

National Competition Council

**Assessment of State and Territory
Progress with Implementing
National Competition Policy
and Related Reforms**

30 June 1997

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ABBREVIATIONS AND DEFINITIONS

ACCC	Australian Competition and Consumer Commission
ACTEW	ACTEW Corporation, the Government owned electricity and water distribution corporation in the ACT
ACTION	The Government owned public transport authority in the ACT
ACTTAB	ACT Totalisator Agency Board, a Government owned corporation
AGL	Australian Gas Light Company
ANZMEC	Australian and New Zealand Minerals and Energy Council
COAG	Council of Australian Governments
CSO	Community service obligation
DBNGP	Dampier to Bunbury Natural Gas Pipeline in Western Australia
ETSA	Electricity Transmission South Australia, the Government owned power distribution and retail corporation in South Australia
FPF	Financial Management Framework in NSW
GASCOR	Government owned gas distribution and retail corporation in Victoria, trading as Gas and Fuel
GBD	Government Business Division, government business enterprise or activity under the Northern Territory <i>Financial Management Act 1995</i>
GBE	Government Business Enterprise
GBEC Act	<i>Government Business Enterprises (Competition) Act 1996</i> in Queensland
GFCV	Gas and Fuel Corporation of Victoria
GGE	General Government Enterprise
GOC	Government Owned Corporation, as under the Government Owned Corporations Act in Queensland
GPOC	Government Prices Oversight Commission in Tasmania
GRIG	Gas Reform Implementation Group
GTC	Gas Transmission Corporation in Victoria
GTSO	Gas Transmission System Operator, wholesale gas market manager in Victoria
HEC	Hydro-electric Corporation in Tasmania
IPART	Independent Prices and Regulatory Tribunal in New South Wales
MCRT	Ministerial Council on Road Transport
MNC	Multiple Network Corporation
NCP	National Competition Policy
NECA	National Electricity Code Administrator
NEM	National Electricity Market
NEM1	National Electricity Market phase 1
NEM2	National Electricity Market phase 2

NEMMCO	National Electricity Market Management Company
NGMC	National Grid Management Council
NRTC	National Road Transport Commission
OFM	Office of Financial Management, an element of the ACT Chief Minister's Department
PASA	Pipeline Authority of South Australia
PAWA	Power and Water Authority of the Northern Territory
PFE	Public Financial Enterprise, a classification of government budget activity by the Australian Bureau of Statistics for the purposes of preparing the Government Financial Statistics
PGT	Pacific Gas Transmission
PRRT	Petroleum Resource Rent Tax
PTE	Public Trading Enterprise, a classification of government budget activity by the Australian Bureau of Statistics for the purposes of preparing the Government Financial Statistics
QCA	Queensland Competition Authority
QEC	Queensland Electricity Commission
QLDTAB	Queensland Totalisator Agency Board
QMI	Queensland Manufacturing Institute
QR	Queensland Rail
QTSC	Queensland Transmission and Supply Corporation
RTCS	Road Transport Construction Service
SAGASCO	South Australian Gas Corporation, now defunct
SAGC	South Australian Generation Corporation
SECV	State Electricity Commission of Victoria
SECWA	State Energy Commission of Western Australia
SMA	Statutory marketing arrangements
TER	Tax Equivalent Regime
VPX	Victorian Power Exchange
WAMA	Western Australian Municipal Association

SUMMARY AND RECOMMENDATIONS

On 11 April 1995, the Commonwealth, State and Territory Governments signed three agreements underpinning the National Competition Policy (NCP). These agreements, together with sector specific agreements on electricity, gas, water and road transport, set a number of reform objectives for the period to the year 2000. For the first stage of the NCP – the period to June 1997 – the key objectives are:

- exposure of the unincorporated sector and State and local government businesses to the competitive conduct rules set out in the Trade Practices Act;
- development of a timetable for the review and where appropriate reform of all existing legislation restricting competition by the year 2000, and evidence of progress against the timetable;
- publication of a policy statement for applying competitive neutrality principles to significant State and local government business activities and evidence of progress against objectives, including the establishment of a mechanism for handling complaints about competitive neutrality matters;
- publication of a policy statement on extending the competition principles to local government and evidence of progress against that agenda;
- structural reform of public monopolies where competition is introduced or where a monopoly is privatised;
- progress towards freely operating national markets in electricity and gas; and
- implementation of early reforms to standardise road transport regulations across all States and Territories.

