

**Submission of Quintin Alexander Rares:**

I make this submission under your term of reference "(e)", namely the requirement that this Committee "[d]etermine what actions might be taken to help address any differences that operate to the disadvantage [of] Australian consumers". I am of opinion that six goals should be achieved in any such legislation, they are, that the Legislation:

1. must encourage and not constrain the free market
2. must be easy to understand and comply with
3. must not impose extra compliance costs on firms
4. must strongly encourage producers to not overcharge Australian consumers
5. must be difficult to circumvent
6. must impose harsh penalties if contravened

In light of the above I would suggest a very short five section bill:

*1(a) Any producer that knowingly sells a good (or knowingly has the good resold) in Australia and knowingly sells that good (or knowingly has that good resold) in another country, must display on the Australian good's external label the lowest price that that good is sold at overseas, adjusted to Australian Dollars at Reserve Bank of Australia exchange rates.*

*1(b) All prices must be updated a minimum of once every three months, unless there is no change in the 1(a) price in that three month period.*

*2. A good sold outside Australia that is substantially the same as the good sold in Australia, but for some different labelling or insubstantial modification/s is deemed to be the same good for the purpose of this Act.*

*3(a) Any company or person contravening Section 1 of this Act, is liable to an account of all profits made from the good in question into a fund to be distributed pari passu to all claiming purchasers in Australia that have retained a proof of purchase.*

*(b) All claims are extinguished 1 year after the purchase of the good by the purchaser, unless a complaint has been officially filed with the ACCC or a claim is filed in any Australian Court, and has not been dropped.*

*4. This Act does not bind charities or the Crown.*

*5(a) All references to 'price' are to the lower of the recommended retail price or estimated retail price (being the average sale price of the good on the market) of the good in question.*

*5(b) No producer is required to calculate an estimated retail price for the purposes of 5(a), however, if they do calculate the estimated retail price for any reason whatsoever, then they must use that price where this Act requires it be used.*

**Discussion**

The above draft encourages the free market through encouraging price transparency, with freely and easily accessible information being a fundamental prerequisite of any free market. Currently, consumers would need spend substantial amounts of time engaging in price comparisons for all products under consideration across all countries and currencies those products are sold in. This proposed legislation makes the lowest overseas price immediately knowable and understandable (as it is converted to Australian Dollars) to all potential buyers who read the price-tag on a product.

The transparency created by the proposed legislation should strongly influence consumer behaviour. This is because where there is a strong price differential between similar products sold to consumers, disadvantaged consumers will engage in negative reciprocal reactions to that price, most probably manifested in those disadvantaged consumers having a lower propensity to buy that product. This assumption is strongly grounded in the psychology of fairness. For example, Haws and Bearden

(2006) reported in the Journal of Consumer Research that when consumers knew that they were required to pay relatively higher prices than other consumers, those consumers viewed those companies as unfair and they were more unsatisfied with the products as a result. Accordingly, companies will be pressured through short and long term negative brand implications, product dissatisfaction, protest buying of alternatives (including boycotts) and the general cost of handling complaints regarding their prices to set prices reasonably in line with international prices. Such is the power of a free market possessed of informational transparency.

For a practical example one need only look at the embarrassment of Amazon.com in the autumn of 2000 where they were found to be charging consumers who used different Internet browsers, different prices. Amazon was so affected by that backlash that they needed to refund all overcharging to those who paid more. The reaction should be even stronger in a country and culture, like Australia, that prides itself on giving a 'fair go'.

As for compliance costs, these would be quite low, as the draft legislation's requirements are easy to understand (producers only need to supply price information they already have), and cheap to print (less than 10 more characters of printing per label). However, any producer attempting to circumvent the legislation entirely or by making minor product changes and then trying to pretend it is a different product, will face harsh (account of all profits) consequences for constraining the free market.

I should note that this draft legislation would in no way limit free speech. Companies would be fully entitled (and for that matter encouraged) to explain price differentials and consumers would be fully entitled to voice their opinions and vote on price differences through their buying behaviour.

## **Conclusion**

In my attempt to keep this letter as brief as possible, I have taken a citation-light approach in examining relevant economic theory, psychological experiments and the legal principles that I have referred to. Should the Committee request a more detailed supplementary submission in any of those areas, I would be more than happy to comply.

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