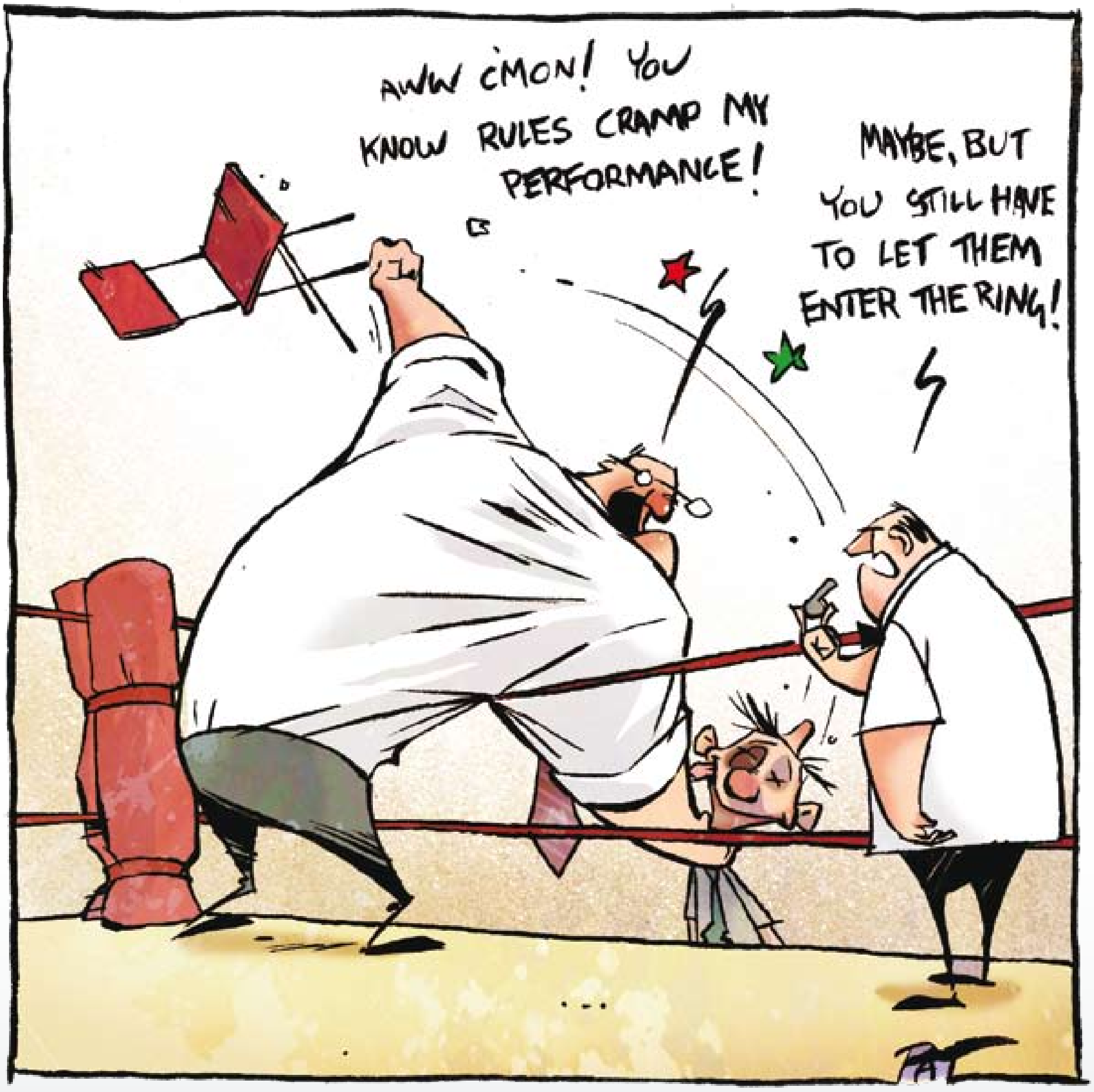
Global Financial Crisis

As the full extent of the world's economic difficulties begins to emerge, the impact of the global financial crisis is starting to threaten more than just the annual bonuses of Wall Street bankers.



