Commonwealth
1997 Progress Report

Commonwealth Competitive Neutrality Annual Report 1996-97

Contents

INTRODUCTION

The *Competition Principles Agreement* (CPA) is one of three inter-governmental agreements signed in April 1995 which implement competition policy reforms. Under the CPA, all Australian Governments agreed to implement competitive neutrality (CN) policies. The goal of competitive neutrality is to eliminate resource allocation distortions arising out of the public ownership of "significant business activities".

In addition to competitive neutrality obligations, under the CPA, Governments also agreed to implement reviews of anti-competitive regulations, ensure that where former public sector monopolies compete with the private sector they do so in an appropriate market structure, and to oversight pricing of government businesses.

Under the *Conduct Code Agreement* (CCA), Governments agreed (amongst other things) that the competitive conduct provisions of the (Commonwealth) *Trade Practices Act 1974* should apply to all business activities and should only be amended with majority support of participating jurisdictions.

Under the *Agreement to Implement the National Competition Policy and Related Reforms*, the Commonwealth agreed to provide Competition Policy Payments to those States and Territories which made satisfactory progress on CN and other CPA obligations (including the related reforms to gas, water, electricity and road transport).

- The National Competition Council (NCC) provides an independent assessment of whether States and Territories have made satisfactory progress in implementing national competition policy reforms.
- To this end, the States and Territories provided the NCC with progress reports in March 1997 covering national competition policy reforms up to December 1996.

The CPA required CN to be applied to government owned business activities where the benefits from doing so outweigh the costs. However, the CPA gives each jurisdiction responsibility for determining how, when and to which businesses, CN should be applied. For example, each jurisdiction is responsible for determining those businesses where the benefits of applying CN outweigh the costs.

The CPA also requires each jurisdiction to publish a statement of competitive neutrality policies, including an implementation timetable and a complaints mechanism, by June 1996. In addition, each jurisdiction must publish an annual report on the implementation of competitive neutrality principles, including allegations of non-compliance.

This document, covering the 1996-97 financial year (i.e. to June 30 1997), is the Commonwealth's annual report on its progress in implementing CN.

SECTION 1: BACKGROUND

1.1 Competitive Neutrality Policy Statement

In June 1996, the Commonwealth published its Competitive Neutrality Policy Statement (CNPS). The CNPS detailed taxation, debt and regulatory neutrality arrangements to ameliorate competitive advantages the Commonwealth's significant business activities may derive from their public ownership. The CNPS stated that for significant business activities:

- taxation neutrality would be achieved by removing taxation exemptions from significant business activities or by establishing taxation equivalent regimes;
- debt neutrality would be achieved by subjecting significant business activities to similar borrowing costs to those faced by private sector businesses; and
- regulatory neutrality would be achieved by subjecting, where appropriate, all significant business activities to the same regulatory environment as private sector businesses.

In order to ensure that these requirements were not met by simply reducing profit margins, the CNPS also stated that all significant business activities would be required to earn commercial returns at least sufficient to justify the long-term retention of assets in the business.

On the question of what constitutes a "significant business activity" the CPA left it to each jurisdiction to determine the threshold at which a business activity became "significant". However, the CNPS stated that all Commonwealth bodies established principally as business entities are "significant business activities". Thus the following Commonwealth entities are all subject to CN: Government Business Enterprises (GBEs), Business Units, share-limited companies and competitive tendering and contracting (CTC) activities. There are no exceptions by size, profitability or class of business.

Other Commonwealth bodies not established primarily as businesses may also conduct commercial activities. Under the CNPS, where such a commercial activity exceeds $10m annual turnover, it is automatically defined to be a significant business activity and subject to CN. However, smaller commercial

activities may also be declared to be significant business activities on a case by case basis following investigation by the Competitive Neutrality Complaints Office (see Section 2.2 below).

Using the above criteria, 47 Commonwealth significant business activities were identified in the CNPS to be subject to CN. The Commonwealth decided that all GBEs (17 listed in the CNPS) should be effectively subject to the same taxes as their competitors by 1 July 1997, and should also start earning commercial rates of return from the same date if they were not already doing so. The Commonwealth also established a group of officials, the Competitive Neutrality Task Force, to investigate the most appropriate CN implementation arrangements for the other 30 significant business activities listed in the CNPS.

1.2 Competitive Neutrality Task Force

The Competitive Neutrality Task Force was chaired by the Treasury and included representatives from Commonwealth central agencies and most other portfolio Departments with responsibilities for significant business activities. The Task Force examined all 47 entities to be subject to CN (including the GBEs) to assess the most appropriate implementation arrangements. To assist this process the Task Force established a number of working groups to examine individual significant business activities. In some cases, where significant business activities were already the subject of other reviews, the Task Force delegated investigation of specific CN implementation arrangements to those reviews.

The Task Force made specific recommendations for many of the listed activities (e.g. Medibank Private should not gain competitive advantages by co-locating with Medicare). A number of these recommendations have already been implemented or are in train (see Section 2.1 below for reforms to businesses subject to competitive neutrality).

As a result of the Task Force's detailed investigations, the Government made a number of refinements or elaborations to the general principles established under the CNPS. For example, as a refinement to the CNPS timetable, the Government has decided that all significant business activities should have appropriate CN implementation arrangements operating by no later than 1 July

1998. These changes will be incorporated into the Commonwealth's *Competitive Neutrality Implementation Guidelines for Managers*, which will be published in early 1998 (see Section 2.3 below).

1.3 Responsibilities of Portfolio Ministers

Portfolio Ministers are responsible for ensuring that significant business activities which fall within their portfolios comply with CN principles. Ministers are required to ensure that:

- businesses within their portfolio conform with CN accountability arrangements;
- payments such as tax-equivalents and debt neutrality charges to Consolidated Revenue, are transparent; and
- financial information is sufficient for complaints investigation (see Section 2.2 below).

Portfolio Ministers must report to the Treasurer in July each year:

- confirming that businesses for which they are responsible have complied with the CN arrangements; and
- detailing the implementation of CN arrangements in their portfolio, including any allegations of non-compliance and other complaints.

SECTION 2: IMPLEMENTATION OF COMPETITIVE NEUTRALITY IN 1996-97

2.1 Implementation of competitive neutrality to Commonwealth business activities

Nearly all of the significant business activities identified in the CNPS have undergone, or are undergoing, some structural reforms. (See Attachment A for details of reforms to particular entities.)

Following the Task Force's activities, nearly two-thirds of the original 47 significant business activities have been involved in divestment processes - ranging from businesses that have been sold through to those which the Commonwealth has announced an intention to sell. (When a commercial activity has been completely divested, there can be no competitive advantages arising from public ownership and, therefore, CN no longer applies.) Most of the other significant business activities are either being corporatised or commercialised (i.e. full cost pricing is being applied, including rates of return and other CN adjustments).

