

Australian Capital Territory

1997 Australian Capital Territory Progress Report

A.C.T. GOVERNMENT
IMPLEMENTATION
of
NATIONAL COMPETITION POLICY

Progress Report
11 April 1995 - 31 December 1996

June 1997



AUSTRALIAN
CAPITAL TERRITORY

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1. INTRODUCTION

On 11 April 1995, the Commonwealth and all State and Territory governments signed the national competition policy agreements - the *Conduct Code Agreement*, the *Competition Principles Agreement* and the *Agreement to Implement the National Competition Policy and Related Reforms*.

While the ACT has implemented competition and related reforms to meet its obligations under the agreements (and be eligible for the first tranche of competition payments), in many areas the ACT has introduced reforms well beyond the agreements' requirements.

In this regard, the timing of these agreements was fortuitous for the ACT. They provided an impetus for the newly elected Liberal Government to implement a range of reforms which had underpinned its election commitments. These commitments provided some additional dimensions to the competition reforms, particularly in relation to regulatory reform, the more efficient allocation of resources in relation to the Government's business activities, and financial management reforms.

Because the ACT Government believes the competition and related reforms in electricity, gas, water and road transport are strongly linked with a range of other reforms, this progress report provides an outline of key elements of the ACT Government's microeconomic reform program. This program is an integrated set of reforms which has already served to impose greater rigour and efficiencies in resource allocation within the public sector.

This report has been compiled by the Competition Policy Unit within the Chief Minister's Department. The Unit was established to oversight and provide advice to all sectors of Government on implementation of the reform package.

2. THE CONDUCT CODE AGREEMENT

2.1 THE COMPETITION CODE

In July 1996, following scrutiny by the ACT Assembly's Select Committee on the Competition Policy Reform Bill which considered submissions from a number of government and community organisations, the *Competition Policy Reform Act 1996* was passed thus applying the Competition Code contained in the conduct rules of Part IV of the *Trade Practices Act 1974* in

the ACT. Consequently, the ACT qualifies as a participating jurisdiction for the purposes of the competition agreements.

2.2 COMPLIANCE

An independent audit has already been undertaken of all existing ACT Government contracts and legislation which may be covered by the *Trade Practices Act*. Preparation is underway of a procedures manual for all Government agencies and businesses which will set out the provisions of the Competition Code and provide advice on compliance.

3. THE COMPETITION PRINCIPLES AGREEMENT

3.1 THE PUBLIC BENEFIT

The public interest is central to decisions which impinge upon the Government's obligations under the *Competition Principles Agreement*. Subclause 1(3) of the Agreement provides for considerations other than strictly economic criteria in assessing public benefit in circumstances where on balance there is a net benefit for the community. It is recognised in the Agreement that where anti-competitive behaviour is acceptable to achieve a public good there must be a transparent process for assessing the balance between benefit and cost and the behaviour must be subject to review. The ACT Government supports this approach.

In applying the public benefit or interest test there is a need for considerable latitude in determining what that actually means. The definition of interest and benefits will not be made more effective by conforming to a narrow or too prescriptive national standard. Decisions that reflect the nature of the local and regional community will be made interpreting the criteria in respect of local needs. The outcome of local assessments of public interest may be quite variable, placing stress on the adequacy of review and appeal processes. Governments making judgements about costs and benefits will require a degree of pragmatism, reflecting the dynamic nature of community, social and economic expectations.

The resolution of the recent dispute over trading hours in the ACT is an example of the application of public interest criteria at a local level. Because of the Territory's unique planning environment the Government took the view that restricting trading hours of supermarkets in town centres would promote the retention of local shopping centres. In consultation with the National Competition Council the ACT Government acknowledged the anti-competitive nature of the policy but emphasised the importance to the

community of a strong network of local shops to provide services to the aged, mobility restricted, and low income earners. The planning policy of the Territory also emphasises the importance of local shops as loci of community life.

The ACT Government believed that the new trading hours regime as a component of its overall retail policy had the capacity to deliver a greater community good than would result if the market alone were to determine the outcome. In this sense, the objectives of the policy could only be achieved by placing some limitations on competition.

On the basis of a number of surveys undertaken as part of a monitoring process agreed with the Council, the *Trading Hours Act* has now been repealed. It was evident from the survey results that, ultimately, the public benefit of the restriction did not outweigh the cost. In supporting the Act's repeal, however, the Government is firmly of the view that there was considerable advantage in the original enactment in terms of the information that we now have about what will be of most benefit to the public in determining policies about local shops.

The ACT's *Competitive Neutrality Statement* also acknowledges that reform of government businesses involves consideration of the public interest in line with the *Competition Principles Agreement*. While the *Competition Principles Agreement* suggests that corporatisation is desirable as part of the process of making government businesses more efficient, it provides that reforms should only be undertaken where there is a net benefit to the public.

In general, reform of government businesses is expected to promote the public interest by increasing cost awareness and improving cost management in the public sector. Increasing competition and financial incentives should produce an improved client focus in government businesses. The reforms should also lead to benefits from improved decision making, allocation of resources, program orientation, policy objectives, accountability and performance measurement. While the reforms are intended to increase public sector and national economic efficiency, due regard must be paid to the social impact of reforms. Particularly at the local level, economic efficiency must be balanced with social imperatives, otherwise unintended outcomes may be produced that are costly to reverse or rectify.

In considering reforms the government routinely takes into account the effect of decisions on a range of factors including:

- ecologically sustainable development;
- social welfare and equity;
- occupational health and safety;
- industrial relations;
- access;
- economic and regional development; and
- the efficiency of resource allocation.

The narrowness of the economic base of the Territory makes consideration of regional impacts and the effect of decisions on private sector business in the ACT essential. There is not the latitude in the ACT that exists in a larger and more diverse economy for decisions that have some adverse impacts.

The effectiveness of the approach being taken in the ACT will be more heavily dependent on the processes by which public interest decisions are reviewed. There is rigorous exposure to public scrutiny of government decisions by the Estimates, Public Accounts and Planning and Environment Committees of the Legislative Assembly. In addition, the ACT Government has established a Competition Policy Forum to monitor implementation of national competition policy reforms, including the identification and delivery of community service obligations. The Forum is a community body drawn from a wide cross section of interests in the community affected by the reforms.

For more information on the Government's CSO policy see section 3.7.3

3.2 REGULATION REVIEW PROGRAM

Subclause 5 (3) of the CPA requires the development of a timetable by June 1996 for the review, and where appropriate, reform of all existing legislation that restricts competition by the year 2000.

- The Government has presented its Regulation Review Program to the Council. The Program's timetable commits the Government to commence the review of all legislation which imposes restrictions on competition by the year 1997 - two years inside the timeframe required in the Agreement.

The status and, where appropriate, the outcomes of reviews scheduled for 1996 are set out at Attachment A. In summary, reviews of all legislation on the 1996 program are either completed or currently in progress. A number of Acts were identified in the Program as possible candidates for national reviews and as such, were not given a review date. We are in the process of reassessing the status of some of these Acts with a view to commencing reviews rather than waiting for a national process to be agreed by other jurisdictions. Reviews of the health professions, for example, are now likely to commence this year. Other Acts on the national review list which are in the process of being reviewed already, or are now scheduled for review include the *Hawkers Act 1936* and the *Milk Authority Act 1971*.

Subclause 5 (5) of the CPA requires proposals for new legislation that restricts competition to be accompanied by evidence that the legislation is consistent with the principles set out at subclause 5 (1).

A set of Regulation Review Guidelines has been developed which integrate the regulatory reform processes that have been adopted by the Government and are described further at 3.3 below with the competition tests. These guidelines are themselves currently under review and are being refined so that they are more user-friendly. In the meantime, with a Government requirement that all new regulatory proposals that go to Cabinet must include a Business Impact Assessment (BIA), the process is already in place for ensuring that Government agencies cannot easily ignore the need to undertake a cost-benefit analysis when proposals that restrict competition or impose burdens upon business are involved.

In addition, we are developing a training and education program that the Competition Policy Unit will use, along with the revised guidelines, to reach all levels of Government from senior management down to line areas.

Notwithstanding the Guidelines referred to above, there has not always been at the agency level a clear understanding of what constitutes “limits on competition”. We are currently in the process of redressing this and have commenced a Government-wide audit of all legislation enacted since April 1995 to ensure that all anti-competitive regulation that has been enacted is identified and reviewed in accordance with the Clause 5 principle.

A separate report on the outcome of the audit has been provided to the National Competition Council. The Regulation Review Program is now in the process of being revised and updated to incorporate the audit results.

3.3 REGULATORY REFORM

3.3.1 Systematic review of all regulation/legislation

The Government has commenced a systematic review of all ACT legislation (including regulation). To get the exercise off the ground an initial review was undertaken of all pre-1980 legislation which resulted in the repeal of 75 Acts. A further 650 Acts have been identified for possible repeal in the future.

