

20 July 2016

Targeted Commerce Act Review
Competition and Consumer Policy
Ministry of Business, Innovation and Employment
PO Box 1473
WELLINGTON

Email to: commerceact@mbie.govt.nz

Dear Sir/Madam

Re: Cross-Submission Process: Targeted Review of the Commerce Act 1986

I am writing to you about the cross-submission process arising in respect to the original 39 submissions to the review and the Commerce Commission's follow-up letter to the Minister. (Ministry of Business, Innovation & Employment Issues Paper, *Targeted Review of the Commerce Act 1986* (referred to as 'the Issues Paper').

The Commerce Commission wrote to the Minister giving reasons why those against the changes to s36 outlined in the Issues Paper were believed to be incorrect.

Metals NZ would like to respond here and be counted in full support of the position, key points & reasoning made by Business NZ's CEO Kirk Hope in their cross-submission on these matters.

- We certainly believe the business community has provided a great deal of information necessary to make a well informed decision on the proposed changes to s36. The views expressed by the business community reflect both a broad economic and legal perspective.
- In proposing such an extreme solution for change without going through a proper policy process will invariably produce a sub-optimal and likely controversial outcome.
- There is little or no evidence that s36 has been unsatisfactory for New Zealand consumers
- The preferred replacement scheme (an 'effects test' for unilateral conduct) is an extreme solution for New Zealand, with a high likelihood of depressing business activity. These extreme reforms will "chill" competitive conduct.
- Metals NZ's 730 strong membership profile is heavily skewed toward SME business with only a handful considered large businesses.

We therefore don't support the proposed reforms to s36 but remain interested in further discussions.

Kind regards,



Gary Hook

CEO Metals New Zealand