2.1.1 Government Business Enterprises

All but two of the GBEs listed in the CNPS have been subject to some form of divestment process. Details are provided below.

- Three GBEs were sold during 1996-97; The Commonwealth Bank of Australia, Commonwealth Funds Management and Avalon Airport Geelong. In addition, the Federal Airports Corporation was partially privatised.
- Sale arrangements are in train for the Australian National Railways Commission, the Housing Loans Insurance Commission, and Telstra (partial privatisation).
- The Commonwealth reaffirmed its commitment to sell the Australian National Line, and its shares in National Rail Corporation and Snowy

Mountains Hydro-Electricity Authority.

- The Commonwealth announced that the Export Finance Insurance Corporation, Defence Housing Authority and Airservices Australia would be reviewed to assess whether continued public ownership is appropriate.
- The legislation and articles of association of proposed new GBEs will ensure these companies are established on a competitively neutral basis. For example, Employment National Ltd (formerly the Commonwealth Employment Service), Health Services Australia Ltd (formerly the Australian Government Health Service), and the Attorney-General's Legal Practice are being corporatised on this basis.

The Task Force identified no significant CN issues for two GBEs. Australia Post, which has no significant CN issues because Government policy restricts competition on its core activities, and Australian Technology Group, which had already been partially privatised. However, reforms are being considered for both these GBEs. Australia Post is currently the subject of a competition policy review into its statutory exclusive right to carry standard letters. This review is being conducted by the NCC. In addition, the Review of Business Programs (1997) (the *Mortimer Report*) recently recommended that Australian Technology Group be completely privatised. The Government had not finalised its response to this report as at 30 June 1997.

2.1.2 Business Units

Business Units are semi-autonomous commercial activities that operate within Commonwealth departments, but with access to special funding arrangements. Nineteen Business Units were listed in the CNPS, mostly located within the (former) Department of Administrative Services (DAS)[1]. By the end of 1996-97, the Government had decided to either sell, corporatise, or divest the commercial functions of some three quarters of these Business Units. Details are as follows.

- Works Australia, Asset Services and DASFLEET (all part of DAS) are undergoing sale processes.
- Australian Operational Support Services (DAS), DAS Centre for

1 Now part of the Department of Finance and Administration (DoFA)

Environmental Management, DAS Distribution, Domestic Property Group (DAS), Interiors Australia (DAS) and Auscript (part of the Attorney-General's Department) had all been listed for sale. In some cases, commercial activities only, with regulatory activities to be retained within the parent department.

- The Australian Government Health Service (Department of Health and Family Services) and Legal Practice (Attorney-General's Department) are in the process of being corporatised.
- Australian Government Publishing Service and the Australian Surveying and Land Information Group (both DAS)[2] are divesting their commercial activities.
- Australian Protective Service (Attorney-General's Department), Australian Valuation Office (DAS)[3], Australian Government Analytical Laboratories (DAS), DAS Removals and the Royal Australian Mint (Treasury) are incorporating competitive neutrality arrangements into their pricing.
- The Task Force found no significant CN issues for Artbank (Department of Communications and the Arts).

2.1.3 Statutory Authorities

Statutory authorities are not usually set up primarily as commercial entities, unlike GBEs and Business Units. Nevertheless, the CNPS identified 11 authorities which had commercial activities exceeding $10m turnover per annum. Of these, approximately half are subject to sale or other divestment processes. Of the remainder that had CN issues, some are (or are considering) corporatising, and the rest have been, at least partially, commercialised.

- Four authorities are being divested. Ownership of the Australian Wheat Board is being transferred from the Government to wheat growers. The University of Canberra is being transferred from the Commonwealth's jurisdiction to the ACT Government's jurisdiction. Wool International will be divested once it has disposed of its wool stockpile, and the Albury Wodonga Development Corporation is progressively selling off its assets.

2 AUSLIG has since been transferred to the Department of Industry, Science and Tourism

3 The AVO has since been transferred to the Australian Taxation Office

- Corporatisation is being considered for the significant business activities of some authorities. Medibank Private, a commercial arm of the Health Insurance Commission, is to be corporatised as a stand-alone entity. Corporatisation of the Australian Broadcasting Corporation's larger business activities is being considered as an option following *The Challenge of a Better ABC - A review of the Role and Functions of the ABC* (Mansfield 1997). Similar consideration is being given to the major commercial activities of the Reserve Bank of Australia.
- The application of CN to activities in higher education and research and development is awaiting the outcome of interjurisdictional reviews. In the interim, full CN costing is being applied to some business activities of the Australian National University and the Commonwealth Scientific and Industrial Research Organisation.
- The Task Force found no major CN issues with the Special Broadcasting Service or the Army and Air Force Canteen Service.

2.2 Commonwealth Competitive Neutrality Complaints Office

As indicated above, all jurisdictions agreed in the CPA to set up CN complaints mechanisms. The Commonwealth has established a CN complaints mechanism to operate in the Commonwealth Competitive Neutrality Complaints Office (CCNCO).

All Commonwealth business activities are subject to this complaints mechanism. The CCNCO may find that:

- a Commonwealth significant business activity is not complying with the CN arrangements that apply to it;
- the CN arrangements that apply to a particular Commonwealth significant business activity have not been effective in removing its competitive advantages; or
- a Commonwealth business activity has competitive advantages arising from its public ownership and should have CN arrangements applied to it.

Thus, for example, the CCNCO may discover competitive advantages that were not identified by the Task Force, and recommend appropriate CN remedies. Also, the CCNCO may recommend that a business activity with turnover of less than $10m should be declared to be a significant business activity and subject to CN.

Being established within the Productivity Commission, the CCNCO will be independent of the Commonwealth Treasury, which is responsible for formulating CN policy. Complaints processes will be open and transparent, and when the CCNCO is considering a complaint it will be required to consult with all affected parties. The CCNCO will also be required to annually publish its findings and details of complaints. Commonwealth annual reports on CN implementation progress will also include details of the Government's responses to the CCNCO's recommendations.

Legislation to establish the CCNCO's parent body, the Productivity Commission, has yet to pass through the Senate. However, the CCNCO has been set up within the Industry Commission by administrative arrangements and has been able, so far, to provide informal advice and clarification to enquirers.

2.3 Competitive Neutrality Implementation Guidelines for Managers

It is the responsibility of Ministers to implement CN for significant business activities within their portfolios. To assist in this process, the Commonwealth will be releasing its *Competitive Neutrality Implementation Guidelines for Managers,* in early 1998. The Guidelines will be advisory rather than prescriptive, however the CCNCO will take the Guidelines into account when assessing complaints. Some of the principles set out in the CNPS that will be elaborated on or refined in the Guidelines, are outlined below.