Governments assigned to the National Competition Council the task of assessing progress against these reform objectives. National Competition Policy payments are to be made by the Commonwealth to the States and Territories where the Council assesses progress to meet reform obligations. This report provides the Council's first stage assessment of progress.

Although the NCP is still at an early stage of implementation, there have been several significant advances. For example, the Council judges that there is now:

- good progress towards implementing the National Electricity Market in eastern and southern Australia, including commitments for interconnection by both Queensland and Tasmania;
- a well advanced framework for introducing free and fair trade in gas (already implemented in New South Wales);
- continued implementation of competitive neutrality policy principles in significant government business activities in line with governments' focus on the performance of their GBEs, and mechanisms for consideration of complaints;
- extensive legislation review programs in place and the potential for reduced costs to businesses through the repeal of redundant or unjustified legislation; and

- greater recognition of the importance of applying the reforms to local government businesses.

Nonetheless, there are areas where the Council has some concerns. These include the potential for delay in adoption of national gas regulation and for the adoption of arrangements which might inhibit the free and fair trade in gas, the failure by some governments to include all their anti-competitive regulation for review, and generally slower than anticipated application of competition principles to local government. The Council has recommended reassessment of reform performance in these areas prior to July 1998.

The Council considers that the decision by New South Wales to continue the current domestic vesting arrangements available to the NSW Rice Marketing Board does not meet the spirit of the Competition Principles Agreement. The decision was taken despite the recommendation of an independent review panel that deregulation of domestic arrangements, while leaving the export monopoly intact, would provide a net community benefit.

The Council recognises that this review was the first consideration of statutory marketing arrangements (SMAs) for rural producers, and that New South Wales is one of the leaders in competition policy reform, especially in moves towards competitive energy markets. The Council is tempted to overlook deficiencies in domestic rice reform on these grounds. But the Council considers its role is to assess each State and Territory against each NCP reform commitment, and make appropriate recommendations, rather than horse trade leading performances in some areas against poor performance in others. This is a general principle that the Council will apply throughout the assessment process. The Council considers that SMAs will be one of the most important areas of NCP reform, and worthy of thorough commitment by all governments.

The Council raised its concerns with the New South Wales Government, with the objective of ensuring that action taken on domestic rice marketing meets the spirit of the Competition Principles Agreement. In response, the New South Wales Government has indicated a preparedness to enter into meaningful discussions with the Council on the competition policy concerns with its domestic rice marketing arrangements. In considering its approach on this matter, and to deal with departures from NCP commitments more generally, the Council gave thought to recommending the imposition of a financial penalty on New South Wales. But recognising the preparedness of New South Wales to address the Council's concerns, and the fact that New South Wales rice marketing was one of the first major reviews of legislative restrictions on competition, the Council will not recommend a penalty at this time. The Council will reassess New South Wales' progress on legislation review matters prior to July 1998 for the purposes of the second part of the first tranche assessment and in future tranche assessments. The Council will take into account the discussions with New South Wales on rice marketing in these assessments.

The Council's recommendations are summarised in the table below.