This exercise is being conducted alongside the review program that is being undertaken as part of the Government's competition policy commitments. It has been further enhanced by the Government's adoption of the Red Tape Task Force's recommendations. The reviews of existing legislation are being subjected to the rigour of BIAs as well as the competition tests.

3.3.2 Red Tape Task Force Report

In May 1995, the Government established the Red Tape Task Force consisting of representatives from industry and Government. A key election commitment of the Government, the Task Force was asked to report on areas of Government where regulations imposed unnecessary burdens on business.

In October 1995, the Task Force recommended a package of systematic and structural reforms to assist in the removal of unnecessary Government procedural and regulatory imposts on business and improving the design and operation of regulations in the future.

The government endorsed the 35 recommendations in the Task Force's Report in early 1996 and announced a program of action to combat red tape problems. This program included:

- the establishment of a Minister for Regulatory reform with overall responsibility for coordinating the Government's regulatory reform process;
- the establishment of a Business Regulation Review Unit with a central focus on coordinating and furthering best practice in regulatory reform on a whole-of-Government basis;
- the establishment of Regulatory Needs Analysis and Business Impact Assessment processes to ensure that the effect of regulation on business was minimised;
- the development of agency regulatory plans; and

- the development of a culture of service and regulatory reform.

All of the recommendations will be implemented by the end of 1997.

The recommendations of the Red Tape Task Force were timely and foreshadowed many of the initiatives of the Commonwealth Small Business Deregulation Task Force Report, *Time for Business*.

3.4 COMPETITIVE NEUTRALITY

The Government has published a *Competitive Neutrality Statement* as required under subclause 3(8) of the Agreement. As stipulated, the Statement includes an implementation timetable and a complaints mechanism.

Table 1
Results of reviews of Government Trading Enterprises

GTE	Reformed structure	Tax equiv't regimes	Debt guarantee fees	Sep'n of regulatory functions
ACTEW	Corporatised on 1 July 1995.	Yes	Yes	Yes
ACT Forests	Resolution was reached in latter 1996 by the ACT and Commonwealth Governments over the issue of payment for the transfer of the forest asset to the ACT at self-Government. Subsequently the Government has commenced a review of ACT Forests' corporate structure options consistent with the national competition policy agreements. The anticipated completion of the review is end-June 1997.	Yes		
ACTTAB	Corporatised on 1 July 1996.	Yes	Yes	Yes
ACT Housing Program (includes ACT Housing Trust and Home Purchaser Trust Account)	Review of ACT Housing Trust underway (to be completed in 1996/97). Terms of reference explicitly address structural reform and competitive neutrality requirements. Home lending programs have ceased. Consideration is being given to outsourcing management of existing loans.			

GTE	Reformed structure	Tax equiv't regimes	Debt guarantee fees	Sep'n of regulatory functions
Canberra Theatre Trust	Re-established as the Canberra Cultural Authority. See Table 2.		Yes	
Totalcare	Corporatised	Yes	Yes	Yes
ACTION	Structure currently under review. Commitment by Government to phased commercialisation. See Table 2.		Yes	
ACT Milk Authority	Review to be completed by October 1997.			Yes

Note: As the *Competitive Neutrality Statement* indicates, the Canberra Retail Markets Trust and the Canberra Commercial Development Board no longer exist.

The Government will review all of its businesses to ensure that their structure, operational requirements and financial incentives promote efficient practices. The review applies to all government organisational units that produce goods and services that can be sold or tendered in the market place or to other parts of the public sector. For status and results of reviews of Government Trading Enterprises classified in the Government Finance Statistics as Public Trading Enterprises, see Table 1.

In addition, some current core Government functions, for example education and health, may contain business activities that need to become more competitive through removing tied business arrangements. In these cases, the business activities will continue to operate as semi-autonomous business units within the parent agency under a more contestable regime or be converted into separate commercial entities such as a Territory owned corporation or statutory authority.

While the ACT Government will corporatise all business activities of significant size that can be self funding, other business activities will become commercialised or at least be required to price their goods and services with full cost pricing.

The other significant business activities listed in the *Competitive Neutrality Statement* are included in Table 2 under the Commercialisation section.

3.4.1 Corporatisation

Subclause 3 (4) of the CPA requires that [subject to subclause (6)] significant Government business enterprises which are classified as Public Trading Enterprises and Public Financial Enterprises will, where appropriate, adopt a corporatisation model and impose upon the enterprise the same disciplines, incentives and sanctions which effectively apply to private sector enterprises.

In keeping with the above, the ACT corporatisation model requires corporatised Government businesses to be subject to the following:

- *Target rates of return* - in order to maximise the value of the Government's investment in the assets being managed Territory Owned Corporations are expected to achieve rates of return at least equivalent to rates earned by private sector counterparts or interstate Government businesses.
- *Dividend payments* - Territory Owned Corporations are expected to pay dividends on a similar basis to private companies. Dividends are generally determined by using a benchmark of 50% of after tax profit or 70% before tax profit. Dividends may be varied having regard to the level of realised profits and retained earnings, the need for working capital as well as an adequate return on equity.
- *Full payment of Territory taxes and Commonwealth income and sales tax equivalents* - Territory Owned Corporations are required to face similar taxation arrangements as those which apply to their private sector counterparts. During 1996-97 a detailed set of principles and practices were released concerning the application of Commonwealth income and sales tax equivalents.
- *Payment of loan guarantee fees* - where there is an implicit or explicit Government guarantee on borrowings a fee will be levied to remove any advantage to Territory Owned Corporations.
- *Independent performance monitoring* - Territory Owned Corporations are monitored closely in terms of their performance against targets detailed in their Statement of Corporate Intent.
- *The same regulations as private enterprises and separation of regulatory and provider functions* - Territory Owned Corporations are required to satisfy the same regulatory requirements applying to other businesses. Wherever practicable it is intended to remove regulations which unjustifiably restrict competition unless against the public interest. In order to avoid conflicting objectives responsibility for setting regulatory standards are relocated elsewhere within Government.

- *Identification and explicit funding of community service obligations* - this will allow the Territory Owned Corporations commercial performance to be assessed accurately and can provide more informed decision making for funding of policy objectives that are essentially of a non-commercial nature.

The ACT has established three corporations in accordance with the provisions of the *Territory Owned Corporations Act 1990*. These are ACTEW, ACTTAB and Totalcare.

However the scale of many ACT Government Business entities means there is limited scope for extending the TOC Act to other entities. Factors considered essential for corporatisation to proceed include:

- a clear commercial charter in relation to an enterprise's service provision and business operations;
- the ability to earn net income to the extent that there is no substantial reliance on budget funding;
- potential exposure to open market competition; and
- the benefits of corporatisation must outweigh the costs of the process.

The ACT has undertaken to progressively review all Government business entities to determine the extent that the principles of competitive neutrality should be applied regardless of whether or not it is ultimately decided to corporatise each entity. Each review will explore the scope for increasing competition and contestability as well as the extent to which monopoly positions may be avoided.

As part of this process the government has created several statutory corporations that are now subject to tax equivalent regimes, debt guarantee fees and equivalent regulations imposed on the private sector. These include the Gungahlin Development Authority, the Tourism Corporation and the Australian International Hotel School.

The Government has also adopted a financial policy framework that requires all Government entities to enter into a commitment to act in a commercially responsible manner.

Government is now responsible for contracting on behalf of the community for certain services to be delivered and is responsible for ensuring that those

contracts are complied with. This forces Government and management to properly define and measure what is wanted in terms of results and outcomes for clients and taxpayers generally.

The entire ACT Public Service will as a result be subject to a level of accountability that has less emphasis in terms of compliance with processes and more in terms of achieving outcomes and results. Clearer roles and responsibilities combined with improved measures of performance will lead to better client focus and better allocation of resources. These changes will provide greater scope for contracting out services and greater freedom and flexibility in how those goods and services are delivered.

All Government agencies are to incorporate market testing and contracting reviews as part of their formal business planning. In house providers will be given every opportunity to compete on equal terms and will be able to be organised in separate business units to compete for contracts.

3.4.2 Commercialisation

Subclause 3 (5) of the CPA provides for significant business activities as part of a broader range of functions. Where appropriate, the principles outlined in subclause 3 (4) are to be adopted or, if corporatisation is not an appropriate model, then the activities should have full cost attribution applied to them (where appropriate).

In the ACT, businesses that are reliant on Government funding to meet their operating and investment requirements will not be corporatised. It is intended, however, that they be subjected to greater exposure to commercial practices and market pressures. Commercialised entities may operate as statutory authorities with their own enabling legislation or as semi-autonomous business units within a parent agency. Some services have been exposed to competitive tendering whereby all tenderers may bid for access to associated Government owned assets.

While they may not be fully subject to market forces, commercialised activities are (where appropriate) subject to the same costing and pricing principles, taxation and debt guarantee fees and regulatory regimes as fully corporatised businesses in the public or private sector. A major driver behind the ACT's reforms in this area has been its financial management reforms (discussed in section 3.7 of this report).

A set of guidelines has been produced on competitive tendering and contracting for use by the ACT Public Service. Further details are provided in section 3.7.4 and the guidelines are included in the package of materials accompanying this report.

