

Part A The Second Tranche Assessment in Overview

Australia is now in its fifth year of National Competition Policy (NCP), the most ambitious and comprehensive program of economic reform in the country's history.

The NCP program was agreed by all Australian governments in response to the Review of National Competition Policy (the Hilmer review) to help develop a more dynamic, creative and competitive economy to better serve the interests of the community. The program is a balanced mix of economic policy and measures to assure the social needs of all Australians, including the protection of the environment.

The NCP consists, formally, of a number of inter-governmental agreements between the Commonwealth, State and Territory governments. Each party recognised the benefits of co-ordinated policy development under the aegis of the Council of Australian Governments (COAG).¹ The Agreements include a number of specific policy measures (particularly in the areas of electricity, gas, road transport and water) together with a series of policy development processes, mainly in the areas of regulation review and Government Business Enterprise (GBE) reform.

All governments recognised that the reform program would mean benefits for every part of Australia, but also that reform implementation should be tailored to the circumstances of each jurisdiction. The Agreements confer substantial discretion on each government in relation to the conduct of policy development processes, review and reform priorities, and the pace and timing of reform implementation. Generally, governments have exercised this discretion to enhance the prospects of good policy outcomes. While some important reviews have been postponed until late in the program, governments should be given credit for 'getting runs on the board' by tackling achievable reforms early. What has been achieved has varied across jurisdictions.

NCP implementation has often been contentious. By subjecting all restrictions on competition to public interest tests, NCP has generated opposition from small, vocal (and often well resourced) groups who currently benefit from those protections. This narrow opposition has sometimes combined with a general lack of understanding of the scope and objectives of NCP, and widespread concerns about the pace of economic and social change generally in Australia, to help create a political environment not always conducive to any economic reform. The role of political leadership on economic reform and NCP has been a critical component of this environment.

But attitudes to economic and social change in Australia are gradually becoming more sophisticated and this has helped NCP implementation to progress. There have been four factors in this development.

¹ COAG comprises the Commonwealth, State and Territory Heads of Government.

- First, the recent economic upheavals in the region have underlined the fact that Australia has little control of its economic environment: we cannot stop change; we can only ensure that we are as well placed as possible to adapt to it.
- Second, economic reforms to date have helped Australia to adapt to the changing international environment. Recent international developments have made the importance of these reforms more evident.
- Third, there have been increasing efforts to explain the need for further economic reform to the community; from the political leadership in some jurisdictions down to the National Competition Council's (the Council) expanding communications program.
- Fourth, there is greater recognition of the need to help people adjust to a changing world. This is important not just in terms of the direct economic consequences of NCP, but more broadly, in terms of the social and economic changes associated with technological developments and globalisation.

A1 The Council's Report on Progress

This report contains the Council's second assessment of the Commonwealth, State and Territory governments' progress with implementing the NCP. In particular, the report demonstrates two things:

- first, the broad scope of the NCP program; and
- second, the strong reform performance of all Australian governments in implementing this reform program in the community interest.

On the basis of this assessment, the Council has made recommendations on the payment of some \$1.4 billion over the next two financial years by the Commonwealth to the States and Territories. The assessment report comprises two sections.

- Part A summarises the background to the NCP, governments' implementation of reforms to date, the reform commitments against which the Council's assessment is made, and the Council's second tranche assessment of governments' progress.
- Part B provides the Council's full assessment of the progress achieved by each jurisdiction against the second tranche obligations.

Water reform is a significant component of the second tranche assessment for all jurisdictions. The Council's assessment of each government's progress with implementing water reform is contained in a companion volume.

The Council is also publishing governments' 1999 Annual Reports, which have provided important information for this assessment, in a separate third volume.

A2 Background to the NCP

COAG established the NCP by agreement in April 1995. NCP builds on pro-competitive reforms that commenced with the introduction of the *Trade Practices*

Act (TPA) in 1974.² The NCP was a response by governments to the identified need for a balanced and co-ordinated approach to reform across the three spheres of government.

Three inter-governmental agreements form the National Competition Policy program:

- the *Competition Principles Agreement* (CPA);
- the *Conduct Code Agreement*; and
- the *Agreement to Implement the National Competition Policy and Related Reforms* (the Implementation Agreement).

The agreements also incorporated a range of infrastructure reforms previously agreed by governments — the so-called “related reforms” in electricity, gas, water and road transport.

The NCP and related reform agreements are reproduced in the Council’s *Compendium of National Competition Policy Agreements – Second Edition* (June 1998).

In short, the NCP reforms are to:

- extend the reach of the anti-competitive conduct laws in Part IV of the TPA to virtually all private and public sector businesses;
- improve the performance of essential infrastructure through implementing reform packages in the electricity, gas, water and road transport industries; and to establish third party “access” arrangements for the services of nationally significant monopoly infrastructure;
- review and, where appropriate, reform all laws which restrict competition, and ensure that any new restrictions provide a net community benefit; and
- improve the performance of government businesses through structural reform, introducing competitive neutrality to remove unfair advantages or disadvantages between competing government and private businesses; and consider the use of prices oversight.

Governments also agreed to apply these reforms to local governments within their jurisdiction.