2.3.1 Returns on capital

Commonwealth significant business activities should earn returns that at least cover the opportunity cost of their debt and equity capital. The Task Force recommended that business activities should have rate of return targets

equivalent to their Weighted Average Cost of Capital (WACC)[4]. Return targets on equity should be based on the Capital Asset Pricing Model (CAPM) and returns on debt should be based on commercial interest rates (see comments on debt neutrality below). In assessing whether activities have met their targets, returns should be measured using Economic Rate of Return formulae. Business activities which consistently fail to meet their return targets should be examined for performance improvement or divestment options. However, a transitional period of up to three years may apply to allow a newly corporatised activity to become established in the market place.

2.3.2 Community Service Obligations (CSOs)

A Community Service Obligation arises when the Government specifically requires a business activity to carry out activities relating to outputs or inputs:

- where the organisation would not elect to carry out the activities on a commercial basis, or where it would only do so commercially at higher prices; and
- where the Government does not require other organisations in the public or private sectors to generally carry out the activities.

Community Service Obligations should be based on explicit directions from, and be fully funded by, the Government. Funding for a CSO should allow the service provider to earn a commercial rate of return on the activity. Funding would be considered taxable income. As a rule, rate of return targets should not be adjusted for CSOs.

2.3.3 Taxes and Tax Equivalents

Corporatised Commonwealth businesses (i.e. GBEs and share-limited companies) should pay all taxes in full. (However, at present there is an exception to this rule because newly corporatised businesses pay tax equivalents rather than State taxes[5].) In addition, business activities which operate from within Departments or Authorities should pay taxation equivalents for most taxes. Although, again the exception is that where such activities are only bidding for Commonwealth contracts worth less than $10m, tax equivalents may be notionally added to costs rather than paid.

4 WACC and other concepts in setting and measuring returns are sourced from the Steering Committee for National Performance Monitoring of Government Trading Enterprises (1996)

5 Reciprocal taxation arrangements are the subject of ongoing negotiations between the Commonwealth and the States and Territories

2.3.4 Debt Neutrality

Commonwealth businesses should obtain a "stand alone" credit rating - that is, an estimate of what their rating would be if they were not government owned. Where businesses can borrow at rates lower than applicable under their stand alone credit rating, they should pay a debt-neutrality charge based on the difference. As a result, an earlier method of applying debt neutrality, the Borrowing Levy, will be phased out in 1997-98.

2.4 Other reforms

During 1996-97, the Government has introduced a number of measures which complement CN by assisting the Commonwealth to reform business structures and practices along private sector lines. Some key features are outlined below.

- The Commonwealth released new *GBE Governance Arrangements*, which establish the Minister for Finance[6] and the relevant Portfolio Minister as joint shareholders for GBEs. The Arrangements also specify that new GBEs should be set up as Corporations Law companies. This will provide more focus on overseeing the financial performance and risk management of GBEs.
- The (then) Department of Finance published the *Guide to Commercialisation in the Commonwealth Public Sector*. This covers matters such as full cost pricing, payment of dividends, setting up financial information systems, accountability requirements and other matters relevant to the efficient supply of government goods and services.
- *The Performance Improvement Cycle: Guidance for Managers (exposure draft)*. This Guide published by the (then) Department of Finance sets out the Government's requirement that, over time, portfolios should systematically review all activities to determine which activities would best be privatised, devolved to a more appropriate level of government, discontinued or remain the responsibility of the Commonwealth. Where an activity is to remain the Commonwealth's responsibility, portfolios should consider a range of tools, including competitive tendering and contracting (CTC), to improve performance.
- *Competitive Tendering and Contracting: Guidance for Managers (exposure draft).* This (former) Department of Finance document

6 Now the Minister for Finance and Administrative Services

provides guidance on the steps to take, and the issues to consider, when an agency decides to use competitive tendering and contracting to improve an activity's performance. Competitive neutrality principles are outlined, along with the need for agencies to take account of risk, accountability, workplace relations and legal issues. Agencies are advised that there must be full cost attribution when considering in-house bids, and that there should be visible and auditable arrangements to ensure in-house bidders do not have unfair advantages over external bidders.

Attachment A:
Implementation of competitive neutrality to businesses listed in the Competitive Neutrality Policy Statement

Table A.1: Government Business Enterprises (GBEs)

Name	Progress
Airservices Australia[7]	Scheduled for divestment review
Australian Defence Industries Ltd	Sale in progress
Australian Industry Development Corporation	Sale in process (core business)
Australian National Line Ltd	Sale pending
Australian National Railways Commission	Sale in progress
Australian Postal Corporation	Current review by NCC of matters i including its legislative monopoly
Australian Technology Group Ltd	Partially privatised before 1996-97
Avalon Airport Geelong Ltd	Sold
Commonwealth Bank of Australia	Sold
Commonwealth Funds Management Ltd	Sold
Defence Housing Authority	Divestment review scheduled
Export Finance and Insurance Corporation	Divestment review scheduled
Federal Airports Corporation	Partially privatised, sale of all airports outside Sydney expected over 1997-98
Housing Loans Insurance Corporation	Sale pending
National Rail Corporation	Intent to sell
Snowy Mountains Hydro-electric Authority	Intent to sell C'wealth share in 1998
Telstra Corporation Ltd	Partial sale in process

7 Since it was included in the CNPS, Airservices has been delisted from GBE status

Table A.2: Commonwealth Authorities and Corporations (non-GBEs)

Name (business activity)	**Progress**
Albury Wodonga Development Corp (commercial services)	Being wound down
Army and Air Force Canteen Service (retailing services)	No major CN issues
Australian Broadcasting Corporation (consumer goods and studio rentals)	Corporatisation of commercial activities under consideration following Mansfield review
Australian National University (some teaching and consulting services)	CN applied to specific commercial activities. Higher education and CN subject of interjurisdictional review
Australian Wheat Board (domestic sales)	In process of privatisation (commercial activities corporatised)
Commonwealth Scientific and Industrial Research Organisation (research and consulting services)	CN applied to specific commercial activities. R&D and CN subject of interjurisdictional review
Health Insurance Commission (private health insurance)	Medibank Private to be separated from Health Insurance Commission
Reserve Bank of Australia (financial services)	Corporatisation of commercial activities under consideration following Wallis report
Special Broadcasting Service (consumer goods)	No major CN issues
University of Canberra (consulting services)	Being transferred to ACT jurisdiction
Wool International (wool sales)	Will be liquidated or sold after the disposal of the wool stockpile

Table A.3: Business Units

Name (non-commercial activities will be exempt)	**Progress**
Artbank	No major CN issues
Asset Services	Undergoing sale
Auscript	Sale decision
Australian Government Analytical Laboratories	CN costing under implementation
Australian Government Health Service	Corporatisation in progress
Australian Government Publishing Service	Divesting commercial activities
Australian Operational Support Services	Sale decision
Australian Protective Service	CN costing under implementation
Australian Surveying and Land Information Group Divesting commercial activities	
Australian Valuation Office	CN costing under implementation
DAS Centre for Environmental Management	Sale decision
DAS Distribution	Sale decision
DAS Removals	CN costing under implementation
DASFLEET	Sale in process
Domestic Property Group	Sale decision
Interiors Australia	Sale decision
Legal Practice	Corporatisation in progress
Royal Australian Mint	CN costing under implementation
Works Australia	Undergoing sale

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Commonwealth Legislation Review Annual Report 1996-97

Contents

INTRODUCTION

The Commonwealth, State and Territory governments signed three competition policy related intergovernmental agreements at the Council of Australian Governments (COAG) meeting in April 1995. The Agreements encompass commitments to a range of competition reforms. One of those Agreements, the Competition Principles Agreement, includes a commitment to the systematic review of legislation that restricts competition.