Businesses across the entire economy are starting to panic about how they will be able to survive the downturn, and are calling for their governments to make life a little easier for them.

But those signs are worrying competition authorities and economists, who fear the growing calls for assistance may lead to an unwinding of hard-fought competitive reforms of recent decades.

As ACCC chairman Graeme Samuel recently told the *Australian Financial Review*, businesses with a long-standing opposition to regulation are looking to the current crisis as an opportunity to attack the laws that restrict them from acting anti-competitively.

'The global financial crisis is being used as the excuse by big business. They are telling us they ought to be able to get bigger and stronger and more dominant in order to survive.'

It is not the first time the regulator has faced such pressure. Opening industries to increased competition may assist consumers by bringing greater choice and lower prices, but it makes life more difficult for businesses that find themselves having to work harder for market share. When the economy contracts and consumers reduce their spending, life gets even more difficult for those firms who in turn start seeking shelter from some of the regulations that expose their business to greater pressure.

It is a phenomenon not confined to Australia.

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As *The Economist* magazine noted recently, during times of crisis long-term benefits of sensible reform are often overlooked in the short-term panic to respond. As the magnitude of the global financial crisis became clear at the end of 2008, the magazine surveyed business executives in a number of countries about their views on the state of international finances. It found only one in ten respondents saw protectionism as the biggest threat to the world economy, the majority were far more concerned about the immediate issues of recession, inflation and the financial crisis.

With confidence in the free market badly shaken by the banking system collapse, some in business and politics are beginning to ask whether competition policy is still delivering all it promises for the economies that have committed to strong policy.

In a speech in December, Chairman of the United Kingdom's Competition Commission Peter Freeman asked whether the honeymoon was over for competition law.

'Are we witnessing a turning of the tide … and are we entering a phase where the merits of competition policy are no longer part of the political consensus and may be at risk of being swept away by the tidal wave of financial and economic distress?'

Freeman argues that when whole industries are faced with systemic collapse, concerns about competition do need to be balanced with questions of financial stability. But going too far in assisting struggling businesses to stay afloat may in fact do more harm than good.

'Those who support competition must speak up for it. There is a real danger that we will otherwise lose the benefits of a free and competitive market economy with all the damage that will follow. We should take care not to kill the goose that lays the golden egg.'

Freeman's golden egg is the prosperity that citizens in Australia and other countries have enjoyed since competition policy began to flourish.

According to the Australian Bureau of Statistics, in the decade following the introduction of National Competition Policy Reforms in Australia, per capita disposable income increased by around 2.5 per cent every year – significantly

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GFC scams

Last year, *ACCC Update* warned of scammers branching out, targeting victims in new markets by adapting old techniques. Reports from overseas suggest wary consumers should now add the global financial crisis to their list of possible cons to watch out for.

The United States Federal Trade Commission recently issued a warning to consumers to be on the lookout for unsolicited email messages purporting to be from their bank that seek to take advantage of uncertainty about financial markets.

In one example scammers, purporting to represent the victim's bank, contact the victim saying they have experienced a computer error or data breach. They claim the error has come about during a merger the bank is going through as a result of the difficult financial times.

The scammers then either ask the victim to confirm their personal details or click on a link. Following the link can infect the victim's computer with malicious software or take them to a phishing site that looks identical to a real bank web page, but is a front for harvesting private banking details.

The aim of the scam is to trick victims into either revealing their bank account and PIN details, or to provide enough personal information for the scammer to assume their identity and take out loans or run up other expenses by using the victim's identity.

While the ACCC has not received significant reports of this scam making its way to Australia, consumers should be on guard.

