Competition Impact Statement

Title

Auctioneers & Agents Act 1971
Auctioneers & Agents Regulation 1986

Background

The *Auctioneers & Agents Act 1971* and the *Auctioneers & Agents Regulation 1986* governs occupations in the following industries:

- real estate agency
- auctioneering
- motor dealing
- commercial agency
- pastoral houses.

The restrictions placed on occupations in these industry groups include barriers to entry (via a system of positive licensing featuring numerous entry requirements) and conduct restrictions on the activities of service providers. The *Mutual Recognition (Queensland) Act 1992* also applies to these occupations and provides registrants from other States and Territories with a similar registration entitlement to practice in Queensland, thereby facilitating freedom of movement of service providers in a national market.

A review of the legislation was required to be undertaken to meet the Queensland Government's obligations under National Competition Policy (NCP) which requires the review, and where necessary the reform by the year 2000, of all legislation containing restrictions on competition. The guiding principle of NCP, as set out in Clause 5(1) of the Competition Principles Agreement (CPA), is that legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs
- the objectives of the legislation can only be achieved by restricting competition.

The key stakeholders to the review include:

- consumers; including vendors, buyers, renters and the wider community
- industry; including each of the broad occupational groups in each of the industries above
- Government; including the Department of Equity and Fair Trading and other Government departments where relevant.

Stakeholder positions expressed during the review process are addressed in detail in the body of the main report.

Objectives of the Legislation

The PBT Plan compiled by DEFT notes that the objectives of the Act are not articulated in the legislation. However, it does detail that the single objective of the legislation, in relation to all the markets upon which it impacts, is to comprehensively provide for consumer protection.

The interpretation provided by the PBT plan is supported by an examination of the second reading of the Act in Parliament which identified a growing level of consumer dissatisfaction and complaints to Government as the rationale for the Act's development. This interpretation was, in turn, supported by the Auctioneers and Agents NCP Review Committee.

Comprehensive consumer protection is the objective against which any restrictions on competition imposed by the Act, or regulatory alternatives, should be assessed; having regard also to Clause 5(1) of the Competition Principles Agreement (CPA).

Overview of the Market

Real Estate Agency

The market for real estate agents may be defined in terms of the services they provide in valuing, purchasing, managing, renting or selling for others both residential and commercial real estate. The key functions of agencies, which consist of agents, managers, salespeople and administrative support staff, include:

- securing listings of properties for sale or rental
- developing and applying a marketing and advertising plan in consultation with the vendor (or seller)
- determining a sales or rental price
- handling buyer (or purchaser) enquiries including inspections
- handling negotiations with buyers on price and other matters
- facilitating preparation of contracts.[1]

In Queensland the market consists of approximately 1,800 businesses which generate an aggregate annual income of over $600 million and employ more than 12,000 people, most in a full-time capacity.[2]

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[1] Real Estate Institute of Australia (REIA), *Submission to PSA's Inquiry into Real Estate Agent's Fees*, 1992, pp.5-6.

[2] Australian Bureau of Statistics (ABS), *Real Estate Agents Industry - Australia 1995-96*, Catalogue No. 8663.0, p.13. Latest available data. Income is measured in terms of the revenues received by agencies for the services they provide and exclude the value of properties or rental payments subject to transactions.

Market conduct by agencies is characterised by the absence of price competition and a strong tendency for agencies to charge at the uniform regulated maximum commission specified in the *Auctioneers & Agents Regulations 1986*. There is little or no variation in prices charged by various agents throughout Queensland for comparable services. Competition is based on non-price factors, such as quality of advertising or particular expertise in property valuation.[3] Three factors help to explain the lack of price competition:

- a reluctance on the part of vendors to 'shop-around' before selecting an agency given the search costs involved and the fact that agency fees constitute a small proportion of the total price of a property. This partially indicates that the market is local in its nature

- the way in which the market is organised, particularly those aspects of market structure which limit inter-agency rivalry. The combination of these factors discourages price competition as agents offering lower commissions are not likely to be easily recognised or rewarded with additional turnover and are also likely to receive negative pressure from their fellow agents

- regulated maximum commission rates have been marketed by agents as the fixed standard or 'Government approved' rate, negating consumer opportunity for negotiation of the level of fees payable for services.

