevolence but due to their regard to their own self-interest.

This only works if those suppliers face sufficient competition. This is self-evident.

I believe competition will survive this current crisis for three reasons, which are what I will discuss today.

1. While I do not know when the recovery will begin, we know there will be a recovery and when it begins there is reason to hope it will be fairly quick.
2. The economy will be assisted by sensible but clearly temporary immediate measures, and the ACCC will play a role in this.
3. Recovery will be greatly assisted by the current competitive structure of the economy being maintained, and work continuing to be done on important economic reforms.

1. Economic recovery will occur and, when it does, it may be fairly quick.

I have no idea how long this crisis will last. This depends on health issues well beyond my expertise.

The crisis will cause severe disruption to us all, and will be terrible for many of us in different ways. We all know people close to us who are now unemployed when they never thought this would occur, or who have seen their business shattered. Then we have the unknown level of casualties from COVID-19.

But we know recovery will come, and there are some positive points to be made.

First, there should be a clearer than usual signal that the crisis is over. At some unknown time, the health experts will advise governments that Australians can now go about their business as usual. I realise there is a risk of the pandemic resurfacing after any shutdown, but the crisis will end at some point.

In contrast, a financial crisis has a less certain, indeed often drawn out, end point.

Second, this crisis is turning specialisation and the law of comparative advantage on its head. This law says we each focus on what we are comparatively good at, and let others provide what else we need.

Currently many Australians are multi-tasking, and more than likely at home. For example, they may be minding or teaching their kids, making all their own meals, as well as trying to maintain a normal work load. Those pressures will only increase if there is any illnesses in the family.

When the crisis is over their kids will soon need to resume day care or schooling, they will again often buy their coffee and lunch out, and they will welcome a night out with a bite to eat.

They will also likely be desperately in need of a haircut, some retail therapy, and a range of other goods and services.

That is, the 'all clear' from the health experts will, in itself, cause a much needed and instant spike in demand.

But more will be needed. We must avoid a savage destruction of businesses, and of human and other capital, and we must look after the economy's long-term health.

2. We need sensible and temporary immediate measures to support the economy in this crisis, and the ACCC will play a role in this.

The key words are immediate, sensible and most importantly, temporary.

The approach of government clearly recognises this. Virtually all its measures are temporary; they will cease with the crisis.

Hopefully most households and small businesses can, with the assistance being provided, get through this, so they can quickly pick up post crisis.

The RBA, ATO, APRA and ASIC, that sit as we do within the Treasury portfolio, have all adjusted their activity to provide liquidity, adjust capital ratios and provide regulatory relief. And insolvency laws have been adjusted to provide comfort to directors facing difficult decisions.

The ACCC is playing its part, in two main ways.

First, we are authorising, or making legal, what would otherwise be anti-competitive activity. Under the CCA we have the ability to do this.

This in essence involves competitors getting together to co-ordinate their response and share resources and information.

At a time of crisis such as in war or with a pandemic, where there is a common enemy to fight for the nation's survival, and so a sense of national purpose, co-ordination is both efficient and carries little or no downside.

Without a common enemy, in normal times of course, co-ordination leads to complacency, inefficiency and higher prices.

We have, for example, authorised banks to jointly provide debt relief, supermarkets to ensure their shelves are stocked with Australia's plentiful food and groceries and medical equipment suppliers to expand capacity.

We now have numerous applications in from all sectors of the economy. We are working with them to shape their applications, then approving them in 1–2 days. We are prioritising this work and many of our people are working long hours.

There are many benefits to these authorisations.

Competitors have been able to co-operate as they need to, almost immediately.

They have complete comfort as they are free from any risk of legal action from the ACCC, and more importantly others. General statements of regulatory forbearance are much less certain, and what can and cannot be done is less clear.

In its authorisations the ACCC can ensure price fixing is not allowed, and guard against anti-competitive consequences. And when the crisis is over authorisation can be revoked. There will be a clear line concerning when co-operation among competitors is and is not allowed.

