

NATIONAL  
COMPETITION  
COUNCIL



Assessment of governments' progress  
in implementing the  
National Competition Policy  
and related reforms: 2004



Volume one:  
Assessment

October 2004

© Commonwealth of Australia 2004

**ISBN 0-9756705-5-7**

This work is subject to copyright. Apart from any use as permitted under the Copyright Act 1968, the work may be reproduced in whole or in part for study or training purposes, subject to the inclusion of an acknowledgement of the source. Reproduction for commercial use or sale requires prior written permission from the Department of Communications, IT and the Arts. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Intellectual Property Branch, Department of Communications, IT and the Arts, GPO Box 2154, Canberra ACT 2601.

Inquiries or comments on this report should be directed to:

Media and Communications Manager  
National Competition Council  
Level 9  
128 Exhibition Street  
MELBOURNE VIC 3000

Ph: (03) 9285 7474  
Fax: (03) 9285 7477  
Email: [info@ncc.gov.au](mailto:info@ncc.gov.au)

**An appropriate citation for this paper is:**

National Competition Council 2004, *Assessment of governments' progress in implementing the National Competition Policy and related reforms: Volume one: Assessment*, Melbourne.

**The National Competition Council**

The National Competition Council was established on 6 November 1995 by the *Competition Policy Reform Act 1995* following agreement by the Australian Government and state and territory governments.

It is a federal statutory authority which functions as an independent advisory body for all governments on the implementation of the National Competition Policy reforms. The Council's aim is to 'improve the well being of all Australians through growth, innovation and rising productivity, and by promoting competition that is in the public interest'.

Information on the National Competition Council, its publications and its current work program can be found on the internet at [www.ncc.gov.au](http://www.ncc.gov.au) or by contacting NCC Communications on (03) 9285 7474.

# Table of contents

<b>Findings and recommendations</b>	<b>v</b>
<b>1 The National Competition Policy and related reforms</b>	<b>1.1</b>
Governments' NCP annual reports	1.2
NCP payments	1.3
<b>2 Competitive neutrality</b>	<b>2.1</b>
Governments' obligations	2.2
Increasing the scope of competitive neutrality	2.12
Delivery of community service obligations	2.13
Financial performance of government forestry businesses	2.13
<b>3 Structural reform of public monopolies</b>	<b>3.1</b>
<b>4 New legislation that restricts competition</b>	<b>4.1</b>
The importance of CPA clause 5(5)	4.1
Principles for effective gatekeeping	4.2
Governments' gatekeeping arrangements	4.3
<b>5 The Conduct Code and implementation Agreements</b>	<b>5.1</b>
Conduct Code Agreement	5.1
Implementation Agreement	5.2
<b>6 Electricity</b>	<b>6.1</b>
Background	6.1
National Electricity Market jurisdictions	6.1
Non-National Electricity Market jurisdictions	6.15

---

<b>7</b>	<b>Gas</b>	<b>7.1</b>
	National Competition Policy commitments	7.1
	Progress in meeting commitments	7.2
	National Gas Access Regime	7.3
	Legislative restrictions on competition	7.13
	Industry standards	7.18
<b>8</b>	<b>National road transport reform</b>	<b>8.1</b>
	Implementation of reforms outstanding at 30 June 2003	8.2
<b>9</b>	<b>Review and reform of legislation</b>	<b>9.1</b>
	Assessing compliance	9.2
	Penalty recommendations	9.4
	Developments since the 2003 NCP assessment	9.5
	Difficult reform areas	9.7
<b>10</b>	<b>Australian Government</b>	<b>10.1</b>
<b>11</b>	<b>New South Wales</b>	<b>11.1</b>
<b>12</b>	<b>Victoria</b>	<b>12.1</b>
<b>13</b>	<b>Queensland</b>	<b>13.1</b>
<b>14</b>	<b>Western Australia</b>	<b>14.1</b>
<b>15</b>	<b>South Australia</b>	<b>15.1</b>
<b>16</b>	<b>Tasmania</b>	<b>16.1</b>
<b>17</b>	<b>The ACT</b>	<b>17.1</b>
<b>18</b>	<b>Northern Territory</b>	<b>18.1</b>
<b>19</b>	<b>National legislation reviews</b>	<b>19.1</b>

---

## Appendixes

<b>A</b>	<b>Australian Government Office of Regulation review: report on compliance with national standard setting</b>	<b>A.1</b>
<b>B</b>	<b>National Competition Policy contacts</b>	<b>B.1</b>
	<b>References</b>	<b>R.1</b>

## Boxes

2.1	Why governments apply competitive neutrality policies	2.2
2.2	Complaints mechanisms	2.8
4.1	Legal advertising regulations across jurisdictions	4.4
9.1	Competition and non-violent erotica	9.22

## Tables

1.1	Governments' provision of 2004 NCP annual reports	1.2
1.2	Estimated maximum NCP payments for 2004-05	1.4
2.1	Profitability of government forestry businesses	2.14
4.1	Gatekeeping arrangements for new legislation	4.17
6.1	Tasmania's retail contestability timetable	6.14
6.2	Review and reform of electricity-related legislation	6.19
7.1	Summary of government commitments	7.2
7.2	Enactment and certification of access regimes	7.4
7.3	Contestability timetables for the National Gas Access Regime	7.7
7.4	Extension of Queensland gas retail contestability: net benefits	7.9

---

7.5	Amendments to petroleum (submerged lands) legislation	7.14
7.6	Implementation of AS 4564/AG 864	7.19
7.7	Review and reform of legislation relevant to natural gas	7.21
8.1	Incomplete or delayed 1999 NCP reforms, 30 June 2003	8.2
8.2	Reform implementation, 30 June 2004	8.4
9.1	Overall outcomes with the review and reform of legislation	9.6
9.2	Models for regulation of professions	9.17
9.3	Provider arrangements for CTP and workers compensation insurance	9.20
9.4	Progress with legislation review and reform: Australian Government	9.23
9.5	Progress with legislation review and reform: New South Wales	9.25
9.6	Progress with legislation review and reform: Victoria	9.27
9.7	Progress with legislation review and reform: Queensland	9.28
9.8	Progress with legislation review and reform: Western Australia	9.30
9.9	Progress with legislation review and reform: South Australia	9.33
9.10	Progress with legislation review and reform: Tasmania	9.35
9.11	Progress with legislation review and reform: the ACT	9.36
9.12	Progress with legislation review and reform: Northern Territory	9.37
9.13	Key to legislation topic areas in the jurisdictional chapters 10–18	9.39

## **Volume 2 Water**

# Findings and recommendations

All Australian governments adopted the National Competition Policy (NCP) in 1995. The most extensive economic reform program in Australia's history, the NCP builds on the recognition that competition drives economic growth that, in turn, promotes higher living standards. In light of Australia's federal structure, which provides state and territory governments with Constitutional responsibility for many key areas, the NCP is a national reform program that the Council of Australian Governments (CoAG) coordinates.

