26 May 2015

General Manager
Small Business, Competition and Consumer Policy Division
The Treasury
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Competition Policy Review final report – request for submissions

Introduction
The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment on the Competition Policy Review final report.

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

AFPA supports the principle that laws prohibiting false, misleading and deceptive conduct must be applied to all those who engage directly with trading businesses, customers and markets – including environmental groups.

AFPA also supports the rights of groups and individuals to protest and publically debate issues which are important to them. The forest, wood and paper products industry recognises the positive role that many environmental non-government organisations (ENGOs) play in promoting sustainable forest management and addressing key issues such as illegally sourced imports.

Inadequacies in competition law pertaining to truthful information
However, AFPA is concerned about loopholes in the Australian *Competition and Consumer Act 2010* that may allow activist groups, such as some environmental non-government organisations (ENGOs), to engage in behaviours using false and misleading information that directly impact on an individual business or an industry sectors' competitiveness. This is simply not in the interests of good public policy.

AFPA is particularly concerned that the final report of the Competition Policy Review has failed to adequately address the issue of two overlapping provisions in the *Competition and Consumer Act 2010* that are leading to material damage and

adverse competition outcomes for some parts of the Australian forest, wood and paper products industry.

The first is the provision which, for obvious reason, forbids misleading or deceptive information as part of conducting trade and commerce (i.e. section 18 of the CCA). The second is the provision which allows an exemption from this clearly defined principle when it comes to secondary boycotts for two specifically named groups of commentators; consumer and environmental organisations.

These issues were outlined in detail in the AFPA submission to the Competition Policy Review draft report in November 2014 (refer attached).

In regard to the issue of environmental and consumer protection exception, the final report on pages 388-389 states:

> ***Environmental and consumer protection exception***
> *A number of submissions to the Issues Paper and the Draft Report argue for or against retaining the exception for secondary boycotts where the dominant purpose is environmental or consumer protection. Consumer and environmental organisations argue for retaining (or expanding) the exception, while industry groups argue for its removal. The Tasmanian Government proposes a separate inquiry into the public interest of retaining the environmental exception by an independent body (DR sub, page 1).*
>
> *The Panel did not receive compelling evidence of actual secondary boycott activity falling within the environmental and consumer protection exception in the CCA. In the absence of such evidence, the Panel does not see an immediate case for amending the exception. However, if such evidence arises from future boycott activity, the exception should be reassessed.*
>
> *During Panel consultations, industry representatives appeared to be primarily concerned that environmental groups may damage a supplier in a market through a public advocacy campaign based on false or misleading information.*
>
> *Submissions also tended to express concerns about public advocacy campaigns or false and misleading information, rather than secondary boycott activity as such. As consumer and environmental protection issues are often the subject of public advocacy, the Panel can understand that some may regard the secondary boycott exceptions as a form of protection of public advocacy in these areas.*
>
> *The Panel considers that, although a public advocacy campaign may damage a business, it does so by attempting to influence the behaviour of businesses and consumers. Businesses and consumers are free to make up their own minds about the merits of the campaign.*

A public advocacy campaign is therefore distinct from a secondary boycott – the latter aims not just to influence but also to hinder or prevent the supply or acquisition of goods or services. The Australian Food and Grocery Council acknowledges this:

It is important to distinguish public advocacy (which should be permitted) from secondary boycott behaviour (which should be prohibited). (DR sub, page 11)

However, a further question arises: if an environmental or consumer organisation advocates against customers purchasing products from a trading business, should the advocacy be subject to the laws prohibiting false, misleading and deceptive conduct? Presently, those laws only apply insofar as a person is engaged in trade or commerce.

Expanding the laws concerning false, misleading or deceptive conduct to organisations involved in public advocacy campaigns directed at trading businesses raises complex issues. Many public advocacy campaigns directed at trading businesses concern health issues (for example, tobacco, alcohol and fast food) or social issues (for example, gambling). Consideration of expanding those laws in that context is beyond the Terms of Reference of this Review. We therefore make no recommendation in this regard.

AFPA regards the treatment in the review of the issue of "expanding the laws concerning false, misleading or deceptive conduct to organisations involved in public advocacy campaigns directed at trading businesses" as grossly inadequate.

This is because the review has failed to adequately assess the impact such misleading information can have on industry sectors, such as the forest, wood and paper products industry. AFPA understands that these issues were raised by a number of companies in confidential submissions to the review, acknowledging the risks and concerns over misinformation campaigns directed at them with no legal recourse and the real market impacts these loopholes can have on Australian businesses. In effect, many businesses which are operating at the highest international standards of legality and environmental sustainability are so concerned about the damage resulting from such risks they feel compelled to stay silent.

The simple assessment of this matter as a 'complex issue' is patently not helpful nor in the public interest. Furthermore, AFPA fails to see how the reference to public advocacy campaigns directed at important social issues such as public health add any additional clarity when it comes to the fundamental issue of requiring truthful information by groups that can have a direct and deliberate impact on businesses, consumers and markets.

Regardless of the particular consumer or environmental issue, the fundamental principle is that that laws prohibiting false, misleading and deceptive conduct must

be applied to all those who engage directly with trading businesses, customers and markets.

AFPA also notes the comment in the final report:

> *The Panel did not receive compelling evidence of actual secondary boycott activity falling within the environmental and consumer protection exception in the CCA*

AFPA would reiterate that it is aware that these matters were raised by a number of companies in confidential submissions to the review, acknowledging the risks and concerns over misinformation campaigns directed at them with no legal recourse and the real market impacts these loopholes can have on Australian businesses.

AFPA would also draw the Australian Government's attention to a recent submission by forestry consultant, Mr Mark Poynter, to the House of Representatives Inquiry into the Register of Environmental Organisations (attached). This information might be of assistance to the Australian Government and the Treasury Department regarding these matters.

Recommendation
Given the issue raised, AFPA recommends that the Australian Government:

- undertake a full investigation into the issue of expanding the laws prohibiting false, misleading and deceptive conduct to all those who engage directly with trading businesses, customers and markets – including environmental groups; and
- review the secondary boycott exemption for environmental organisations.

Attachments

1. AFPA submission on the Competition Policy draft report, 17 November 2014
2. Submission by Mr Mark Poynter to the House of Representatives Inquiry into the Register of Environmental Organisations, May 2015

17 November 2014

Competition Policy Review
The Treasury
Langton Crescent
Parkes ACT 2600

Executive summary of AFPA submission

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment on the Competition Policy Review draft report.

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

AFPA supports the principles of fair and transparent competition in the Australian economy to promote long term economic growth and innovation amongst industries and businesses.

AFPA also supports the rights of groups and individuals to protest and publically debate issues which are important to them.

However, AFPA is concerned that there are two overlapping provisions in the *Competition and Consumer Act 2010* (CCA) that are leading to adverse competition outcomes for some parts of the Australian forest, wood and paper products industry.

The first is the provision which, for obvious reason, forbids misleading or deceptive information and conduct (i.e. section 18 of the CCA). The second is the provision which allows an exemption from this clearly defined principle when it comes to secondary boycotts for two specifically named groups of commentators; consumer and environmental organisations.

In regard to the issue of environmental exception to the secondary boycott prohibition, AFPA was pleased to note recognition in the National Competition Policy Review Draft Report (pages 50-51). It stated:

> *A number of submissions raised the issue of the environmental and consumer exception to the secondary boycott prohibition.*

During consultations undertaken by the Panel, it appeared that the primary concern expressed by industry representatives is that environmental groups may damage a supplier in a market through a public campaign targeting the supplier that may be based on false or misleading information.

A question might arise whether a public campaign undertaken by an environmental or consumer organisation against a trading business, advocating that customers ought not purchase products from the business, should be subject to the laws prohibiting false, misleading and deceptive conduct. Presently, those laws only apply insofar as a person is engaged in trade or commerce.