Under the Implementation Agreement, the Commonwealth agreed to make payments to the States and Territories for implementing the NCP reform package. Satisfactory progress against the NCP obligations is a pre-requisite for States and Territories to receive these payments. The Council is required to assess State and Territory progress against the NCP obligations and make recommendations to the

² The TPA established rules to limit the abuse of market power by businesses, promote fair trading and efficient industry practices and to protect consumers.

Commonwealth Treasurer on the NCP payments. The Council has also assessed Commonwealth progress against its NCP obligations.

A2.1 Competition reform in the community interest

NCP is not about introducing competition for its own sake. Competition, properly harnessed, can deliver benefits to the whole community through encouraging greater efficiency, productivity and innovation. The principle underpinning the NCP is that reform should be introduced where it serves the overall community interest.

The NCP does not prescribe what constitutes the community interest, but rather recognises that it can encompass a wide range of possible factors that are likely to vary from case-to-case. Key aspects of the policy explicitly incorporate a net community benefit test (often also called the public interest test) to ensure, in an open and objective way, that reform is implemented except where it is clearly demonstrated not to be in the interest of the community as a whole. Thus, the NCP provides for, and encourages, all relevant matters to be taken into account in determining whether there is a case for retaining restrictions on competition including social, environmental, equity, and economic issues.³

As with any reform, there will be “winners” and “losers”. An important element of implementing competition policy reform is identifying how the benefits of reform are best achieved. This may mean implementing reform through progressive transitional arrangements and/or accompanying reform with a targeted structural adjustment package. In other cases, it may mean refining or expanding Community Service Obligations (CSOs) – careful consideration of the need for, targeting of and best ways to provide CSOs is an important part of the NCP program. Again, these matters should be addressed in assessing the community interest.

A3 Overall Progress to Date

It is over four years since all Australian governments signed up to the NCP. Governments’ annual reports and subsequent investigations by the Council have revealed progress has continued.

Most of the 1997 assessment was concerned with governments establishing the necessary policy agendas and administrative arrangements to support implementation of the NCP. The focus of the second assessment covers the middle two-year period of the program. Over this period, the pace of governments’ NCP related activity, both individually and collectively, has increased.

A3.1 Applying the Conduct Code

All jurisdictions have enacted legislation to extend the application of the general pro-competitive market rules of Part IV of the TPA to all businesses in Australia. The Australian Competition and Consumer Commission (ACCC) and the courts enforce

³ See clause 1(3) of the *Competition Principles Agreement*, (NCC 1998b), a summary of which is provided in Box B1.2 of this report.

these market rules. They prohibit certain market fixing activities, such as price collusion between competing firms and large companies deliberately using their market power to damage a competitor, and also regulate merger activity by large firms.

A3.2 Electricity reform

The electricity reform program is now well established. Structural reform of electricity utilities is complete in NSW, Victoria, Queensland and the ACT, and substantially progressed in South Australia and Tasmania. The National Electricity Market (NEM) is fully operational in NSW, Victoria, Queensland (operating a wholesale power market under the NEM rules), South Australia and the ACT. The construction of transmission links will confer full participation on Queensland (in 2000) and Tasmania (expected in 2002).

The operation of the NEM represents one of the most complex of the NCP reforms. To date competition in the wholesale power market has resulted in large benefits for contestable customers. Franchise customers (domestic and smaller business consumers) have received some price reduction benefits as part of the regulatory reforms which have been introduced as part of the reform package. However, transaction costs have prevented the extension of full competition to retail customers. The development of effective retail competition will be a key issue for the further development of the electricity industry reforms.

Now that the NEM is operational, some important issues are emerging. The Council will retain an ongoing interest in these issues – and anticipates that electricity reform will be a major focus of the third tranche assessment.

- First, the Council will be seeking to ensure that exemptions from the operation of the National Electricity Code (NEC) are appropriately phased out.
- Second, questions are being raised about the efficacy of NEC rules on the approval of regulated versus unregulated transmission inter-connectors. The National Electricity Code Authority (NECA) pricing review is examining this issue. The Council would be concerned by any government actions – outside the formal NEM processes – to impede construction of inter-connectors.
- Third, there are suggestions that publicly owned electricity generators have been competing on unfair terms with private generators. This is a competitive neutrality issue. However, no complaint has been lodged with the appropriate competitive neutrality complaints authority.
- Fourth, there have also been suggestions that States should revert to state-based markets and that interstate trade in electricity should be abandoned. The Council would have serious concerns over any moves to restrict the operation of the NEM in this way.

A3.3 Gas reform

Gas reform has been one of the major success stories of NCP. Starting in 1992, a series of COAG gas reform agreements were developed to achieve free trade in gas throughout the nation and develop intra-field and inter-field competition through:

- removing regulatory impediments to trade in gas;
- applying access arrangements to transmission and distribution infrastructure; and
- facilitating the construction of new transmission links between gas fields and markets.

Incorporating the gas reform agreements into NCP provided a kick-start to gas reform. The work of the national Gas Reform Task Force (GRTF) and the successor Gas Reform Implementation Group (GRIG) under the aegis of NCP helped to ensure that reform progressed on a nationally co-ordinated basis, rather than piecemeal state-by-state approaches. Further, the risk of declaration of gas transport services under the new Part IIIA of the TPA helped facilitate agreement between governments and industry on the path to reform.

While some issues remain in relation to retail competition, intra-field competition and the finalisation of access arrangements in a few States, gas reform in Australia is largely complete.