Property developers and their marketers are also very active in the real estate industry. Aspects of their business strategies and techniques have often raised significant public concern. A detailed examination of property developers / marketeers' activities was undertaken in a separate review by Professor W.D. Duncan from the Queensland University of Technology.[4]

Auctioneering

Auctions facilitate the sale of livestock, real estate, stock in trade, furniture, fittings, personal effects, boats, motor vehicles, machinery and other items through a process which encourages competitive bidding by prospective buyers. In accordance with the provisions of their license conditions, the auction process may be conducted by general auctioneer, restricted auctioneer, provisional auctioneer or pastoral house auctioneer license holders.

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3 *Ibid.,* pp.23-24.
4 Professor W. D. Duncan, *Submission to the Office of Fair Trading, "Marketeering" - Regulatory Options for Inclusion in Draft Legislation, op.cit.*

The services provided by auctioneers may include:

- inspection and cataloguing of items for auction
- arrangement of advertising and other marketing for the event
- development of specific conditions of sale
- setting of reserve prices in consultation with vendors[5]
- arranging goods and making them available for inspection
- conduct of the auction process.

There are 1,700 auctioneer license holders in Queensland. Stakeholders provided input to the review that competition between service providers is strong and delivered on the basis of price (commission structures), advertising/marketing services provided, and market reputation (which acts as a natural barrier to entry).[6] In addition, access to services, as reflected by the general distribution of auction services across the State, is quite strong.

Motor Dealing

The market for motor dealing in Queensland consists of businesses engaged in selling and buying new and used motor vehicles. The process of dealing involves, amongst other things:

- purchasing vehicles for stock
- displaying vehicles for inspection
- providing prospect buyers with technical information and 'test drives'
- providing after sales service
- preparing vehicles for customer delivery
- assisting buyers where required with access to finance
- providing agency sales of vehicles on consignment.

In 1997-98 there were in excess of 800 dealerships operating in Queensland which generated an estimated turnover of $7.8 billion and employed 11,000 full-time equivalent positions.[7]

This market exposes consumers to commercial risk when seeking to sell or buy a used vehicle, particularly a vehicle without warranty. The difficulty faced by consumers lies in the fact that few consumers have sufficient knowledge of mechanics, the opportunity to

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[5] In addition to the expertise required to set appropriate reserve prices, a full range of valuation services are often provided under the same roof as an auction house. This business structure is also reflected in the market by a common professional association, the Auctioneers & Valuers Association of Australia.

[6] A good level of market competition is a positive indication that legislation is not imposing a high level of entry barriers or market restrictions to service providers and therefore not imposing a significant flow on cost to consumers.

[7] Sourced from IBIS Information Service, *G5311-Car Retailing*, p.6. Queensland figures estimated from national averages.

inspect the structural and mechanical condition of a vehicle or access to a vehicle's historical patterns of usage to judge its true condition. The majority of complaints received about dealerships selling used vehicles is that the vehicles fail to meet the buyer's expectations in relation to mechanical performance after the transaction has been finalised.

Pastoral Houses

Pastoral houses (being a particular corporate form of stock and station agents) provide real estate services and auctioning services for people in rural areas. They are engaged mainly in selling real estate outside country areas as well as auctioning a range of rural assets including land, livestock, plant and machinery. The term 'pastoral house' is only applied in Queensland with reference to concessionary licenses granted, to conduct real estate and auction services. The concessions granted in licensing conditions reflect the established rural experience and the access benefits which pastoral houses provide. Through a series of mergers over several decades[8], the number of pastoral houses within Queensland has declined to just two, Wesfarmers Dalgety and Elders Primac.

Unlike the broader property market, issues of information asymmetry, fraud, negligence or inappropriate selling tactics are less relevant in a tightly networked rural environment where local consumer knowledge is strong.

In addition, by utilising an established business structure, developed from farm product wholesaling, insurance and other rural services, pastoral houses are able to provide consumer access[9] to services in low demand regions where stand alone real estate or auction house agencies would not be financially viable. In this light, concerns regarding the competitive advantage of reduced licensing requirements bestowed upon pastoral houses over private agencies can be largely discarded due to the absence of potential competitors in the core market of pastoral houses.

In higher demand regional urban centres, the issue of competitive disadvantage over private agents is often irrelevant as the pastoral houses also conduct real estate and auction services through fully licensed operations. Overall, the potential competitive disadvantages imposed on private agents (while difficult to quantify) are likely to be small and justified on the basis of enhanced access considerations and the high level of consumer knowledge unique to these markets.