However, expanding the laws concerning false, misleading or deceptive conduct to organisations involved in public advocacy campaigns directed at trading businesses raises complex issues. Many public advocacy campaigns directed at trading businesses concern health issues (e.g. tobacco, alcohol and fast food) or social issues (e.g. gambling). Consideration of the expansion of those laws in that context is beyond the Terms of Reference of the Review.

On the other hand, where an environmental or consumer group takes action that directly impedes the lawful commercial activity of others (as distinct from merely exercising free speech), a question arises whether that activity should be encompassed by the secondary boycott prohibition. ***The Panel invites further comment on this issue.***

For the reasons outlined in AFPA's earlier submission on the National Competition Policy Review Issues Paper and detailed further below, AFPA supports the principle that laws prohibiting false, misleading and deceptive conduct must be applied to all those who engage directly with trading businesses – including consumer and environmental groups.

AFPA is aware that given the extent of this problem and seriousness of this issue to specific companies and businesses, there are likely to be a number of related confidential submissions on this issue.

Further queries about this submission can be directed to AFPA on (02) 6285 3833.

Yours sincerely

Ross Hampton
Chief Executive Officer

SUBMISSION ON THE COMPETITION POLICY REVIEW

DRAFT REPORT

17 November 2014

Introduction

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment on the Competition Policy Review.

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products. The forest industries support around 200 000 direct and indirect jobs nationally with a gross value of turnover of around $22 billion.

AFPA supports the principles of fair and transparent competition within the Australian economy in order to promote long term economic growth and innovation amongst industries and businesses.

AFPA also supports the rights of groups and individuals to protest and publically debate issues which are important to them.

However, AFPA is concerned that there are two overlapping provisions in the *Competition and Consumer Act 2010* (CCA) that are leading to material damage and adverse competition outcomes for some parts of the Australian forest, wood and paper products industry.

The first is the provision which, for obvious reason, forbids misleading or deceptive information as part of conducting trade and commerce (i.e. section 18 of the CCA). The second is the provision which allows an exemption from this clearly defined principle when it comes to secondary boycotts for two specifically named groups of commentators; consumer and environmental organisations.

Over recent years the native forest wood and paper products sector has experienced market interference by increasingly sophisticated environmental activist groups and individuals. These activities are taking advantage of a loophole in the secondary boycott provisions. These provisions essentially prohibit secondary boycotts, which involve action by two or more parties acting in concert, which hinder or prevent a third party such as a potential customer or supplier, from dealing or doing business with a target (sections 45D-45DB). However, section 45DD provides an unqualified exemption for certain people from the secondary boycott provisions such as if the '*Dominant purpose of conduct relates to environmental protection or consumer protection*.'

This loophole is inconsistent with the intention of the CCA and is open to abuse and unethical behaviour by some environmental activist groups and individuals that can undertake secondary boycotts with suppliers, customers and/or financiers to the domestic native forest wood and paper products industry.

The forest, wood and paper products industry in Australia recognises the positive role that many environmental non-government organisations (ENGOs) play in promoting good environmental outcomes, such as curbing trade in illegally logged imported products. However the industry has been concerned about the behaviour of some environmental activist groups with regard to the promulgation of false and misleading information about the domestic native forest wood products industry. Some environmental activist groups have released factually misleading information that is then used as part of secondary boycotts which deliberately causes substantial loss or damage to Australian businesses.

The forest products industry is highly regulated with Australian sustainable forest management practices recognised as world's best standard. The comprehensiveness of environmental management laws and voluntary certification policies for sustainable forest management that apply to both public and private forest land in Australia is well documented[1].

However, actions by some environmental activist groups can undermine both specific companies and the markets for native forest wood and paper products by the dissemination of misleading information through both social and mainstream media and direct contact with customers both domestically and overseas. Industry remains concerned, and the public should be equally concerned, about the regulatory framework for ethical standards of public disclosure and market activity by some environmental activist groups.

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[1] Montreal Process Implementation Group for Australia (2014). Criterion 7: Legal, institutional and economic framework for forest conservation and sustainable forest management. *Australia's State of the Forests Report 2013*, *five yearly report*, Canberra.

The availability of digital and social media allows the message of environmental activist groups to propagate widely before a business has any meaningful chance to respond to or address the concerns raised (whether true or not). At this point it is often too late for the business to undo the damage caused by the secondary boycott, resulting in an overall weakening of the market.

In addition to the unavailability of a cause of action for the secondary boycott, businesses face a difficult hurdle to show that the actions of environmental activist groups satisfy the trade and commerce requirement necessary to establish a breach of section 18 of the CCA by engaging in misleading or deceptive conduct. This combination of factors leads to a lack of recourse for business and allows some environmental activist groups to operate with impunity.

These important reforms could be achieved by repealing the special exemption for secondary boycotts for environmental protection (section 45DD).

An alternative approach would be to remove the overarching exemption and then allow for case by case applications for exemptions. This procedure already works well in the context of exclusive dealing and would be well suited to striking a balance between legitimate protest mechanisms and competition aims. The Australian Competition and Consumer Commission (ACCC) could assess the bona fides and merits of the application for an exemption and assess this against the potential damage to the market and competition.

Importantly, requiring applications for exemptions would not place an undue burden on environmental activist groups. This is because in the current context, secondary boycotts are used as a coordinated tactic by some highly sophisticated environmental activist groups with complex legal and commercial structures.

In regard to the issue of environmental exception to the secondary boycott prohibition, AFPA was pleased to note recognition in the National Competition Policy Review Draft Report (pages 50-51). It stated:

> *A number of submissions raised the issue of the environmental and consumer exception to the secondary boycott prohibition.*
>
> *During consultations undertaken by the Panel, it appeared that the primary concern expressed by industry representatives is that environmental groups may damage a supplier in a market through a public campaign targeting the supplier that may be based on false or misleading information.*
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> *A question might arise whether a public campaign undertaken by an environmental or consumer organisation against a trading business, advocating that customers ought not purchase products from the business, should be subject*

to the laws prohibiting false, misleading and deceptive conduct. Presently, those laws only apply insofar as a person is engaged in trade or commerce.

However, expanding the laws concerning false, misleading or deceptive conduct to organisations involved in public advocacy campaigns directed at trading businesses raises complex issues. Many public advocacy campaigns directed at trading businesses concern health issues (e.g. tobacco, alcohol and fast food) or social issues (e.g. gambling). Consideration of the expansion of those laws in that context is beyond the Terms of Reference of the Review.

On the other hand, where an environmental or consumer group takes action that directly impedes the lawful commercial activity of others (as distinct from merely exercising free speech), a question arises whether that activity should be encompassed by the secondary boycott prohibition. ***The Panel invites further comment on this issue.***

AFPA supports the principle that laws prohibiting false, misleading and deceptive conduct must be applied to all those who engage directly with trading businesses – including consumer and environmental groups.

Conclusion

AFPA supports the principles of fair and transparent competition within the Australian economy in order to promote long term economic growth and innovation amongst industries and businesses.

AFPA also supports the rights of groups and individuals to protest and publically debate issues which are important to them.

However, AFPA is concerned that there are two overlapping provisions in the *Competition and Consumer Act 2010* (CCA) that are leading to material damage and adverse competition outcomes for some parts of the Australian forest, wood and paper products industry.

The first is the provision which, for obvious reason, forbids misleading or deceptive information as part of conducting trade and commerce (i.e. section 18 of the CCA). The second is the provision which allows an exemption from this clearly defined principle when it comes to secondary boycotts for two specifically named groups of commentators; consumer and environmental organisations.

AFPA supports the principle that laws prohibiting false, misleading and deceptive conduct must be applied to all those who engage directly with trading businesses – including consumer and environmental groups.

House of Representatives Standing Committee on the Environment

Inquiry into the Register of Environmental Organisations

Submission by

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May 2015

Introduction

My credentials

I have worked as a professional forester chiefly in Victoria and Tasmania for 35 years since graduating with a Diploma of Forestry (Creswick) in 1977, and a Bachelor of Forest Science (University of Melbourne) in 1980.