While the NCP aims to promote competition, it is not about competition for its own sake: rather, the NCP aims to promote outcomes that enhance the welfare of Australians. The suite of NCP programs thus comprises a balanced mix of policy measures to advance social and environmental needs. Now in its ninth year, the NCP continues to deliver benefits for consumers, households, businesses and the environment (box 1).

The Australian Government makes payments to the states and territories as a financial incentive to implement the NCP. The payments are contingent on state and territory governments implementing the reforms they agreed to in the NCP intergovernmental agreements. The payments recognise that the states and territories have responsibility for significant elements of the NCP, yet much of the financial dividend from the economic growth arising from the NCP reforms accrues to the Australian Government through taxation.

Maximum competition payments for 2004-05 are estimated at around \$778 million allocated to the states and territories on a per person basis. The Australian Government decides on the actual payments after considering the National Competition Council's advice on jurisdictions' progress in meeting their NCP obligations. While state and territory governments are not compelled to implement the NCP reforms, the Council may recommend a reduction or suspension of payments if it assesses that governments have not met their agreed commitments.

The 2003 NCP assessment was the first time that the Council recommended substantial penalties — some in the form of permanent reductions — for all state and territory governments. The Australian Government accepted all penalty recommendations. The extent and magnitude of penalty recommendations reflected that jurisdictions, as the NCP program nears completion, must meet their obligations, given the \$4 billion in competition payments received between 1997-98 and 2003-04.

**Box 1:** A snapshot of benefits flowing from the NCP

Between 1950 and 1990, Australia slipped from being the fifth richest developed nation to being the fifteenth. This decline reflected large sectors of the economy being shielded from competition, despite an increasingly competitive global environment. Protected businesses had little incentive to reduce costs and prices, produce new and innovative products or use resources as efficiently as possible. Australian governments began to focus on the poor performance of the economy around the mid-1980s. By the early 1990s, it was apparent that a co-ordinated national approach to economic reform was needed for improved growth and job creation. This realisation was the genesis for the NCP. Since governments began to implement the NCP, Australia's economic performance has improved steadily — by 2002, Australia had regained eighth position in per person gross domestic product rankings. Australia's productivity growth in the 1990s was stronger and more sustained than ever, delivering an extra \$7000 on average to Australian households (PC 2003).

- A national electricity market in southern and eastern Australia gives large consumers and some households a choice of electricity supplier. The net present value of these reform benefits over 1995–2010 is estimated at \$15.8 billion in 2001 prices (Short et al 2001). In national market areas, labour and capital productivity have improved significantly and household electricity prices in Brisbane, Melbourne and Sydney fell in real terms by 1–7 per cent between 1990-91 and 2000-01 — a saving to households in 2000-01 of around \$70 million (PC 2002a).
- Competitive neutrality and greater transparency and accountability in business performance has promoted a more dynamic culture within government businesses, contributing to greater efficiency, better goods and services, and cost-reflective prices. The price of public enterprise outputs increased unabated from the 1960s until public sector reforms commenced in the early 1990s. The introduction of NCP reinforced and intensified subsequent falls in the price of government services.
- Progress towards an economically viable and ecologically sustainable water industry is occurring. Consumption based pricing is encouraging more efficient water use and lower water bills for customers. Full cost recovery pricing means water businesses are better placed to maintain and replace infrastructure, ensuring more reliable and better quality service. Water trading means irrigation water is increasingly being used where it is most valued. There is now much greater community recognition of the importance of water to Australia and the need to use it wisely, and greater community involvement in water management arrangements.
- Governments have removed legislative restrictions found not to provide a net community benefit, for example:
  - NCP reviews have shown that restricting retail trading hours is not in the public interest. Consumers have embraced the introduction of more liberal arrangements. In Sydney and Melbourne, where supermarkets can open seven days per week, around 35 per cent of consumers buy groceries on Sunday. In Perth, where only small food stores can trade on Sundays, the comparative figure is 7–8 per cent (Jebb Holland Dimasi 2000).
  - Tasmania removed a requirement that non-hotel liquor stores sell a minimum quantity of 9 litres in each transaction. The NCP review found that the restriction not only put these stores at a competitive disadvantage relative to hotels, but encouraged irresponsible consumption of alcohol.
  - When Victoria removed its barley marketing monopoly, growers enjoyed many more risk management options, with a variety of forward cash offers available in addition to traditional pools. Victorian growers can better align marketing risk with their cropping programs, and the prices offered have generally exceeded those in regulated state markets. Deregulation has also led to investment in new, more efficient storage and handling facilities in regional areas (Government of Victoria 2004).

The NCP entails that for governments to meet their obligations they implement staged reforms assessed against agreed implementation timeframes. For example, the review and reform of legislation containing

---

restrictions on competition was to have been completed by 2000. CoAG later extended this deadline to 30 June 2002. In that year, the Council provided a further 12 month extension<sup>1</sup> but advised all governments that:

*Review and/or reform activity that is incomplete or not consistent with NCP principles at June 2003 will be considered to not comply with NCP obligations. Where noncompliance is significant, because it involves an important area of regulation or several areas of regulation, the Council is likely to make adverse recommendations on payments.* (NCC 2002, p. xvi)

By the time of the 2003 NCP assessment, no government had met its review and reform obligations by the extended deadline. The Council recommended penalties accordingly, including significant penalties for governments that failed to meet critical water and energy reform obligations.

## 2003 competition payment penalties

For the 2003 NCP assessment, the Council regarded a government as failing to meet its obligations where (a) the review and reform of legislation was not completed or (b) completed reviews and/or reforms did not satisfy NCP principles. Based on its judgment about the significance of each compliance failure, the Council determined whether recommended penalties should take the form of specific deductions or suspensions, or whether compliance failures should be accounted for in general pool suspensions:

- **Permanent deductions** are irrevocable reductions in governments' competition payments. In 2003, the Council recommended permanent deductions for specific compliance failures. Where relevant governments did not improve compliance in these areas for this 2004 NCP assessment, the Council has recommended that the deductions continue.
- **Specific suspensions** are a temporary hold on competition payments until a government completes its compliance efforts in a particular area. In 2003, suspensions were recommended to apply until the relevant governments met pre-determined conditions, at which time the suspended 2003-04 competition payments would be released. Where commitments were not made or met for this 2004 NCP assessment, or reform action was not implemented, the Council has recommended that the suspended payments be deducted permanently.
- **Pool suspensions** apply to a pool of outstanding compliance failures. Where satisfactory progress had been made to improve compliance for this 2004 NCP assessment, the Council has recommended that the 2003 suspension be lifted or reduced, and that the funds be released to the

---

<sup>1</sup> The extension was necessitated by a discontinuity between the timing of the annual NCP assessments and the timing for governments' NCP reporting obligations.

relevant jurisdiction. Where satisfactory progress was not made, the Council has recommended that all or part of the suspension be converted to a permanent deduction.