A3.4 Road transport reform

The 1995 NCP agreements created obligations on jurisdictions but did not establish a clear road transport reform agenda. After a slow start, governments are turning their attention to national road transport reform. Recently, governments endorsed a 19 point reform package brought forward by the Australian Transport Council (ATC) in December 1998. The package includes a nationally consistent regulatory framework for heavy vehicle registration, driver licensing, heavy vehicle mass and loading restrictions, commercial driver fatigue management and the national exchange of vehicle and driver information. The Council has considered each government's implementation of this revised package as part of the second tranche assessment.

The Council will look to governments to set a similar reform agenda to complete the agreed road transport commitments for final consideration as part of the third tranche assessment.

Of particular note is the fact that the ATC (by majority decision) has instructed the National Road Transport Commission (NRTC) to refrain from providing expert assistance to the Council in making this assessment. This instruction has been unhelpful to the assessment process, and generates the impression that at least some jurisdictions are seeking to impede the supply of information to the Council, and indeed, to the community.

A3.5 Waterreform

Water reform has been a major focus of governments' NCP implementation activity over the past two years. The NCP water reform agenda is now well under way. The noticeable impact of this can be seen in pricing reform across the Australian metropolitan water industry. For example, pricing reform has contributed to an 18 per cent reduction in water prices to Victorians, a 20 per cent decline in water use in Brisbane and real water costs for businesses in Western Australia falling by almost 50 per cent between 1992–3 and 1997–8.

Water reform highlights the multifaceted nature of NCP. The water reform package encompasses urban and rural water and wastewater industries and includes both economic and ecological objectives. Urban water is now priced to encourage efficient water service provision and use. Residential and commercial consumers will pay only for the water they use. Providers are more accountable for the quality and cost of water and sewerage services. The water reform package acknowledges the environment as a legitimate user of water. The introduction of tradable water entitlements, separate from land rights, provides the scope for water to be reallocated to its highest value use. For example, it allows producers to purchase entitlements from current users rather than obtain water by increasing diversions from already stressed water systems.

As with any public policy of this magnitude and complexity, implementing the water reform package has not been without its difficulties. Some of these difficulties will be the subject of supplementary second tranche assessments over the next 12 months, while one reform area in one jurisdiction has drawn a recommendation for the suspension of competition payments in this assessment (see section A6). The Council will conduct supplementary assessments on water reform by 31 December 1999 and by July 2000.

A3.6 GB Ereform

Reform of government businesses, which in many areas predated the formal competition policy agreements, has been drawn together and considerably boosted by NCP. The focus of NCP in relation to government businesses is on three areas – structural reform, competitive neutrality and prices oversight. The productivity of government businesses has improved, average prices to consumers have fallen, there is some evidence of improvements in service quality and higher dividends have been delivered to governments.

Emerging issues are the relationship between, and reconciliation of, competitive neutrality reforms (including actions by governments to address competitive neutrality complaints) with the treatment of CSOs. Properly designed CSOs allow:

- governments to assure the provision of certain minimum levels of service to disadvantaged people; and
- government businesses to operate efficiently and on a competitively neutral basis.

The Council recognises the role of well designed CSOs to meet the economic and social expectations of the community. So, for example, in the review of Australia

Post, the Council included 12 recommendations to maintain or strengthen existing CSOs, and to provide guarantees that services will be maintained. These recommendations were easily reconciled with others to increase competition in postal services and ensure that Australia Post operates on a competitively neutral basis.

The Council will retain an ongoing interest in these issues, and looks to governments to develop CSO frameworks which meet the social needs of the community as well as the community interest in competition policy reform.

A3.7 Local government reform

Local governments are not parties to the NCP agreements – the States and the Northern Territory accepted reform obligations on behalf of local governments within their jurisdiction.

The application of competitive neutrality reforms to local government business activities was the only area of first tranche obligations that was the subject of a supplementary assessment for all relevant jurisdictions.

From that difficult start, local government reform has gathered acceptance and support, helped by positive measures to assist local government reform by State governments. Increasingly, local governments are adopting NCP and complementary reform measures to provide better value services to ratepayers and the community. The shift in the attitudes to, and performance of, local government competitive neutrality reform is exemplified by the fact that no jurisdiction is the subject of a qualified second tranche assessment in this area.

A3.8 Regulation review

Overall, good progress continues to be made with the legislation review agenda as governments work through the review timetables. This has seen the repeal of redundant legislation, amendment or replacement of Acts to reflect NCP principles and regulatory best practice and the reform of previously protected activities. It has also seen the retention of restrictions on competition where these have been demonstrated to be in the public interest.

The legislation review program has presented some challenges to governments and the Council, and this can be expected to continue. Overall, about half the reviews on governments' agendas have been completed or are underway, while only around 20 per cent of the reform agenda is complete. While this has meant that an impressive number of reviews have been conducted within a short period, it also highlights the task ahead: many reviews are yet to commence while large numbers are yet to progress to policy response stage. These include some difficult reform areas, such as agricultural marketing arrangements, retail trading arrangements (including liquor licensing arrangements), taxi licensing, the regulation of the professions (including retail pharmacy arrangements) and mandatory insurance arrangements (such as workers compensation and transport accident insurance).

A4 Progress by Each Jurisdiction

The following sections highlight key areas of NCP progress achieved by each government during the second tranche assessment period.