We will want vigorous competition to drive the recovery when it comes.

The second role of the ACCC at this time of crisis is the establishment of our COVID-19 taskforce. Its role is to quickly intervene in emerging consumer issues and help consumers understand their rights when dealing with cancelled events or services, warn about the inevitable scams, and deal with poor behaviour including price gouging.

We have contacted numerous businesses including gyms, travel companies, and event payment processors, just to name a few, to change their approach, without fanfare but with great success.

We have contacted major platforms to encourage them to take down ads for ridiculously priced hand sanitiser, toilet rolls and other essential products, and found they were willing to do so.

My mention of price gouging may surprise you. As many watching this webcast will know, price gouging is not against the law. If I buy an apple for \$1 and sell it for \$10 most people would say I have price gouged the buyer, but most people would recognise this isn't illegal.

The essence of consumer law is do not mislead consumers. Only if I said the apple had particular properties justifying a higher price, when it did not, would that be illegal.

We have, however, looked into allegations of price gouging and called it out when we have seen it, and provided information and context when we didn't believe price gouging was occurring, trying to quell consumer outrage.

World oil prices have plummeted with prices just over \$20 a barrel. As an oil importer this is good news for the Australian economy.

One way Australia benefits is by lower petrol prices. Motorists need any price relief they can get at this time, and petrol station oil tanks have in almost all cases been restocked with lower priced petrol.

Last Friday, the average price in Adelaide was 97 cpl. But in Brisbane it was 134 cpl, in Melbourne 130 cpl and in Sydney 126 cpl. In Canberra it was 137 cpl and in Hobart 144 cpl.

Prices above 130 cpl at this time are inappropriate, to put it mildly. This is not what Australians expect at this time of crisis.

Prices should at worst be below 120 cpl and heading considerably lower. The ACCC will continue to apply pressure to achieve this pricing.

Alternatively, social media posts have gone viral, excuse the pun, with allegations of price gouging against supermarkets over price rises for fresh produce, such as broccoli and cauliflower.

Yes, prices of fresh produce have risen, quite a lot, but at this stage it appears this is mainly due to the effect of the drought and bushfires. Lower yields and short supply lead to higher costs and prices.

We are closely examining, however, whether the players in the middle of the value chain have raised margins when they should not have.

So far, however we have not seen evidence of significantly higher supermarket margins. My comments to this effect have led to social media comments such as, 'What planet do you live on?'

I recognise, of course, that most promotions have ceased, and some items thrifty customers look for may not be on the shelves.

I do have one area of concern in relation to supermarkets and groceries. Through this crisis we must ensure that there are also sufficient supplies of grocery and fresh produce for small businesses to sell, and that they remain open. Coordinating a national effort to improve the logistics of supermarket supply must not come at the expense of other outlets. COSBOA has been making these points clearly to us and others.

At times of crisis the ACCC believes it is important that Australian consumers have an agency working for them, and be seen to be doing so. We need social cohesion, and to all be working together.

3. The long term competition structure of our economy must be maintained, and we must continue to advance important economic reforms.

During this crisis we must protect the economic structure we had going into this crisis, and continue to work on reforms that can set us up for success post crisis.

At this time, though so much is yet unknown, we must look through this crisis and to the world we want post crisis.

Much of what the Federal Government has done can be categorised as temporary measures, not structural. Clearly our national debt will surge, but our underlying budget deficits should be in good shape.

The Government has provided relief to some sectors, but clearly more challenges are coming.

What about potentially failing firms that are strategically important to our economy? These involve very hard calls.

In my view, Australia wants to emerge from this crisis with competitive structures as close as possible to those we had going in. Any decisions need, however, to be taken within clear rules. Any assisted firms need to have been viable beforehand; there needs to be an immediate

assistance exit plan; and assistance would need to be a last resort.