This 2004 NCP assessment thus requires the Council to make two discrete sets of recommendations, to determine whether:

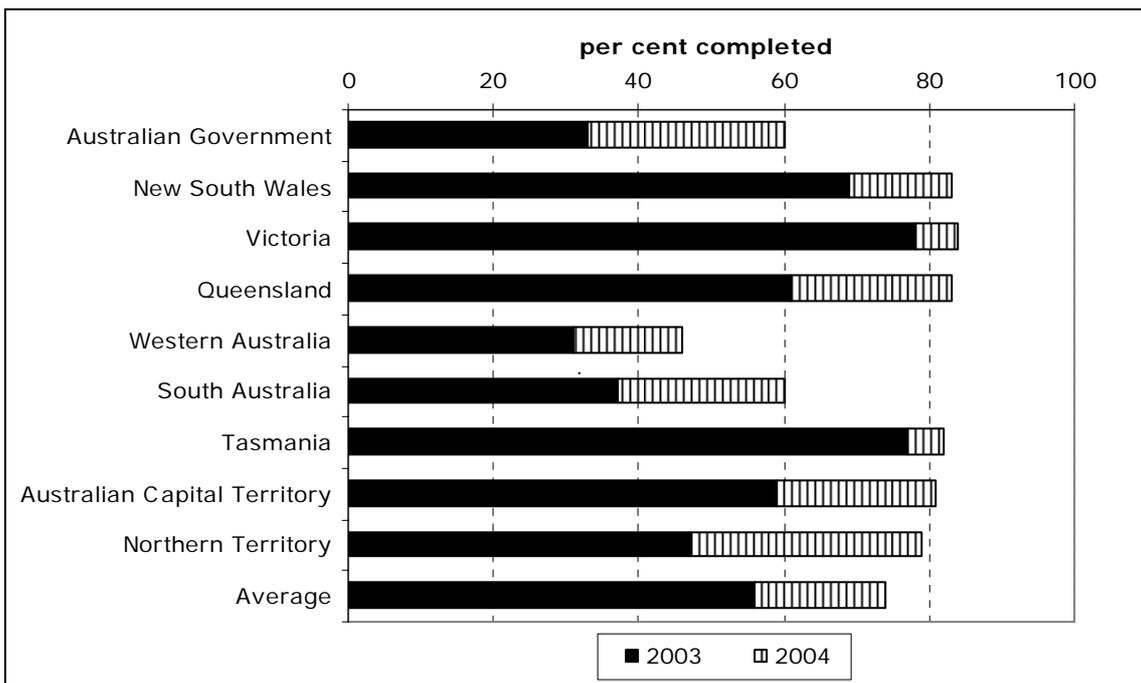
1. some or all of the suspended 2003-04 competition payments should be released to governments or deducted permanently
2. penalties should apply to governments' 2004-05 competition payments.

Relevant to both sets of recommendations is each government's continuing progress in meeting its remaining priority legislation review and reform obligations. Figure 1 indicates the absolute and relative extent of completed priority legislation review and reform obligations at the time of both the 2003 and 2004 NCP assessments. The hatched bars show improvements subsequent to the imposition of pool suspensions in 2003.

The compliance rate across all jurisdictions improved from around 56 per cent in 2003 to 74 per cent in 2004. The poorest performing jurisdictions generally made good progress, particularly the Australian Government and the Northern Territory. Not surprisingly, jurisdictions that achieved a high compliance rate in 2003 made relatively smaller incremental gains in 2004. (The Council's views on the intractable reform areas, such as pharmacy, are outlined in chapter 9.)

The (unweighted) data presented in figure 1 include all legislative reforms that are incomplete or that the Council has assessed as failing to meet the

**Figure 1:** Governments' progress with completing their priority legislation review and reform matters: 2003 and 2004



---

obligations set out in the Competition Principles Agreement (CPA). However, in assessing governments' progress in addressing their 2003 pool suspensions, and the implications for subsequent competition payments, the Council has afforded all governments some latitude in certain areas (see chapter 9). The rationales for providing such 'dispensation' include the following:

- Governments are not in a position to progress some areas of legislation review and reform because interjurisdictional processes (that is, national reviews and associated working groups) have yet to be concluded. As for the 2003 NCP assessment, these instances of incomplete activity did not bear adversely on payments recommendations.
- The Council accepts that some governments are not yet in a position to progress reforms in aspects of their fisheries regulation because further scientific research and industry consultation are needed. Similarly, the Council has not adopted an overly prescriptive approach to the review and reform of gambling legislation, for which social objectives are not always clearly enunciated and/or are still developing.
- Some compliance failures are unlikely to have a significant impact on competition — for example, some jurisdictions have retained the reservation of title for occupational therapists without demonstrating that this is in the public interest. However, reservation of title is a restriction with a relatively minor impact that does not preclude other health practitioners from offering identical services under other titles (such as rehabilitation therapist).

Each government's pool of noncompliant legislation reflects these mitigating circumstances. Each state and territory governments' suspension pool includes noncompliant areas 'above the line' and 'below the line' (see assessments below). Noncompliant areas 'below the line' did not bear adversely on the Council's payment recommendations for this 2004 NCP assessment. This does not mean that all such areas are afforded permanent immunity from penalty considerations. The Council will scrutinise all noncompliant areas for the 2005 NCP assessment, which will be the final assessment under the current NCP program. A summary of the Council's recommendations is contained in tables 1–3 at the end of this chapter.

## New South Wales

### Water

- *Appropriate environmental allocations.* Over several assessments, the Council has sought evidence that the environmental allocations in New South Wales' water sharing plans are based on the best available science and that departures from the science based levels are supported by robust socioeconomic evidence. New South Wales has provided no evidence that

its allocations to the environment provide the best possible outcomes while recognising the rights of other (existing) users of water, and it has demonstrated no intent to provide such evidence. It has, however, deferred the commencement of five of 36 water sharing plans to 1 July 2005 to re-assess allocations. Given these deferrals and the 2005 target for substantial completion of allocations, the Council recommends a specific suspension of 10 per cent of 2004–05 competition payments, for noncompliance. The suspension is recoverable once New South Wales provides evidence that it is ensuring appropriate environmental allocations in accordance with its CoAG obligation.

## Legislation review

New South Wales has completed the review and reform of 83 per cent of its stock of legislation. It has reviewed and, where appropriate, reformed 83 per cent of its priority legislation and 84 per cent of its nonpriority legislation. Compared with other jurisdictions, its performance has been above average.

- *Regulation of liquor sales.* For the 2003 NCP assessment, the Council determined that the Registered Clubs Act and the Liquor Act underpinned an anticompetitive needs test that benefited incumbent sellers of liquor. Despite having commenced a review of the legislation in 1998, the government had not completed its review and reform activity. The Council recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments for noncompliance.

In February 2004, the New South Wales Government introduced legislative amendments that removed the needs test and substituted a social impact assessment (SIA). The Council has reservations about the operation of the SIA mechanism, particularly its complexity and associated compliance costs. The Council intends to monitor the operation of the new regulations in the lead-up to the 2005 NCP assessment and, in particular, to determine whether the onerous processes are to the detriment of potential smaller businesses. That said, for this 2004 NCP assessment, the Council is satisfied that New South Wales has met its CPA obligations and that no further penalty is warranted.