A4.1 Commonwealth

The Commonwealth has mostly played a co-ordinating and facilitating role in the related reforms areas (electricity, gas, road transport and water), since few of these activities fall within its jurisdiction, and has undertaken specific reforms in relation to its government businesses and anti-competitive regulation. In addition, the Commonwealth has initiated NCP and complementary reforms in communications and transport services, including in telecommunications, airports and rail. The Commonwealth has established the ACCC and the Council, to help progress reform, including significant new funding for the ACCC's expanded regulatory roles.

The Commonwealth scheduled 67 reviews to be completed by the time of the second tranche assessment. Of these, 40 have been completed with the government response announced in 27 cases. Of the remaining reviews, 3 are underway, 3 acts scheduled for review are expected to be repealed without review, and one review has been deferred pending an expected national review. Regulation review activities have included:

- the Wallis review of the regulatory framework of Australia's financial system. In response to the recommendations of this review, the Commonwealth introduced far reaching changes to Australia's financial regulatory structure which came into effect on 1 July 1998;
- co-ordinating the establishment of the national reviews of pharmacy and architects regulation, which are expected to commence in the second half of 1999. The Council supports national reviews of areas of regulation such as the professions where markets work on a national level, or, as in pharmacy regulation, where there is a complex mix of state and federal regulation;
- with agreement from the States and Territories, and prompted by the Council's consideration of gambling regulation under NCP, the Productivity Commission is examining a wide range of issues related to gambling regulation, encompassing social and economic issues. It is expected that the review, due to be completed shortly, will inform policy considerations on gambling services by all Australian governments;
- reducing the costs of doing business by integrating and streamlining a range of export concession arrangements into a single scheme – TRADEX. The scheme provides for an exemption on customs and excise duties and sales tax on imported goods intended for re-export or used in the production of other goods for export;
- less prescriptive product labelling regulations and the adoption of mandatory standards which are consistent with accepted international nomenclature; and

- progress on a first tranche assessment issue identified by the Council in relation to the *Quarantine Act 1908* – a review will examine those aspects of the Act which restrict competition and which have not been tested for compliance with the CPA.

The Council also considers that there remains scope to further apply NCP principles to the health portfolio; in particular, to the:

- introduction of limits on Medicare provider numbers;
- retention of numeric limits on Medicare eligible pathology centres; and
- impediments to competition in the private health insurance industry.

The Commonwealth operates a number of GBEs (established under enabling legislation or the Corporations Law), share-limited companies and Business Units (set up as separate commercial activities within agencies). All of these are required to operate on a competitively neutral basis in order to avoid unfairly disadvantaging actual or potential competitors. For example, Australia Post is a GBE established under its own Act of Parliament. It is required to pay all Commonwealth and State taxes and charges. An independent agency is currently determining the debt neutrality rating to apply to Australia Post's borrowings.

The Commonwealth has an autonomous competitive neutrality complaints mechanism, the Commonwealth Competitive Neutrality Complaints Office (CCNCO), located within the Productivity Commission. The CCNCO recommends to the Treasurer on the application of competitive neutrality principles to significant Commonwealth Government commercial activities. Notably, the CCNCO is able to recommend that competitive neutrality arrangements be applied to businesses below the Commonwealth's threshold for significance.

The Commonwealth also has a responsibility under the competition agreements (clause 4, CPA) to examine industry regulation and matters relating to the structure of its public monopolies where it is introducing competition or proposing privatisation.

In the first tranche assessment, the Council considered the 1997 partial privatisation of Telstra and the Commonwealth's responsibility under clause 4. The Council concluded that the framework for the regulation of the telecommunications sector was consistent with CPA principles, given that responsibility for regulation is independent of Telstra. The Council also concluded that the Commonwealth had not met its obligation to examine the treatment of the remaining monopoly element of Telstra's business, the local fixed network. The Commonwealth argued that obligations under clause 4 had been broadly satisfied through:

- a series of related reviews prior to the partial privatisation; and
- rules to prohibit anti-competitive conduct by carriers or carriage service providers (Part XIB of the TPA) and to facilitate access to services provided by carriers or carriage service providers (Part XIC of the TPA).

The Commonwealth is now engaged in another round of Telstra divestment that will take the level of private sector ownership to 49 per cent. The Commonwealth has also enacted changes to the regulatory regime governing telecommunications to further

limit possible anti-competitive behaviour arising from Telstra's local fixed network monopoly.

In the first tranche assessment, the Council concluded that the safeguards for telecommunications in the then proposed amendments to the TPA would, once implemented, go a considerable way to addressing the Commonwealth's responsibilities under clause 4 with respect to Telstra. The Council has revisited this conclusion in the light of experience to date with the new regime.

Work commissioned by the Council indicates that the recent TPA amendments are likely to assist the regulation of Telstra's monopoly power in some areas (see Appendix B). Nonetheless, the work also suggested that further structural reform might be justified. A review of Part XIB is scheduled for 2000. According to the Commonwealth, the terms of reference of this review will allow for a more thorough assessment of the telecommunications regime, including the effectiveness of current ring-fencing arrangements. The Council considers that this review should also examine the costs and benefits of alternatives to the current regime, including structural separation of the local fixed network from non-monopoly elements. As suggested by the Commonwealth, such an examination would require thorough analysis of the nature, extent and effect of any economies of scale and scope in the telecommunications industry, including the Customer Access Network (CAN). Such analysis goes to the heart of the purpose of the obligations created by clause 4 of the CPA. The Council is not aware of any comprehensive Commonwealth analysis of these issues. The Council will consider further progress made by the Commonwealth on this matter in its third tranche assessment.