The essential policy, as outlined in the ACT's *Competitive Neutrality Statement*, is to ensure that Government businesses are efficient, determined by their ability to effectively compete with their private sector counterparts. Clearly, there are some activities which are so small that there would be a significant cost to Government in commercialising with a limited impact on the local market. Reforms undertaken to date within Government agencies are set out in detail at Table 2.

Table 2
Results of reforms undertaken in government departments/agencies

DEPARTMENT/ AGENCY	REFORMS UNDERTAKEN
Department of Urban Services	
Works & Commercial Services	<ul style="list-style-type: none"> - from 1 January 1997, 8 business units (682 staff) transferred to Totalcare; - Engineering Services, Survey, ACT Landscape, Architectural Services, Housing and Property Maintenance, Accommodation Services, ACT Fleet, and ACT Maintenance Services; - units being restructured over 18 month period to align them with private sector; - to become viable and to operate on a competitively neutral basis within the 18 months, business units will reflect all costs in their charge out rates (including payroll tax and tax equivalents).
ACTION	<ul style="list-style-type: none"> - structure currently under review; - commitment by Government to commercialisation - a range of commercialisation models are being examined and purchaser/provider roles more clearly defined; - developing framework to establish the separation of regulation and service provision;
Strategy and Business units;	<ul style="list-style-type: none"> - corporate services costs are being costed against business - financial responsibility for injury prevention and rehabilitation has been devolved to business units; - whole of government courier services market tested in Oct 96 for competitive tendering; - review currently underway to identify purchaser/provider arrangements; - competitive tenders sought for ACT Government travel contract.

Planning and Land Management	<ul style="list-style-type: none"> - valuations, sales and auctioneering are being outsourced; - an issues paper on the applicability of greater private sector involvement in building, electrical and plumbing control has been released for public comment.
City Services	<ul style="list-style-type: none"> - it is not intended to corporatise any businesses, however some components will be outsourced or contracted out; - businesses are moving towards commercialisation with improving cost attribution, accrual accounting and output based financial statements; - approximately 70% of all services provided are outsourced. 100% of stormwater and over 80% of road works are contracted out; - reviews of business units have provided options for further implementation of reforms in the management and operation; - businesses are also being reviewed to clarify their core functions with particular emphasis on identifying provider businesses components to be market tested.
Canberra Urban Parks	<ul style="list-style-type: none"> - currently developing tender documents for a pilot contract proposed to be market tested in 1998 for the delivery of horticulture and cleaning services.
CityScape Services	<ul style="list-style-type: none"> - significantly restructured to reflect the need to be competitive and is currently competing in the marketplace; - developing toward full commercialisation under competitive neutrality principles.
ACT Waste	<ul style="list-style-type: none"> - all services - kerbside waste collection, recycling services, organic waste processes, landfill gas recovery, landfill salvage and associated capital works - are provided by external contractors; - ACT Waste has implemented competition principles and reforms to all its significant activities. - the attribution of full cost of waste services will be applied to all Government businesses in 1997-98.
Cemeteries	<ul style="list-style-type: none"> - expressions of interest have been called for the operation of one of Canberra's two major cemeteries - a review is underway with a recommendations expected for the Government to make a decision in the first half of 1998.
Information Technology	<ul style="list-style-type: none"> - business unit - INTACT has been established which provides Services for a 2 year transition to full commercial basis - subject to separate regulatory arrangements.
Printing and Publishing	<ul style="list-style-type: none"> - all printing is outsourced - some in-house publishing occurs - the opportunities for further outsourcing is being reviewed
Road Maintenance	<ul style="list-style-type: none"> - ACT Infrastructure has been contracting road maintenance for several years from Works and Commercial Services (this arrangement ceases on 1 July 1998); - tender will be sought for the installation & maintenance of traffic control devices by June 1997

Research & Development	<ul style="list-style-type: none"> - the ACT is involved in the Cooperative Research Centre for Freshwater Ecology which conducts research unlikely to be undertaken on a purely commercial basis - the ACT also outsources research into gas related issues
Yarralumla Nursery	<ul style="list-style-type: none"> - review commenced.
Gungahlin Development Authority	<ul style="list-style-type: none"> - newly established Authority - subject to competitive neutrality in keeping with corporatisation model.
Exhibition Park in Canberra	<ul style="list-style-type: none"> - review in progress; - new Board was appointed as a result of a review undertaken in 1996; - a more commercial stance is to be adopted by EPIC and community service obligations have been identified for funding in the 1997-98 budget; - a Business Plan is currently being developed.
Department of Business, the Arts, Sport and Tourism	
Canberra Cultural Authority	<ul style="list-style-type: none"> - is a statutory corporation to be established in 1997; - application of competitive neutrality to activities is currently under consideration.
Canberra Tourism	<ul style="list-style-type: none"> - from 1 July will become a statutory corporation - outsource a series of tasks such as research, printing and publishing - regulatory functions will remain with BASAT - in the move to become a statutory authority, Canberra Tourism was required to submit a business impact assessment in line with the principle of enhancing competitive neutrality
Albert Hall	<ul style="list-style-type: none"> - has been contracted out through competitive tendering process
Civic Merry-Go-Round	<ul style="list-style-type: none"> - has been contracted out through competitive tendering process
Civic Olympic Pool and Tuggeranong Pool	<ul style="list-style-type: none"> - has been contracted out through competitive tendering process; - subsidy has been identified in the Budget as a CSO.
Manuka Pool and Dickson Pool	<ul style="list-style-type: none"> - these facilities have been contract managed for many years; - subsidy has been identified in the Budget as a CSO.
Sportsground management	<ul style="list-style-type: none"> - contracted out to primary user, ACT Cricket Association - subsidy has been identified in the Budget as a CSO
Sportsground maintenance	<ul style="list-style-type: none"> - in conjunction with City Services, maintenance of an area of maintenance Canberra will be tendered out for contract management, including in-house providers (who will be subject to CTC guidelines).

WorkCover Authority	- a policy review is currently being undertaken which will determine whether changes are needed to the current structure of this organisation.
Land development	- residential land development is implemented utilising joint ventures with the private sector; - joint venture partners selected through a publicly advertised competitive process; - joint Territory and private sector ownership as a private company - subject to the same requirements as any private sector company; - required to follow same process and procedures applicable to private developers and same regulatory arrangements (which are separated out from joint venture administration).
Organisational development	- Departmental restructuring has resulted in contracting out of a range of activities; - closure of the Business Services Centre and outsourcing of the functions to the Chamber of Commerce and it's arm, Business Links; - Kingston Foreshore Development Authority is also being established which will see this activity at arms length from Government.
Department of Education & Training	
Education	- competitive tendering contracts have been developed for schools to contract out cleaning, furniture, equipment, pest control, telephones, computer software and hardware and ground and building
Children's Youth and Family Services Bureau	- 30% of services are competitively tendered with the nature of services provided and market served limiting the scope for commercialisation - 70% of substitute care is contracted to non-Government agencies - 100% of the assessment of prospective families for overseas adoptions is outsourced - all new contracts will be based on competitive tender
Canberra Institute of Technology	- the Canberra Institute of Technology is currently revising its financial policies and procedures with the object of moving to full cost attribution. - CIT Solutions, the Canberra Institute of Technology's commercial company is scheduled to operate under a tax equivalence regime from 1 July 1997

	<ul style="list-style-type: none"> - services currently tendered are: building repairs and maintenance, auditing, data base administration, data processing, cleaning, archives management, staff counselling, grounds maintenance, building security, waste disposal and some payroll processing
Australian International Hotel School	<ul style="list-style-type: none"> - the <i>Hotel School Act 1996</i> established the AIHS as a statutory corporation. - reformed structure operating from 1 January 1997. TERS, debt guarantee fees and separation of regulatory functions applies.
Vocational education and training	<ul style="list-style-type: none"> - the ACT training market will progressively be opened up to greater competition through the implementation of purchaser/provider arrangements from 1997; - the CIT will now focus on providing VET services and will increasingly operate on a commercial basis; - the Department will purchase VET services from the CIT; - a target range of 15-20% of Government training funds will be open to competition from January 1999; - from January 1998 all new apprentices and trainees will be subject to user choice arrangements; - work on unit costs and benchmarking in the VET sector is continuing.
Attorney-General's Department	
Public Trustee Office	<ul style="list-style-type: none"> - review of the commercial structure of the Office in 1996 concluded that the current structure is appropriate
Office of Parliamentary	<ul style="list-style-type: none"> - review of the commercial structure of the Office in 1995 Counsel concluded that the current structure is appropriate
Government Solicitor's Office	<ul style="list-style-type: none"> - review of the commercial structure of the Office in 1996 concluded that the current structure is appropriate given the small size of the office and the relationship of the office to core functions of Government. - consideration is being given to opening up some areas of practice to competition with the private sector.
Emergency Services Bureau	<ul style="list-style-type: none"> - in 1996 moved to a competitively neutral policy basis in relation to services where market competition has been identified eg training - in 1996 the Bureau outsourced the monitoring of all fire alarms in the ACT - while the Bureau does not constitute a significant business activity, consideration has been given to the appropriate business structure. In this regard, the Bureau is closely monitoring significant interstate developments in this area.