- *Chicken meat industry negotiations.* The Poultry Meat Industry Act restricts competition between processors and growers by setting base rates for growing fees and prohibiting agreements not approved by an industry committee. For the 2003 NCP assessment, the government failed to show that these restrictions were in the public interest and to conduct an open NCP review process. The Council recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments.

In March 2004, the New South Wales Minister for Agriculture sought the Council's view on the implications for the 2005 NCP assessment if the

---

government finally submitted the legislation for review. The Minister and the Council agreed that if the government initiated an independent NCP review of the poultry legislation in accordance with agreed terms of reference, the Council would:

*... recommend the application of a suspension to apply to competition payments for 2004-05, rather than another permanent deduction. Moreover, on the timely implementation of NCP compliant reforms, the Council would recommend the lifting of the suspension.* (Letter to Minister for Agriculture and Fisheries, 16 March 2004)

Subsequently, the government commissioned an independent review of the Act to be completed later in 2004. In light of the agreement, the Council recommends a specific suspension of 5 per cent of 2004-05 competition payments, recoverable on the completion of an appropriate review and, where necessary, timely implementation of NCP compliant reforms.

- *Monopoly on domestic rice sales.* The NCP review of the statutory rice marketing monopoly under the Marketing of Primary Products Act recommended removing the domestic monopoly while retaining the export monopoly. The government failed to implement the recommendations. To progress matters, a working group developed in 1999 a model for a federal rice export authority, which would enable liberalisation of domestic rice marketing arrangements. The New South Wales Premier agreed in principle to the model. At the time of the 2003 NCP assessment, the Australian Government was consulting with other states and territories on this matter. Accordingly, the Council considered that there should be no penalty for this outstanding matter because New South Wales was not in a position to expedite reform.

In November 2003, the New South Wales Government extended the rice vesting arrangements until 2009. The New South Wales Minister for Agriculture and Fisheries reported that the Australian Government's consultations with other governments had been abandoned. In March 2004, the Minister wrote to the Council to confirm that the government would undertake a new review of the rice marketing arrangements to be completed in 2004. The Council and the Minister agreed, provided the government initiated an independent NCP review of its rice marketing legislation, that:

*... the Council will consider recommending a (recoverable) suspension or may, given the particular circumstances, monitor progress closely without recommending a suspension.* (Letter to Minister for Agriculture and Fisheries, 16 March 2004)

Given the government's decision to extend the current arrangements to 2009, the Council considers it appropriate to recommend a specific suspension of 5 per cent of 2004-05 competition payments, recoverable on the completion of an appropriate review and, where necessary, the timely implementation of NCP compliant reforms (before 2009).

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 10 per cent of 2003-04 competition payments, for remaining legislation review compliance failures. Since that assessment, the New South Wales Government has made substantial progress in addressing the outstanding items. The Council recommends that the 2003-04 suspension pool funds be released in full to the government.

The items remaining in New South Wales pool (see below) do not warrant any penalty to the state's 2004-05 competition payments.

#### **New South Wales pool**

*Primary industries:* stock medicines; veterinary surgeons

*Transport:* taxis; tow trucks

*Health:* pharmacy; dental technicians

*Other:* environmental planning and land use

---

*National reviews outside government's control:* travel agents; agricultural and veterinary chemicals; legal professions; trade measurement

*Mitigation for 2004 NCP assessment:* gaming machines exclusive licence

## Other matters

In relation to the CPA clause 5(5) obligations, New South Wales examines new regulatory proposals for compliance with competition principles. However, the Council's experience is that the state's mechanisms for examining the impact of proposed regulations could be improved in terms of transparency and independence. In particular, the New South Wales Cabinet Office, which advises agencies on regulatory best practice, may not be sufficiently separated from the policy development process. Other jurisdictions generally have an independent gatekeeper (such as the Victorian Competition and Efficiency Commission) or locate that function in Treasury departments.

## Assessment

***The Council recommends the full release to New South Wales of the state's 2003-04 competition payments that were suspended for outstanding legislation review items (pool).***

***In relation to New South Wales' 2004-05 competition payments, the Council considers that the matters identified in this assessment warrant:***

- ***a specific suspension of 10 per cent for noncompliance with water reform obligations***

- *a specific suspension of 5 per cent for noncompliance with obligations relating to poultry meat legislation*
- *a specific suspension of 5 per cent for noncompliance with obligations relating to rice marketing legislation.*

## Victoria

### Legislation review

Victoria has completed the review and reform of 85 per cent of its stock of legislation. It has reviewed and, where appropriate, reformed 84 per cent of its priority legislation and 85 per cent of its nonpriority legislation. Victoria's performance surpassed that of all other jurisdictions in both the 2003 and 2004 NCP assessments.

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 5 per cent of 2003-04 competition payments for legislation review compliance failures. The Victorian Government subsequently made good progress in addressing the outstanding items. The Council recommends that the 2003-04 suspension pool funds be released in full to the government.

The items remaining in Victoria's pool (see below) do not warrant any penalty to the state's 2004-05 competition payments.

#### Victorian pool

*Health:* pharmacists

*Other professions/occupations:* legal practice (conveyancing)

*National reviews outside government's control:* legal practice (SCAG); agriculture and veterinary chemicals; drugs, poisons and controlled substances; trade measurement; travel agents

*Mitigation for 2004 NCP assessment:* fisheries; lottery exclusive licences

### Assessment

***The Council recommends releasing in full to Victoria the state's 2003-04 competition payments that were suspended for outstanding legislation review items (pool).***

***In relation to Victoria's 2004-05 competition payments, the Council recommends that all funds be disbursed to the state.***

# Queensland

## Energy

- *Failure to progress gas reform.* Queensland has not made progress towards extending contestability to commercial and industrial customers using 1–100 terajoules of gas per year, despite an independent study (commissioned by Queensland) finding that the benefits of extending contestability would outweigh the costs. The government's explanation for delaying an extension is that retail prices are not cost reflective.

The 1997 gas agreement recognised that the introduction of retail contestability posed transitional issues for all jurisdictions, and made allowance for a phased process to be completed by 2001. Queensland did not meet this time frame and failed to gain the approval of all governments for an indefinite deferral.

The Council concludes that Queensland's failure to extend contestability to customers using 1–100 terajoules of gas per year is a serious breach of its NCP gas reform commitments. The Council recommends a suspension of 5 per cent of 2004–05 competition payments pending Queensland's implementation of the findings of the cost-benefit study.

- *Failure to progress electricity reform.* In the 2003 NCP assessment, the Council determined that full retail contestability had not been introduced as required under the NCP electricity reform agreements. Queensland had agreed, however, to immediately consider introducing contestability for tranche 4A customers and undertaking the further review of introducing full retail contestability immediately. The Council recommended, and the Australian Government imposed, a suspension of 10 per cent of 2003-04 competition payments, pending implementation of contestability for tranche 4A customers and a suspension of 15 per cent of competition payments, pending the outcome of the wider review of full retail contestability.