The Commonwealth has contracted long-term lease arrangements for all airports formerly operated by the Federal Airports Corporation (FAC) except the Sydney Basin airports and Essendon Airport.

The Commonwealth has put in place arrangements aimed at encouraging competition between airports. The *Airports Act 1996* prohibits airlines from acquiring more than 5 per cent of an airport operator company, and there are cross ownership restrictions of 15 per cent between the Sydney Airport Corporation Ltd (SACL) and Melbourne, Brisbane and Perth airports.

An economic and regulatory regime has also been established, administered by the ACCC. The prices oversight scheme provides for a CPI-X cap on defined aeronautical services. There is also price monitoring of aeronautical-related services outside the price cap. The SACL airports are currently not subject to section 192 of the *Airports Act 1996*, which provides for declaration of services provided by the leased airports. However, SACL airports are subject to Part IIIA of the TPA, which allows access seekers to apply for declaration.

The outstanding issue for a clause 4 review is the determination of the appropriate structure for the Sydney Basin airports, including the proposed second airport, prior to privatisation. The Commonwealth has given an undertaking that its future processes will consider structure and competition issues for Kingsford Smith and the proposed second international airport.

On 19 May 1997, arising from its NCP legislation review commitments, the Commonwealth requested the National Competition Council to review the *Australian Postal Corporation Act 1989*. The Government's response to the recommendations of this review included measures to:

- reduce protection of Australia Post's domestic mail service;
- introduce an access regime;
- open incoming international mail to competition;
- conduct a further review in 2002–03 to assess the effects of these changes and the need for further reform; and
- introduce a Service Charter, approved by the Government.

There is a difference in approach between the Commonwealth's reforms and the Council's recommendations in respect of one major issue – the Council proposal for open competition in business letter services and all international mail services. The Commonwealth has elected to retain more of Australia Post's monopoly protection but offset this with a proposed access regime for the monopoly services. The success of the Government's approach will depend heavily on the effectiveness of this access regime. Subject to the Government implementing an effective access regime, the Council considers the Commonwealth to have fulfilled its NCP obligations with respect to Australia Post. The Council will examine progress on this matter in subsequent assessments.

The Commonwealth has instituted reform measures in rail services. The above rail (train operations) and below rail (track) businesses of Australian National (AN) were restructured and sold over the period 1993–1998. In November 1997, the Commonwealth sold the Tasmanian rail services (TasRail), including track and above rail facilities.

The Commonwealth has advised that it did not conduct a formal clause 4 review prior to either privatisation process. In relation to the sale of TasRail, the Commonwealth is currently examining the extent to which the issues raised by clause 4 have been otherwise considered and whether the intent of clause 4 has been fulfilled. The Council is of the view that, as the reviews were not conducted, the Commonwealth has not met its clause 4 obligations in respect of either privatisation.

The Commonwealth has introduced all but three of the agreed second tranche road transport reforms. Completion of the program is awaiting finalisation of the review of the *Interstate Road Transport Act 1985*. In addition to identifying amendments necessary for the implementation of these reforms, the review is to examine options to increase the future effectiveness of this Act and the Federal Interstate Registration System, primarily in response to complaints from States and Territories. The Commonwealth has emphasised its commitment to achieving the reforms. The Council will revisit this reform area in a supplementary assessment by 31 March 1999.

A4.2 New South Wales

New South Wales has a comprehensive legislation review program, and has so far completed around 60 reviews of existing legislation. In addition, all proposals for new legislation are tested for compliance with competition principles through a formal Cabinet Office process. The program has seen some significant changes. For example, 'red tape' has been reduced through the Licence Reduction Program, which has repealed 72 licence schemes and earmarked 13 others for repeal. New South Wales has also streamlined its processes for development approvals to provide for clearer, more consistent decision making, better linked to the complexity and likely environmental impact of projects.

There has been progress towards the removal of restrictions on the domestic marketing of rice in New South Wales. This was identified as an area of non-compliance with NCP in the first assessment, following the decision of the New South Wales Government to retain domestic restrictions contrary to the recommendation of its review panel. In February 1999, the Federal Treasurer presented a proposal to New South Wales for a Commonwealth single desk export arrangement. New South Wales has now given in-principle agreement to removing domestic restrictions on the basis that the Treasurer's proposal can be shown to protect the current export monopoly. The New South Wales and Commonwealth Governments are now working towards implementing this proposal.

There are some remaining challenges, however. Following its review of dairy regulation, New South Wales extended current restrictions on farm-gate arrangements until 2003. The Council has some concerns with this review, given the differences of view between the dairy industry representatives on the panel and the independent members advocating reform, and is pursuing these with New South Wales. National developments in the dairy industry – the Australian Dairy Industry Council has put forward a proposal for an adjustment package to facilitate reform of the industry – are likely to increase the pressure for reform earlier than is currently planned. The Council will revisit this area of regulation in 12 months in the light of likely national reform arrangements and reforms in other jurisdictions.