Again tough calls are going to have to be made. And there are no right answers. Those not assisted will complain; especially the competitors to those firms receiving assistance.

The ACCC will play its part in merger assessments.

Do not expect a different, or lenient approach to merger assessments during this crisis. Our objective will be to protect the competitive structure of the economy, and not to see anti-competitive increases in market power, or the rise of so-called 'national champions'.

But we will also be advancing reforms to set Australian up for recovery post crisis.

Our work on electricity and gas affordability is fundamental, now more than ever.

The Government has a clear focus on the digital economy. How do we gain the benefits without the harms? The ACCC's digital platform inquiry work will continue, albeit with a more flexible approach given that this crisis will affect the ability of industry to respond and contribute.

Let me now get to what this Summit is about: Banking and Wealth.

Banks, like other businesses, are facing larger pressures from this crisis. And they have taken many positive and decisive steps to support households and businesses. But we need to also look post crisis.

Two years ago I expressed the view that the behaviour of the big four banks more resembled synchronised swimming than vigorous competition. I believe that much of the bad behaviours revealed in the Hayne Royal Commission were a symptom of a lack of competitive restraint; a sign Adam Smith's 'invisible hand' was not working well.

Australia has a rapidly developing fintech environment, with nearly 700 fintech companies operating in Australia since 2018.

Fintechs are innovative and responsive to changing customer needs. They can bring much needed competition.

Look no further than the money transfer market. Fintechs have succeeded, and the major banks responded by dropping their prices considerably.

There are also many second tier Australian deposit taking institutions. Some are large companies. We need to ask why do they not grow to challenge the big four banks?

We know that newer and smaller businesses are often hit hardest in a crisis, and they will need support to survive.

We will work with newer businesses to understand the challenges they face and take them into account as this crisis unfolds.

I believe a key driver of reform, and greatly improved competition in financial services, will be the Government's Consumer Data Right initiative that the ACCC is leading.

We may not know when the gains from CDR will kick in, but we can be certain they will be profound.

Competition, consumers, and the economy will be benefit considerably.

In the immediate term it will benefit banking, in many ways, but it will be extended right across the economy. Have no doubt, this is as important a reform as achieved in that wonderful reform decade of the 1980s. And it is a reform for this moment.

If ever there was a time to expedite digital innovation, this is it.

But first understand the essence of CDR reform in banking.

At one level people can understand that the CDR reforms can make it easier to obtain your home loan from another bank, when we know those with newer loans pay much less than loyal customers. CDR removes the transaction costs of change; simply ask for your financial history to be sent to other banks and compare the rates you are then offered.

At a deeper level, the data held by banks is a great source of value. Banks use this data now to understand when more can be lent to customers.

But fintechs are increasingly gaining access to this data and using it to drive innovation. Some fintech payment businesses are now using the data they gain to offer often attractive lines of credit. A very large fintech is offering ApplePay.

But consider the new world.

CDR will mean that there will be common standards to the way data is transferred, how data is structured, and its security mechanisms. Data can be readily assembled from different sources in ways not imaginable before.

No more separate negotiations to get access to data, or building specialised links to each firm from whom you get data.

All this with strict consumer control and protections, because consumer trust and acceptance will be vital to success.

Post this crisis we will get the competition our financial sector needs.

The ACCC has had extensive discussions with banks and other stakeholders about the impacts of COVID-19 on the introduction of the CDR regime. The vast majority want to press ahead, and build on the work to date.

Of course the timetable now needs to be flexible, and the ACCC is likely to provide some more specificity on this in the coming weeks, but we are continuing to work to launch on July 1 2020 for sharing consumer transaction data.

Conclusion

Competition has a critical role to play in getting the economy running again post the COVID-19 crisis.

It is important that the necessary short term measures do not give rise to long term structural damage to competition or market concentration, and that we continue to make progress with important reforms such as the Consumer Data Right.

Thank you for time today.