Since the 2003 NCP assessment, the Council is satisfied that Queensland has met its obligation to introduce contestability for tranche 4A customers — albeit on the last day of the assessment period. The Council recommends the full release to Queensland of the state's suspended 10 per cent of 2003-04 competition payments.

To date, however, Queensland has not reviewed the introduction of full retail contestability. The Council thus recommends that the suspended 2003-04 competition payments be deducted permanently and that there be a new suspension of 15 per cent of 2004-05 competition payments, pending the completion of the review and implementation of its findings.

## Legislation review

Queensland has completed the review and reform of 86 per cent of its legislation. It has reviewed and, where appropriate, reformed 83 per cent of its priority legislation and over 90 per cent of its nonpriority legislation. Compared with other jurisdictions, Queensland's overall performance has been excellent, particularly in the last 12 months.

- *Regulation of liquor sales.* For the 2003 NCP assessment, the Council determined that the Liquor Act requires sellers of packaged liquor to hold a hotel licence and provide bar facilities. It also regulates the number of bottle shops per licence (limit of three) and their configuration. The restrictions apply statewide, notwithstanding an objective of protecting country hotels. The Council recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments.

In response to the 2003 NCP assessment, the government indicated its intention to retain the status quo. Accordingly, the Council recommends a permanent deduction of 5 per cent of 2004–05 competition payments for continued noncompliance.

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 10 per cent of 2003-04 competition payments, for remaining legislation review compliance failures. The Queensland Government subsequently made substantial progress in addressing the outstanding items. The Council thus recommends the full release to Queensland of the state's 2003-04 suspension pool funds.

The items remaining in Queensland's pool (see below) do not warrant any penalty to the state's 2004-05 competition payments.

### Queensland pool

*Transport:* taxis

*Health:* pharmacy; nurses registration

*Other professions/occupations:* legal practitioners (conveyancing); auctioneers and agents

---

*National reviews outside government's control:* drugs and poisons; legal practitioners (SCAG); travel agents; trade measurement; agricultural and veterinary chemicals

*Mitigation for 2004 NCP assessment:* fisheries; occupational therapists; speech pathologists; gaming machine monitoring caps

## Assessment

*In relation to Queensland's 2003-04 competition payments, the Council recommends:*

- *permanently deducting the payments suspended for noncompliance with obligations relating to full retail contestability for electricity consumers*
- *releasing in full the payments suspended for noncompliance with tranche 4A electricity reforms*
- *releasing in full the payments suspended for outstanding legislation review items (pool).*

*In relation to Queensland's 2004-05 competition payments, the Council considers that the matters identified in this assessment warrant:*

- *a permanent deduction of 5 per cent for noncompliance in the regulation of liquor sales*
- *a specific suspension of 15 per cent for noncompliance with obligations relating to full retail contestability for electricity consumers*
- *a specific suspension of 5 per cent for noncompliance with gas reform obligations.*

## Western Australia

### Energy

- *Structural electricity reforms.* Western Australia has made substantial progress in implementing electricity sector reform. However, it has failed to implement an essential aspect of the reform package recommended by the Electricity Reform Task Force and accepted by the government — namely, the structural separation of Western Power into generation, networks and retail entities. The government intends to re-introduce the disaggregation legislation following the next state election. The Council recommends a specific suspension of 15 per cent of 2004–05 competition payments, pending the passage of legislation to disaggregate Western power. The Council notes that the recommended suspension would have been significantly larger if not for the government's strong performance in other aspects of electricity reform.

---

## Water

- *Transparency in water pricing.* In the 2003 NCP assessment, the Council recommended, and the Australian Government imposed, a suspension of 10 per cent of 2003–04 competition payments for the state’s lack of transparency, which raised questions about whether water pricing principles had been met. The suspension was conditional on Western Australia establishing the Economic Regulation Authority and announcing terms of reference for an investigation by the authority of water and wastewater pricing against the CoAG pricing principles. Given that Western Australia met these conditions, the Council recommends the full release to Western Australia of its suspended 2003-04 funds.

## Legislation review

Western Australia has completed the review and reform of 62 per cent of its stock of legislation. It has reviewed and, where appropriate, reformed 46 per cent of its priority legislation and 73 per cent of its nonpriority legislation. Western Australia’s performance was well below that of all other jurisdictions in both the 2003 and 2004 NCP assessments.

- *Regulation of retail trading hours.* Under the Retail Trading Hours Act, Western Australia is the only jurisdiction to heavily restrict weekday trading hours and to prohibit large retailers from opening on Sundays (outside of tourist precincts). In the 2003 NCP assessment, the Council recommended, and the Australian Government imposed, a permanent deduction of 10 per cent of 2003–04 competition payments. This reflected the Council’s assessment that the government’s decision to not extend trading hours before mid-2005 did not accord with CoAG’s direction that an appropriate transitional reform program must be underpinned by a robust public interest case.

Since the 2003 NCP assessment, the government has retreated from its position to reform these anticompetitive arrangements by mid-2005. Accordingly, the Council recommends a permanent deduction of 10 per cent of 2004–05 competition payments, for continued noncompliance.

- *Regulation of liquor sales.* The Liquor Licensing Act contains a needs test, whereby a licence application can be rejected because there are incumbent liquor outlets in the area. The legislation further discriminates between hotels and liquor stores, with only hotels able to trade on Sundays. For the 2003 NCP assessment, the Council recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments. This recommendation was based on the Council’s assessment that the government’s announcement that reforms would not take effect before mid-2005 did not accord with CoAG’s direction that an appropriate transitional reform program must be underpinned by a robust public interest case.

Recently, the government announced that it would not proceed with the proposed reforms because it considered that they would not be passed by the Legislative Council. Instead, the government is undertaking a review of the legislation. Accordingly, the Council recommends a permanent deduction of 5 per cent of 2004–05 competition payments, for continued noncompliance.

- *Potato marketing.* Western Australia is the only jurisdiction to regulate potato marketing. The Marketing of Potatoes Act empowers the Potato Marketing Corporation to restrict the availability of land for growing potatoes for fresh consumption and to fix the wholesale price of such potatoes. At the time of the 2003 NCP assessment, the Government announced that the restrictions would be retained in the public interest. The Council recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments. This was based on the Council’s assessment that neither the outcomes of the NCP review nor the government’s stated arguments for retaining the arrangements were consistent with NCP obligations.

In the lead-up to this 2004 NCP assessment, the government announced that it would amend the Act to, among other things, change the basis of supply restrictions from growing area to quantity and introduce incentives for growers to supply varieties preferred by consumers. When implemented, these changes are likely to reduce the costs of the marketing arrangements. To meet its obligations, however, the government must remove the supply and marketing controls. The Council recommends a permanent deduction of 5 per cent of 2004–05 competition payments, for continued noncompliance.

- *Egg marketing.* Western Australia is the only jurisdiction to retain egg marketing regulation. The Marketing of Eggs Act restricts supply through licences and production quotas, and prohibits supply other than to the Egg Marketing Board. At the time of the 2003 NCP assessment, the government had announced that the restrictions would be removed no later than 2007. To expedite this process, the Council recommended, and the Australian Government imposed, a suspension of 5 per cent of 2003-04 competition payments, pending the commencement of an appropriate reform implementation program.

