Media Release

Law Council OF AUSTRALIA

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Evidence does not support wholesale changes to merger regime

The Law Council of Australia has challenged the contention that mergers always lead to an increase in prices and a reduction in productivity and that therefore radical reform of Australia's merger regime is urgently needed.

"The Competition Review Taskforce has undertaken consultation on Australia's merger review processes," Law Council of Australia President, Mr Greg McIntyre SC said.

"The Law Council, through its Business Law Section, has made two submissions to this review. In its main submission, it recommended that while improvements to the merger regime can and should be made, the current model has proven over several decades to largely strike the right balance.

"This week it made a supplementary submission in response to late input to the review provided by the Australian Competition and Consumer Commission (ACCC), which reiterated calls for significant reforms which in the Law Council's view are not supported by robust evidence.

"The Law Council, led by its Business Law Section, is concerned that taken as a package, the ACCC's proposals are unbalanced and would have a chilling effect on investment in Australia and increase the regulatory burden and transaction costs for deals that are productivity-enhancing.

"The result of the ACCC's proposals would be to remove the checks and balances that currently underpin our merger regime. Over time, this lower, subjective threshold and lack of oversight could erode the quality and rigour of merger decision making by the ACCC.

"The submissions made by the Law Council's Business Law Section provide a detailed review of the evidence. They conclude that the case has not been made for these changes. It is essential that careful consideration is given to the views of all stakeholders before further proceeding".

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