New South Wales implements its prices oversight obligations through the Independent Pricing and Regulatory Tribunal (IPART) established in July 1996 as the successor to the New South Wales Government Pricing Tribunal. IPART is empowered to determine maximum prices and/or periodically review pricing policies of declared government-owned monopoly services. IPART also regulates gas tariffs and third party access to gas networks in New South Wales, and recommends to the Government on complaints that significant government businesses are not applying competitive neutrality principles.

New South Wales is actively promoting competitive neutrality reform. It has placed the onus on all its GBEs and many other business activities within the general government sector to implement competitive neutrality principles, recognising that this will produce a net economic and social benefit.

Over the past 10 years, New South Wales has been corporatising many non-budget sector agencies and applying a comprehensive Financial Policy Framework designed to mirror the disciplines faced by a private sector firm in a competitive market. The

commercial activities of general government sector agencies (GBEs yet to adopt the Financial Policy Framework) and GBEs not subject to prices oversight are all required to adopt commercialised pricing principles aimed broadly at recovering full costs of production unless a net community benefit for doing otherwise can be demonstrated.

As mentioned above, New South Wales now also has a formal mechanism within IPART for investigating allegations that government businesses are competing unfairly and recommending remedial action to the Government.

New South Wales has met all obligations under NCP relating to national energy markets. In 1996, New South Wales provided stimulus to national gas reform by legislating, as best it could, the work undertaken by the Gas Reform Task Force on developing a gas access code. Subsequently, all governments agreed to adopt this code with some refinements. New South Wales has met all its obligations to date under the national gas reform agreements. Similarly, New South Wales has met all obligations relating to the fully competitive National Electricity Market and is progressively allowing customers to choose their electricity supplier.

New South Wales, along with Victoria, are the only jurisdictions to have implemented in full the agreed road transport reform program.

Finally, New South Wales is also making progress on its water reform agenda. A particular achievement is the move to independent price regulation for large parts of the urban and rural water industries. New South Wales, Victoria and South Australia are participating in a pilot interstate water trading project for the Murray–Darling Basin which has been estimated to deliver annual gains of \$65 million to the New South Wales economy. The enactment of proposed legislation to provide a comprehensive system of water entitlements and trading will complete New South Wales' second tranche water reform agenda.

A4.3 Victoria

Victoria has an extensive legislation review program and has so far completed about 75 reviews. The barley industry review placed it at the forefront of the review of statutory marketing arrangements. Together with South Australia, it reviewed arrangements for barley marketing, finding no community benefit case to support the requirement that growers sell their produce through a statutory marketing authority. Following consultation with the industry, the review process is scheduled to culminate in deregulation of the domestic barley market in July 1999 and the export market in July 2001. Victoria, because of the size of its dairy herd, will be important in determining arrangements nationally for the dairy industry over the next 12 months.

There has also been extensive activity on professions regulation. Victoria's reforms to date have included the removal of unnecessary restrictions on commercial operation, including for example advertising and ownership of practices. Much of this work has been in the health sector – with reforms to the regulation of chiropractors and osteopaths in 1996, optometrists and chiropodists in 1997, and physiotherapists in 1998. Reviews of arrangements affecting dentists and psychologists are complete and the Government's decisions pending. Legal professional regulation was the subject of new legislation that removed many barriers

to competition, including the distinction between solicitors and barristers and the prohibition on non-lawyer conveyancers.

One of the notable achievements so far was the 1996 deregulation of shop trading hours, which has provided greater flexibility to business and choice to consumers. There has also been extensive change to liquor licensing regulations, with significant streamlining of on-premises licensing requirements. However, Victoria has so far retained a restriction on off-licence holders, which has the effect of limiting a single licence holder to a maximum of 8 per cent of the total number of licences. This restriction was retained despite a review recommendation for its removal. If the 8 per cent rule is not removed by 31 December 2000, the Council will consider an annual deduction from NCP payments.

There are some other areas of restrictions that remain following reviews.

After initially moving to abolish the statutory monopoly on the provision of professional indemnity insurance services for solicitors following an NCP review, Victoria conducted a second review, which recommended retention. More recently, in the course of the second tranche assessment, Victoria undertook to further examine the community benefit justification for professional indemnity restrictions.

Similarly, Victoria retained monopoly arrangements for the provision of compulsory third party motor vehicle insurance and workers' compensation despite review recommendations that supported competitive delivery. Given the differences in approaches on these two matters around Australia, Victoria and some other governments have undertaken to support a national examination of the different jurisdictional regimes.

Victoria has actively promoted competitive neutrality reform for some time. It has corporatised or commercialised many of its government businesses and is ensuring that the competitive neutrality elements are addressed in pricing and regulation. Victoria now requires competitive neutrality principles to be applied to all government business activities. The State has a good record in handling allegations that competitive neutrality principles are not being appropriately applied. In particular, its complaints handling body, the Competitive Neutrality Complaints Unit, has instituted processes to follow up complaints already upheld to assist the implementation of remedies.

Victoria has been a strong supporter of competitive national energy markets. Along with New South Wales, South Australia and the ACT, it is a full participant in the NEM, which commenced operation on 13 December 1998. Victoria had completed all structural reform requirements for electricity by the time of the first tranche assessment, having fully structurally separated electricity generation and distribution and ring-fenced retail and distribution businesses. Victoria is progressively allowing customers to choose their electricity supplier.