Under the Competition Principles Agreement, the guiding principle for legislation is that it should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

The Commonwealth, States and Territories have agreed to review, and reform where appropriate, any existing legislation (including Acts, Ordinances or Regulations) that restricts competition.

The Agreement requires each jurisdiction to report annually on progress in the review of this legislation. This document is the Commonwealth's progress report for 1996-97.

In June 1996 the Commonwealth published the Commonwealth Legislation Review Schedule which set out a timetable for review, by the year 2000, of existing Commonwealth legislation that restricts competition. The Commonwealth's legislation review program also includes the review of legislation which imposes costs on, or benefits business.

- Section One of this report, "Commonwealth Legislation Review", outlines the processes involved in co-ordinating Commonwealth legislation review.
- Section Two, "Progress in the Review and Reform of Existing Legislation", summarises progress in legislation reviews scheduled to commence in 1996-97 and advises of changes to the 1997-98 review schedule.

The Competition Principles Agreement provides scope for reviews to be undertaken at a national level "where a review issue has a national dimension or effect on competition (or both)".

- Section Three, "National Reviews", summarises progress in cross-jurisdictional reviews.

The Competition Principles Agreement also requires proposals for new and amended legislation that restricts competition to be accompanied by evidence that the legislation is consistent with the guiding principle above.

- Section Four, "New and Amended Legislation", sets out the background to the new Regulation Impact Statement requirements and reports on compliance for Commonwealth legislation introduced over 1996-97.

References are made throughout this report to the publication of the Office of Regulation Review (ORR) "*Regulation and its Review 1996-97".* The ORR, contained within the Industry Commission, has a central role in advising on and administering regulation review and reform requirements, including through providing guidance to Commonwealth departments on the conduct of particular reviews. Treasury, on the other hand, provides general oversight and co-ordination of the legislation review process in the context of the total competition policy reform package.

In "*Regulation and its Review 1996-97"*, the ORR examined how government processes to achieve more effective regulations were implemented in 1996-97. Much of the material provided in the ORR report covered the Commonwealth's progress on legislation review over that year, including progress on reforms of new and existing legislation.

There is considerable overlap between the information provided in the ORR report and that required to be reported by the Commonwealth on its progress in undertaking legislation review. This report therefore does not heavily duplicate material published in the ORR report; rather, references are made to the ORR report wherever appropriate. Some of the material in this report updates and expands upon the information provided by the ORR, particularly the details provided in Chapters 1 and 3 of "*Regulation and its Review 1996-97"*.

The information contained in this report is current to the end of October 1997.

SECTION 1: COMMONWEALTH LEGISLATION REVIEW

1.1 Compiling the Commonwealth Legislation Review Schedule

The Commonwealth's legislation review program arises out of the requirements of the Competition Principles Agreement, under which the Commonwealth, State and Territory governments have agreed to review all legislation that restricts competition by the year 2000. In addition, the Commonwealth has chosen to include in its Legislation Review Schedule, legislation which imposes costs on or benefits business.

The legislation review program is designed to ensure thorough assessment and reform of legislation which restricts competition, or is costly or beneficial to business. At the same time, it does not preclude early action to reform or repeal legislation in accordance with announced Government policies or as other opportunities arise.

Section 1.1 of Chapter One of "*Regulation and its Review 1996-97"* provides an outline of the development of the Commonwealth's legislation review program. It explains the origins of the review process, how the schedule was compiled and the range of reviews that can be undertaken.

The Commonwealth Legislation Review Schedule, published in June 1996, listed 98 separate reviews, 13 of which were already under way. Twenty-six reviews listed were to commence in 1996–97, with the remainder to be commenced over the rest of the four-year review period.

Variations to the review schedule can only be made with the agreement of the Prime Minister, the Treasurer, and the portfolio Minister.

1.1.1 Terms of Reference

The scope and structure of each review is outlined in its terms of reference. These are of central importance in ensuring that reviews are consistent in their approach and focus. Guidance on the terms of reference is provided in the

Competition Principles Agreement and the ORR provides Commonwealth departments with assistance in the preparation of terms of reference for reviews.

Section 1.2 of Chapter One of "*Regulation and its Review 1996-97"* sets out the processes involved in developing terms of reference, and includes a copy of the template provided to co-ordinating Commonwealth departments for use as the basis for developing terms of reference appropriate to each piece of legislation to be reviewed. The ORR advises the Treasurer on the suitability of the final terms of reference.

1.1.2 The Regulation Impact Statement (RIS) Framework

The template terms of reference proposed by the ORR is important in ensuring that the Regulation Impact Statement (RIS) framework is utilised in undertaking a review. The RIS framework, which requires cost-benefit analysis of all proposed regulation, has now become a fundamental element of regulatory review and reform by the Commonwealth.

The formal RIS requirements arise from the Prime Minister's statement *"More Time for Business"* (24 March 1997), which set out the Government's response to the recommendations of the Small Business Deregulation Taskforce. *"More Time for Business"* provides that all reviews examining legislation which has an impact on business, including those reviews conducted under the Competition Principles Agreement, must use a RIS framework.

RISs provide a consistent, systematic and transparent process for assessing alternative approaches to problems which may require government action. The framework requires: the identification of a problem or issue; the identification of an objective; options for achieving the objective; an assessment of costs and benefits (including compliance burden and small business issues); a recommendation; and a strategy to implement and review the preferred option. More information on RIS requirements is contained in "Section 4: New and Amended Legislation".

1.1.3 Reporting Review Outcomes

Ministers responsible for competition policy legislation reviews undertaken within their portfolios are required to advise the Treasurer of the outcome of all reviews and progress with implementing reform programmes, by the end of July each year.