Correctional Services Bureau	<ul style="list-style-type: none"> - in 1996 the Attorney-General released a detailed paper prepared which canvassed a range of correction options (including the establishment of a private correctional facility). - the Government will consider options that arise as a result of community consultation.
Department of Health and Community Care	
Health - Analytical Laboratory	<ul style="list-style-type: none"> - about to be reviewed for the application of commercialisation principles
ACT Health and Community Services	<ul style="list-style-type: none"> - Canberra Hospital food, cleaning, linen and sterilisation services have been contracted out - the maintenance of community care buildings and information technology support services has also been contracted out - contestability and significant benchmarking studies have been conducted on in-patient and ambulatory care services, as well as in non-clinical areas such as payroll and corporate support services.
Chief Minister's Department	
ACT Borrowing and Investment Trust	<ul style="list-style-type: none"> - structure review including options for outsourcing or creation of separate authority, completed - New structure established 1 July 1996 as the Central Financing Unit which is an independent Department for reporting purposes. - Funds management of superannuation provision account investments contracted out and expressions of interest sought for contracting out of other investment functions.

3.4.3 Complaints mechanism

Until a permanent complaints handling body is established, the Office of Financial Management (OFM) within the Chief Minister's Department is investigating all complaints from parties alleging direct and material disadvantage as a result of unfair competition from government businesses.

Interim arrangements

The OFM has conducted two investigations relating to competitive neutrality since 11 April 1995:

The first investigation related to the Vocational Education and Training Council allowing the Community Public Sector Union the sole right to

conduct occupational health and safety training in unionised workplaces. Unionised workplaces employ the majority of workers in the ACT and include inter alia most (if not all) government offices, printers and transport operators. The Community Public Sector Union charges for training.

The Vocational Education and Training Council sought legal advice from the Attorney-General's Department as to whether the situation contravened National Competition Policy.

As a result, the Vocational Education and Training Council has amended its procedures and guidelines to allow other training providers to conduct occupational health and training.

The second complaint was that fire safety training provided by the ACT Fire Brigade is very cheap and anti competitive. The ACT Fire Brigade has responded that the price of their training costs is on a cost recovery basis. There are still some issues to be resolved in respect of this complaint. It is still under investigation.

The setting-up of an ACT complaints mechanism is still in the developmental stage. Because the ACT is a relatively small jurisdiction we believe there is some advantage in observing at first-hand the mechanisms put into place elsewhere before finalising the nature and scope of our own. In the meantime, OFM is handling complaints in a way that is consistent with the Council's precepts, namely:

- initial inquiries are handled quickly and where possible resolved through liaising with the parties;
- OFM is an independent arbiter from the enterprises which may be susceptible to complaints;
- formal advice is provided in writing to all parties as to the outcome of complaints including reasons supporting decisions; and
- actions to rectify problems where they exist are handled promptly.

3.5 PRICES OVERSIGHT

Clause 2 of the *Competition Principles Agreement* sets out principles for the establishment of independent prices oversight mechanisms.

In September 1996, the ACT Government established the ACT Energy and Water Charges Commission as an independent prices advisory body. The Commission is established under the *Energy and Water (Regulation of Charges) Regulations 1996* for the purpose of investigating the electricity, water and sewerage charges to be determined by ACTEW Corporation.

In relation to the conduct of investigations, the Commission may enter into arrangements with other agencies/consultants in relation to the performance of its function. To facilitate the pricing regulation framework, the NSW Independent Pricing and Regulatory Tribunal (IPART) has been contracted to provide its services to the Commission.

Following conclusion of the investigation, the Commission has made a decision on the appropriate pricing level to apply. Under subsection 48(1AA) of the *Energy and Water Act 1988*, ACTEW's charges must be in accordance with this direction.

The Commissioner's recommendations apply to 1997-98. A further review will be undertaken during 1997/98 to establish a medium-term price path.

With the major monopoly provider in the ACT, that is ACTEW, being subjected to the mechanism outlined above, it is not expected that there will be a significant number of other candidates for prices oversight. Nevertheless, the Territory recognises that there may be instances where a truly independent adviser and arbiter on prices may be required and consequently, legislation is currently being prepared to provide for the establishment of a Commissioner for Prices Oversight. It is not envisaged that this would be a permanent office, rather the Commissioner would be requested to provide advice with the use of consultants if he/she deemed it necessary as needed.

The legislation may also provide for the Government to seek prices oversight advice from (in addition to the Commissioner) other expert bodies. Examples of bodies that might be used under these auspices are the Australian Competition and Consumer Commission, IPART and the ACT Energy and Water Charges Commission.

3.6 ACCESS TO ESSENTIAL FACILITIES

Subclause 6(1) of the *Competition Principles Agreement* requires the Commonwealth to legislate the establishment of a regime for third party

access to services provided by means of significant infrastructure facilities. It further sets out the conditions under which such a regime would apply. The relevant legislation is contained in Part IIIA of the *Trade Practices Act*.

The Commonwealth legislation does not apply in States or Territories where a facility is situated and an access regime is in place which accords with the principles set out in Clause 6 of the Agreement.

There are two major factors which act as determinants to the ACT's approach to access to essential facilities. The first, is the ACT's physical location as an island Territory within NSW. As such, the development of access regimes in respect of electricity and gas (which are the significant monopolies currently that are subject to these requirements) are very much contingent upon, in the first instance, the policies on access regimes being developed in NSW; and in the second instance, the development of national codes.

The second factor relates to the extent to which the Commonwealth is the owner of major infrastructure facilities in the ACT. These include, for example, the Canberra Airport (which is currently being targeted for upgrade to international status) and the rail loop which is leased to the NSW Government on a 25 year lease, commencing in 1985.

This Report will consequently outline developments in respect of gas and electricity.

Gas

In relation to gas, the *Gas Act 1992* provides in section 38 (1)(m) that the conditions of authorisations can be amended to require the authorised gas distributor to provide access to specified parties. These conditions are yet to be invoked. A proposal, however, to use the provision is being examined due to continuing delays in the coordination of the national access regime for gas.

The ACT is participating in the national negotiations, however, there are still unresolved aspects regarding common access legislation, the national third party access code, and the intergovernmental agreement which will further delay the process.

The establishment of an access arrangement on an interim basis would enable competitors to become retailers with access to AGL's distribution

pipelines within the ACT. The ACT Government is currently examining the feasibility of making an access undertaking along these lines to the Australian Competition and Consumer Commission (until such time as a national code is declared).

Access to East Australia Pipeline Limited's (EAPL) transmission assets within the ACT is already provided for under the *Moomba-Sydney Pipeline System Sale Act 1994* and *Moomba -Sydney Pipeline System Sale Regulations*.

*Electricity- connection to the network*¹

There is a right of connection to the local distribution system for all customers with provision for standard and negotiated customer connection contracts.

Distributors may make requirements on applicants for connection of existing customers in relation to:

- contributions to augmentation of the distribution system and service lines; installation of service lines; installation of service equipment; provision of transformers; switchgear and the like; installation of meters; requirements for the installation and use of electrical apparatus on the customer's properties (equivalent to the provisions set out in the NSW legislation); and
- to the extent that these services are contestable (see below), ACTEW's² charging may be on a commercial basis.

For the purpose of complying with any requirement imposed in relation to connection or under a customer connection contract, a customer may elect to have the required electrical services or goods supplied by the distributor or from any other person who must be accredited in accordance with the regulations. In NSW, the local distributor provides such accreditation.

¹ Legislation to give effect to the framework set out in this section and the following section is currently under preparation.

² ACTEW is the ACT's Government-owned electricity and water corporation. Further details of its operations are included in the sections on competitive neutrality and the related COAG reforms.

Electricity - Wholesale access and dispute matters

As wholesale market participants would be required to follow NSW arrangements, access matters related to wholesale trading, for example, metering rules, will be handled through NSW arrangements.

In relation to disputes:

- Division 8A of the NSW Electricity Code sets out procedures for dispute resolution. In the case of access disputes between wholesale market participants, the matter in dispute must be referred to IPART; and
- any party to an access dispute may refer the dispute to arbitration. The *NSW Commercial Arbitration Act 1984* is relevant.

3.7 FINANCIAL MANAGEMENT REFORMS

Consistent with the principles of competitive neutrality and in order to promote greater accountability and efficiency in the allocation of resources, the ACT Government has introduced a range of financial management reforms which are being applied on a whole of government basis. These reforms include accrual accounting, separating the purchaser and provider roles within Government agencies, improved reporting and monitoring of performance and full costing of services to enable more accurate comparisons with external suppliers.