I have worked at various times for Victorian Government forest agencies, in the Tasmanian timber industry, and for the past 20-years as an independent forestry consultant based in Victoria.

Like most foresters, I have been tremendously frustrated by the regular misrepresentations of my profession associated with the media's coverage of the enduring community conflict over wood production and fire management, particularly in southern Australia. With the benefit of a strong operational background in these areas I have spent many years challenging misconceptions in the media coverage of forestry issues.

For the past ten-years I have represented the Institute of Foresters of Australia in a voluntary media commentary role. **However, it must be stressed that this submission contains my personal views and is not necessarily representative of the Institute's views.**

My work in responding to media coverage of forestry issues has led to me becoming reasonably well known for presenting forestry perspectives in published online, or media articles. Over the past decade, I have had around 50 x 2,000-word articles about forestry issues published on the internet. Several articles published in *Quadrant*, around 10 x 800-word articles published in *The Age* and the *Weekly Times*, and over 50 letters published in those publications as well as *The Australian*, *Herald Sun*, *Sunday Age*, and several regional publications.

In addition, I have been interviewed on ABC Radio six times, and have spent countless hours copping anonymous abuse for trying to inject forestry perspectives into online forum discussions on websites such as *The Conversation* and the *Tasmanian Times*.

In the early 2000s I began writing a book – *Saving Australia's Forests and its Implications* – examining the basis of forest activism, how it is promoted, its political influence, and the socio-economic and environmental implications of resultant forest policy changes. It was eventually published in 2007 with the help of a grant from the IFA.

Australian forestry and environmental activism

Forestry professionals such as myself are uniquely qualified to make a submission to this inquiry. Arguably, along with the timber and wood products sectors, forestry has been the scientific discipline most affected by the activities of some environmental non-government organisations (ENGOs).

The collective 'environmental movement' has largely honed its modus operandi in forests campaigns over the past 35-years. These campaigns have typically opposed the renewable use of parts of public State forests designated for multiple uses and managed with the intent of balancing use with conservation. These campaigns are continuing and the protest

methodologies that have evolved from them are now being widely employed against other resource use sectors.

While I am aware that there are more than 600 ENGOs on the Register, a small minority have been very prominent in these forest-based protest campaigns and I am well-placed to comment on whether their behaviour should be acceptable for listing on the Register.

About this submission

This submission is restricted to a consideration of the Inquiry's first three Terms of Reference as follows:

- The definition of 'environmental organisation' under the *Income Tax Assessment Act 1997* (sub-division 30-E);
- The requirements to be met by an organisation to be listed on the Register and maintain its listing; and
- Activities undertaken by organisations currently listed on the Register and the extent to which these activities involve on-ground environmental works.

I recognise that deductible gift recipient status through the Register of Environmental Organisations is separate from an organisation's status as a 'charity' and eligibility for income-tax and other exemptions, which are administered by the Australian Charities and Not for Profits Commission (ACNC) and the Australian Taxation Office (ATO).

While I believe that the charitable status of many environmental organisations is highly questionable and also deserves to be examined, I understand that it is not part of the Terms of Reference for this inquiry.

Discussion of the selected Terms of Reference

The definition of 'environmental organisation' under the *ITAA 1997*

The Income Tax Assessment Act 1997 outlines the nature of what constitutes an 'environmental organisation' with respect to accounting, governance, and reporting requirements. It also stipulates that such organisations must satisfy certain other requirements (Section 30.265). From the perspective of the IFA, the most pertinent of these are:

1) *Its principal purpose must be:*
    a) *The protection and enhancement of the natural environment or of a significant aspect of the natural environment; or*
    b) *The provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.*

Protection and enhancement of the natural environment

I have no doubt that all of the ENGOs listed on the Register of Environmental Organisations would regard their principal purpose as protecting the natural environment. However, there is a small sub-set of groups whose primary focus is on achieving this objective by bringing an end to resource use industries.

The notion that ending resource use will actually improve the protection of the natural environment is highly debatable in relation to forests given that timber production from a portion of their area is the cornerstone of effective fire management over the whole forest estate. It not only raises revenue, but provides the imperative to build and maintain road access and to employ workforces, which are also available to fight fires and conduct critically important fire protection activities such as fuel reduction burning.

An example of this inordinate focus on resource use as the key to environmental improvement is evident in **The Wilderness Society's** Forests and Woodlands Policy (revised in 2005). It states that the TWS '*does not support the use of native forests to supply woodchips for pulp, wood for power generation, charcoal production, commercial firewood or timber commodities.*' Further to this, TWS '*does not believe that there is a native forest logging system in use in Australia that has been proven to be ecologically sustainable*', and it '*believes that all of Australia's pulpwood, commercial firewood and timber commodity production should come from extant plantations of softwood and hardwood....*'[1]

Similarly, the **Australian Conservation Foundation's** Forests Policy (1995) says in-part that: "*ACF believes that .....(there should be) ..... immediate cessation of logging in all forests of high conservation value; ..... on environmentally sensitive sites; ..... of 'old growth' forests; ..... in areas regenerating after clearfelling and silvicultural treatment" (that fall*

[1] From the Wilderness Society website (accessed 2007)

within a range of criteria); and "cessation of logging within three years in natural regrowth areas – sooner where there is a regional availability of alternative wood supplies."[2]

Another group, **Lawyers for Forests**, works on the presumption that better laws and policies pertaining to native forests will improve environmental protection. They are "*working to promote better native forest law and policy. This involves analysis of the laws and regulatory framework and advocating law reform to ensure the conservation and better management of our native forests*"

In addition, *"Lawyers for Forests believes that the industrial scale woodchipping and clear felling of our native forests is a matter of serious public concern. LFF is active on a number of levels to promote awareness of the issue and advocate change by:*

- "*increasing the scrutiny of laws and policies which affect native forests and related environmental issues";*
- *"demanding accountability from our leaders in business and government"; and*
- *"providing pro-active legal support to other groups campaigning for change."*[3]

These three groups are all on the Register of Environmental Organisations. However, the Wilderness Society and the Australian Conservation Foundation no longer disclose their formal policies on their websites. That does not necessarily mean that they have changed focus.

The notion that ending already limited and highly regulated resource use is the key to improved environmental protection is dubious, and environmental organisations that are focussed primarily on such a strategy should not be automatically presumed to be protecting or enhancing the natural environment.

Provision of information or education

In 2003, the Howard government drafted legislation known as the Charities Bill to require tax-exempt organisations to desist from illegal activities, political advocacy, and lobbying for government policy change.[4]

A subsequent inquiry by the Board of Taxation that received over 260 submissions on the question of how to define a charity, found that political advocacy was an important role for a wide range of charities. This included environmental groups such as the Australian Conservation Foundation whose submission argued that charitable activities such as volunteer tree planting were incapable of, for example, significantly mitigating dryland salinity, compared to lobbying to change government policy to restrict land clearing.[5]
A key part of their argument was that they played an important educational role in raising public awareness of environmental problems and that by influencing public sentiment and

[2] ACF Forests Policy, Australian Conservation Foundation website, www.acfonline.org.au (accessed October 2005)

[3] Lawyers For Forests website, www.lawyersforforests.asn.au (accessed May 2015)

[4] *'Charities' that are really political lobbyists must be exposed*, by Mike Nahan, Institute of Public Affairs, *The Age*, 8th August 2003

[5] *Consultation on the Definition of a Charity: A Report to the Treasurer*, by the Board of Taxation, released by Federal Treasurer, The Hon. Peter Costello, May 11th 2004. Accessed in August 2005 on: www.taxboard.gov.au/content/Charity_consultation

political outcomes they were forcing improved environmental protection. Ultimately in mid-2004, the Howard Government accepted their argument and decided not to proceed with the Charities Bill.

Although this inquiry has a slightly different focus, it is expected that groups listed on the Register of Environmental Organisations which primarily engage in advocacy rather than on-ground conservation works, will again argue that they play an important educational role.