SECTION 2:
PROGRESS IN THE REVIEW AND REFORM OF EXISTING LEGISLATION

2.1 Reviews Scheduled to Commence in 1996-97

This section examines progress on legislation reviews scheduled for commencement in 1996-97.[1] Appendix A of *"Regulation and its Review 1996-97"* provides an update of the full Commonwealth Schedule as at 30 June 1997. The Appendix to this report provides a summary of changes to the Commonwealth schedule since it was published in June 1996.

Twenty-six reviews were set down in the Commonwealth Legislation Review Schedule for commencement in 1996-97. Twenty-three reviews were commenced, of which thirteen are complete. One review was deleted from the schedule, due to the implementation of reforms making the legislation redundant, while three reviews have been delayed. One review was brought forward from 1997-98.

Details of these reviews are set out below. This information updates and expands upon the material contained in Section 1.4 of Chapter One of *"Regulation and Its Review 1996-97"*.

2.1.1 Reviews Deleted

As stated above, one review was deleted from the legislation review schedule.

Employment Services Act 1994 (case management issues) This Act has been removed from the Legislation Review Schedule because of reforms to the delivery of employment services announced in the 1996–97 Budget. The establishment of the employment services market will proceed without enactment of new legislation and there will be no further appropriations for the provision of case management services under this Act in the future.

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[1] It should be noted that the Commonwealth Legislation Review Schedule, as published in June 1996, included a list of 13 reviews that were underway at the start of 1996-97. These reviews were included in the review schedule for the sake of completeness ∫ they were not initiated as a result of the Competition Principles Agreement, and therefore did not necessarily comply with the CPA or RIS guidelines. Discussion of these reviews can be found in Section 1.3 of *"Regulation and its Review 1996-97"*.

2.1.2 1996-97 Reviews Delayed

Two reviews have been postponed.

Migration Act 1958 — subclasses 676 and 686 (tourist visas) This review has been postponed until the second half of 1997-98. Revised visitor arrangements are being implemented in stages, with their full impact unlikely to be felt until 1997-98. It was considered too early to gauge the impact of these changes in 1996-97.

International Air Services Agreements. The review of International Air Services Agreements has been considered in the context of other priorities and the scheduled 1997-98 review of the ***International Air Services Commission Act 1992***. For the sake of greater efficiency, the two reviews will be combined and initiated in the 1997-98 financial year.

Terms of reference for one review have not yet been settled.

Aboriginal Land Rights (Northern Territory) Act 1976 Although this review was scheduled to be commenced in 1996-97, it was proposed during 1997 that it be subsumed within a major review of the Act to be undertaken by Mr John Reeves, QC, during 1997-98. However, following the development of arrangements for the conduct of that review, the Minister for Aboriginal and Torres Strait Islander Affairs decided that the regulation review of the Act should be conducted separately from the major review. The scheduled review is now expected to be completed during 1997-98.

2.1.3 Reviews Accelerated into 1996-97

One review was brought forward from 1997-98.

The review of the ***National Health Act 1953 (Part 6 and Schedule 1)*** and the ***Health Insurance Act 1973 (Part 3)*** was originally scheduled for 1997-98. However, the review was incorporated into the Industry Commission inquiry, "Private Health Insurance", the final report of which was published in February 1997.

2.1.4 1996-97 Reviews Completed

Thirteen reviews commenced in 1996-97 had been completed by the end of October 1997. (One of these reviews combined two of the reviews listed in the Schedule). A brief summary of the nature of the completed reviews, their findings, and the government's response (where finalised), is provided below.

The ***International Arbitration Act 1974*** gives effect in Australia to three international instruments which facilitate international commercial dispute resolution. The review of the Act was undertaken by a Committee within the Attorney General's Department. The Review was completed in August 1997, and is currently being considered by relevant Ministers. It has not yet been publicly released.

The review of the ***Nuclear Safeguards (Producers of Uranium Ore Concentrates) Charge Act 1993 and Regulations*** was undertaken by a committee of officials representing the Department of Foreign Affairs and Trade, the (then) Department of Finance, and the Department of Primary Industries and Energy. The Minister for Foreign Affairs made the report publicly available on 23 June 1997. The report recommended that the uranium producers' charge be restructured to overcome the problems identified with the current operation of the Act, particularly its impact on small business producers and its potential to reduce the likelihood of new entry in the form of new mines. Consultations with other interested Ministers have taken place and the Government's response is expected to be announced shortly.

The review of the ***National Health Act 1953 (Part 6 and Schedule 1)*** **and the** ***Health Insurance Act 1973 (Part 3)***, originally scheduled for 1997-98, was included as part of the Industry Commission inquiry into Private Health Insurance, the final report of which was published in February 1997. The Commission found neither community rating nor other regulations made under these Acts to be anti-competitive in the sense of favouring incumbents over potential new entrants. However, the regulations influence the nature of price and product competition among private health insurance funds, having a restrictive effect on choice in the market as well as imposing costs on business. The Commission made a number of recommendations which were essentially incremental in nature and designed to alleviate the problems of the health insurance industry in the short term. It noted that a long-term solution will require more reform, and that there are grounds for looking at other aspects of the health system during a wider public review. The Government responded to the report in April 1997, accepting many of the Commission's proposals. However, support for some of the recommendations was subject to further investigation and consultation.

The review of the ***Migration Act 1958 — sub-classes 120 and 121 (business visas)*** was subsumed into an existing review and a report was published in March 1997. The objective of the relevant regulation is to meet the skill requirements of Australian employers by regulating entry of overseas business

people into the Australian labour market. Following consultation on a published discussion paper, the reviewers concluded that the business visa system delivers skills which are needed in Australia, and that procedural reforms are required rather than legislative or policy changes. The Minister for Immigration and Multicultural Affairs formally accepted the review Committee's recommendations on 29 July 1997. Amendments to the Migration Regulations, implementing the Minister's decision, come into effect on 1 November 1997.

The review of the ***Migration Act 1958, Part 3 (Migration Agents and Immigration Assistance)*** including a review of the ***Migration Agents Registration (Application) Levy Act 1992*** and the ***Migration Agents Registration (Renewal) Levy Act 1992*** was completed in March 1997 and the report was distributed in August 1997.[2] The Government decided to move the migration-advice industry to statutory self-regulation, as a transitional measure, following the completion of this review, with a further review to take place within two years to assess the state of the industry. Amendments to the legislation are before Parliament.

The review of the ***Customs Tariff Act 1995 ≡ Automotive Industry Arrangements*** was undertaken by the Industry Commission and published in May 1997. The report examined the costs and benefits to the Australian community of providing special assistance to the manufacturing sector of the automotive industry. The Commission looked at a wide range of issues including the structure and performance of the Australian automotive industry, the effects of microeconomic reform and taxation on the industry, international trade issues, environmental and safety issues and the potential for further development of the automotive industry in Australia. The Government's response to the Commission's report included an announcement that the tariff on passenger motor vehicles will continue to phase down until 2000 when it will be at 15 per cent. It will remain at that level until 2005 when it will drop to 10 per cent. Tariffs on four wheel drive and light commercial vehicles will remain at 5 per cent.