3.7.1 The financial management reform model

The ACT Government has introduced some of the most advanced financial reforms in Australia and is well ahead of other jurisdictions in applying these reforms across the board. In recognition of these reforms, the ACT Government won the Australian Society of Certified Practising Accountants 1996 award for outstanding achievement in Public Sector accounting in the ACT. The ACT's financial reforms include:

- moving the Territory budget to both an accrual and an outputs basis;
- a distributed cash management system with an incentives regime designed to promote improved cash management;
- implementing in each agency a new financial management ledger system, using Oracle Government Financials;
- full accrual reporting for all departments which commenced for the reporting year 1995-96;

- development of purchase and ownership agreements which detail agreed performance targets at both a service delivery level and a strategic interest level;
- coordination and management of a comprehensive program of targeted training and development courses and seminars; and
- whole of Government financial statement reporting on a full accrual basis commencing for the reporting year 1995-96.

The reform model has been designed as a complete package to provide Chief Executives with an environment in which they are encouraged to establish their own operating frameworks to obtain optimum performance from available resources in line with government objectives.

3.7.2 Full cost attribution

As part of the reforms, all government agencies have adopted, or are in the process of putting into place, full cost attribution to encourage rational use of resources and disclosure of the real costs to the community of providing services. It is intended that in applying full cost attribution, those elements set out in subclause 3(4)(b) of the *Competition Principles Agreement* will be introduced where appropriate.

This will also enable government agencies to accurately cost their operations and apply appropriate accounting mechanisms and reporting arrangements.

It is intended also that applying full cost attribution will encourage Government agencies to be more competitive or risk losing their business to more efficient suppliers.

3.7.3 Community service obligations

The ACT Government has adopted the definition of community service obligations (CSOs) proposed by the Steering Committee on National Performance Monitoring of GTEs which is:

A Community Service Obligation arises when a government specifically requires a public enterprise to carry out activities relating to outputs or inputs, with identified public benefit objectives, which it would not elect to do on a commercial basis, and which the government does not require other business in the public or private sector to undertake, or which it would only do commercially at higher prices.

Two conceptual tests are applied to determine whether the activity is commercial or non-commercial:

- i) what would the enterprise do if it were not required to follow a particular Government directive, but was free to act commercially, and
- ii) what would a private sector firm, unconstrained by non-commercial considerations do in the circumstances.

A set of guidelines has been developed to assist agencies in identifying and costing CSOs. The costing approach is set out at Figure 1. The implementation process and strategy is set out at Figure 2.

The ACT Government’s policy in relation to CSOs has been clearly stated in the *Competitive Neutrality Statement*. The principle is that CSOs will be specifically funded from budget to eliminate hidden subsidies, allow government to decide which services can be efficiently and effectively provided, and encourage businesses to focus on achieving agreed performance targets and respond more effectively to market signals and incentives. ACT Government guidelines have been produced to assist agencies and Government enterprises in the correct procedures for dealing with CSOs.

Figure 1

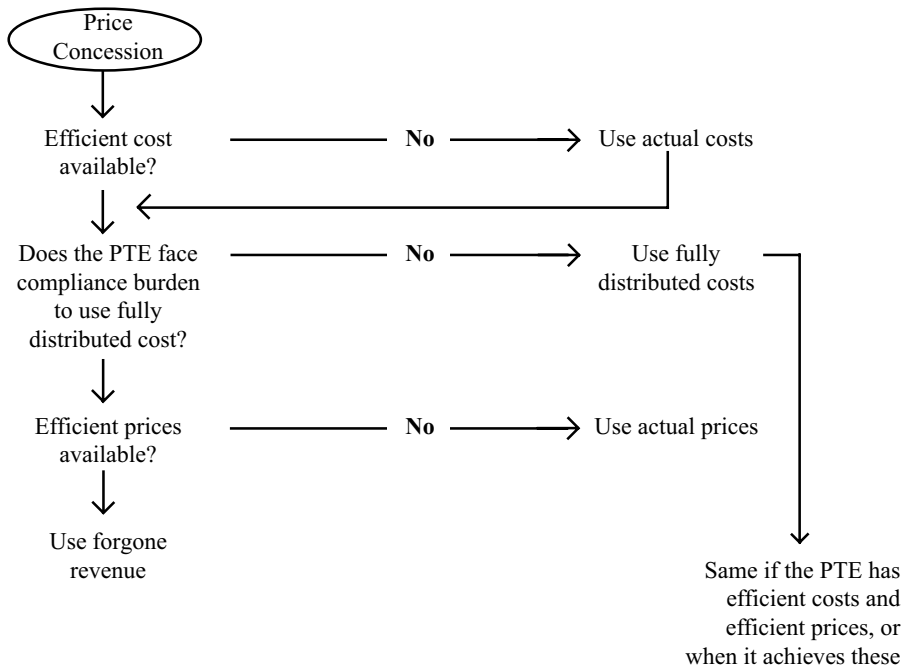
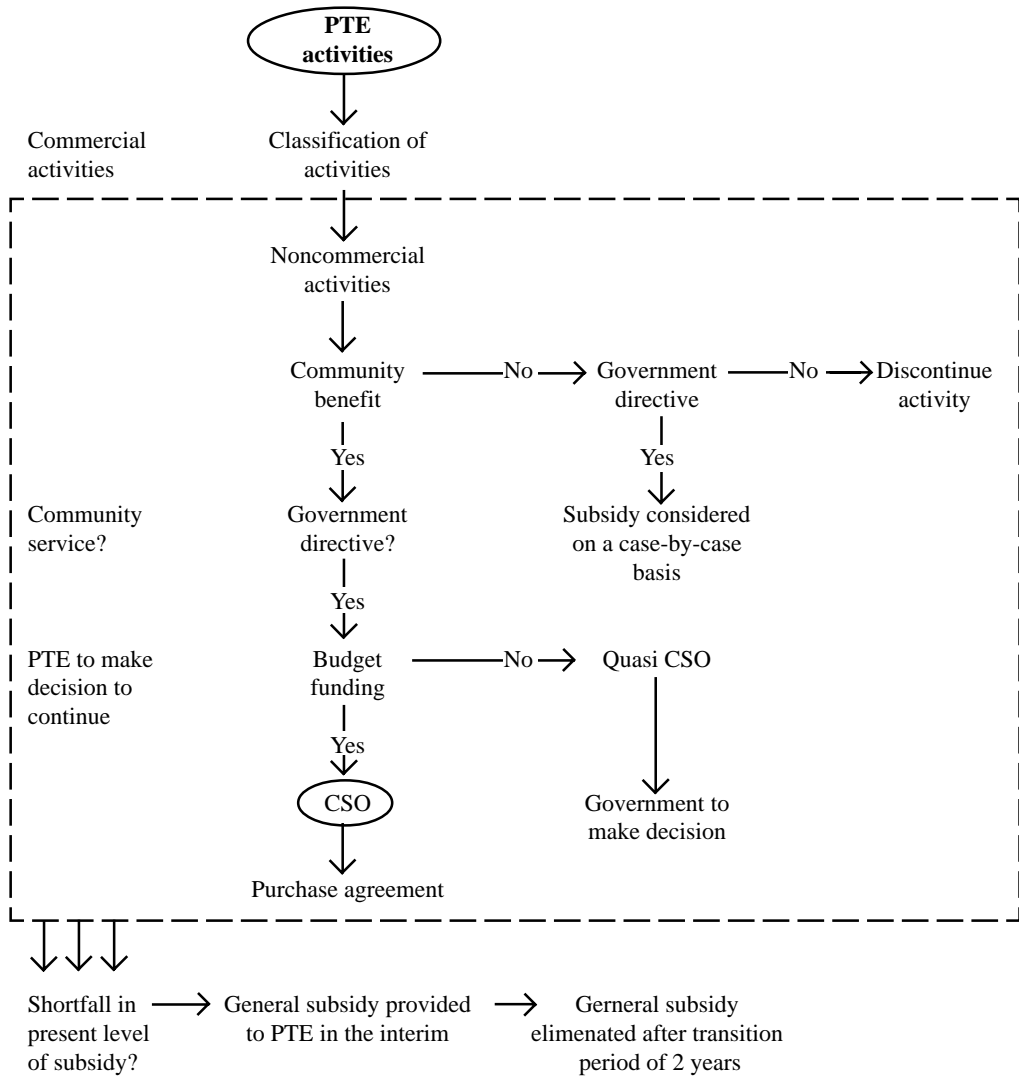


Figure 2



3.7.4 Purchaser/provider arrangements

The Government's policy is that, as a general rule, all current and proposed services would be evaluated as to their scope for competitive tendering and contracting (CTC). Agencies are required to undertake a scoping program to identify and rank in order those services suitable for CTC against a number of indicative principles that are set out in the Government's guidelines. It is recognised that on the basis of costs, benefits and risk assessment, some services are unlikely to be subject to CTC.

Once a decision has been taken to test in-house services against the external market, a clear division is made between those areas responsible for overseeing the delivery of the service (the Purchaser) and those operational areas which previously supplied or produced the service (the Provider).