In response, the government passed legislation in August 2004 for the dissolution of the board on or before 31 December 2005, and the transfer of the board’s assets to a producer owned co-operative company. (The government allocated \$8.75 million to assist egg producers to adjust to the removal of egg supply licensing and quotas.) The Council recommends the full release to Western Australia of the state’s suspended 2003-04 funds.

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 20 per cent of 2003-04 competition payments, for remaining legislation review compliance failures. Since that assessment, the Western Australian Government has made relatively poor progress in addressing the outstanding items. The Council recommends that only one

quarter (5 percentage points) of the suspension pool funds be released to the state, with the remaining three quarters (15 percentage points) deducted permanently.

The items remaining in Western Australia's suspension pool (see below) warrant suspending 15 per cent of the state's 2004-05 competition payments. In particular, the Council recommends that 5 percentage points of the suspension attach specifically to the state's failure to complete its general health practitioner reforms, despite repeated undertakings that this would occur by 30 June 2004.

#### **Western Australian pool**

*Primary industries:* agricultural produce (chemical residues); aerial spraying controls; veterinary preparations; grain marketing; food regulation; veterinary surgeons; pearling

*Transport:* navigation and shipping legislation; air transport

*Health:* pharmacy

*Health practitioner legislation:* dentists and dental prosthetists; chiropractors; optical dispensers and optometrists; nurses; osteopaths; physiotherapists; podiatrists; psychologists; occupational therapists; medical practitioners

*Other professions/occupations:* auction sales; settlement agents; pawnbrokers and second-hand dealers; debt collectors; employment agents; hairdressers; real estate and business agents; architects

*Water legislation:* Western Australia is the only jurisdiction to have not met its obligations on water industry legislation (see volume 2).

*Other:* petroleum products pricing; retirement villages; credit legislation; town planning and development; building regulations

---

*National reviews outside government's control:* travel agents; legal practitioners; agricultural and veterinary chemicals; drugs and poisons; trade measurement

*Mitigation for 2004 NCP assessment:* fisheries; gaming exclusive licences; minor gambling; casinos and betting; totalisator exclusive licence; racing minimum bets

## Other matters

Western Australia does not expose some government sectors/businesses to competitive neutrality until they have been subject to a broad 'coverage review'. (This means its complaints mechanism cannot operate until the initial coverage review has occurred.) Western Australia has not required businesses operated by public hospitals, for example, to apply competitive neutrality principles.

Western Australia also has not yet met its NCP road transport reform obligations. It has to implement two elements of the reform program relating to driver licensing requirements.

## Assessment

*In relation to Western Australia's 2003-04 competition payments, the Council recommends:*

- *releasing in full the suspended payments relating to transparency in water pricing*
- *releasing in full the suspended payments relating to egg marketing*
- *releasing one quarter (5 percentage points) of 2003-04 competition payments suspended for outstanding legislation review items (pool) and deducting the remainder permanently.*

*In relation to Western Australia's 2004-05 competition payments, the Council considers that the matters identified in this assessment warrant:*

- *a permanent deduction of 10 per cent for noncompliance relating to retail trading hours legislation*
- *a permanent deduction of 5 per cent for noncompliance relating to the regulation of liquor sales*
- *a permanent deduction of 5 per cent for noncompliance relating to the marketing of potatoes*
- *a specific suspension of 15 per cent for noncompliance with obligations relating to electricity structural separation*
- *a pool suspension of 15 per cent for outstanding legislation review items (of which 5 percentage points relate directly to the lack of progress in health practitioner reforms).*

## South Australia

### Legislation review

South Australia has completed the review and reform of 77 per cent of its stock of legislation. It has reviewed and, where appropriate, reformed 60 per cent of its priority legislation and 90 per cent of its nonpriority legislation. Compared with other jurisdictions, South Australia's performance has been below average.

- *Chicken meat industry negotiations.* For the 2003 NCP assessment, the Council determined that the Chicken Meat Industry Act provided for

---

compulsory arbitration in negotiating disputes on terms and conditions, and for non renewal of contracts. The Council considered that the legislation had implications for other states and could affect the distribution of chicken growing and processing activities. It recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments, for noncompliance in this area.

Following the 2003 NCP assessment, the South Australian Government amended the Act by removing:

- compulsory arbitration of collective bargaining disputes, but introducing compulsory mediation
- compulsory mediation and arbitration of nonrenewal disputes for growers who were not party to a collectively negotiated growing agreement when the amendment commenced.

The Council assesses that South Australia has met its obligations and that no further penalty is warranted.

- *Barley marketing.* Two reviews of the Barley Marketing Act failed to produce credible public interest evidence to maintain the monopoly arrangements. For the 2003 NCP assessment, the Council recommended, and the Australian Government imposed, a suspension of 5 per cent of 2003–04 competition payments until South Australia provided details of a complying reform implementation program.

Following the imposition of the suspended penalty, the government made a concerted effort to introduce a reform package in the public interest. However, the legislation did not have sufficient support to pass through Parliament. Accordingly, the Council recommends that the suspended 5 per cent of 2003–04 competition payments be deducted permanently. It considers that the experience of the deregulated market in Victoria and the partly deregulated arrangements in Western Australia continue to demonstrate benefits to growers and the community from allowing contestability. Given the evidence of the benefits of reform (and the lack of evidence of any detriment from reform), the Council recommends a further suspension of 5 per cent of 2004–05 competition payments until South Australia institutes a complying reform implementation program.

- *Regulation of liquor sales.* South Australia's Liquor Licensing Act contains a needs test whereby the licensing authority can reject a licence application because there are already liquor outlets in the area. For the 2003 NCP assessment, the Council recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments, for noncompliance.

In the lead-up to this 2004 NCP assessment, the government made no progress in this area. The Council thus recommends a permanent deduction of 5 per cent of 2004–05 competition payments, for continued noncompliance.

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 15 per cent of 2003-04 competition payments, for remaining legislation review compliance failures. Since that assessment, the South Australian Government has made only modest progress in addressing the outstanding items. The Council thus recommends releasing to South Australia only one third (5 percentage points) of the suspension pool funds and permanently deducting two thirds (10 percentage points).

The items remaining in South Australia's suspension pool (see below) warrant suspending 10 per cent of the state's 2004-05 competition payments. In this regard, the Council recommends that 5 percentage points of the suspension attach specifically to the state's failure to complete reform of its health practitioner legislation.