The review of the ***Customs Tariff Act 1995 ≡ Textiles Clothing and Footwear Arrangements*** (with a view to determining the arrangements to apply post-2000) was subsumed into the Industry Commission inquiry into the textile, clothing and footwear industry. The Government's response to the Industry Commission report was announced in its Textiles Clothing and Footwear (TCF)

2 This review combined two separate reviews set out in the Schedule: the review of the "Migration Act, 1958, Part 3 (Migration Agents and Immigration Assistance) and related regulations"; and the review of the "Migration Agents Registration (Application) Levy Act 1992 and Migration Agents Registration (Renewal) Levy Act 1992".

package of 10 September 1997. The package provided for the maintenance of the current schedule of TCF tariff phasing to continue through to 2000. Tariffs will be maintained at their year 2000 level until 2005, at which time they will reduce from 25 per cent to 17.5 per cent for clothing and finished textiles and from 15 per cent to 10 per cent for footwear. The Government will introduce legislation to implement a reduction in TCF tariffs on 1 January 2005. A review will take place in 2005 to take account of APEC commitments and progress on market access. The Government announced that its package was designed to assist in securing jobs in the TCF industries by encouraging additional investment and promoting the development of an internationally competitive TCF sector in the lead up to the free trade environment beyond 2000.

The report on the review of the ***Trade Practices (Consumer Product Information Standards) (Care for clothing and other textile products labelling) Regulations*** was released in early October 1997. In response to the report, the Minister for Customs and Consumer Affairs agreed that current consumer labelling product information be replaced with a less prescriptive mandatory standard for care labelling. This is expected to make compliance easier and reduce some of the costs involved for manufacturers, while maintaining benefits for consumers. Officials from the Department of Industry, Science and Tourism will conduct further consultation with industry, consumer and other government representatives before a new mandatory draft standard for care labelling is circulated for public comment.

The review of the Rural Adjustment Scheme (RAS) under the ***Rural Adjustment Act 1992 and States and Northern Territory Grants (Rural Adjustment) Acts*** was undertaken by a review committee which published its report, *"Rural Adjustment: Managing Change",* in May 1997. The review of the RAS encompassed: the future adjustment challenges facing Australian agriculture; the role of risk management in farm business strategies; the efficiency, effectiveness and appropriateness of the current RAS; and private and government sector strategies that most effectively facilitate rural adjustment. The report made a number of recommendations for future government programmes to address rural adjustment, and these were addressed in the Government's package *"Agriculture - Advancing Australia"*, announced on 14 September 1997. Consistent with the recommendations of the RAS review, the RAS will now be wound down and new programmes are to be introduced. A new Farm Business Improvement Program (FarmBis) will commence operations on 1 July 1998. The FarmBis programme will provide a framework for promoting a positive approach to change and build on the farm sector's culture of continuous improvement. A further recommendation of the

report was that interest rate subsidies should no longer be provided. This recommendation has been implemented. Applications for interest rate subsidies under the normal RAS closed on 30 September 1997. A farm re-establishment scheme and improved welfare measures, as recommended by the Committee, are to be introduced with the new Farm Family Restart Scheme which will commence from 1 December 1997. In addition, a new Farm Management Deposit scheme, which is to be operated by commercial institutions, will be introduced in 1998.

The review of the ***Income Equalisation Deposits (Interest Adjustment) Act 1984 and Loan (Income Equalisation Deposits) Act 1976*** was undertaken by a Review Committee comprising officials from Treasury, the (then) Department of Finance, the Department of Primary Industries and Energy and the Australian Taxation Office. Following the review, the Government decided to replace the existing Income Equalisation Deposit and Farm Management Bond schemes with a new Farm Management Deposit Scheme (FMD). FMDs will reduce the regulatory burden upon farmers by replacing the previous two schemes with a single scheme. This new scheme will enable farmers to reduce their compliance costs relative to the previous schemes, as there will be simplified deposit and withdrawal conditions.

The report of the review of the ***National Road Transport Commission Act 1991 (the NRTC Act) and related Acts*** was prepared by a Steering Committee comprising representatives of industry, road users and public sector agencies from the Commonwealth, Victoria and Queensland. It was submitted in January 1997 to the Ministerial Council for Road Transport (MCRT). The MCRT broadly endorsed the recommendations of the review, and forwarded it to Heads of Government in April 1997. The report has not yet been published, pending agreement to its publication by Heads of Government. Substantive amendments to the NRTC Act and associated inter-government agreements to implement the review recommendations, have been drafted and largely agreed by Heads of Government. A Bill extending the operation of the NRTC Act by twelve months to January 1999 has been passed by the Commonwealth Parliament. This will allow the reform to continue while the substantive amendments are settled and implemented. The renewal of the NRTC Act will continue an improved cooperative national road transport reform process, which will reduce the level of unnecessary regulation and improve competition and safety in the road transport industry.

The review of the ***Australian Maritime Safety Authority (AMSA) Act 1990*** was conducted by officials from the Department of Transport and Regional Development, AMSA, and the Bureau of Transport and Communications Economics. The report was completed in June 1997 and is currently being considered by the Minister for Workplace Relations and Small Business.

2.1.5 Reviews Underway

Below is a summary of progress on reviews commenced in 1996-97 that were still underway as at end-October 1997.

The review of the ***Australian Postal Corporation Act 1989*** was referred to the National Competition Council (NCC) on 2 June 1997. The NCC has been asked to examine the need for statutory protection of Australia Post's exclusive right to carry standard letters, and the implications of reducing or removing that protection in the context of the Government's commitment to the provision of a standard letter service to all Australians at a uniform price. The NCC released its interim report on 3 October 1997, proposing several options for reform. The Council is seeking public comment on these options in order to develop a package of recommendations for its final report, scheduled to be forwarded to the Government in February 1998.

The review of the ***Radiocommunications Act 1992 and related Acts*** is being undertaken by an inter-departmental taskforce of officials in conjunction with an independent Reference Group of experts. The Taskforce has advertised nationally calling for submissions, and has written to over 100 organisations and individuals. It plans to issue a discussion and options paper in early 1998 as a basis for further consultations, and to finalise its report by June 1998.

Terms of Reference for the review of the ***Quarantine Act 1908***, in relation to human quarantine, were endorsed by the Minister for Health in July 1997. A Steering Committee comprising representatives of five Commonwealth agencies with a direct interest or a role in human quarantine met in early September 1997 and confirmed the overall direction and strategy for conducting the review. Work is progressing as scheduled, and it is anticipated that the final report will be submitted to the Minister for Health on 30 March 1998.

