



MEDIA RELEASE

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GOVERNMENT TO SECURE POWERS TO DEAL WITH CREEPING ACQUISITIONS

The Rudd Government will amend the Trade Practices Act to deal with creeping acquisitions, fulfilling another election promise.

The move will ensure the Australian Competition and Consumer Commission (ACCC) has the power to reject acquisitions that would substantially lessen competition in any local, regional or national market.

This comes after private legal opinion questioned whether the ACCC has the power to consider effects on competition in local markets, suggesting it can examine impacts only in regional markets and the national market.

The Government's pro-competitive reforms will clarify that the ACCC, in deciding whether an acquisition would substantially lessen competition, can examine the impact on any market – local, regional or national.

For example, in reviewing acquisitions of childcare centres or supermarkets, the ACCC could consider the impact of these acquisitions on competition in smaller, local markets.

The amendments will enable a proposed acquisition to be rejected whether it substantially lessens competition in a local, downstream market (for example the local retail liquor market) or in a broader, upstream market (for example the liquor wholesaling market).

As well, the Government will ensure that the ACCC can examine the acquisition of greenfield sites and not just existing businesses.

The ACCC already considers it has the power to review acquisitions of greenfield sites whether through purchase or lease.

However, questions have been raised by legal advisers to private corporations about whether the ACCC has this power.

If the ACCC is challenged on this in the future, the Government will not hesitate to confirm this power.

This will ensure the ACCC can review acquisitions by the major supermarket chains of interests in new sites to investigate whether such acquisitions could substantially lessen competition.

The Government is seeking to open opportunities for competition in grocery retailing by removing anti-competitive barriers to entry.

For example, the Government wants to ensure that no supermarket (including large supermarket chains) can dispute the ACCC's power to consider decisions to buy up land in a local market area to keep out new competitors.

In proposing these amendments the Government has accepted submissions from the ACCC.

The Government believes that these amendments will effectively address the ACCC's concerns about its ability to review creeping acquisitions.

Consistent with its policy on franchising and unfair contract provisions under the Australian Consumer Law, the Government is responding to specific problems with specific remedies, rather than responding with general remedies that could have unintended consequences for overall economic activity and employment.

The Government will consult with the state and territory governments on these amendments in accordance with the *Conduct Code Agreement 1995*.

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