

1 September 2022

Commerce Commission

P O Box 2351

Wellington 6140

By email: buildingsuppliesmarketstudy@comcom.govt.nz

SUBMISSION on “residential building supplies market study: draft report”

1. Introduction

Thank you for the opportunity to provide feedback on the residential building supplies market study draft report (draft report). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer NZ has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

Contact: Aneleise Gawn
Consumer NZ
Private Bag 6996
Wellington 6141
Phone: 04 384 7963
Email: aneleise@consumer.org.nz

2. General comments

Consumer NZ welcomes the Commerce Commission’s draft report. We agree the market for building supplies is highly concentrated and that competition in the sector is not working well.

We also agree action is required to improve competition and produce better long-term market outcomes for homeowners and other end-consumers.

However, we are concerned the report concludes that ‘vertical integration does not appear to be a factor affecting competition over the longer term’. We remain unconvinced that vertical integration is not negatively impacting competition so would like to see further evidence and analysis of this issue.

We are also concerned about the lack of analysis about the profitability of the major players in the building sector. In paragraph 6.24 the draft report states ‘We have not undertaken a detailed analysis of margins and profitability.’ In our view, there should be a greater focus on whether the major players are making excess profits and, if so, whether increased costs are being borne by the end consumer.

We are concerned about the rising cost of building in New Zealand and how the cost of building supplies in New Zealand compare to those in other jurisdictions. According to QV Cost Builder, the average cost of building a standard three-bedroom home in a New Zealand city has risen 21% in the past year. We suggest the draft report could be strengthened by including a more detailed analysis of these costs, and how they compare with other jurisdictions.

Finally, we acknowledge issues with the building consent system (being consulted on separately) need addressing. We are not making a separate submission to MBIE on these issues but agree the building consent system is not working well and support the introduction of a national system.

3. Our comments on selected recommendations

In general, we support the recommendations in the draft report but only wish to make some high-level comments on the recommendations at this stage in the process.

Recommendations to enhance the regulatory system

We support recommendation 1 - the introduction of competition as another objective (alongside safety, health and durability) of the building regulatory system.

We support recommendation 2 and agree better engagement is needed to achieve Māori aspirations in the building regulatory system.

We support recommendation 3 – the creation of more compliance pathways for a broader range of key building supplies. We agree it is too hard, slow and costly to get new supplies approved and that competition would be improved if it was easier for new building products to be introduced. However, any changes that are made to allow for faster and cheaper approval of new products should ensure quality is not compromised.

We also consider competition would be improved if designers, builders and Building Consent Authorities (BCAs) were not incentivised to favour ‘tried and tested’ products over new and competing products.

We also support recommendations 4 and 5 – the exploration of ways to remove impediments to product substitution and variations and investigation into whether the barriers to certification and appraisal can be reduced.

Recommendation to support sound decision-making

We strongly support recommendation 6 – the introduction of a centralised repository for collecting and storing product and consenting information that is free and accessible to designers, builders, BCAs and consumers.

Recommendations to address strategic business conduct

We agree rebates are likely to be creating impediments to entry or expansion of some key building supplies. We are also concerned the practice of offering rebates could potentially be harming consumers.

However, we consider recommendation 7 may not be sufficient to address this harm. Although we support promoting compliance with the Commerce Act, ‘discouraging’ the use of quantity-forcing supplier-to-merchant rebates, we consider legislative intervention – beyond the changes to section 36 of the Commerce Act – may be required.

We would like to see further analysis and discussion around the extent of harm that existing non-compliance is causing and why the Commission considers legislative intervention is unlikely to be required on this issue.

We support recommendation 8 – to further consider the economy wide use of restrictive land covenants and exclusive leases. Given this is the third consecutive market study in which restrictive land covenants and exclusive leases have been identified as potentially negatively impacting

competition, we agree an economy wide review of the use of these covenants is required to assess whether a multi-sector solution is needed to address their impacts on competition.

Thank you for the opportunity to make a submission on the draft report.

ENDS