Review of the ***Migration Act 1958 sub-classes 560, 562, 563 (student visas)*** is underway. The Review has involved extensive consultations with all major stakeholders in the Australian international education industry. Current legislation, policy and procedures governing the temporary entry into Australia

of overseas students are being examined. The Review is expected to report to the Government in late November 1997 with recommendations on how to ensure that student visa policies and procedures can support the growth of the Overseas Student Program without compromising the integrity of Australia's migration program.

The first meeting of the review committee of the ***Tradesmen's Rights Regulation Act 1946*** is scheduled for early November 1997. The review timetable aims for completion of the review by March 1998.

The review of the ***Duty Drawback (Customs Regulations 129 to 136B) and TEXCO (Tariff Export Concession Scheme) ≡ Customs Tariff Act 1995, Schedule 4 Item 21 Treatment Code 421*** is expected to be completed soon. The review aims to ensure that the objectives of the programmes are still appropriate and that they are providing net benefits to the community in the most cost-effective manner. The Government has indicated it will be responding to the review in conjunction with its response to the Mortimer Report, other industry-related reviews and to proposals on Foreign Trade Zones.

The review of the ***Pooled Development Funds Act 1992*** is being conducted by a taskforce of officials supported by a consultant. The Pooled Development Fund program is part of a suite of current Government initiatives aimed at improving the financing of small and medium-sized enterprises. Submissions have been received from interested stakeholders and these have been taken into consideration in drafting the report. The taskforce is expected to report to the Minister for Industry, Science and Tourism shortly.

The review of the ***Shipping Registration Act 1981*** commenced in July 1997. Twenty two submissions have been received, mainly from the yachting, finance and legal sectors, and discussions have been held with representatives of these and other interested parties. The report is currently being drafted. The review is expected to be completed by the end of November 1997.

The review of the ***Bills of Exchange Act 1909*** is currently underway. Submissions to the review indicated a general satisfaction with the Act but raised several technical issues. An issues paper is being prepared for consideration by the review committee. It is expected that the paper will be circulated for public comment by the end of 1997.

The review of ***Foreign Investment Policy***, including associated regulation, which commenced in 1996-97, is continuing. It is in the category of reviews which examine costs imposed upon business.

2.2 Revisions to the 1997-98 Review Schedule

As at end-October 1997, the following amendments to the 1997-98 Legislation Review schedule had been approved by the appropriate Ministers. Further amendments to the schedule may occur as the year progresses.

As noted above:

- the review of the ***Migration Act 1958* — subclasses 676 and 686 (tourist visas)**, originally scheduled for 1996-97, has been re-scheduled for review in 1997-98.
- the review of the ***International Air Services Agreements*** will be conducted in 1997-98 rather than 1996-97, and combined with the review of the ***International Air Services Commission Act 1992***.
- the ***National Health Act 1953 (Part 6 and Schedule 1)*** and the ***Health Insurance Act 1973 (Part 3)*** were listed for review in 1997-98 but the review was performed as part of the Productivity Commission's inquiry into Private Health Insurance.

In addition:

- The review of the ***Broadcasting Services Act 1992, Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992, Radio Licence Fees Act 1964 and Television Licence Fees Act 1964*** will now commence in the second half of 1998, rather than in 1997-98 as originally indicated in the schedule.
- The review of the ***National Food Authority Act 1991***, scheduled for 1998-99, will be included in the national review of Food Regulation which is currently underway (see Section 3: National Reviews).

Currently, 27 reviews are scheduled for commencement in 1997-98. The Commonwealth's review process remains essentially on track, with the intention being to complete the full review process by 2000.

SECTION 3: NATIONAL REVIEWS

The Competition Principles Agreement provides scope for reviews to be undertaken at a national level where a review issue has a national dimension or an effect on competition (or both). Any jurisdiction can propose a national review and national reviews do not require the involvement of all jurisdictions. Potentially therefore, the Commonwealth may not be involved in some national reviews. The requirement to review a particular piece of legislation listed in a jurisdiction's legislation review schedule is taken to have been met if that legislation review is included in a national review.

The ORR provides comment on the terms of reference for national reviews where the Commonwealth is involved to ensure that they comply with the requirements of the Competition Principles Agreement.

On 1 August 1997 Commonwealth, State and Territory officials agreed to integrate the work of the Interstate Legislation Review Working Group with the Committee of Regulatory Reform (CRR) ≡ an officials group under the auspices of COAG. The CRR facilitates discussions between jurisdictions on the scope for national reviews.

This section discusses progress on national reviews that are underway and progress on negotiations concerning other possible national reviews.

3.1 Food Standards

A review of the ***Australia New Zealand Food Authority Act 1991***, which had originally been scheduled for review in 1998-99[3], is underway and is being conducted in conjunction with the broader Blair Review of Food Regulation. The Blair Review is looking at all aspects of food management ≡ Commonwealth, State, Territory and Local government ≡ and was initiated in response to the Prime Minister's statement *"More Time for Business"*. Public hearings were scheduled in all capital cities and some regional centres in October-November 1997 and the review Committee is expecting to report to Ministers in June 1998.

3 The Commonwealth Legislation Review Schedule refers to the Act as the "National Food Authority Act 1991".

In addition, the Australia New Zealand Food Authority is coordinating a national competition policy review of existing State and Territory Food Acts to assist in the development of a new Model Food Act, on which reforms to State Food Acts will be based.

3.2 Agricultural and Veterinary Chemicals

A number of regulatory agencies from different levels of government control the registration and use of agricultural and veterinary chemicals. Discussions are underway for the possible conduct of a national review of the relevant legislation, as foreshadowed in *"More Time for Business"*. The Commonwealth legislation relevant to this review would be the ***Agricultural and Veterinary Chemicals Act 1994*****,** which is scheduled for review in 1998–99.

3.3 Mutual Recognition

A national review of the mutual recognition legislative scheme is underway. The scheme is based on the 1993 Mutual Recognition Agreement (MRA) between the Commonwealth, States and Territories. Mutual recognition involves Australian governments agreeing to recognise each others' regulations covering the registration of occupations and the sale of goods. The review is being conducted by the COAG CRR which will report to COAG senior officials by 1 March 1998. The review is focussing on the primary legislation implementing the MRA, the ***Mutual Recognition Act (Commonwealth) 1992,*** which was scheduled for review in 1997–98. The review will also meet the requirement under the MRA for the scheme to be reviewed five years after its commencement.

3.4 Travel Agents

All States and Territories except the Northern Territory are party to the National Co-operative Scheme for the Regulation of Travel Agents. The scheme requires that travel agents be licensed according to specified criteria in the jurisdictions in which they operate and that they be contributing members of the national Travel Compensation Fund. Terms of reference have been agreed for a review of the legislative and regulatory restrictions made under or in relation to the National Co-operative Scheme, and the review is expected to commence early in 1998.

