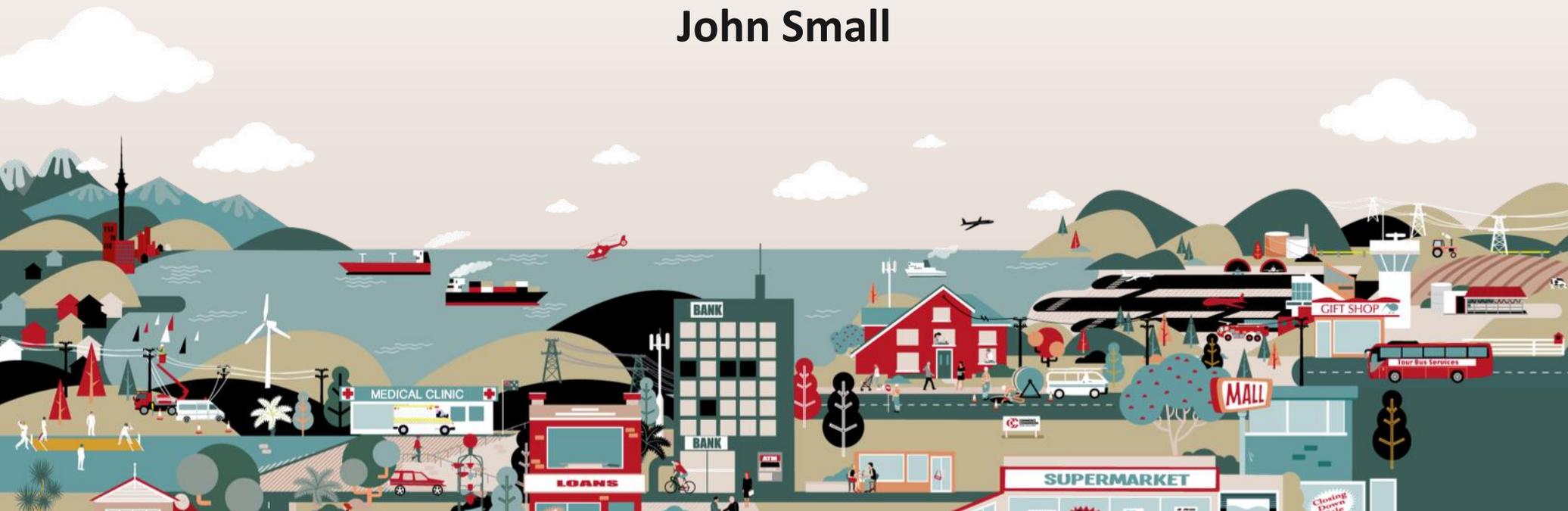


Market Studies in New Zealand

Competition Matters Conference

25 July 2019

John Small



Themes

- Distinct role for market studies
- New Zealand's unusual position
- Managing excess demand



Distinct Role for Market Studies

Role	Question	Outcomes
Trading Laws	Breach of Act?	Prosecute etc
Regulation	Fair Price?	Price – Quality path
Market Study	Could we improve?	Analysis / Recommendations

Role for Market Studies

- Markets are social constructs, backed by laws
 - Change is constant
- Markets open to question by disgruntled populations
 - Rise of “populist” sentiment partly due to this effect
- How do we stay true to the ethos of markets?
 - Blind faith is one option
 - Periodic review & adjustment is a better one
- Market studies are a disciplined form of quality control
 - On the market system as a whole

Market Studies in New Zealand



- This is a new role for Commission
 - Added to Commerce Act in 2018
 - inconclusive 2017 fuel study
 - refusals to supply information
- Powers sit between those of UK & Australian agencies
 - Unlike ACCC we can compel information release
 - Unlike CMA we can't enforce our own recommendations

Market Studies in New Zealand

- Studies can be initiated by Minister or ComCom
- Terms of Reference & publication date must be gazetted
- Output is a Competition Report
 - Must consult on a Draft
 - Need not make recommendations
 - Scope of recommendations is unlimited
- Minister must respond “within a reasonable period of time”

A Brief History

- 1991/92: ComCom Study of Telecommunications
 - *“...in relation to many important segments and most critical inputs, Telecom is the de facto regulator. Telecom owns or controls the key factors and so Telecom makes the rules and other parties in the industry, by and large, play by them”*
 - *The regulations “are of virtually no assistance in removing the obstacles to the development of competition in telecommunications”*
- 1994: Court of Appeal
 - *ComCom’s functions and powers “did not extend to conducting an inquiry and publishing a report on the efficacy or otherwise of the disclosure regulations” or “making findings adverse to persons or corporations otherwise than when determining an application before the Commission”*
-25 years later
 - Draft report on retail fuel markets is due next month

Alternatives

Ministerial Inquiry	Political appointees Secretariat External advice	+ Unconflicted industry experts + Flexible processes - Vulnerable to political pressure
Policy Review	Govt Policy Agency	+ Staff usually knowledgeable + Consultation meets standards - Design (& re-design) ≠ Administration - Vulnerable to political pressure
Market Study	Commerce Commission	+ Competition specialists + Information gathering powers + Politically independent

Managing Excess Demand

- Many people have pet projects for us
- But our resources are limited & quality is essential
 - ➡ Need to plan & prioritise
- Lead-in time is critical for us & industry
 - Initial exploration of issues before information requests
 - 3 mth lead-in + 12 mth study would be better
- Priorities should ideally be value/scale driven
 - What areas are most important for the country?



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