[8] Particularly during the harder economic climate of the 1970s.
[9] In major urban centres, entry barriers may reduce the scope for choice in service providers, however in rural markets issues of choice become issues of access to any service provider and are therefore amplified in importance.

Commercial Agency

The market for commercial agencies in Queensland consists of businesses involved in debt collecting, repossessing and process serving. The services provided by commercial agencies on behalf of the client, for a fee, includes:

- collecting or requesting payments of debts
- ascertaining the whereabouts of and/or repossessing any goods or chattels that are subject to hire-purchase agreement, bill of sale or chattel lease agreement
- serving writs, summons or other processes.

In 1998-99 there were approximately 317 license holders for principal commercial agents, 9 for employed commercial agents and 347 registered commercial sub-agents in Queensland.

In Brisbane, and other major metropolitan areas in Queensland, commercial agency businesses employ up to100 staff and specialise in one or a combination of debt collection, repossessions and document serving. In other regional and rural areas, commercial agencies operate in all fields to get the necessary volumes of trade and are often sole traders. The Institute of Mercantile Agents Ltd. (IMA) provided feedback to the review that price competition in Brisbane is extremely tight. Rural areas differ and are characterised by a lower degree of competition and similar prices offered by competitors.

Alternative Options

Discussions with the Review Committee resulted in two major alternatives to the Act being identified. These two options are discussed further below and include:

- a proposed Bill (hereafter, 'the proposed Bill') which is at policy development stage within DEFT
- negative licensing (removal of up front barriers to entry).

The Proposed Bill

The proposed Bill represents an attempt to simplify the existing Act and to moderate some of its more anti-competitive elements while retaining the objective of protecting consumer interests through a combination of restrictions to market entry by service providers and control over their market conduct.

Among other things, the proposed Bill seeks to:

- provide greater flexibility in the way that would-be service providers might satisfy minimum requirements for market entry in relation to formal qualifications and work experience, through the introduction of competency standards
- bring under a regulatory umbrella those parts of the real estate market whose actions are not currently regulated but have given rise to consumer complaints, namely developers and marketers of real estate
- strengthen the position of consumers in terms of the information, product warranties and quality of services delivered.

From an administrative standpoint, the proposed Bill would feature a rationalisation of the various occupational licenses into a single generic license featuring a number of different classes. In addition, license holders would also be afforded the option of taking out a three year license rather than an annually renewable license only.

Negative Licensing

Negative licensing allows entry into the market in a largely unrestricted manner and regulation focuses instead on controlling the conduct of market participants once entry has taken place. It contrasts with 'positive licensing' characterised by the Act and the proposed Bill which both seek to address the problems faced by consumers through pre-emptive measures designed to prevent market entry by unskilled or untested service providers. The Act and the proposed Bill are based on the premise that "…it is better at the outset to exclude from the market incompetent or dishonest practitioners rather than deal with the consequences of their actions later."[10]

Options not reviewed

Consumers are relatively vulnerable to deceptive or inexpert behaviour in these markets. Deregulation would allow unskilled or unscrupulous service providers to enter the market and operate in an undesirable manner. Deregulation would decrease the level of consumer protection in the market and thereby contravene the objectives of the legislation. The option of deregulating the market altogether by removing the Act and declining any form of regulatory replacement was therefore set aside by the Review Committee.

10 Victorian Department of Premier and Cabinet, *Guidelines for the Review of Legislative Restrictions on Competition*, Melbourne, 1998, p.71.

The Review Committee also set aside the option of co-regulation, where rules relating to market entry and conduct are agreed between Government and industry, and administered by an industry association. Co-regulation was not adopted as an alternative by the Review Committee on the basis that membership of industry associations often fails to cover a significant proportion of providers within the market, and that the threat of exclusion from membership is therefore an ineffectual means of regulatory enforcement. The Review Committee was also concerned that to have one set of service providers imposing penalties on another raises potential problems in relation to equity and competition.[11]

The final option set aside by the Review Committee was a 'functional regulation' alternative. This alternative model is based on the proposition that consumer interests can best be supported through addressing two of the major problems faced by consumers in the purchase of goods or services, namely insufficient information and a lack of choice of service provider. The latter is caused by either the cost to consumers of searching for reputable sources of service, or the fact that a small number of providers may dominate supply.