Internal bids by an in-house provider must be lodged in accordance with the specifications of the purchaser. They must be fully costed. The CTC guidelines require that internal bids must cover labour, materials, vehicles and plant, equipment, communication, property costs, overhead costs, "profit" margin and taxation liability.

The ACT health system provides an example of CTC in practice. Progress to date includes:

- separation of accountability between purchaser (Dept of Health and Community) and owner (Health Minister) and associated reporting streams;
- separation of the policy and purchasing functions from the service provision functions through the creation of a statutory authority to provide hospital and community care services; and
- the implementation of purchase contract with all public, private and not for profit private service providers, based on price, volume and quality specifications. This includes market testing of services and the contracting of services to the nongovernment sector where appropriate. Some recent examples include the contracting out of some ophthalmology services and the issue of a tender for service provision to technology dependent children.

4. THE RELATED REFORMS

The ACT Government is a signatory to the Special Premiers' Conference agreements and the subsequent COAG agreements on electricity, gas, water, road transport and national standards setting. The following summarises the ACT's progress on these reforms to date.

4.1 ELECTRICITY

As part of the move to ensure all government businesses operate so that their structure, operational requirements and financial incentives promote efficient practices, and consistent with the *Competition Principles Agreement*, in September 1996 the *Energy and Water (Regulation of Charges) Regulations 1996* were made. These regulations focus on the business operations of the ACT Government's biggest business operation - ACTEW Corporation Limited.

Pursuant to the regulations, an ACT Energy and Water Charges Commission was established and a commissioner appointed. Immediately following the Commission being established, the Commission began an inquiry into ACTEW Corporation Limited's charges for electricity, water and sewerage services. One of the issues considered by the Commission was the adequacy of ring fencing arrangements.

The inquiry focussed on several issues included in the *Competition Principles Agreement* such as:

- full cost recovery for services;
- the return of an appropriate dividend to its owners;
- the efficient allocation of resources, including capital; and
- identifying and eliminating cross subsidies between customer groups and business activities.

The Commission's final report is due at the end of March.

In addition, the ACT has worked with other participating jurisdictions through the National Grid Management Council process towards implementation of relevant COAG Agreements on electricity arrangements.

The ACT signed the National Electricity Market Legislation Agreement on 9

May 1996 together with documents necessary to establish the National Electricity Market Management Company (NEMMCO) and the National Electricity Code Administrator (NECA). The ACT worked effectively to facilitate the establishment and operation of these companies.

In accordance with the Legislation Agreement, development of legislation to apply the National Electricity Law to the ACT is underway and is expected to be introduced this year.

The ACT has also signed a Heads of Agreement (with NSW and Victoria) for the staged introduction of the National Electricity Market under which the Governments of NSW, Victoria and the ACT have agreed to an inter-state wholesale electricity market as an interim step towards a fully established National Electricity Market.

In addition, the ACT has announced its timetable for the introduction of competition in the retail supply of electricity, a matter critical for the move towards a fully competitive National Electricity Market. The period for comments on the proposed timetable close on 7 February 1997 and a final proposal will be presented to Government in March 1997.

Table 3
Timetable for introducing retail competition in the ACT

Customer's annual load level	Date of introduction	Example of customer	Share of market contestable (%)
>20 Gwh pa	5 October 1997	university	7
>4 Gwh pa	1 March 1998	multi storey office	18
>750 Mwh pa	3 May 1998	supermarket	32
>160 Mwh pa	1 July 1998	bakery	41
all customers*	1 July 1999	households	100

* - subject to technical constraints and consultations with other jurisdictions.

4.2 GAS

Governments have now agreed the thirteen gas reform principles developed by the Gas Reform Task Force, which were to have been endorsed at the 15 November 1996 meeting of COAG. The Gas Reform Implementation Group (GRIG) has since December 1996, progressed the instruments for

reform, including the draft *National Third Party Access Code for Natural Gas Pipeline Systems*, the draft *National Gas Pipeline Access Agreement* and the draft *National Gas Pipelines Access Law*.

GRIG has developed a timetable for public consultation by GRIG and the NCC on the package of measures and for the passage of application law by the lead legislature and by jurisdictions, to the point of NCC accreditation of access regimes.

The timetable illustrates that the 1 July 1997 date for the passage of legislation proposed by the Prime Minister in his letter dated 10 December 1996, is clearly untenable. The timetable illustrates that with best endeavours (and assuming no State or Territory elections are called), accreditation of access regimes would occur in the period up to February 1998, allowing coordinated implementation dates of 1 July 1998.

4.2.1 Regulatory barriers

The *Gas Levy Act 1991* imposes an authorisation levy on the current authorised distributor (AGL Gas Company (ACT) Limited) or any other authorised distributor carrying on the business of supplying or distributing gas in the ACT. This levy is under review, in keeping with competition policy principles regarding government levies on competitive businesses.

The appropriateness of the term “authorised gas distributor” with respect to ring fenced supply and network businesses is also under review. AGL’s parent organisation has already restructured itself to comply with NSW *Gas Supply Act 1996*. AGL now has separate retail energy and energy network businesses.

Consistent with the NSW *Gas Supply Act 1996*, the appropriate treatment of the authorisation levy is to withdraw the levy in favour of a fee to recover the actual costs of the regulation of a competitive gas market.

While the current ACT *Gas Act 1992* contains a provision for the Minister to gazette a condition requiring AGL to provide access, this has not been invoked due to the need to align with the more detailed requirements for a state-based access regime and the decision to use an “application of laws” approach for the national access regime.

The NCC’s assessment of the NSW Government’s access regime and the ensuing Draft Determination of AGL’s Access Undertaking As Amended,

have highlighted the need for GRIG to ensure that the National Access Code is in codified language and provides for Regulator discretion in the assessment of other matters such as adequate ring fencing arrangements.

The ACT is developing its final approach to matters of independent regulation of distribution pipelines, fees and charges, consequential changes to existing legislation and the timetable for commencement of access.

At this stage, the ACT's proposal is to confer independent access and economic regulation on the ACCC. This would allow for seamless regulation with transmission pipelines in the ACT and, acknowledging the ACCC Energy Division's proposed operating arrangements, allow consistency with NSW on cross border issues affecting ACT and Queanbeyan gas consumers.

4.2.2 Australian Standard AS2885

There are no proposals to construct transmission pipelines in the ACT. Standards for pipeline construction and maintenance are already covered under the *Dangerous Goods Act 1984* which adopts *NSW Dangerous Goods Regulations 1975*.³

The Gas Manual, prepared in accordance with the *Gas Act 1992* specifies the standards for gas reticulation systems (Clause 2.1) in which AS 2885 is named as the applicable standard for pipelines.

4.2.3 Price control formula and maintenance

The Authorisation document (Gazette S243, 21.12.92) for AGL to operate in the ACT contains a Price Control Formula of the CPI-X type as a condition of authorisation. This is a common price control formula for natural monopolies.

The adoption of the national access Code for natural gas pipelines will include the pricing principles contained in the Code. These principles are based on restraining monopoly pricing behaviour.

Maintenance of the Moomba-Sydney spur pipeline within the ACT is carried out by EAPL in accordance with Australian Standards. Maintenance of the

³ Note, this legislation is currently under review as part of the ACT's Legislation Review Program. Details are provided under the heading ATTORNEY-GENERAL'S DEPARTMENT.

distribution assets is carried out by AGL Gas Networks Limited to the Codes and Standards specified in the Gas Manual.

4.2.4 Publicly owned transmission assets

The formerly TPA-owned Moomba-Sydney Pipeline System was sold to EAPL in mid-1994. EAPL owns and operates six kilometres of the Moomba-Sydney Pipeline System within the ACT.

The remaining distribution assets are wholly owned by AGL. There are no publicly owned gas pipeline assets in the ACT.

4.2.5 Ring fencing

In response to the *NSW Gas Supply Act 1996*, AGL has separated its retailing and reticulation businesses into AGL Retail Energy Limited, AGL Gas Networks and AGL (Contract Sales) Limited for operation within NSW and the ACT.

AGL has retained the AGL Gas Company (ACT) Limited business entity to comply with the ACT authorisation's separate accounting requirements.

4.3 WATER

The following progress report on implementing the COAG water reforms in the ACT is reported on under the categories developed by ARMCANZ in its *Generic National Milestones for Actions to Implement the COAG Strategic Framework for Water Reform, 1994*.

4.3.1 Cost recovery and pricing

Adoption of General Principles

In September 1996 the ACT Government established the ACT Energy and Water Charges Commissioner to provide independent advice on prices for energy, water and sewerage services. The Commissioner is currently undertaking an investigation into the charges for these services provided by the Government owned supplier, ACTEW Corporation.

In the terms of reference for the inquiry, the Government set out the following guiding principles:

- full cost recovery for services;
- commercial profitability should bear some relation to risks involved;

- an appropriate return to Government on the investment in the Corporation;
- elimination of cross subsidies between classes of consumers and between the Corporation's different businesses;
- sharing efficiency gains with customers through lower charges; and
- efficient allocation of resources, including capital, within ACTEW Corporation.

