

I would love to read the paper. However, my first response is that the meaning of understanding in the trade practices act should be exactly the same meaning as that in any reputable dictionary.

Laws should have definitions rather than 'interpretations' because the latter are prescientific (i.e. feudal). Dictionaries were invented in the European Enlightenment and all scientists understand that consistent use of clear and consistently used categories is vital for effective scientific practice.

Prescientific legal frameworks and practices still hold the world back partly because the feudal doctrine of client legal privilege is also contrary to the later economic formulation that perfect information is necessary for a perfect market. Vested financial interests and related powerful legal interests have therefore combined effectively for centuries against the development of science and free markets. This explains the current international financial crisis, among other things.

Laws should have aims and clear key definitions consistent with common dictionary usage. Related information about Hilmer's view of competition policy and the Trade Practices Act is contained in the attached discussions.

Pease consider this as a first submission and send the paper on Meaning of Understanding in the Trade Practices Act to my address.

Thanks
Carol O'Donnell

To Competition and Consumer Policy Division, The Treasury

RESPONSE TO TREASURY DISCUSSION PAPER ENTITLED 'MEANING OF UNDERSTANDING IN THE TRADE PRACTICES ACT (TPA 1974)'

This submission answers the Treasury question 'Does the current judicial approach to the interpretation of 'understanding' limit the ability of the Trade Practices Act (TPA) to properly address anti-competitive practices'?

The submission argues that from modern scientific perspectives on the gathering and treatment of evidence, courts are pre-scientific, anti-democratic, institutions. All laws should have aims and definitions of key terms as close to common dictionary definitions as can reasonably be expected. This general argument is made in the response to the Treasury paper entitled 'An Australian consumer law: Fair markets – confident consumers' which is provided below and also supported in related attachments.

The Australian Competition and Consumer Commission (ACCC) recommendations about 'understanding' in Annexure A entitled 'Petrol prices and Australian consumers: Report of the ACCC inquiry into the price of unleaded petrol (December 2007)' will simply add one more page of confusing and costly lawyers' drivel to an already stupid and vile law.

While lawyers champion the importance of secrecy on one hand, it will be impossible for them to find out whether those entitled to maintain all their normal secrets also have 'an understanding', on the other. In this context of the bleeding obvious, it seems highly likely that adding an extra page of legal drivel on the meaning of 'understanding' simply serves to create more work for lawyers, which other Australians are then forced to pay for.

It is argued the TPA should be repealed because it is unworkable legislation based and implemented according to many wrong assumptions. The national competition policy Hilmer recommended in 1993 should be implemented instead and bits of the TPA which are worth salvaging should be put in subordinate legislation under a new Competition Act.

Yours truly, Carol O'Donnell