Functional regulation offers a number of advantages by being geared to some of the principal problems faced by consumers and relying on relatively few regulatory instruments. Its disadvantages are that regulation may be costly and consumers are still left with the difficult task of having to discriminate between reputable and disreputable providers of a service. Public education campaigns must be correctly targeted, broadly based and maintained as more or less permanent features of the market. In practice, this may create complex logistical and researching issues. Surveillance is also resource intensive partly because it requires benchmarking of service provider costs and regular adjustments to regulated prices to reflect fluctuations in demand and other features of the market.

The Review Committee considered that these disadvantages outweighed any potential benefits and decided against proceeding with functional regulation as a stand-alone alternative to the Act. However, it recognised that public education campaigns in particular can make a valuable contribution to the efficient operation of the market, and this should be considered as a potential additional component of accepted alternative models.

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11 A more complete framework for co-regulation which is geared to real estate agencies but may also be applicable to other parts of the Act and its alternatives is described by the Prices Surveillance Authority, *Inquiry into Real Estate Agents Fees relating to Residential Property Transactions - Final Report*, Report No. 43, Melbourne, September 1992, p.9.

Assessment of Impacts on Real Estate Agents

The Proposed Bill

Implementation of the proposed Bill, is expected to result in a small incremental net benefit over the base state for each of the stakeholder groups. A brief review of the key costs and benefits of the legislative changes is provided below.

Relaxation of age and elimination of residency requirements will remove two legislative requirements which deliver no demonstrable benefits to consumer protection. Their removal largely eliminates unnecessary mechanisms but would have no real net impact over the base state.

An increased number of complexes, in which restricted letting agents may practice, provides the opportunity for service providers to achieve economies of scale and scope. Bodies corporate can still impose tailored restrictions on restricted letting agents to maintain consumer protection. Therefore, the overall impact across stakeholder groups would be a small net benefit.

A reduction in the time limits for sole and exclusive agency agreements provides additional scope for vendors to choose new agencies and adequate opportunity for existing agencies to develop and apply their strategies. Significant increases in competition may result, delivering small net benefits across stakeholder groups.

Greater flexibility in relation to choice of business premises offers the potential for higher levels of innovation in patterns of service delivery, providing small net benefits across stakeholder groups.

A shift to competency-based training for agents should improve the efficiency of assessment processes and strengthen the position of consumers. Overall, a small net benefit will be delivered across stakeholder groups.

Lower salesperson qualifications will result in significant costs to consumer protection, if salespeople are not adequately supervised. As a result, a moderate net cost across stakeholder groups can be assigned to this provision.

Extending the reach of regulation to property developers is expected to yield a social improvement by ensuring that all persons involved in the delivery of relevant real estate services are encompassed by the legislation. A small net benefit across stakeholder groups can be concluded.

With respect to rental commissions, available evidence suggests that existing regulatory maximum limits have been circumvented and that deregulation has effectively existed for many years. In line with Clause 5(1) of the CPA, the ineffectual provision should be removed.

Regulated maximum commissions on residential property sales are an unjustifiable distortion to the effective operation of the market. Under the proposed Bill, their deregulation would bring Queensland into line with the rest of Australia where deregulated commissions have operated without negative impacts for many years. A small benefit will be delivered across stakeholder groups from this action.

In view of the fact that rates may rise for low income earners and that these people are often more vulnerable to poor business practice by agencies, the removal of maximum commissions should be accompanied by a public information campaign designed to inform consumers of their legal and commercial rights.

Negative Licensing

Negative licensing strengthens consumer protection and efficient market outcomes to the degree that it reduces the scope for service providers to engage in inappropriate conduct after gaining market entry. Nevertheless, the fact that it ignores the value of pre-emptive action to protect consumer interests means that its approach must rely on methods for resolving, rather than avoiding, situations in which the market delivers inappropriate outcomes.

Available evidence suggests that the benefits to consumer protection delivered by existing barriers to entry will not be equally well achieved through code of conduct regulation of service providers alone. Therefore removal of entry barriers can be concluded as delivering moderate overall net costs across the stakeholder groups.

The removal of licensing fees will eliminate a funding source for Government activities. This outcome would primarily deliver a transfer financial effect between Government and industry.

As discussed with reference to the proposed Bill, Government will face the impact of increased financial costs from undertaking public education campaigns.

With respect to conduct, time limits on sole and exclusive agency periods and the introduction of a mandatory code of conduct will both deliver small benefits across stakeholder groups.