The recommendations of the Commissioner are expected to assist in establishing more clearly ACT arrangements for cost recovery, consumption based charging, and the removal of cross subsidies.

The Government has established a policy that once Community Service Obligations (CSOs) have been clearly identified and agreed by Government, they should be directly funded by the Government. CSOs provided by ACTEW have been specifically identified and costed.

Water Pricing and Cost Recovery

The ACT has in place a two part tariff for water supply, one representing a cost of access and one a cost of usage.

Amongst other things, the current inquiry into ACT prices for energy, water and sewerage services has considered:

- the appropriate balance between the two price components;
- whether and in what circumstances a usage component can be applied efficiently to sewerage services;
- the removal of internal cross subsidies and the ring fencing of ACTEW's different businesses; and
- what is the appropriate real rate of return on assets along with the necessary charges to achieve it.

Water Pricing and Cost Recovery - Metropolitan Bulk Supplies

Charging for bulk water supplies is not appropriate in the ACT. However, ACTEW provides bulk water supplies to the NSW town of Queanbeyan with charges on a volumetric basis. The Commissioner is not empowered to determine prices for bulk water supply to Queanbeyan, however, the findings of the Report provide a basis on which to negotiate competitive prices.

Water Pricing and Cost Recovery - Rural Supplies

The ACT has no publicly owned or funded rural water supply infrastructure.

4.3.2 Institutional reform

Institutional Role Separation

The ACT Electricity and Water Supply authority was corporatised on 1 July 1995 and is now known as ACTEW Corporation. At that time all remaining regulatory and water resource management functions were placed with the appropriate government agency. The current arrangements for regulation of the corporation's activities are currently being examined to ensure that they are consistent with the Competition Principles Agreement.

In this context, a proposal is currently being prepared for the amendment of utilities legislation in the ACT which will, amongst other things:

- provide for an appropriate licensing regime for industry participants;
- define the responsibilities, service functions and service standards of particular utilities;
- specify access provisions and monopoly services;
- provide for necessary reporting arrangements not covered by existing legislation and including those matters required for performance monitoring and benchmarking; and
- provide a more effective means of clearly specifying and dealing with community service obligations.

Performance Monitoring & Best Practice - Water Services

ACTEW Corporation currently participates in the national benchmarking activities undertaken by the Water Services Association of Australia and the Steering Committee on National Performance Monitoring of Government Trading Enterprises. Suitable arrangements to ensure the ongoing performance monitoring and benchmarking of water supply and sewerage activities are intended to be included in the proposed revision to utilities legislation.

Commercial Focus for Water Services

The provision of water supply and sewerage services were corporatised on 1 July 1995. The current inquiry into ACT prices for energy, water and sewerage services is intended to ensure continuing efficiency gains.

Devolve Irrigation Distribution

The ACT has no publicly owned or funded irrigation infrastructure or schemes.

4.3.3 Allocation and trading in sustainable water entitlements

A proposal is currently being prepared for the development of water resources legislation in the ACT which will provide for a comprehensive system of water allocation and licensing across the ACT.

The proposed legislation is intended to:

- provide for the development of a comprehensive water allocation and licensing scheme covering all ACT surface water and groundwater resources including urban water supplies and stormwater collected in ACT urban lakes and ponds;
- provide for the implementation of a groundwater management strategy incorporating the recommendations of the Task Force paper on “Allocation and Use of Groundwater: A National Framework for Improved Groundwater Management in Australia”;
- enable all costs associated with water resources management to be recouped through licence fees, including provision for environmental costs as they are identified;
- enable the imposition of conditions on water use;
- provide security of access to water resources;
- enable the adoption of market based allocation mechanisms if appropriate; and
- ensure that stream flows are sufficient to support the environmental values of ACT waterways as identified in the Territory Plan.

4.3.4 Environment and water quality

Integrated Resource Management

Existing planning legislation specifically promotes integrated resource management at the broad planning level. The proposed water resources legislation is intended to address ongoing resource management issues within the established planning context.

National Water Quality Management Strategy

National Water Quality Management Strategy guidelines are examined as they are finalised to ensure ACT water resource management and environmental controls are consistent with them. Areas of deficiency are

being addressed through the proposed water resources legislation.

Wastewater/Stormwater Management

Stormwater management is addressed at the planning stage in the ACT and includes its utilisation as a resource. A number of significant wastewater reuse initiatives are also being pursued by ACTEW.

4.3.5 Public consultation, education

Public Consultation

Public consultation is a requirement before the implementation of all major initiatives in the ACT. Specific consultation proposals are developed for each initiative to ensure that all stakeholders are adequately consulted. In addition, specialist advice is sought from the ACT Environment Advisory Committee which includes a range of community interests.

Public Education

Public education material and arrangements have been reviewed. Arrangements are gradually being put in place which will lead to a more cooperative approach with the community to managing and protecting ACT water resources. There is a high level of involvement of schools, landcare groups and other community groups in ACT Waterwatch and close liaison is also maintained with other educational institutions such as the Cooperative Research Centre for Freshwater Ecology of which the ACT Government is a partner.

ACTEW Corporation also undertakes substantial ongoing public education in regard to water use. The most appropriate means to ensure that ACTEW continues with an appropriate education program is being examined in the context of the proposed water resources legislation.

4.4 ROAD TRANSPORT

In recent months there has been a general acceleration of the Road Transport Reform process and the NCC has recently issued a proposed measure for effective observance of the process. The ACT has provided a response to the NCC's proposal, as the ACT appears to face a legal impediment in complying with the proposed reform measures, after the first tranche assessment.

The ACT is committed to implementing the road transport reforms. Currently a process is being negotiated with the Commonwealth to ensure that the national reform legislation is suitable for the ACT. This involves the need for additional ‘meshing provisions’ to ensure that the national legislation can work in conjunction with ACT legislation and is enforceable.

Effective observance of progress on implementation needs to recognise that the ACT’s position and ability to implement the reforms is to a major degree dependent on the Commonwealth delivering a suitable legislation package.

The ACT has already met the first measure required for the first tranche assessment through the adoption of standard heavy vehicle charges and associated permit reforms.

The ACT expects to meet the second measure, application by all jurisdictions of the module for the transport of dangerous goods, dependent on the availability of the dangerous goods module.

4.5 NATIONAL STANDARDS SETTING

There is no actual commitment on the part of Governments to undertake any individual activities in relation this Agreement. Insofar as the ACT Government is a member of relevant Ministerial Councils and participates in national standards settings forums, we are adhering to the national standards setting principles as set out in the Agreement.

Attachment A

LEGISLATION REVIEW PROGRAM
Reviews scheduled for 1996

ATTORNEY-GENERAL'S DEPARTMENT

Legislation	Status of review	Outcome
<i>Dangerous Goods Act 1984</i> <i>Dangerous Goods Act 1975 (NSW)</i>	Review in progress. The adopted NSW Act forms the substantive ACT law on dangerous goods. The law is being reviewed progressively in association with the development of the National Road Transport Law. Because of the similarity with the existing NSW law, consideration of the NSW review or a joint review with NSW will also be canvassed.	Review is subject to Clause 5 requirements.
<i>Enforcement of Public Interests Act 1973</i>	Has been reviewed. No anti-competitive components.	No further action.
<i>Fuels Control Act 1970</i>	Review incomplete. It is being undertaken as part of a review of emergency services management legislation.	Review is subject to Clause 5 requirements.
<i>Landlord and Tenant Act 1899 (NSW)</i>	Review completed.	Act is to be repealed.

Legislation	Status of review	Outcome
<i>Landlord and Tenant Act 1949</i>	This Act has been reviewed as part of the Community Law Reform Committee's reference on residential tenancies.	Acts is to be repealed. Replacement legislation is in preparation and will be consistent with Clause 5 requirements.
<i>Liquor Act 1975 (except Treasurer)</i>	Review incomplete.	Review is subject to Clause 5 requirements.
<i>Pawnbrokers Act 1902 (NSW)</i> <i>Second-hand Dealers and Collectors Act 1906 (NSW)</i>	These Acts have been reviewed. A proposal is going to Government that the Acts be repealed and replaced with a single law dealing with the sale of goods.	It is proposed that limitations on competition eg licensing, will be removed. The remaining regulation is aimed at consumer protection and meets Clause 5(1) requirements.
<i>Real Property (Unit Titles) Act 1970</i> now named the <i>Land Titles (Unit Titles) Act 1970</i>	Review currently being undertaken as part of Law Review Program.	Review is subject to the Clause 5 requirements.
<i>Small Claims Act 1974</i>	The Act has been reviewed and is to be repealed and replaced by the <i>Small Claims Tribunal Bill</i> .	To be introduced in first session of Assembly 1997. Existing anti-competitive provisions will not be included in the new legislation.