This claim deserves close scrutiny because, although there is a recognition that such groups are engaged in trying to shape public opinion by providing information or education, the integrity and honesty of what they are spreading is usually dubious and such groups have at times been described as engaging in campaigns of misinformation.

A good example is the group, **Markets for Change Inc** (MFC), which is both listed on the Register of Environmental Organisations and is registered as a 'charity' with the Australian Charities and Not-for-Profit Commission.

MFC was formed in 2011 courtesy of a reported $7 million in funding from anonymous local and international donors. At the group's launch, its Chief Executive made the sensational but quite outrageous claim that 76% of Australia's forests are open to logging. The reality is that after taking account of ownership, forest type and quality, accessibility, and environmental considerations, only about 5% of Australia's forests are available and suitable for timber production.

MFC makes no pretence to doing any on-ground conservation works. It describes itself as "*a market-focused environmental non government organisation that investigates and exposes the companies and products driving environmental destruction, creating the impetus for retailers to adopt environmentally and socially responsible procurement policies to help create an environmentally responsible market*".[6]

Markets for Change have so far produced five campaign reports that are freely downloadable from their website. These include their initial report, '*Retailing the Forests*' which was a general grab-bag of claims against a host of Australian timber and paper sector companies; as well as more focussed reports targetting specific companies such as Harvey Norman and Ta Ann Tasmania for supposedly driving 'forest destruction' by respectively selling furniture and making plywood derived from Australian native hardwoods.

They targetted the retailer, Harvey Norman, with their 'No Harvey No' campaign because it sold furniture that was made from Australian timbers derived from supposedly environmentally destructive forestry practices. This campaign featured a You Tube clip and a 12-page report entitled: *No Harvey No – How Australia's largest furniture and electronics retailer is fuelling the destruction of our native forests.*

A close examination of this glossy campaign report has exposed many errant claims, including:

[6] Markets for Change website: http://www.marketsforchange.org/about/ (accessed May 2015)

- Wrongly asserting that Australia's native forests are "in peril" due to logging, when in fact timber production is excluded for a range of reasons from around 95% of the nation's forests.
- Wrongly asserting that Australia has sufficient plantations to supply all its timber and wood product requirements without having to log native forests, when in reality there is a chronic shortage of eucalypt plantations capable of producing hardwood sawn timber, let alone timber of an equivalent quality to that obtainable from native forests.
- Wrongly asserting that wood production is destroying Australian native forests and implied that they are disappearing when in fact harvesting and then regenerating logged coupes maintains the same area of forest.
- Overstating the proportion of native forest that can be harvested in Tasmania (by a factor of two).
- Overstating the proportion of native forest that can be harvested in NSW (by a factor of four to five).
- Overstating the proportion of native forest that can be harvested in Victoria (by a factor of four).
- Overstating the impacts of timber harvesting on the water security of Australia's major cities, of which only two allow limited harvesting in the catchments of their domestic water supply dams.
- Falsely claiming that timber harvesting in public State forests is exempt from Commonwealth threatened species legislation despite the legislation itself explaining that appropriate approval has already been effectively obtained through the Regional Forest Agreement process, forest management plans, and codes of forest practice. In addition, a 2009 independent review of the Environment Protection and Biodiversity Conservation Act 1999 found that there was no reason to change this arrangement.
- Inferring that logging has and is causing extinctions amongst indigenous forest-based flora and fauna species despite no evidence of this.
- Claiming that logging may cause local extinctions of koalas in NSW, despite this being contradicted by the National Koala Conservation and Management Strategy 2009 which does not specifically list logging as a primary threat to the species.

Appendix 1 of this submission contains a detailed critique of how these misconceptions were conveyed in the 'No Harvey No' report and includes references that expose them as factual errors.

On the basis of campaign documents such as this, Markets for Change has had considerable success in trashing the reputation of Australian forestry practices and associated wood products companies in the international and domestic marketplace. It is perverse that being on the Register of Environmental Organisations allows them to inflict such socio-economic damage on very spurious grounds while being effectively subsidised by tax-payers.

Markets for Change are far from alone amongst registered 'environmental organisations' in promulgating misinformation about forestry. However, more often this misrepresentation is

less blatant and is achieved by selective use of information, emotive language, and strategic avoidance of critically important context to create impressions that often paint a completely unreal picture of the level of environmental threat.

For example, the Victorian forest-based group, **My Environment,** has a plea on its website home page to '*Please help to save the Leadbeater's Possum from logging*' alongside a picture of the cute possum. Further down the page there is a story about the mutual co-operation between My Environment's forest campaigners and the Sea Shepard campaigners trying to save whales.[7]

Within this short article there are a number of contentious statements. These are repeated below followed by a short explanation of the reality:

- "*The My Environment team …… are continuing our work to draw attention to the logging of the Ash forests for the Japanese conglomerate Nippon and their Reflex paper product*"

  The reality: The Ash forests are in fact harvested for both sawn timber (the best logs) and pulpwood (the logs that are too small, defective, or bendy for sawing). The pulpwood is made into paper by Australian Paper at its Gippsland pulp and paper mill. Nippon is the Japanese parent company.

- "*There is only 1% of old growth ash forest left living in the Central Highlands after 100 years of intensive logging and fire, time is running out to change the policy*"

  The reality: The lack of old growth Ash forest is overwhelmingly due to bushfires stemming back 90 years to the 1926 and 1939 fires which in combination burnt an estimated 85% of the forest. More recently, the 2009 bushfires killed the last substantial area of old growth ash forest in the Wallaby Creek closed water supply catchment.

  There has been no old growth timber harvesting in these forests for around 30-years. Instead harvesting occurs in regrowth forests mostly of 1939 fire–origin. Changing the policy that allows this harvesting would no nothing to 'save' old growth forests.

- "*The policy of logging these forests ……. can legally send our most endangered animals to extinction, like that of the Leadbeater's Possum*"

  The reality: In fact timber harvesting only occurs in a net 31% portion of the ash-type forests being referred to. The other 69% is already contained in various national parks, conservation reserves, closed water supply catchments and operational management reserves. As timber harvesting is excluded from most forests, it is extremely unlikely to cause any animal extinctions. In addition, the Leadbeater's Possum rarely occurs in these regrowth forests, and where it does, its habitat is reserved and excluded from the net harvested coupe area.

- "*…….. sending Leadbeater's Possum to extinction is NOT sustainable……. and he needs to work ….. to exit all native forest logging from the Great Forest National Park boundary area immediately"*

[7] My Environment website: "*Sea Shepard supports the Great Forest National Park*" http://www.myenvironment.net.au/

The reality: As above, the net area of timber harvesting is limited to fire regrowth forests where Leadbeater's Possum doesn't even live. In addition, there is no such thing as the Great Forest National Park – at this stage it is simply a proposal put forward and supported by a number environmental groups and the Greens.

- "*The pulp needs of Japan's Nippon Paper can be met by our enormous plantation resource in Victoria, the only thing stopping it is political cronyism*"

  The reality: Pulp is required by Australian Paper – a local company making paper for the domestic Australian market. The bulk of the suitable hardwood plantation resource in Victoria is located 500 km away and is being grown under contract for the export woodchip market, rather than the domestic paper market. These are massive impediments to its use, notwithstanding that Australian Paper already draws pulpwood from a closer and smaller Gippsland plantation resource which is incapable of fully meeting its hardwood pulp needs.

The above comparison of My Environment's public pronouncements with the reality exemplifies how easy it is for ENGOs to mislead the vast majority of people who are uninformed about forestry topics. This is just one example of what occurs almost without exception when some ENGO's speak or write abour forestry issues.

It is entirely understandable that a lobby group with a particular agenda would be selective in what it says and would avoid disclosing important context (such as how much forest is already reserved). Their chances of achieving their objective and generating funding donations to continue their campaigning are both reliant on portraying an eco-crisis scenario that stresses the urgency of taking action. This shapes public outrage which can then be harnessed to influence political outcomes.

