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Select Committee on Supermarket Prices

PO Box 6100

Parliament House

Canberra ACT 2600

Dear Sir/Madam,

The Global Centre for Preventive Health and Nutrition (GLOBE) welcomes the opportunity to provide input to the Senate Inquiry on the Competition and Consumer Amendment (Divestiture Powers) Bill 2024.

In summary, GLOBE supports the proposed Competition and Consumer Amendment (Divestiture Powers) Bill 2024, which would align Australia with many other OECD countries that have similar divestiture powers to those proposed in the Bill. The proposed Bill would contribute to keeping highly concentrated Australian sectors, such as the supermarket sector, accountable and honest to the Australian public.

Please see more detailed feedback below.

Yours sincerely

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About the Global Centre for Preventive Health and Nutrition (GLOBE)

GLOBE is a world-class research group based in the Institute for Health Transformation at Deakin University. GLOBE is a World Health Organization Collaborating Centre for Obesity Prevention, with strong links to governments, civil society organisations, and a diverse range of collaborators nationally and internationally. Our vision is to catalyse improvements in population health, with a focus on prevention, through innovative research that empowers people and enables healthier environments. Among other areas, GLOBE is a national leader in researching food pricing and availability, featuring regularly in all mainstream media outlets to discuss trends in food prices and the implications for government policy over the last 2 years.

The need to address misuses of market power: a public health perspective

The misuse of market power can generate a range of risks for population health outcomes. For instance, pricing practices that place basic goods out of reach for many households are common in a range of highly concentrated Australian sectors such as the supermarket, energy, aviation, and banking sectors [1], and can influence health and well-being in various ways [2]. As a pertinent example, the foods and drinks we consume account for the greatest number of preventable deaths in the country [3]. Yet, our research on food pricing and availability shows that Australia's dominant supermarkets set prices on healthy food and drinks that are not affordable for many segments of the Australian population [4]. In major Australian cities, basic healthy food and drinks can cost a family of four more than \$600 per fortnight, which is equivalent to approximately one-fifth of the median Australian family income, and one-third of the income of Australian families on low-incomes [5]. In remote areas, such costs can exceed \$800 [6]. In regional Aboriginal communities, healthy food and drinks can cost up to 50% of family incomes [7]. Meanwhile, unhealthy diets are perceived by many Australians to be cheaper than healthy diets [4]. Irrespective of the sector in question, pricing practices that disproportionately eat into family budgets can also negatively



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influence health and well-being indirectly by reducing the money available for other essential costs, such as rent, fuel, electricity, insurance, healthcare, and education.

The misuse of market power is of concern to social and health equity in Australia, often impacting people who are already experiencing social and economic marginalisation the most. One example is the negative influence of excessive market power on the health and well-being of workers, including farmers. Again, Australia's supermarket sector provides a case in point. Given their considerable buying power, Australia's dominant supermarkets are perceived to be able to dictate unfair terms and prices to farmers and other suppliers, who then have very little choice but to comply given the lack of other buyers in the market [1]. In some cases, farmers and other suppliers may be required to accept prices that do not cover their costs of production, let alone sufficient earnings for long-term investment [1]. In turn, these farmers and other suppliers can face an increased risk of job insecurity and income losses, which are important risk factors for a range of adverse acute and chronic health outcomes [8].

Fit for purpose

GLOBE contends that the Competition and Consumer Amendment (Divestiture Powers) Bill 2024 is a feasible and appropriate measure to address serious misuses of market power under Section 46 of the Act. As recently noted by Senator Ross Cadell during a speech in the Senate [9], competition authorities and courts in many OECD Member States already have divestiture powers similar to those which would be provided by the Bill. As such, it could be argued that the Bill would increase Australia's compliance with international 'best practice' in regulating misuses of market power.

In addition, the Bill adheres to the principles of 'responsive regulation', which is an OECD-endorsed regulatory framework for differentiated enforcement according to the seriousness of the violation in question [10]. Indeed, the Court would be able to reserve



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its divestiture powers for only the most serious cases, and following the exhaustion of other existing measures to address violations of section 46 of the Act. The Bill would also very likely produce a deterrent or compliance effect even if the Court opted to only use its divestiture powers very rarely, if at all. Take, for example, a recent case involving a telecommunications company in the European Union, which misused its market power by refusing to provide rival companies with access to its infrastructure [11]. Despite various sanctions imposed by regulators and the launch of EU competition enforcement proceedings, it was reportedly the threat of mandatory divestiture that compelled the telecommunications company to comply with its regulatory obligations [11].

Concluding remark

In sum, GLOBE supports the Competition and Consumer Amendment (Divestiture Powers) Bill 2024. By addressing serious misuses of market power, the Bill represents a powerful, appropriate, and feasible measure to promote a healthy Australia – a prerequisite for a prosperous and competitive Australian economy.



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