Overall, implementation of a negative licensing regime, is expected to result in a small incremental net cost over the base state across stakeholder groups. As an individual stakeholder group, consumers would experience a moderate net cost over the base state.

Assessment of Impacts on Auctioneers

The Proposed Bill

The changes expected to be included under the proposed Bill will provide a number of benefits to stakeholders in the auction industry. Specifically, the following expected changes have been identified as each delivering a small net benefit over the base state, across the stakeholder groups:

- elimination of residency requirements
- relaxation of age requirements
- substitution of suitability assessment for character and fitness tests
- relaxation of business premises requirements to include any registered office
- introduction of competency assessment including recognition of prior learning
- exemption from trust accounting provisions where auctioneers act as del credere agents in livestock sales.

Each of the above reforms serve to deliver small reductions in barriers to entry and moderate reductions in business costs. Implementation of the reforms would be expected to result in small increases in competition, improved prices and service levels for consumers without reducing consumer protection. In addition, the introduction of competency assessment will serve to increase certainty of the appropriateness of the skills of practicing service providers. The deregulation of regulated maximum vendor commissions will deliver a moderate benefit across stakeholder groups which could be further increased if buyers premiums were not capped.

From the Government perspective, it has been estimated on a pro rata basis that the auction industry would be responsible for approximately $21,000 of the costs incurred from the public education campaign associated with the deregulation of commission structures.

Industry and Government would experience a small overall net benefit, while consumers would achieve moderate net gains from the proposed Bill. Overall, a moderate net benefit can be concluded.

Negative Licensing

Removal of character and fitness test requirements would reduce consumer protection resulting in a moderate cost over the base state. Likewise, the removal of experience requirements will deliver a small net cost over the base state. The removal of licensing fees will eliminate a funding source for Government monitoring and enforcement activities delivering primarily a transfer financial effect and a small cost to consumer protection. Government will also face adverse financial impacts from the costs of undertaking public education campaigns.

As discussed with reference to the proposed Bill, removal of business premises standards will increase industry flexibility without reducing consumer protection.

With respect to conduct, imposing a cap on buyers premiums will deliver a small net cost, partly offsetting the moderate net benefit delivered from the removal of regulated maximums on vendor commissions.

Government and consumers will both face a moderate net cost which will not be offset by industry's moderate net gain. The overall impact of negative licensing on auctioneering services can be expected to deliver a moderate net cost incremental to the base state.

Assessment of Impacts on Motor Dealers

The Proposed Bill

Implementation of the proposed Bill could be expected to deliver small net benefits across stakeholders through the removal of age and residency restrictions, which contribute little to the protection of consumers but provide some small impediments to market entry and competition, and absorb a small amount of Government administrative resources.

The proposed Bill is also expected to contribute slightly in net terms to competition by removing maximum commissions for vehicles sold on consignment, a provision which presently impedes efficient market price setting without delivering consumer benefits. Likewise, the relaxation of business premises standards would also remove an unnecessary business cost and limitation to innovation presently imposed on industry. The relaxation of this requirement will deliver a moderate overall net benefit across the stakeholder groups.

The implementation of statutory warranties and cooling off periods will moderately reduce the impact of information disclosure problems faced by consumers and thereby enhance the objective of consumer protection.

It has also been estimated, on a pro rata basis, that a public education campaign regarding the motor dealing industry would cost approximately $56,000, incurred directly by Government.

Overall, implementation of the proposed Bill, is expected to result in a small net benefit over the base state for each stakeholder group or a moderate cummulative benefit across all groups.

Negative Licensing

The impact of negative licensing on the motor dealing industry is expected to deliver a small overall net benefit incremental to the base state across all of the stakeholder groups.

The removal of requirements in relation to the structure and location of premises and maximum commission for vehicles sold on consignment will generate small net gains from reduced business costs and reduced barriers to entry which may otherwise impede competition. Implementation of statutory warranties and cooling off periods will moderately strengthen consumer protection. Taken together, these factors should outweigh the negative effects to consumer protection which are likely to arise from the removal of work experience requirements.

As discussed with reference to the proposed Bill, Government will also face adverse financial impacts from the costs of undertaking public education campaigns.

Assessment of Impacts on Pastoral Houses

The Proposed Bill

The disparate nature of rural versus urban markets, and the parochial nature of rural clients indicate that established market practices will carry significantly more importance for stakeholder outcomes than the regulatory influences of legislation. The relaxation of entry restrictions under the proposed Bill (regarding age and residency) will result in no net benefit or cost changes for the industry due to well established market standards for practice which are likely to exceed the requirements.