It is precisely for these reasons that such groups should never be seriously regarded as playing a public education role which implies full and fair disclosure of all information surrounding a topic.

ENGOs listed on the Register or Environmental Organisations which are primarily engaged in public advocacy and lobbying, rather than on-ground works, should be disregarded as serious providers of environmental information or education.

The provision of these services implies honest and full disclosure of all relevant information. Yet groups engaged in striving for long-held conservation agendas, particularly with regard to stopping natural resource uses, are by necessity selective in the information they provide, and deceptive in what they choose to hide. Accordingly they misinform the community by exaggerating threats and maintaining conflict so as to garner further donations to continue campaigns designed to force political change.

Activities undertaken by organisations currently listed on the Register and the extent to which these activities involve on-ground environmental works

In order to highlight current problems with the Register of Environmental Organisations, the following groups which are listed on the register, perform activities which I believe to be

inappropriate for tax deductible gift recipient status under the provisions of the *Income Tax Assessment Act 1997*:

Markets for Change

- Does no on-ground conservation works.
- Restricts its activities to reputional assaults of targetted companies in their market place to damage their viability and ultimately force changes to forestry policies or practices. This includes inciting customer boycotts.

The Wilderness Society

- Does no on-ground conservation works that I am aware of.
- Activities restricted to political advocacy
- Acts as an umbrella group that provides advice, training and support to smaller grass-roots protest groups.
- Has in the past engaged in corporate subterfuge in relation to Tasmanian timber company Gunns Ltd.[8]
- Suspected of providing substantial funding to establish Markets for Change, and undoubtedly has provided support to it. The inaugeral Chief Executive of Markets for Change was the Wilderness Society's former national forests campaign director.
- Routinely promulgates misrepresentations of forestry policies and practices.

Environment East Gippsland

- As a smaller grass-roots group, it may undertake some on-ground works that I am unaware of.
- It has for many years conducted training camps for would be anti-logging protestors.
- Conducts regular coupe protests, but less so than in the past.
- Has launched a succession of legal cases against the government commercial forestry agency VicForests that have overall cost Victorian taxpayers several million dollars in foregone dividends to defend. These cases have mostly had little significance for on-ground forest management and have often centred upon differences in interpretation. Arguably their major aim has been to engender adverse publicity for forest management and the timber industry.
- Routinely promulgates misinformation about timber harvesting and fire management through the media.

[8] In conjunction with corporate eco-warrier, Geoffrey Cousins, the Wilderness Society engineered critical changes to the Gunns Ltd Board of Directors by pressuring the company's financiers and institutional shareholders. While there is nothing illegal in this, the concern centres on the integrity of information used by the TWS to pressure those entities which must be highly questionable given the Wilderness Society's penchant for gross exaggeration and over-the-top hyperbole about supposed forestry impacts.
See: http://www.abc.net.au/lateline/content/2010/s2924208.htm

My Environment

- As a smaller grass-roots group, it may undertake some on-ground works that I am unaware of.
- Has launched several legal cases against the government commercial forestry agency VicForests that have cost the Victorian taxpayer millions to defend.
- Routinely spreads misinformation about timber harvesting, particularly in relation to the supposed extinction of Leadbeater's Possum.

Lawyers for Forests

- Does no on-ground conservation works that I am aware of.
- Provides access to pro-bono legal services that have enabled small grass-roots protest groups with few or no assetts, such as Environment East Gippsland and My Environment, to launch expensive legal challenges against VicForests. Ultimately, the Victorian taxpayer has borne the cost of defending these cases.
- Vanessa Bleyer, a founder of Lawyers for Forests, is the principal of Bleyer Lawyers which has often represented these and other groups in court cases against forest resource use entities.[9]

Note: This is not meant to be a full list, but merely to provide examples of Victorian-based ENGOs which are listed on the Register of Environmental Organisations despite dubious credentials.

I would reiterate that the community costs associated with dealing with the activities of groups such as those listed above can be very substantial.

The costs borne by government agencies having to defend law suites launched against them has been already alluded to above. However, even legal non-violent forest protests require substantial expenditure of taxpayer money. In the mid-2000s, the Victorian Association of Forest Industries (VAFI) estimated the public costs of dealing with anti-logging blockades in East Gippsland to range from $7000 to $11,000 per day, including the wages of police and Departmental staff, the cost of crane hire to remove tree-sitting protestors, and the costs of shifting contractors' machinery if necessary.

VAFI's estimate may understate the actual costs of safeguarding timber harvesting in contentious coupes. Media reports that the Victorian government spent $2.5 million (not including police costs) dealing with anti-logging activism on 141 protest days during the 2001–02 financial year, suggest that the actual costs may be substantially higher.[10]

In addition, considerable costs are incurred by the industry and its contractors in lost production, as well as public costs again incurred in subsequent court cases against protesters acting illegally, and the additional work required in scheduling alternate coupes. Then there is

[9] Bleyer Lawyers: http://www.bleyerlawyers.com.au/

[10] *Logging protests cost state $2.5 m.*, by Melissa Fyfe, *The Age*, 9th August 2002

also the cost of community and stakeholder engagement that is now routinely undertaken in a bid to provide disclosure in the hope of circumventing anti-logging protests.

Overall, there are substantial costs being borne by the community in dealing with the behaviour of some ENGOs listed on the Register of Environmental Organisations. It is perverse that their listing enables them to be effectively subsidised by the taxpayer to undertake activities that then incur considerable socio-economic costs that must also be borne by the taxpayer.

The IFA contends that being listed on the Register of Environmental Organisations is inappropriate for groups that primarily engage in activities such as inciting company boycotts, trashing company reputations, undertaking protests that stop workers from undertaking their legally-sanctioned work, engaging in corporate subterfuge, and launching legal actions against forestry agencies or timber companies.

These are actions which invariably incur significant costs that must be borne by the wider community, and it is a perversity for organisations which create the circumstances that cause these costs to have tax deductible gift recipient status. Currently their listing on the register amounts to taxpayers effectively subsidising activities which create further taxpayer costs.

The requirements to be listed and to maintain a listing on the Register of Environmental Organisations

Based on the discussion above, the IFA believes that ENGOs listed on the Register of Environmental Organisations must include only those who perform on-ground conservation works and/or provide a genuine environmental education service.

Groups which provide an environmental information or education service must be able to demonstrate that they:

- Operate free from any ideological, personal or political agendas
- Provide full and frank disclosure of all relevant information pertaining to particular environmental topics, such as arguments from both environmental lobby groups on the one hand and resource use industries/land managers on the other.

It would be wrong to stipulate that ENGOs listed on the Register of Environmental Organisations must totally desist from protesting, advocacy or lobbying because genuine environmental concerns will undoubtedly arise where this may be appropriate. However, I cannot agree with ENGOs being listed on the Register if their primary reason for existence is for those purposes.

The initial listing and the maintenance of listing on the Register of Environmental Organisations should be restricted to groups that primarily undertake on-ground works, or provide an educational service that is free from ideological or personal agendas and involves disclosing all information pertaining to environmental topics in a balanced manner free from bias.

Conclusions

I contend that:

1. This inquiry does not go far enough. It should also be considering the 'charity' status of environmental groups and their eligibility for income-tax and other exemptions

administered by the Australian Charities and Not for Profits Commission (ACNC) and the Australian Taxation Office (ATO).

2. 'Environmental organisations' that are primarily engaged in advocacy and lobbying aimed at ending resources uses, should not be automatically presumed to be acting in the best interests of environmental protection. In relation to forests, resource use acts as the cornerstone of the effective management of unplanned severe fire which has always been the greatest threat to Australia's treed environment.

3. 'Environmental organisations' that are primarily engaged in advocacy and lobbying aimed at ending resources uses, should not be regarded as providers of information or education. By necessity and design they present selective information at best, and grossly exaggerated depictions of threat at worst, in order to further their cause, maintain conflict and encourage donations. They are more accurately regarded as purveyors of misinformation and should not be listed on the Register of Environmental Organisations.