Similarly, Victoria has now almost completed reform of its gas industry. The *Gas Industry Act 1994* divided the state-owned gas transmission, distribution and retailing activities into separate corporations. The three stapled gas distribution/retail businesses have since been privatised. The former gas transmission corporation

became Transmission Pipelines Australia (and was privatised in 1999) and the independent system operator VENCORP.

Victoria passed legislation applying the National Gas Access Code in Victoria in accordance with the National Gas Law in May 1998. This legislation was proclaimed in June 1999, after a delay in obtaining COAG approval for an amendment to the legislation necessitated by changes in a provision originally approved by COAG. Victoria removed some barriers to free and fair trade in gas in November 1996, thus allowing Esso and BHP to sell gas to end consumers, Gascor to buy gas from suppliers other than Esso and BHP, and customers of Gascor to on-sell gas.

Along with New South Wales, Victoria is the only jurisdiction to have completed its second tranche road reform program in full.

Similarly, Victoria has a strong record on water reform. Key advances include the separation of bulk and retail water suppliers in Melbourne, and the replacement of water charges based on property valuations with two-part charges comprising a fixed fee per property and a water usage-based charge. Victoria's water reforms have delivered significant benefits particularly to small businesses, with water bills decreasing by as much as two-thirds after pricing based on property value was replaced with consumption-based pricing. Only Victoria and the ACT have achieved water reform without the need for a supplementary assessment prior to the third tranche.

A4.4 Queensland

Queensland's legislation review and reform program is well underway, with an extensive program conducted during 1998–99. The Government has completed major reviews covering, among other things, the Brisbane Market Authority, regulatory arrangements affecting various agricultural industries, generic health and medical practitioner registration covering 13 professions and residential tenancies. Queensland has also commenced some major reviews, including on liquor licensing, taxis/buses/limousines/rural air services and local government laws.

Following its review of generic matters relating to health and medical practitioner legislation, the Queensland Cabinet endorsed a proposal to remove many of the controls which restrict how practitioners run their businesses, including a significant lessening of restrictions on advertising. Legislation to implement these changes, while retaining registration/licensing provisions, is being drafted.

The Government now has second stage health practitioner reviews underway or planned. These will examine, among other things, ownership controls on optometrists, certain restrictions on dentists and restrictions on core practice across professions. Restrictions in Part 4 of *Queensland's Pharmacy Act 1976* will be reviewed as part of the national process commencing this year.

Queensland has retained restrictions in a range of areas, including laws covering the marketing of some agricultural products.

Following review of the *Dairy Industry Act 1993*, Queensland retained statutory controls over farm-gate milk price and supply arrangements for five years, with a

further review prior to 1 January 2001. The review concluded that immediate deregulation would have severe regional effects. But the review:

- considered that reform of market milk arrangements is ultimately inevitable;
- supported a national approach to reorganising the industry; and
- suggested early review of Queensland's arrangements if warranted by developments in the industry.

The Council will revisit this area of regulation in 12 months in the light of likely national reform arrangements and reforms in other jurisdictions.

Queensland also retained arrangements governing the marketing of sugar (although restrictions on cane supply and milling and the tariff on raw sugar were removed) and barley, with the objective in both cases being to protect price premiums claimed to arise from monopoly export arrangements. Developments nationally (and evidence raising questions about any price premium for barley or sugar) are likely to bring pressures for change in all these areas. The Council will revisit these areas in subsequent assessments.

Queensland was one of the first jurisdictions to establish a competitive neutrality complaints mechanism. The Queensland Competition Authority (QCA), a body independent of government, administers the mechanism, which became operational in 1997. The QCA receives and investigates complaints from competitors of publicly owned businesses gazetted as Significant Business Activities. It also provides price oversight of Queensland Government monopoly businesses and is the State regulator for third party access arrangements. One competitive neutrality matter dealt with by the QCA, relating to the means of delivery of the Government's public transport policy objectives on one rail line in South-East Queensland, raises potential NCP compliance questions for Queensland. The Council will revisit this reform area in subsequent assessments.

Queensland has achieved good progress in working with local governments to develop and apply appropriate NCP reforms. Local governments have a much more extensive business role in Queensland than in other jurisdictions. Queensland has recognised this by setting aside a proportion of its competition payments for local governments who successfully implement NCP obligations. The Council supports this approach to reform of local governments.

Queensland is currently reviewing the *Local Government Act 1993*, the *City of Brisbane Act 1924*, and all local government laws. Competitive neutrality reforms are also being implemented, with the focus at present being on businesses operated by the 17 largest local governments. The QCA's first annual report showed that 25 local government businesses were all applying appropriate competitive neutrality reforms.

There has been ongoing progress with energy reform. Queensland is operating a wholesale power market under the NEC arrangements and has recently brought forward the date for interconnection with New South Wales, through the Powerlink/Transgrid inter-connector, from October 2001 to January 2001. The

Government has restructured its electricity sector to create independent and competing generators and regional distribution corporations.

Similarly for gas, Queensland is progressing well, although it has delayed making the National Gas Access Code operational in the State pending clarification of the impact of derogations from the Code affecting major transmission pipelines. The Council is currently considering these derogations in the context of Queensland's application for certification of gas access arrangements, and will revisit this reform area in a supplementary assessment by July 2000.