**South Australian pool**

*Primary industries:* fisheries; opal mining

*Transport:* taxis; tow trucks

*Health:* pharmacy

*Health practitioner legislation:* chiropractors; medical practitioners; optometrists; physiotherapists; psychological practices; chiroprodists

*Other professions/occupations:* employment agents; architects

*Retail trading:* shop trading hours; petroleum products regulation

---

*National reviews outside government's control:* travel agents; legal practitioners; agricultural and veterinary chemicals; drugs and poisons; trade measurement

*Mitigation for 2004 NCP assessment:* lotteries exclusive licence; gaming machines; dentists; occupational therapists

## Assessment

***In relation to South Australia's 2003-04 competition payments, the Council recommends:***

- ***permanently deducting the payments suspended for noncompliance with obligations relating to barley marketing***
- ***releasing one third (5 percentage points) of 2003-04 competition payments suspended for outstanding legislation review items (pool) and permanently deducting the remainder.***

***In relation to South Australia's 2004-05 competition payments, the Council considers that the matters identified in this assessment warrant:***

- ***a permanent deduction of 5 per cent for noncompliance with obligations in relation to the regulation of liquor sales***

- *a specific suspension of 5 per cent for noncompliance with obligations in relation to barley marketing arrangements*
- *a pool suspension of 10 per cent for outstanding legislation review items (of which 5 percentage points relate directly to the lack of progress with health practitioner reforms).*

## Tasmania

### Legislation review

Tasmania has completed the review and reform of 89 per cent of its stock of legislation. It has reviewed and, where appropriate, reformed 82 per cent of its priority legislation and 95 per cent of its nonpriority legislation. In this regard, compared to other jurisdictions, Tasmania's performance has been excellent.

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 5 per cent of 2003-04 competition payments, for remaining legislation review compliance failures. Since that assessment, the Tasmanian Government has continued its sound progress in addressing the outstanding items. The Council recommends the full release to Tasmania of the state's 2003-04 suspension pool funds.

The items remaining in Tasmania's pool (see below) do not warrant any penalty to its 2004-05 competition payments.

<p><b>Tasmanian pool</b></p> <p><i>Health:</i> pharmacy</p> <p><i>Other professions/occupations:</i> auctioneers and estate agents; plumbers and gas-fitters</p> <hr/> <p><i>National reviews outside government's control:</i> travel agents; legal practitioners; drugs and poisons; agricultural and veterinary chemicals</p> <p><i>Mitigation for 2004 NCP assessment:</i> racing; gaming machines exclusive licences</p>
---

### Assessment

*The Council recommends releasing in full to Tasmania the state's 2003-04 competition payments suspended for outstanding legislation review items (pool).*

*In relation to Tasmania's 2004-05 competition payments, the Council recommends disbursing all funds to the state.*

# The ACT

## Legislation review

The ACT has completed the review and reform of 93 per cent of its stock of legislation. The ACT has reviewed and, where appropriate, reformed 81 per cent of its priority legislation and 98 per cent of its nonpriority legislation. Compared with other jurisdictions, the ACT's performance has been above average.

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 10 per cent of 2003-04 competition payments, for remaining legislation review compliance failures. Since that assessment, the ACT Government has made very good progress in addressing the outstanding items. The Council recommends the full release to the ACT of the territory's 2003-04 suspension pool funds.

The items remaining in the ACT's suspension pool (see below) do not warrant a penalty to the territory's 2004-05 competition payments.

### **ACT pool**

*Primary industries:* veterinary surgeons

*Transport:* taxis

*Health:* pharmacy; dental technicians and prosthetists

*Other professions/occupations:* employment agents

---

*National reviews outside government's control:* travel agents; drugs and poisons; legal practitioners; trade measurement

*Mitigation for 2004 NCP assessment:* betting exclusive licence; gaming machine exclusivity; interactive gambling; public sector superannuation

## Other matters

The ACT has not yet met its NCP road transport reform obligations relating to continuous heavy vehicle registration. The Legislative Assembly rejected Regulations implementing the obligation. However, the government is considering alternative means of enforcing timely renewals of registration.

The Australian Competition and Consumer Commission reported that the ACT's *Health Amendment Act 2003* had introduced an exception to the *Trade Practices Act 1974* in the *Health Act 1993*. The ACT did not notify the commission of the exception as required under the ACT's conduct code obligations.

---

## Assessment

*The Council recommends releasing in full to the ACT its 2003-04 competition payments suspended for outstanding legislation review items (pool).*

*In relation to the ACT's 2004-05 competition payments, the Council recommends disbursing all funds to the territory.*

## The Northern Territory

### Legislation review

The Northern Territory has completed the review and reform of 83 per cent of its stock of legislation. It has reviewed, and where appropriate, reformed 79 per cent of its priority legislation and 90 per cent of its nonpriority legislation. The Northern Territory's performance was well below average at the time of the 2003 NCP assessment, but it has made good progress in the past 12 months.

- *Regulation of liquor sales.* At the time of the 2003 NCP assessment, the Northern Territory's Liquor Act contained a needs test whereby a licence application could be rejected if existing sellers could meet consumer needs. The legislation further discriminated between hotels and liquor stores, with only hotels able to trade on Sundays. The Council recommended, and the Australian Government imposed, a permanent deduction of 5 per cent of 2003–04 competition payments, for noncompliance.

The Northern Territory has demonstrated substantial progress in this area since the 2003 NCP assessment, particularly by removing the anticompetitive needs test. However, it rejected the recommendation of its review and retained the provisions that discriminate between sellers. It did not provide a convincing public interest case for this course of action. The Council thus recommends a permanent deduction of 5 per cent of 2004-05 competition payments, for continued noncompliance.

- *Suspension pool.* For the 2003 NCP assessment, the Council recommended a suspension of 15 per cent of 2003-04 competition payments, for remaining legislation review compliance failures. Since that assessment, the Northern Territory Government has made excellent progress in addressing the outstanding items. The Council thus recommends releasing in full to the Northern Territory the 2003-04 suspension pool funds.

The items remaining in the territory's suspension pool (see below) do not warrant a penalty to its 2004-05 competition payments.

**Northern Territory pool**

*Transport:* taxis

*Health:* pharmacy

*Other:* community welfare

---

*National reviews outside government's control:* travel agents; agricultural and veterinary chemicals; legal practitioners; drugs and poisons; trade measurement

*Mitigation for 2004 NCP assessment:* fisheries; totalisator exclusivity; occupational therapists

## Assessment

***The Council recommends releasing in full to the Northern Territory its 2003-04 competition payments suspended for outstanding legislation review items (pool).***

***In relation to the Northern Territory's 2004-05 competition payments, the Council considers that the matters identified in this assessment warrant a permanent deduction of 5 per cent for noncompliance with obligations in relation to the regulation of liquor sales.***

## Australian Government

### Legislation review

The Australian Government has completed the review and reform of 70 per cent of its stock of legislation. It has reviewed and, where appropriate, reformed around 60 per cent of its priority legislation and 77 per cent of its nonpriority legislation. Compared with other jurisdictions, its performance has been below average, second poorest only to Western Australia.

Moreover, given the scope, coverage and importance of the Australian Government's legislation, reform failures can have significant adverse community impacts.

- *Export marketing for wheat.* The review of the Wheat Marketing Act recommended reducing restrictions on wheat exports, while retaining the Australian Wheat Board's operations. The government did not accept the recommendations designed to reduce restrictions on exports. The review did not show that retaining the wheat export single desk is in the public interest; rather, it found that allowing competition is more likely to be of net benefit to the community. The wheat export single desk is under review, but this is not an NCP review and is not considering the continuation of the single desk.