4. 'Environmental organisations' that are primarily engaged in advocacy and lobbying aimed at ending resources uses, should not be listed on the Register if they engage in activities that create costs that must be borne by the taxpayer – such as on-ground protests that prevent legitimate work from proceeding, reputational assaults on companies engaged in legitimate activities, and launching unnecessary legal challenges. Their listing otherwise amounts to the non-sensical situation of taxpayers subsidising activities that incur taxpayer costs.

5. The initial listing and the maintenance of listing on the Register of Environmental Organisations should be restricted to groups that overwhelmingly undertake on-ground works, or provide an educational service that is free from ideological or personal agendas, involves disclosing all information pertaining to environmental topics in a balanced manner free from bias, and is not specifically advocating an end to resource uses.

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APPENDIX 1

Critique of forestry claims made by Markets for Change in their "No Harvey No" campaign against Harvey Norman

Quick Summary of Findings

These findings relate to claims made by Markets for Change in the first two sections of a downloadable 12-page document from their website entitled: ***No Harvey No – How Australia's largest furniture and electronics retailer is fuelling the destruction of our native forests***

Errant claims:

- **Wrongly asserted that Australia's native forests are "in peril" due to logging,** when in fact timber production is excluded for a range of reasons from around 95% of the nation's forests.

- **Wrongly asserted that Australia has sufficient plantations to supply all its timber and wood product requirements without having to log native forests,** when in reality there is a chronic shortage of eucalypt plantations capable of producing hardwood sawn timber, let alone timber of an equivalent quality to that obtainable from native forests.

- **Strongly asserted that wood production is destroying Australian native forests and implied that they are disappearing** when in fact harvesting and then regenerating logged coupes maintains the same area of forest.

- **Grossly overstated the proportion of native forest that can be harvested in Tasmania** (by a factor of two).

- **Grossly overstated the proportion of native forest that can be harvested in NSW** (by a factor of four to five).

- **Grossly overstated the proportion of native forest that can be harvested in Victoria** (by a factor of four).

- **Grossly overstated the impacts of timber harvesting on the water security of Australia's major cities,** of which only two allow limited harvesting in the catchments of their domestic water supply dams.

- **Falsely claimed that timber harvesting in public State forests is exempt from Commonwealth threatened species legislation** despite the legislation itself explaining that appropriate approval has already been effectively obtained through the Regional Forest Agreement process. In addition, a 2009 independent review of the Environment Protection and Biodiversity Conservation Act 1999 found that there was no reason to change this arrangement.

- **Inferred that logging is leading to the extinction of flora and fauna species despite no evidence of this in Australian native forests.** In reality, the majority of species extinctions have occurred in arid and dry woodland regions due to a combination of habitat clearing for agricultural development, the introduction of feral carnivores and pest plants, and changed fire regimes.

- **Claimed that logging may cause local extinctions of koalas in NSW, despite this being contradicted by the National Koala Conservation and Management Strategy 2009** which does not specifically list logging as a primary threat to the species.

Detailed Evaluation of MFC's Forestry Claims

Sub-Title

How Australia's largest furniture and electronics retailer is fuelling the destruction of our native forests

This sub-title is designed to create an impression that forests are being destroyed when clearly they are not. In fact there are huge areas of forest that have regrown from earlier timber harvesting and are now contained in

national parks around Australia. Clearly forests that are harvested and then regenerated cannot be labelled as having been 'destroyed'. Overall, only around 5% of Australia's forests are being managed for timber production.

1. Executive Summary

The Executive Summary simply assumes the premise that producing wood products from Australia's native forests is akin to environmental destruction without any discussion of whether this is actually the case.

Questionable terms and sentences used are:

"…. timber sourced from the last native forests in Tasmania, Victoria, NSW and WA….."

This implies that the area of native forest in these states is actively declining. In fact, the area of native forest in those states has changed little over several generations, and what change has occurred would be attributable to clearing for agriculture on private land, rather than timber production on public land where the intention is always to regrow the forest for a future timber crop.

"…. companies involved in turning Australia's native forests into mass market furniture…"

The reality is that only a small proportion of Australia's native forests are used for timber harvesting and those forests subsequently regrow, so this statement is wrongly implying that all of Australia's forests are being turned into furniture and creating an impression that they don't regrow after harvesting.

"Aerial view of a firebombed forest …… " (note that this is from a photo caption)

This is an unwarranted and emotive description of the simple act of burning timber harvesting debris as is required in many cases to create a suitable seedbed for subsequent forest regeneration. The operation is now usually conducted by dropping incenduries from a helicopter which is far safer and much quicker than the traditional lighting method of walking teams of men with drip torches through the slash. The term 'firebombing' is usually associated with wartime destruction of cities and towns and so is presumably used by MFC to foster a similar sense of outrage.

"…… stopping the ongoing destruction of these irreplaceable forests……"

As discussed earlier, forests regrow and so clearly cannot be described as irreplacable.

"Markets for Change believes it is already possible for Australia to cease the use of native forest timber for furniture products and replace them with timber from plantations"

This is demonstrably wrong and MFC provides no evidence to support its belief. Australia actually has a severe shortage of hardwood plantations capable of producing sawn timber, although it does have plenty of softwood pine plantations and hardwood pulpwood (woodchip) plantations. The latest Australian plantation statistics released by the Australian Bureau of Agricultural and Resource Economics and Sciences supports this view by pointing out that only 7% of Australia's broad-leaved (eucalypt hardwood) plantations are being grown to produce sawn timber, with a further 15% of uncertain management. The other 78% is being grown for woodchips, mostly for the export market.

[1]

Those plantations that could produce sawn hardwood are currently incapable of producing wood of a high quality equivalent to that obtainable from slow-grown native forests. It is also a reality that only a handful of eucalypt species are capable of being successfully and consistently cost-effectively grown in plantations, whereas there is a much greater number and variety of native forest species that produce high quality furniture-grade timber.

2. Australia's forests in peril

This section has been designed to create an impression that logging is a dire threat to Australia's forests and it is supported by claims that are demonstrably false. These contentious claims are listed below together with explanations that show how they differ from the reality.

"Australia holds the dubious honour of having the highest number of threatened and extinct species per capita in the world, as well as being a world leader in mammal extinctions"

It is widely acknowledged that Australia has a poor record of threatened and extinct flora and fauna since European settlement. However, it is also acknowledged that this has overwhelmingly occurred in the arid and dry pastoral zones and woodlands, rather than tall dense forests; and that it has been due to land clearing for agriculture, changed fire regimes and the introduction of feral carnivores and pest plants, rather than timber harvesting.

The 1992 Resource Assessment Commission's (RAC) Forests and Timber Inquiry found '*no evidence to suggest that the risks of extinction resulting from logging present an immediate threat to the ecological processes on which forest systems depend*.'[2]

This finding has subsequently been supported by the Bureau of Rural Sciences' *Australia's State of the Forests Report 2003* which noted that no forest-dwelling species are listed in either the 'extinct in the wild' or 'conservation dependent' categories defined under the *Environmental Protection and Biodiversity Conservation Act, 1999*.[3]

So quite clearly, Australia's native forests are not in any peril from timber production operations. This was confirmed by the *Australia, State of the Forests, 2003* report which did not consider wood production to be a process or agent that was impacting on forest ecosystem health or vitality in any Australian state or territory.[4]

"The federal Environment Protection and Biodiversity Conservation (EPBC) Act 1999 is designed to protect threatened species, however Section 38 of the Act states that this legislation does not apply to a forestry operation that is undertaken in accordance with a Regional Forestry Agreement (RFA). This results in many endangered species failing to be protected by the very laws designed to protect them."

Firstly, as mentioned in the previous section immediately above, there is no evidence that endangered species are being substantially affected by forestry operations. Indeed, the requirement to prepare a Timber Harvesting Plan for each operation in accordance with legislated Codes of Practice is the mechanism by which the presence or absence of endangered species is checked and, if necessary, taken account of in exclusion zones or operational modifications.