The majority of prescribed conduct restrictions relate to urban real estate issues such as sole and exclusive agency and rental commissions, and are not significant considerations for rural operations. The key change to be anticipated under the proposed Bill is the erosion of the competitive advantage held by pastoral houses over auctioneers who will also be granted exemption from trust accounting requirements (when acting as a del credere agent) delivering a small net cost to pastoral houses.

Overall, the implementation of the proposed Bill is expected to deliver no net benefit or cost over the base state due to the highly similar nature of regulation under the two regulatory states and the dominant role of traditional market issues over all other considerations.

Negative Licensing

As compared to the traditional mechanisms of urban real estate and auctioneering services, the market structure of pastoral houses and the nature of clients in the rural setting in which pastoral houses operate, provide significant benefits to the maintenance of ethical industry conduct. In this setting, the requirements for legislated regulatory protection of consumers is clearly not as strong for pastoral houses as for other industries. The impact of regulation on the present operating environment is limited with the key exception of maximum commissions on residential property sales which may significantly impede consumer access to services due to insufficient returns on properties which are a high cost to service.

The negative licensing option is expected to deliver similar impacts to those described under the proposed Bill assessment. The loss of character and fitness tests will result in small overall costs. However these issues will be partly offset by deregulated maximum commissions, which are a particular restraint to effectively servicing properties in the pastoral house market.

The overall impact of the negative licensing option, for each of the stakeholder groups, is anticipated to be no net benefit or cost over the base state.

Assessment of Impacts on Commercial Agents

The Proposed Bill

The proposed Bill would have small net benefits from the removal of age and residency requirements which contribute little to consumer protection and are largely met by market practice requirements.

Consumers and industry would also benefit slightly through the introduction of competency based assessments for license applications as it will increase consumer protection and enhance the industry's image.

From a regulatory perspective, Government administrative resources will be enhanced to a small degree through the abolition of the manager's (commercial agency) license but will incur some costs in enforcing the provision requiring that the agent acting for only one party. With respect to the latter consideration, significant social benefits are attached to the removal of potential conflicts of interest.

Overall, implementation of the proposed Bill, is expected to result in a small incremental net benefit over the base state. For individual stakeholder groups, a small net benefit is anticipated for consumers and Government and a small net cost for industry.

Negative Licensing

Negative licensing will provide some of the benefits achieved under the proposed Bill from the removal of age and residency requirements which do not contribute to consumer protection and may deliver some impediments to competition.

Unfortunately the benefits delivered from their removal will be moderately outweighed by the costs associated with a reduction in consumer protection through the removal of other entry provisions regarding character and fitness tests and business premises requirements.

As a result of these latter considerations, it can be concluded that negative licensing will deliver a moderate net cost across the stakeholder groups and will significantly reduce the ability of the regulatory environment to meet the intended objectives of the legislation. All stakeholder groups are disadvantaged by the option with industry achieving a small net cost and consumers and Government facing moderate net costs.

Conclusions

The option expected to achieve the greatest net public benefit, and that supports the consumer protection objective of the legislation, is a hybrid model developed from the beneficial elements identified in the PBT. This 'hybrid' model differs for each industry as outlined below.

The recommended hybrid model for **real estate agents** includes:

- relaxation of age requirements
- removal of residency requirements
- substitution of suitability assessment for character and fitness tests
- relaxation of business premises standards to include any registered office
- maintenance of requirement for a license holder to operate at principal office
- introduction of a 60 day time limit on individual or sole exclusive agency arrangements
- removal of the managers license which will be rationalised into the general license
- introduction of competency assessment including recognition of prior learning
- inclusion of developers and real estate marketers within the scope of the legislation
- introduction of a requirement that agents can act for only one party
- retention of the requirements for salespeople to sit a test approved by the licensing authority
- removal of maximum commissions on sales and rentals subject to monitoring and transitional arrangements including disclosure, information and education campaigns
- allowing restricted letting agents to manage contiguous buildings.

It should be noted that the removal of maximum commissions is recommended to be co-ordinated with the introduction of a public education campaign.

The recommended hybrid model for **auctioneers** includes:

- relaxation of age requirements
- removal of residency requirements
- substitution of suitability assessment for character and fitness tests
- relaxation of business premises standards to include any registered office
- introduction of competency assessment including recognition of prior learning
- deregulation of regulated maximum commissions
- exemption from trust accounting provisions where auctioneers act as del credere agents
- no maximum cap on buyers premium commissions.

