



SUBMISSION ON THE COMPETITION POLICY REVIEW

10 JUNE 2014

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ABOUT VOICELESS

As an innovator, capacity builder and ideas-generator, Voiceless plays a leading role in the development of a cutting edge social justice movement, animal protection.

With a highly professional and well-educated team, Voiceless brings together like-minded compassionate Australians from the legal, academic, non-profit and education sectors to form strong and effective networks.

Voiceless believes in the provision of quality information, analysis and resources to inspire debate and discussion and to empower individuals and organisations to generate positive social change.

Voiceless is a non-profit Australian organisation established in May 2004 by father and daughter team Brian and Ondine Sherman.

To build and fortify the animal protection movement, Voiceless:

- gives grants to key projects which create the groundswell for social change;
- cultivates the animal law community through the provision of leadership, educational opportunities and resources; and
- raises awareness of animal protection issues within the education system in order to strengthen democratic skills, promote critical thinking and encourage advocacy amongst students.

PATRONS

J.M. COETZEE, Nobel Prize for Literature Winner 2003, author of 'Lives of Animals' and 'Elizabeth Costello'

BRIAN SHERMAN AM, businessman and philanthropist

DR JANE GOODALL, world-renowned primatologist and animal advocate

THE HON MICHAEL KIRBY AC CMG, former judge of the High Court of Australia

AMBASSADORS

HUGO WEAVING, Actor: Oranges and Sunshine, Last Ride, Little Fish, Lord of the Rings Trilogy, Matrix Trilogy, The Adventures of Priscilla Queen of the Desert

EMILY BARCLAY, Actor: Prime Mover, Piece of my Heart, Suburban Mayhem, In My Father's Den

ABBIE CORNISH, Actor: w.e., Suckerpunch, Limitless, Bright Star, Stop Loss, Elizabeth: The Golden Age, A Good Year, Somersault, Candy

For further information visit <http://www.voiceless.org.au>

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This submission addresses the Competition Policy Review Issues Paper¹ (the **Issues Paper**).

Voiceless commends the Minister for Small Business and the Competition Policy Review Panel for inviting submissions from the public on the Issues Paper. The Review will shape the competition framework to ensure it can effectively contribute to the Australian economy over the next 20 years² and the call for submissions provides the opportunity for stakeholders to influence that direction.

In addition to this submission, Voiceless has endorsed a submission on the Issues Paper, jointly drafted by Greenpeace, Choice, GetUp! and TWS (**joint submission**). The joint submission addresses Voiceless's concerns and emphasises the reasons why the Review of the Competition and Consumer Act (2010) (**CCA**) must retain the exemption provided by section 45DD to the prohibition against secondary boycotts.

The exemption, which allows secondary boycotts where the dominant purpose of the boycott is for either consumer or environmental protection, is critical to enabling consumer choice. Such boycotts provide valuable information to consumers, allowing them to consciously make a decision to purchase products that are consistent with their ethical stance. The exemption ensures transparency and accountability within the consumer market.

Voiceless respectfully submits that any attempts at restricting market-based campaigns for environmental and consumer protection groups will also have a negative effect on individuals concerned with animal protection issues. Consumers are becoming more informed about factory farming and business practices that are detrimental to animal welfare. As a consequence, consumers are increasingly purchasing ethically derived produce on this basis. Due to a lack of adequate, nationally consistent truth-in-labelling legislation, consumers rely on third-party assessments and commentaries, including those provided by environmental, consumer and animal protection groups, to make their consumer decisions.

Further, and most importantly, Voiceless submits that section 45DD should be broadened to exempt secondary boycotts on animal protection grounds.³ Given the increasing body of evidence demonstrating that animal protection is a significant area of public concern in Australia, and indeed globally, it is incongruous that campaigns by animal protection groups are not also an exemption under the CCA.

Respectfully submitted by Emmanuel Giuffre, Legal Counsel, Voiceless

¹ Competition Policy Review Panel, *Competition Policy Review* (14 April 2014) Competition Policy Review <http://competitionpolicyreview.gov.au/files/2014/04/Competition_Policy_Review_Issues_Paper.pdf>.

² Ibid.

³ The Full Federal Court of Australia has held that secondary boycott behaviour for the purpose of animal protection does not amount to "environmental protection" for the purposes of section 45DD: see *Rural Export & Trading (WA) Pty Ltd v Hahnheuser* (2008) 169 FCR 583.