DEPARTMENT OF BUSINESS, THE ARTS, SPORT AND TOURISM

Legislation	Status of review	Outcome
<i>Agents Act 1968</i>	<p>The Act has been reviewed along with the <i>Auctioneers Act 1959</i>. Following agreement by Government a draft exposure will be prepared which consolidates the two Acts.</p> <p>There was extensive industry and community consultation during the course of the review and the subsequent Report.</p>	<p>Significant anti-competitive elements have been removed from the licensing provisions in the proposed Bill.</p> <p>The remaining streamlined licensing provisions have been subjected to a cost-benefit analysis and are consistent with Clause 5(1) of the CPA.</p>
<i>Annual Holidays Act 1973</i>	<p>A Bill to amend the principal Act was prepared in 1996. Its main aim is to streamline the existing Act. An exposure draft amendment Bill is currently being refined with the aim of introduction into the Assembly in April 1997.</p>	<p>The new legislation will be subjected to Clause 5 requirements prior to introduction into the Assembly.</p>
<i>Auctioneers Act 1959</i>	<p>The Act has been reviewed along with the <i>Agents Act 1968</i>. Following agreement by Government a draft exposure will be prepared which consolidates the two Acts.</p> <p>There was extensive industry and community consultation during the course of the review and the subsequent Report.</p>	<p>Significant anti-competitive elements have been removed from the licensing provisions in the proposed Bill.</p> <p>The remaining streamlined licensing provisions have been subjected to a cost-benefit analysis and in the public benefit.</p>

Legislation	Status of review	Outcome
<i>Betting (Totalizator Administration) Act 1964</i>	The Act has been repealed and replaced with the corporatisation Acts.	Meets the requirements of Clause 5.
<i>Long Service Leave Act 1876</i>	The Act is to be repealed and replaced with the <i>Long Service Leave (Amendment) Bill 1996</i> . Has been circulated to stakeholders for comments.	The new legislation will be subjected to Clause 5 requirements prior to introduction into the Assembly.
<i>Machinery Act 1949</i>	Act to be repealed and replaced with the <i>Plant and Certification Act</i> based on nationally agreed principles and objectives.	Meets the requirements of Clause 5.
<i>Occupational Health and Safety Act 1989</i>	Act is currently being reviewed by the Occupational Health and Safety Council. The review has focussed on the recommendations arising from the Industry Commission's 1995 Report on OH&S - <i>Work, Health and Safety</i> .	The review is being subjected to Clause 5 requirements.
<i>Printing and Newspapers Act 1961</i>	Review completed. Act to be repealed.	No further action.
<i>Scaffolding and Lifts Act 1957</i> <i>Scaffolding and Lifts Act 1912-1948</i>	Acts are to be repealed and replaced with a new Act based on nationally agreed principles and objectives.	The new legislation will be subjected to Clause 5 requirements prior to introduction into the Assembly.

DEPARTMENT OF BUSINESS, THE ARTS, SPORT AND TOURISM

Legislation	Status of review	Outcome
<i>Workers' Compensation Act 1951</i>	<p>The Act is being reviewed in three stages. Stage 1 involves an amendment introducing new cross border provisions. A Bill has been introduced into the Assembly and will be debated in the February sittings. Stage 2 involves a series of technical and administrative amendments. A Bill to give effect to these amendments is currently being drafted. The aim is to introduce it into the Assembly before June 1997. Stage 3 involves a comprehensive review of the Act. Consultations have commenced but it is not expected that legislation will be introduced in 1997.</p>	<p>All new legislation will be subjected to Clause 5 requirements.</p>

DEPARTMENT OF HEALTH, HOUSING AND COMMUNITY SERVICES

Legislation	Status of review	Outcome
<p><i>Dentists Registration Act 1931</i> <i>Medical Practitioners Act 1930</i> <i>Optometrists Act 1956</i> <i>Pharmacy Act 1931</i> <i>Physiotherapists Act 1977</i></p>	<p>Action on these Acts was halted pending outcomes of moves to have the review of professional registration laws undertaken at a national level. It now seems likely that this will not be given priority at COAG in the near future. NSW is currently reviewing dentistry and optometry. The ACT is now looking at the possibility of undertaking these reviews independently sometime this year.</p>	<p>Reviews will be subject to the Clause 5 requirements.</p>
<p><i>Poisons Act 1933</i> <i>Poisons and Drug Act 1978</i></p>	<p>Review not yet completed.</p>	<p>Review will be subject to the Clause 5 requirements.</p>
<p><i>Public Health Act 1928</i></p>	<p>Act to be repealed and replaced by the <i>Public and Environmental Health Bill</i>.</p>	<p>Has been subjected to Clause 5. Remaining anti-competitive provisions will meet Clause 5(1) requirements.</p>
<p><i>Tobacco Act 1927</i></p>	<p>Review incomplete.</p>	<p>Review is subject to the Clause 5 requirements.</p>

DEPARTMENT OF URBAN SERVICES

Legislation	Status of review	Outcome
<p><i>Air Pollution Act 1984</i> <i>Noise Control Act 1988</i> <i>Ozone Protection Act 1991</i> <i>Pesticides Act 1989</i> <i>Water Pollution Act 1984</i></p>	<p>Reviews have been completed. These Acts are to be replaced by the <i>Integrated Environment Protection Bill</i>.</p>	<p>Review was subjected to Clause 5 requirements.</p> <p>The remaining anti-competitive elements (eg environmental licences) meet the Clause 5(1) requirements.</p>
<p><i>Apiaries Act 1928</i></p>	<p>Review completed.</p>	<p>Act is to be repealed and replaced by an amendment to the <i>Land Act</i>. The replacement provisions contain no anti-competitive elements</p>
<p><i>Cemeteries Act 1933</i></p>	<p>Review completed.</p>	<p>A proposal is before Government to repeal the Act and incorporate relevant non-public health provisions with the <i>Cremation Act 1966</i> into a new Bill. The Clause 5 requirements have been included in the preparation of the legislation.</p>

Legislation	Status of review	Outcome
<i>Electricity Act 1971</i> <i>Energy and Water Act 1988</i> <i>Sewerage Rates Act 1968</i> <i>Water Rates Act 1959</i>	Acts encompassed within a proposed review of utilities will be completed in two stages, namely, electricity by October 1977 and water, sewerage and outstanding electricity issues by June 1988.	These reviews are being conducted in the context of COAG decisions and will comprehensively incorporate (all) competition policy considerations.
<i>Enclosed Lands Protection Act 1943</i> <i>Lakes Act 1976</i> <i>Pounds Act 1928</i>	Reviews underway. These Acts are to be repealed and replaced by consolidated Municipal Services legislation.	Reviews are subject to the Clause 5 requirements.
<i>Public Roads Act 1902 (NSW)</i>	A review is underway. It is expected that the Act will be repealed and a new Act substituted.	The new Act will be consistent with the Clause 5 requirements.
<i>Rabbit Destruction Act 1919</i>	Act is to be repealed in April 1997.	Replacement legislation will contain no anti-competitive elements.
<i>Essential Services (Continuity of Supply) Act 1992</i>	Review incomplete.	Review is subject to Clause 5 requirements.
<i>Fertilizers Act 1904 (NSW)</i>	Review is planned to commence in 1997.	The review will be subjected to the Clause 5 requirements.
<i>Fishing Act 1967</i>	Review currently underway and is expected to be considered by Government in May 1997.	Will conform to Clause 5 requirements.
<i>Land (Planning and Environment) requirements.</i>	Review underway.	Will be subject to Clause 5 <i>Act 1991</i>

CHIEF MINISTER'S DEPARTMENT

Legislation	Status of review	Outcome
<i>Co-operative Societies Act 1939</i>	A set of uniform core consistent provisions has been agreed upon by resolution of the Standing Committee of Attorneys-General. The ACT will be reforming its legislation in the near future to be consistent with national provisions.	The new legislation will meet the requirements of Clause 5.
<i>Financial Institutions Duty (Validation) Act 1994</i>	Review due to be completed by end of January 1997 with amended legislation to be prepared by mid 1997.	Review has been subjected to Clause 5 requirements.
<i>Financial Institutions Duty Act 1987</i>	Review due to be completed by end of January 1997 with amended legislation to be prepared by mid 1997.	Review has been subjected to Clause 5 requirements.
<i>Financial Institutions (Application of Laws) Act 1992</i> <i>Financial Institutions (Supervisory Authority) Act 1992</i>	These Acts are framework legislation enacted by Queensland. Will be reviewed nationally	
<i>Gas Levy Act 1991</i>	Review incomplete	Will be subjected to Clause 5 requirements.
<i>Rates and Land Rent (Relief) Act 1970</i>	Review completed. New legislation scheduled to go before the Assembly in early 1997.	Will be subjected to Clause 5 requirements.

Legislation	Status of review	Outcome
<i>Rates and Land Tax Act 1926</i>	Review complete. New legislation to go before Assembly in early 1997.	Will be subjected to Clause 5 requirements.
<i>Rates and Land Tax Act 1986</i>	Review incomplete.	Will be subjected to Clause 5 requirements.
<i>Stamp Duties and Taxes Act 1987</i>	Has been subjected to multi-jurisdictional review. Several exposure drafts have been released and the Bill is now at the Committee stage.	Will be subjected to Clause 5 requirements.