The recommended hybrid model for **motor dealers** includes:

- relaxation of age requirements
- removal of residency requirements
- removal of maximum commissions on vehicles sold on consignment
- relaxation of business premises standards to include any registered office
- substitution of suitability assessment for character and fitness tests
- introduction of competency assessment including recognition of prior learning
- rationalisation of motor dealer managers license.

It is recommended that cooling off periods and statutory warranties for used motor vehicles should be introduced as part of the hyrbid model as a net benefit has been identified during the PBT from the additional regulatory requirements.

The recommended hybrid model for **pastoral houses** includes:

- relaxation of age requirements
- removal of residency requirements
- substitution of suitability assessment for character and fitness tests
- removal of work experience requirements
- introduction of a requirement that agents can act for only one party (except livestock auctions)
- relaxation of business premises standards to include any registered office.

The recommended hybrid model for **commercial agents** includes:

- relaxation of age requirements
- removal of residency requirements
- removal of the managers (commercial agency) license which will be rationalised into the general generic commercial agency license
- introduction of competency assessment including recognition of prior learning
- introduction of a requirement that agents can act for only one party
- relaxation of business premises standards to include any registered office.

Transitional Issues

Adoption and implementation of the recommended hybrid models would not involve significant adjustments to the base state. Nonetheless, it is essential that market participants be made aware of any changes in their rights and responsibilities in order to achieve a smooth transition and to avoid the negative impacts of potential information asymmetries. It is recommended that a public education campaign be part of the hybrid model. The transition to the hybrid model would need to be coordinated to ensure that any such public education campaign has been put in place with adequate time to ensure it is effective.

Consultation

Targeted consultation was undertaken with representatives from each of the key affected groups as a part of the review. The broader community was afforded the opportunity to have input through written submissions which were called through newspaper advertising, coinciding with the Office of Fair Trading's release of an issues paper detailing the major issues underlying the legislation and the review.

An initial round of 'face to face' consultation with the specific stakeholder target groups was undertaken in December 1999, with follow up contact undertaken on an as-needs basis in the early months of 2000. Face to face and follow-up consultation was undertaken with:

- Auctioneers and Agents Committee
- Brisbane Consumer Association and the Queensland Consumer Association
- Queensland Shelta
- Financial Counseling Association of Queensland
- industry service providers
- Government Departments including the Public Trustee and Q-Fleet
- occupational associations including Real Estate Institute of Queensland (REIQ), Urban Development Institute of Australia (UDIA), Motor Traders Association of Queensland (MTAQ), the Auctioneers & Valuers Association of Australia, Institute of Mercantile Agents (IMA), Property & Livestock Agents Association Limited
- Office of Fair Trading – Licensing and Investigation Officers.

The issues paper was released in early February 2000 resulting in the delivery of over 30 submissions from the key stakeholder groups.

Sunset/Review

It is recommended that a subsequent review of the restrictions examined under this review be performed within five years. This is necessary as many impacts from the removal or retention of certain restrictions cannot currently be measured and actual impacts are expected to be identifiable after five years. To assist in measuring the impacts, it is recommended that the Office of Fair Trading collect market research directed towards the collation of meaningful quantitative data.

Employment Impact Statement

It is expected that there would be minimal impact on employment in Queensland from the implementation of the regulatory model recommended.

The direct employment impact of the recommended regulatory models may result in a small permanent positive benefit to full and part time employment from the removal of unnecessary barriers to entry. A quantification of the impact is not able to be robustly estimated from present information.

The proportional distribution of employment benefits across the industries under review is likely to be equally shared except for pastoral houses due to the existence of only two pastoral houses declared by regulation and a parochial approach to operations. Therefore reduced entry barriers will not necessarily increase the demand for labor of these operators.

The industries observed are directly associated with consumer demand and therefore population profiles. As a result, although benefits will be proportionally shared across regions, the gross impacts will be concentrated in more populated areas.

Indirect employment benefits will also result from increased activity in the industries, however, the level of direct expenditure required to implement the reforms will relate primarily to internal Government resources and a public education campaign and will not directly impact upon employment.

These conclusions have been reached in consultation with the Employment Strategy Unit of the Department of Employment Training & Industrial Relations.