Summary of Recommendations: First Tranche NCP Payments		
State/Territory	Outstanding First Tranche Issues	Recommendations on Transfers
New South Wales	<p>Review progress with legislation review and reform obligations re domestic arrangements for rice marketing for compliance with clause 5 of the Competition Principles Agreement prior to July 1998.</p> <p>Review progress with legislation review and reform obligations re casino control legislation for compliance with clause 5 prior to July 1998.</p> <p>Review progress with legislation review and reform obligations re legislation for the privatisation of the NSW TAB for compliance with clause 5(5) of the Competition Principles Agreement prior to July 1998.</p> <p>Review progress with application of competition principles to local government prior to July 1998.</p>	<p>Full payment of first part of first tranche payment due 1997-98.</p> <p>Payment due in 1998-99 dependent on evidence of clause 5 compliance for domestic rice marketing arrangements and casino control legislation, compliance with clause 5(5) for TAB privatisation legislation and progress with the application of competition principles to local government.</p>
Victoria	<p>Review progress with application of the uniform national gas access code prior to July 1998.</p> <p>Review progress with application of competition principles to local government prior to July 1998.</p>	<p>Full payment of first part of first tranche payment due 1997-98.</p> <p>Second part of payment due in 1998-99 dependent on satisfactory progress with application of the national gas access code and with the application of competition principles to local government.</p>

State/Territory	Outstanding First Tranche Issues	Recommendations on Transfers
Queensland	<p>Review progress with application of the uniform national gas access code prior to July 1998.</p> <p>Review progress with legislation review and reform obligations re casino agreement legislation for compliance with clause 5 prior to July 1998.</p> <p>Review progress with application of competition principles to local government prior to July 1998.</p>	<p>Full payment of first part of first tranche payment due 1997-98.</p> <p>Second part of payment due in 1998-99 dependent on satisfactory progress with application of the national gas access code, with clause 5 compliance for casino agreement legislation and progress with application of competition principles to local government.</p>
Western Australia	<p>Review progress with the national gas reform commitments re tender process for a second Dampier/Perth gas pipeline.</p> <p>Review progress with application of the uniform national gas access code prior to July 1998.</p> <p>Review progress with review and reform of agreement legislation prior to July 1998.</p> <p>Review progress with application of competition principles to local government prior to July 1998.</p>	<p>Full payment of first part of first tranche payment due 1997-98.</p> <p>Second part of payment due in 1998-99 dependent on commitment to implementation of the National Gas Access Code, satisfactory progress with national gas reform commitments in respect of removing regulatory barriers to free and fair trade in gas, and satisfactory progress with review of agreement legislation and application of the competition principles to local government.</p>

State/Territory	Outstanding First Tranche Issues	Recommendations on Transfers
South Australia	<p>Review progress with application of the uniform national gas access code prior to July 1998.</p> <p>Review progress with legislation review and reform obligations re casino control legislation for compliance with clause 5(5) prior to July 1998.</p> <p>Review progress with application of competition principles to local government prior to July 1998.</p>	<p>Full payment of first part of first tranche payment due 1997-98.</p> <p>Second part of payment due in 1998-99 dependent on satisfactory progress with application of the national gas access code, with evidence of clause 5(5) compliance for <i>Casino Act 1997</i> and progress with application of competition principles to local government.</p>
Tasmania	<p>Review progress with application of competition principles to local government prior to July 1998.</p>	<p>Full payment of first part of first tranche payment due 1997-98.</p> <p>Second part of payment due in 1998-99 dependent on satisfactory progress with application of competition principles to local government.</p>
Australian Capital Territory	<p>Review progress with application of the uniform national gas access code prior to July 1998.</p>	<p>Full payment of first part of first tranche payment due 1997-98.</p> <p>Second part of payment due in 1998-99 dependent on satisfactory progress with application of the national gas access code.</p>

State/Territory	Outstanding First Tranche Issues	Recommendations on Transfers
Northern Territory	Review progress with application of the uniform national gas access code prior to July 1998.	Full payment of first part of first tranche payment due 1997-98. Second part of payment due in 1998-99 dependent on satisfactory progress with application of the national gas access code.