3.5 Pharmacy

Discussions between jurisdictions are also currently underway on a proposal put forward by the Commonwealth to conduct a national competition review of State and Territory pharmacy legislation, as well as any relevant Commonwealth legislation. The review would also examine the Community Pharmacy Agreement between the Commonwealth and the Pharmacy Guild of Australia.

The Commonwealth believes that a national review is the best way to achieve a nationally consistent outcome for regulation in this sector. It is proposed that the review commence in early 1999.

3.6 Drugs and Poisons

The regulation of drugs and poisons is implemented through State and Territory legislation. A uniform schedule of standards relating to the packaging, labelling, and dispensing of drugs and poisons is developed by the National Drugs and Poisons Schedule Committee, which comprises Commonwealth, State and Territory officials and industry and consumer representatives, and is established under the auspices of the Health Ministers' Council. The Commonwealth is currently taking legislative action to bring the National Drugs and Poisons Schedule Committee under the Therapeutic Goods Act. Given the national approach to the development of drugs and poisons standards, a national review is being considered by jurisdictions.

3.7 Other Possible National Reviews

Discussions are progressing on the possibility of undertaking other national reviews or co-operative arrangements for the review of legislation, with a view to achieving nationally consistent outcomes. For example, there appears to be some scope for regulations affecting various professions to be reviewed on a nationally consistent basis.

SECTION 4: NEW AND AMENDED LEGISLATION

As discussed earlier, the Competition Principles Agreement provides that the guiding principle for legislation is that it should not restrict competition unless the benefits of the restriction outweigh the costs and the objectives of the legislation can only be achieved by restricting competition.

4.1 The RIS Requirements

The Prime Minister's *"More Time for Business"* statement indicated that legislation prepared after that statement's release would be required to be accompanied by a Regulation Impact Statement (RIS). RISs are therefore now mandatory for all new Commonwealth legislation or regulation that has the potential to affect business or restrict competition. Some guidance on the types of regulation that are likely to restrict competition is provided in Box 1.

The RIS requirements are set out in the ORR's *"A Guide to Regulation"* published in October 1997. The *Guide* explains how best practice processes, such as the use of RISs, can lead to better regulations. It sets down the major elements of a RIS, and includes guidance on how to undertake analysis of the costs, benefits, and impacts of regulatory proposals.

These 'regulatory quality' mechanisms are designed to ensure that the responsible Minister and the relevant officials assess different options, consult those affected, and document the likely impacts of their regulatory proposals. In conjunction with other mechanisms, they are also designed to reduce the regulatory burden upon business, thereby improving competitiveness.

The RIS requirements build on the regulation-making framework set out in the *Legislative Instruments Bill 1996*. For primary legislation and treaties requiring a RIS, the RIS must accompany the relevant Cabinet submission (as a separate attachment) or the letter to the Prime Minister seeking approval for the legislation or treaty.

"A Guide to Regulation" also states that RISs are tabled in Parliament along with or as part of the explanatory document for the regulation ≡ the Explanatory Memorandum (for primary legislation) and the Explanatory Statement (for legislative instruments). A consultation statement recording the consultation

process undertaken and the views of the main interested parties will also accompany, or be included in, the explanatory document.
In Chapters 2 and 3 of *"Regulation and its Review 1996-97"*, the ORR explains the enhanced Commonwealth processes for developing new and amended regulation, and provides statistics on compliance with the RIS requirements in 1996-97.

Box 1: Regulation that restricts competition

Regulations may restrict competition where they directly or indirectly:

- govern the entry or exit of firms and individuals into or out of markets;
- control prices or production levels;
- restrict the quality, level or location of goods and services available;
- restrict advertising and promotional activities;
- restrict price or type of inputs used in the production process; and/or
- are likely to impose significant costs on business, or may provide advantages to some firms over others by, for example, sheltering some activities from the pressures of competition.

For the purposes of the 1996-97 compliance report prepared by the ORR, Bills that imposed licence fees, or altered the basis upon which licence fees were calculated, were assumed to restrict competition.

4.1.1 Compliance with the RIS requirements, 1996-97

"Regulation and its Review 1996-97", reported that 23 of the 204 Government Bills introduced over 1996-97 restricted competition, according to the criteria in Box 1. Of these 23 Bills, 15 involved the preparation of a Regulation Impact Statement in some form. Prior to "*More Time for Business"*, various cabinet submissions addressed the relevant issues without necessarily utilising a RIS framework.

APPENDIX:
REVISIONS TO THE COMMONWEALTH LEGISLATION REVIEW SCHEDULE

This appendix provides information on changes to the schedule as at end October 1997. Further changes to the 1997-98 schedule, such as the inclusion of additional pieces of legislation for review, are likely to occur as the year progresses. These changes will be recorded in the 1997-98 annual report.

Reviews Rescheduled

Legislation *(Portfolio)*	**Original Review Date**	**New Review Date[4]**	**Reason for change**
National Health Act 1953 (Part 6 and Schedule 1) Act 1973 (Part 3) *(Health and Family Services)*	1997-98	1996-97	Included in the Industry Commission Inquiry "Private Health and the Health Insurance Insurance"
International Air Services Agreements (ASAs) *(Transport and Regional Development)*	1996-97	1997-98	To be conducted in conjunction with the scheduled review of the InternationalAir Services Commission Act 1992.
Migration Act 1958, sub-classes 676 and 686 (tourist visas) *(Immigrationand Multicultural Affairs)*	1996-97	Second half of 1997-98	The full impact of revised visitor arrangements are unlikely to be felt until 1997-98.
Broadcasting Services Act 1992, Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992, Radio Licence Fees Act 1964 and Television Licence Fees Act 1964 *(Communications and the Arts)*	1997-98	First half of 1998-99	To balance the work program of the Industry Commission, which will conduct the review.
National Food Authority Act 1991 *(Health and Family Services)*(National Review)	1998-99	1997-98	Originally scheduled for common-wealth review in 1998-99, but included in the National Blair review of Food Regulation currently underway.

4 Approved by appropriate Ministers.

Reviews Deleted

Portfolio	Legislation	Reason for change
Employment, Education, Training and Youth Affairs	Employment Services Act 1994	Reforms in the delivery of (case management employment services were issues) announced in the 1996-97 budget, resulting in there be no further appropriations for the provision of case management services under this Act.

REFERENCES

Industry Commission (1997) *Regulation and Its Review 1996-97*, October, AGPS, Canberra

Office of Regulation Review (ORR) (1997) *A Guide to Regulation*, October, AGPS, Canberra

Prime Minister (1997) *More Time for Business,* Statement by the Prime Minister, the Hon. John Howard MP, 24 March, AGPS, Canberra

Treasurer (1996) *Commonwealth Legislation Review Schedule*, June, AGPS, Canberra