

# PRICE SIGNALLING

Competition Policy Review (Harper Review) Draft Report

## Current position

### Substantive law

- Prohibited by Division 1A of Part IV of the CCA
- **Private price disclosures** – s 44ZZW prohibits a corporation making a private disclosure of pricing information in relation to goods supplied or acquired if
  - Made to competitors; and
  - Disclosure is not in the *ordinary course of business*
- **Public disclosures** – section 44ZZX prohibits a corporation making a disclosure of
  - pricing information
  - information re: capacity to supply/acquire, or
  - commercial strategyin relation to goods and service if the corporation makes the disclosure for the *purpose* of SLC (Purpose may be ascertained by inference only)
- Various exceptions exist
- By regulation the prohibition currently only applies to **banking services**

## Harper Panel draft proposal (rec 24, chapter 17.2)

### Substantive law

- Repeal price signalling provisions in Division 1A
- Extend s 45 to cover concerted practices having the purpose, effect, or likely effect of substantially lessening competition.
  - concerted practice involves ‘a regular and deliberate activity undertaken by two or more firms’ and would include regular exchange/disclosure or price information between two firms

[summary prepared 11 October 2014]