Secondly, while Section 38 of the *EPBC Act 1999* does indeed exempt forestry operations from the Act's normal approvals process, Section 39 of the Act explains that this is because the Regional Forest Agreements process involved comprehensive regional assessments which led to an expanded forest reserve system, as well as involving assessments under the *Environmental Protection (Impact of Proposals) Act 1974*, and protection of the environment provisions under the conditions of export woodchip licences. So, this is seen as having effectively already met the EPBC Act's approvals requirement.

The question of whether or not forestry is unfairly exempted from the requirements of the EPBC Act 1999 was also examined by the Independent Review of the EPBC Act 1999 which was completed in October 2009. It found that rather than being exempted, the EPBC Act 1999 treated forestry in an appropriate way recognising that "*the establishment of RFAs (through comprehensive regional assessments) actually constitutes a form of assessment and approval for the purposes of the Act*"[5]

"Ongoing industrial logging operations ..... are putting at risk the water security of our major cities and contributing to climate change."

No supporting evidence is provided to these claims.

In relation to water, small-scale logging operations are permitted in Melbourne's water supply catchments, but it is drawing a long bow to suggest that these have any significant impact on that city's water security given that only 12% of their area is available for harvesting, and less than 0.2% of the total catchment area is harvested each year. More detail is provided below under the 'Victoria' section, p.5.

In WA, timber harvesting is also permitted in Perth's water supply catchments. However, it is widely thought that there is a need for more of it so as to thin-out choked, over-stocked stands that allow less run-off into water supply dams. In this case it may be a lack of logging that threatens Perth's water security. See more detail in the WA section, p.7.

There is presumed to be no timber harvesting in the catchments of water supply dams that provide water to Sydney and Brisbane, while Hobart draws its water from the Derwent River which is fed from a mixed catchment of forests and cleared farmland.

As for climate change, even the Intergovernmental Panel on Climate Change (IPCC) acknowledges that sustainable wood production (ie. harvesting and regenerating forests) has a positive impact on mitigating carbon emissions.[6] It does so by storing carbon in wood products and creating opportunities for more carbon to be sequestered in forest regrowth; and by producing our most environmentally-friendly material that off-sets demand for high emissions alternatives such as steel, concrete, aluminium, and plastic.

The reference cited by MFC for its claim that "industrial logging" is contributing to climate change is Mackey et al (2008) *Green carbon: The role of natural forests in carbon storage*: *Part 1: A green carbon account of Australia's south eastern eucalypt forest and policy implications*, ANU Press, Canberra. This paper was criticised when it was released because it was partially funded by The Wilderness Society, while lead author Professor Brendan Mackey was at that time the Director of the Wild Country Research and Policy Hub jointly funded by the ANU and the Wilderness Society, as well as a member of the Wilderness Society's Wild Country Science Council.

In addition, the findings of the *Green Carbon* paper were released at a Wilderness Society function at the Bali UN Climate Conference some nine months before it had been fully peer reviewed and published. In addition the paper was published without the technical data that supported its findings, thereby making it difficult for would-be critics to attack it.

The *Green Paper*, perhaps unsurprisingly given its links to the Wilderness Society, advocates ending timber harvesting in the native forests of SE Australia in order "to regrow our carbon stocks". This is based on a host of misconceptions about forests and forestry, and fails to address the carbon accounting implications of not harvesting native forests - such as more imports and greater use of high emissions alternatives such as steel and concrete - given that its favoured plantations "solution" is unviable due to insufficient hardwood plantations capable of producing sawn timber.[7]

Tasmania:

"As of 2005-06, almost two thirds of Tasmania's unique native forests were still available for logging ....."

This is a gross exaggeration of the reality which creates a false impression that twice as much forest could be logged than is actually the reality.

MFC have cited the *Australia State of the Forests 2008 Report* as the basis for this claim. Table 32 in Chapter 2 of the Report certainly shows the gross area of forest (both on public and private land) for each state where timber harvesting "is not legally restricted". However, Table 34 shows the net area of actually available and suitable Tasmanian forest on public land (ie. 607,000 ha) but gives no net figure for private land because this is uncertain subject to landowner intentions and unknown forest quality. This has clearly been ignored by MFC.

Private Forests Tasmania has since estimated that about half of Tasmania's privately-owned forest is likely to be available for timber production or has been used for this purpose in the past (ie. 450,000 ha out of 885,000 ha).[8]

Adding these two net available and suitable areas together (ie. 607,000 ha + 450,000 ha) gives a figure of 1.057 million hectares which is almost exactly one-third of the total area of Tasmanian native forests (ie. 3.116 million hectares) as is cited in Table 6 of the *Australia State of the Forests 2008 Report.* This is half of the area claimed by MFC as being 'available' and likely to be logged.

It must be acknowledged however, that the way the *Australia State of the Forests 2008* Report has specifically singled out a clumsy statistic called "forests where timber harvesting is not legally restricted" has facilitated misunderstandings and misrepresentations of how this translates into actually logged areas. However, it must also be recognised that in the text of the ASOF 2008 there is an explanation that most of these "legally not restricted" areas contribute little to timber supply for a host of reasons. MFC have either missed this explanation or chosen to ignore it presumably because it would have weakened the sensationalism of their message.

Victoria:

"Victoria's native forests are integral for the water security of the state's capital Melbourne. Despite this, wide-scale logging continues in Melbourne's Central Highland water catchment area,...".

Melbourne has 157,000 hectares of forested water catchment. Just 18,500 ha (or 12%) comprises the net area available and suitable for timber harvesting – so 88% of the catchment area will never be logged or logged again.[9]

During the ten years ending in 2004-05, an average of 305 ha (or 0.2% of the total catchment area) was being harvested per year.[10] This has fallen somewhat since then in line with resource losses sustained in the 2009 Black Saturday bushfires.

It is highly disenguous of MFC to refer to such as a low level of timber harvesting as "wide-scale logging'.

"Over half of Victoria's native forests (approximately 4.2 million ha) were still available for logging in 2005-06 ....."

This is also a gross exaggeration of the reality which creates a false impression that around four times more forest could be logged than is actually the case in reality.

As with their Tasmanian claim, MFC have cited the *Australia State of the Forests 2008 Report* as the basis for this claim. Table 32 in Chapter 2 shows that timber harvesting "is not legally restricted" from 4.2 million hectares (or more than half) of Victoria's 7.8 million hectares of native forest. This includes 3.16 million hectares of public State forest and 1.025 million hectares of privately-owned forest

However, citing this as being the area where logging is actually going to occur is simply wrong because there are a range of other practical factors that determine whether forests actually can or can't be harvested. These include the suitability of the forest (species and/or tree size and form), its accessibility based on topography, the

loss of area in State forest reserves to meet environmental obligations; and on private land, the additional constraint related to the management intentions of the owner.

In Victoria, concerted efforts have been made to accurately account for areas of steep and rocky ground, unproductive forest types, operational reserves (eg. stream buffers) and roads. After considering these practical constraints, just a net 600,000 ha of the multiple-use State Forest that is legally available for wood production was actually suitable for timber harvesting in 2006.[11] On Victorian private land, very little timber harvesting occurs although it is accepted that perhaps 350,000 ha could be suitable if landowners were interested in harvesting.[12]

Overall, just a 12% proportion of Victoria's total area of native forest could be considered as being both legally available and suitable for timber harvesting. This is less than a quarter of the area cited by MFC as being 'available' and likely to be logged.

New South Wales:

"A recent audit of upper north-east forest found that logging operations conducted in endangered ecological communities, threatened fauna habitat and water catchment areas, were in breach of numerous pieces of legislation."

The reference cited for this by MFC was an audit done by environmental group, the North East Forest Alliance (NEFA), which has campaigned to end timber production in NE NSW since the mid-1970s. Accordingly, it cannot be regarded as an independent and objective assessment of timber harvesting operations.