- *Broadcasting legislation.* The government has not addressed the benefits and costs to the community from the significant restrictions in broadcasting, or whether the objectives could be achieved without these restrictions.
- *Competition in postal services.* The government is yet to address the major restrictions in its postal regulation that relate to the monopoly accorded to Australia Post in the delivery of domestic business and incoming international mail.
- *Industry assistance.* A review of assistance arrangements for the textile, clothing and footwear arrangements has been completed, but complying amending legislation has not been passed.
- *Other legislation review compliance failures*
  - Primary industries: agricultural and veterinary chemicals; plant and animal quarantine; export controls for food and wood; Aboriginal land rights (mining)
  - Transport: shipping registration; navigation
  - Health: pathology collection centre licensing; restrictions on services covered by private health insurance; drugs and poisons
  - Other: anti-dumping legislation; interactive gambling

## Other matters

The Australian Government has not met its CPA clause 4 obligations in relation to Telstra and is still to implement one remaining component of its national road transport reform agenda relating to heavy vehicle registration. The government has delayed this latter reform, pending a review of the Federal Interstate Registration Scheme.

## Assessment

***The Australian Government does not receive competition payments. The Council considers, nonetheless, that the Australian Government's performance in the review and reform of its legislation is poor. This unsatisfactory outcome is unfortunate given the government's role in deciding on the Council's payment recommendations for the states and territories.***

**Table 1: Council's recommendations on 2004-05 competition payments and suspended 2003-04 competition payments<sup>ab</sup>**

	Penalties imposed by Australian Government for 2003-04 payments	Council's recommendations for suspended 2003-04 payments	Council's recommendations for 2004-05 payments
<b>New South Wales</b>			
Water reform obligations	—	—	10% suspension (\$26m)
Rice marketing legislation	—	—	5% suspension (\$13m)
Chicken meat industry legislation	5% permanent deduction (\$12.7m)	—	5% suspension (\$13m)
Regulation of liquor sales	5% permanent deduction (\$12.7m)	—	—
Outstanding legislation review items	10% pool suspension (\$25.4m)	Release full amount	—
<b>Victoria</b>			
Pool suspension	5% suspension (\$9.4m)	Release full amount	—
<b>Queensland</b>			
Full retail contestability gas reforms	—	—	5% suspension (\$7.6m)
Regulation of liquor sales	5% permanent deduction (\$7.3m)	—	5% permanent deduction (\$7.6m)
Tranche 4A electricity reforms	10% suspension (\$14.6m)	Release full amount	—
Full retail contestability electricity reforms	15% suspension (\$21.9m)	Permanently deduct funds	15% suspension (\$22.7m)
Outstanding legislation review items	10% pool suspension (\$14.6m)	Release full amount	—
<b>Western Australia</b>			
Structural electricity reforms	—	—	15% suspension (\$11.5m)
Retail trading hours regulation	10% permanent deduction (\$7.5m)	—	10% permanent deduction (\$7.7m)
Regulation of liquor sales	5% permanent deduction (\$3.7m)	—	5% permanent deduction (\$3.8m)
Regulation of potato marketing	5% permanent deduction (\$3.7m)	—	5% permanent deduction (\$3.8m)
Lack of transparency in water pricing	10% suspension (\$7.5m)	Release full amount	—
Regulation of egg marketing	5% suspension (\$3.7m)	Release full amount	—
Outstanding legislation review items	20% pool suspension (\$14.9m)	Release 5 percentage points (\$3.7m) and permanently deduct 15 percentage points (\$11.2m)	15% pool suspension (\$11.5m)

(continued)

Table 1 continued

	Penalties imposed by Australian Government for 2003-04 payments	Council's recommendations for suspended 2003-04 payments	Council's recommendations for 2004-05 payments
<b>South Australia</b>			
Chicken meat industry legislation	5% permanent deduction (\$2.9m)	—	—
Regulation of liquor sales	5% permanent deduction (\$2.9m)	—	5% permanent deduction (\$3.0m)
Barley marketing arrangements	5% suspension (\$2.9m)	Permanently deduct funds	5% suspension (\$3.0m)
Outstanding legislation review items	15% pool suspension (\$8.7m)	Release 5 percentage points (\$2.9m) and permanently deduct 10 percentage points (\$5.8m)	10% pool suspension (\$5.9m)
<b>Tasmania</b>			
Outstanding legislation review items	5% pool suspension (\$0.9m)	Release full amount	—
<b>ACT</b>			
Outstanding legislation review items	10% pool suspension (\$1.2m)	Release full amount	—
<b>Northern Territory</b>			
Regulation of liquor sales	5% permanent deduction (\$0.4m)	—	5% deduction (\$0.4m)
Outstanding legislation review items	15% pool suspension (\$1.1m)	Release full amount	—

<sup>a</sup> In response to the Council's recommendations in its 2003 NCP assessment, the Australian Government applied a range of penalties to governments' 2003-04 competition payments. The penalties included permanent (irrevocable) deductions and suspensions of payments. In this 2004 NCP assessment, the Council has provided recommendations on whether some or all of the suspended 2003-04 payments should be released to governments, in addition to recommendations on any penalties to apply to governments' 2004-05 competition payments.

<sup>b</sup> All dollar estimates in the table, including those relating to 2003-04 competition payments, are subject to minor revision to reflect changes in population and inflation.

**Table 2: Summary of recommended final outcomes for 2003-04 competition payments (\$ million)<sup>a</sup>**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
<b>2003-04 competition payments allocation</b>	\$254.4	\$188.1	\$146	\$74.6	\$58.1	\$18.1	\$12.2	\$7.4
Permanent deductions	\$25.4	0	\$7.3	\$14.9	\$5.8	0	0	\$0.4
Recommended conversion of suspensions to deductions	0	0	\$21.9	\$11.2	\$8.7	0	0	0
Recommended total payments received	\$229.0 (90%)	\$188.1 (100%)	\$116.8 (80%)	\$48.5 (65%)	\$43.6 (75%)	\$18.1 (100%)	\$12.2 (100%)	\$7.0m (95%)

<sup>a</sup> All dollar estimates in the table are subject to minor revision to reflect changes in population and inflation.

**Table 3: Summary of recommendations for estimated 2004-05 competition payments (\$ million)<sup>a</sup>**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
<b>2004-05 competition payments allocation (est.)</b>	\$259.8	\$191.8	\$151.4	\$76.6	\$59.2	\$18.8	\$12.4	\$7.7
Permanent deductions	0	0	\$7.6	\$15.3	\$3.0	0	0	\$0.4
Suspensions	\$52.0	0	\$30.3	\$23.0	\$8.9	0	0	0
Total deductions/suspensions	\$52.0	0	\$37.9	\$38.3	\$11.9	0	0	\$0.4
Potential allocation (if all obligations are met)	100%	100%	95%	80%	95%	100%	100%	95%

<sup>a</sup> Estimates are subject to revision pending release of updated inflation and population growth data.