Importantly, remember that a genuine financial institution will never ask you to reveal your PIN or other sensitive information over the phone or via an email. Be wary of any unsolicited or unexpected contact and if suspicious, call your financial institution direct to check the veracity of the request.

Also avoid following links to on-line banking services, especially those sent in emails. The safest way to use internet banking is to type the web address of your institution directly into your browser.

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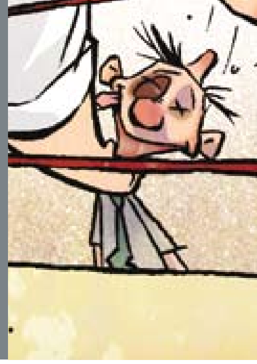

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higher than any time during the preceding 20 year period.

Despite repeated attacks from One Nation and various lobby groups, within three years of implementing National Competition Policy reforms electricity prices had fallen by around 25 per cent, gas prices for major industrial users by 50 per cent and conveyancing fees had also markedly reduced.

The current wave of calls for the ACCC to relax its strong stance against anti-competitive conduct have come from several fronts.

In the area of mergers, big businesses are increasingly claiming that they risk failure unless they are permitted to merge in deals that normally might be considered anti-competitive and thus potentially in breach of the *Trade Practices Act 1974*.

'Certainly, we need to note the global financial crisis,' says Samuel. 'We also need to be cognisant of the longer term consequences for Australian consumers if we allow excessive concentration of markets.

'One of the things we know in this country is that, where dominance manages to occur, it's very, very difficult to undo. If we were to allow the relatively temporary circumstances of the current crisis to have a longer-term consequence of serious dominance in industries, then I don't think anyone would thank us in two or three years' time.'

Small businesses feeling the effect of dropping sales are also calling for greater protection from competition.

But Samuel is adamant that one of the uncomfortable side effects of increased competition is that some businesses will inevitably fail when they are unable to keep up with competitors. Protecting the weakest businesses from failing, even in exceptional times of difficulty, can act like an anchor on the economy, preventing it from moving forward.

In 2005, the Productivity Commission conducted the first major review of National Competition Policy reforms, introduced a decade earlier.

The report found unequivocal evidence that those reforms had led to a significant jump in the standard of living enjoyed by all Australians in many parts of the country. Yet it also noted that some competitive reforms could be slow to yield dividends, opening them up to claims that they had failed to deliver.

One of the clearest warnings issued by the Productivity Commission's report was the need to resist the constant pressure to wind back the hard-won gains of reform.

'Just as Australia cannot afford to forgo opportunities for further competition-related and other reform, so too must it avoid backsliding on the many beneficial reforms undertaken over the last two decades.

'Any unwinding of competition policy would increase costs, undermine incentives for future productivity improvement and reduce flexibility and adaptability of the economy to changing circumstances.'

Though written in 2005, the Productivity Commission's views remain relevant today and are being echoed by advocates of competition policy facing the current emerging threats.

CEO of the United Kingdom's Office of Fair Trading John Fingleton says recessions are potentially hostile times for competition policy, and governments risk prolonging the current turmoil if they give in to pressure to ease competition laws.

'The suspension of competition rules by the Roosevelt administration in 1933 is argued to have added to the duration of the Great Depression, and government intervention to restrict competition in "structurally depressed industries" prolonged the Japanese recession in the 1990s,' Fingleton told the Charles River Associates Conference in Brussels in December.

Fingleton argues that because the longer-term impacts of competition reform are less visible than the immediate costs of implementing them, legislators are often faced with having to make tough choices, where more socially palatable options may seem more attractive in the short-term.

While few experts are brave enough to predict when the current economic slide will end, history suggests the situation is only temporary, and growth will again return to the market at some stage.

One point that several competition experts agree on is that when the developed economies finally lift themselves out of recession, they will face even stronger competition from growing economies such as China, India, Russia, South Africa and Brazil.

Those that resist calls to go backwards and can hold a steady course through the turbulent months ahead may just emerge on the other side still clutching their golden goose.