"Over three quarters of NSW' native forest estate (approximately 20 million ha) were still legally available for logging in 2005-06, ..."

This is also a gross exaggeration of the reality that is has been based on Table 32 of the *Australia State of the Forests 2008 Report* which shows that timber harvesting "is not legally restricted" from 19.9 million hectares (or more than three quarters) of NSW's 26.2 million hectares of native forest. This includes 1.98 million hectares of public State forest, 9.9 million hectares of leashold forest, and 8.1 million hectares of privately-owned forest.

However, citing the area where timber harvesting "is not legally restricted" as being the area where logging is going to occur is simply wrong because it ignores the range of other practical factors that determine whether harvesting is possible. These include the suitability of the forest (species and/or tree size and form), its accessibility based on topography, the loss of area in State forest reserves to meet environmental obligations; and on private land, the additional constraint related to the management intentions of the owner.

Indeed, Table 33 on the next page of the ASOF 2008 Report shows the difference between the gross "legally available area" and the actually harvestable area in NSW's multiple-use State forests. Although there was 1.98 million hectares of multiple-use State forest in NSW in 2005-06, only 0.864 million hectares (42%) was actually harvestable after taking account of all the practical factors which determine whether logging can occur.

Of the private and leasehold forest, it could also be expected that only a minor portion is likely to be actually harvestable. Most leasehold forest is of poor quality and is used for grazing, and it is virtually impossible to accurately quantify the proportion of private native forest that is actually harvestable due to the multitude of different owners with varying management intentions, as well as the variety of different forest types and ages occurring across the topographical spectrum.

If it was assumed that a third of NSW private native forests were suitable for timber production either now or in the future, this plus that actually available public State forest, would comprise a net harvestable area of

around 3.5 million hectares. This equates to just 13% of the total native forest area of NSW. This is less than a quarter of the harvestable area being claimed by MFC.

"Scientists have voiced concerns recently that unless logging is reduced, Koalas could become locally extinct in parts of NSW."

In relation to koalas, MFC have acted deceitfully in the past by claiming that a koala killed in a dog attack had instead been cut-in-half during a logging operation.[13]

With regard to the above highlighted sentence, MFC have cited a reference that was an individual's submission to the Senate Standing Committee Inquiry into the status, health, and sustainability of Australia's koala population, which was undertaken in 2011.

However, this submission's claim is largely contradicted by the National Koala Conservation and Management Strategy 2009-2014 which acknowledges that the main threats and management issues to the long term conservation of the koala are actually non-forestry related, and include habitat loss and fragmentation through permanent land clearing for agriculture or urban development, feral animal predation, disease, and road kills.[14]

While the koala is listed as vulnerable in NSW, the two populations that are regarded as 'endangered' are both associated with urban development which has encroached into their habitat.[15] This further endorses the reality that the koala is primarily threatened by non-forestry related agents.

Nevertheless, the Strategy does acknowledge that "*some logging regimes*" can degrade koala habitat. However, Forestry NSW officers have stated in the past that where koalas are known to occur in a planned harvesting area, efforts are made to find them and ensure they are not harmed.[16]

Western Australia:

"A recent of audit of WA's Forest Management Plan by the Environmental Protection Authority (EPA) raised 'serious doubts that continued logging in the low rainfall zone and adjoining medium rainfall zones (in particular jarrah forest) would be capable of meeting ESFM (Environmental Sustainable Forest Management) objectives'."

There is no dispute that the EPA in WA has presumed that climate change will make some forests more vulnerable and have advocated that they be increasingly placed into reserves. However, this is being disputed by Conservation Commission foresters who believe that there is no evidence to support it yet, and advocate selective harvesting to reduce regrowth stand density as being the best means of relieving future drought stress.[17] In short, creating reserves to exclude timber harvesting would make it difficult to take action to keep these forests healthy in a drying climate.

3. Harvey Norman – a retail chain without an environmental conscience

This section is specifically about Harvey Norman and its ownership, finances and ownership. I am no position to question the veracity of this, so make no comment on it.

4. Harvey Norman and the chain of destruction

5. Beyond Harvey Norman – The role of other retailers

6. Companies buying into forest destruction

7. Conclusions and solutions

Note: The above four sections were also largely about non-forestry matters such as linkages to businesses in China etc. Where forestry matters were mentioned they largely just repeated earlier claims that have already been addressed in this document.

It is also worth noting that the MFC document listed 59 references, of which the first 20 related to the forestry matters discussed above.

While this probably seems impressive to readers with little knowledge of forestry practices or the operations of the timber industry, it is notable that the citing of these references typically refers only to report or research paper titles without more detailed reference to chapters, sections, or page numbers that would make it easier to find out the basis for claims being made. In the event that lay-person readers were inclined to examine these references (as distinct from just marvelling at their superficial impressiveness), it would be difficult to discern whether they have been accurately represented in the claims being made by MFC.

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30th September 2013

End Notes

[1] *Australian Plantation Statistics 2011*, by Parsons and Garvan, ABARE, Commonwealth of Australia (August 2011), Figure 2, p.3

[2] Resource Assessment Commission, Forest and Timber Inquiry, Final Report (1992), Chapter 7, *The Environmental Effects of Forest Uses.*

[3] *Australia's State of the Forests Report 2003*, National Forest Inventory, Bureau of Rural Sciences

[4] *Australia*, *State of the Forests Report ,2003* (Bureau of Rural Sciences), Chapter 3.1 *Factors affecting forest health*, Table 59 (p. 136)

[5] *Report of the Independent Review of the Environment Protection and Biodiversity Act 1999*, Commonwealth of Australia (October 2009), Chapter 10, section 10.10, p.197

[6] The Intergovernmental Panel on Climate Change (IPCC) in its 4th Assessment Report in 2007 stated that: "*In the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fibre or energy from the forest, will generate the largest sustained (carbon) mitigation benefit.*"

[7] *Blurring the lines between science and political activism*, by Mark Poynter, Online Opinion, 30th October 2008 http://www.onlineopinion.com.au/view.asp?article=8094

[8] Personal comment, Arthur Lyons, Private Forests Tasmania, based on internal surveying of landowners

[9] *Review of Timber Production in Melbourne's Water Catchments*, by MW Poynter and GR Featherston prepared for the Victorian Association of Forest Industries (2008)

[10] *Review of Timber Production in Melbourne's Water Catchments*, by MW Poynter and GR Featherston prepared for the Victorian Association of Forest Industries (2008), Table 2, p. 12

[11] *Estimates of Sawlog Resources for Forest Management Areas,* Department of Natural Resources & Environment (March 2002) with deductions made for the declaration of the Great Otway National Park (2005) and announcements of new National Parks at Cobbobbonee and in East Gippsland made in the lead-up to the 2006 Victorian election.

[12] Victoria's Timber Industry Strategy 2009, Department of Primary Industries, p.11

[13] *Harvey Norman accussed of endangering koalas,* ABC News, 3rd July 2012 http://www.abc.net.au/news/2012-07-03/harvey-norman-accused-of-endangering-koalas/4106632

[14] The National Koala Conservation and Management Strategy 2009-2014, Natural Resource Management Ministerial Council, Department of the Environment, water Heritage and the Arts, Canberra (2009), Chapter 6 Threats and Management Issues, pp. 19-21

[15] The National Koala Conservation and Management Strategy 2009-2014, Natural Resource Management Ministerial Council, Department of the Environment, water Heritage and the Arts, Canberra (2009), Section 4.4, p. 14

[16] *Harvey Norman accussed of endangering koalas*, ABC News, 3rd July 2012 http://www.abc.net.au/news/2012-07-03/harvey-norman-accused-of-endangering-koalas/4106632

[17] *Proposed Forest Management Plan 2014-23*, Conservation Commission of Western Australia (April 3013), pp. 63 - 71 This plan is currently being considered for approval by the WA Government (as of Sept 2013).