Queensland has some way to go to deliver on its second tranche water reform commitments. The reforms still to be implemented or reported on include:

- cost and pricing reform in urban areas;
- institutional separation;
- devolution of irrigation management;
- legislation to establish a comprehensive system of water entitlements and facilitate water trading; and
- most notably, failure to adequately determine the economic viability and ecological sustainability of new rural water schemes – the Council has recommended that some of Queensland's 1999–2000 competition payments be suspended as a consequence of inadequate progress in this area.

The Council is working with the Queensland Government in these areas, and will conduct further assessments of progress by 31 December 1999 and July 2000.

On road transport, Queensland has now implemented most of the agreed second tranche reform package designed to establish nationally uniform/consistent regulation. The government is yet to introduce 'fee-free' conversions of interstate licences as all other jurisdictions have done but is looking to implement this by December 1999. The Council will revisit this reform area in a supplementary assessment by 31 March 2000.

A4.5 Western Australia

Western Australia has made significant progress against its legislation review agenda, having completed more than half of its scheduled NCP review program. There are around 50 reviews currently underway, examining areas such as taxi regulation, shop trading hours, agricultural marketing, compulsory third party insurance, workers compensation and a range of health professions.

The Government has repealed several pieces of legislation and simplified restrictions on business in other areas. For example, it has removed statutory marketing powers for lamb and chicken meat marketing and repealed the Bread Act to remove redundant restrictions. The Cabinet has endorsed review recommendations to simplify certification/licensing arrangements for painters and surveyors, with the objective of protecting consumers without unnecessarily restricting entry to the two professions.

A number of legislative restrictions have been retained by various justifications, in a number of areas following reviews. Reasons for retention include protection of public health and safety, environmental protection, consumer protection and social welfare. For example, following its NCP review, Western Australia retained restrictions limiting commercial development in the *Rottneest Island Authority Act 1987*. Western Australia's review of dairy legislation recommended continued regulation of farm-gate milk prices. The Council will revisit this area of regulation in 12 months in the light of likely national reform arrangements and reforms in other jurisdictions.

Western Australia is applying its competitive neutrality obligations through corporatising or commercialising its significant businesses, which includes a requirement to apply competitive neutrality principles. Western Power, AlintaGas and the Water Corporation – which are collectively responsible for 80 per cent of all revenues earned by Western Australian Government businesses – are corporatised. Other large businesses are commercialised or proposed for commercialisation. For example, the *Port Authorities Act 1999* currently before Parliament provides for the commercialisation of all the State's port authorities. Western Australia's competitive neutrality complaints mechanism has received no substantive complaints.

Western Australia's local governments have conducted an extensive program of business reviews. The objective of these reviews was to determine whether the introduction of competitive neutrality principles was warranted. At 31 March 1999, a total of 129 businesses had been reviewed, with competitive neutrality principles applied to about half. Western Australia recognises the contribution to achieving the benefits of NCP provided by the State's local governments by making a proportion of its competition payments available to them for satisfactorily applying agreed reforms.

Western Australia is making sound progress with its water reform obligations and has demonstrated a strong commitment to the reform process. It has largely achieved second tranche reform obligations, including on water pricing, institutional reform and environment and water quality management. Western Australia has committed to passing legislation by June 2000 to introduce a comprehensive system of water allocations and trading. The Council will revisit this reform area in a supplementary assessment by July 2000.

For geographical reasons, Western Australia is not a party to the national agreements on electricity. Nonetheless, the Government has sought to promote greater competition within its electricity sector by providing for third party access to the transmission and distribution network of its electricity corporation, Western Power. Comprehensive review of the structure of Western Power, consistent with the CPA clause 4 framework, will be integral to the success of planned initiatives to encourage competition in electricity supply.

Western Australia has satisfied all second tranche requirements in relation to gas reform. Legislation to apply the Gas Access Pipelines Law (incorporating the National Gas Access Code) took effect in February 1999. While the Code is not applicable to key pipelines until 1 January 2000, the transitional arrangements are consistent with national agreements on gas reform.

Western Australia is also making good progress towards removing regulatory impediments to free and fair trade in gas, with several Acts scheduled for review

while new legislation is vetted through the CPA clause 5(5) mechanism. The Government has advanced the expressions of interest process for construction of a second natural gas pipeline consistent with its undertakings during the first tranche assessment, and has begun expanding the corridor for the existing (now privatised) Dampier to Bunbury Natural Gas Pipeline.

Western Australia implemented most of its second tranche road transport reform program by June 1999 as scheduled, and is expected to have the entire package in place by January 2000. The Council will revisit this reform area in a supplementary assessment by 31 March 2000.

A4.6 South Australia

South Australia is actively pursuing its legislation review program and taking the opportunity to repeal redundant legislation. Following reviews more than 20 Acts have been repealed and/or replaced with legislation consistent with the principles of NCP. One hundred and twenty-one reviews were scheduled for the second tranche assessment period. Over 40 reviews have been completed (including some scheduled for 1999 or later), 73 are underway and 2 are expected to become national reviews. 20 reviews scheduled for 1999 and beyond have commenced early.

South Australia is commended on its progress with reform of grain marketing arrangements. The Government worked with the industry to deliver barley and oat marketing reform consistent with the findings of the 1997 review. The review and reform process culminated with the passage of legislation in May 1999 which formally sets the reforms in place with marketing arrangements in that State being progressively opened up to competition over the period to mid-2001.

South Australia is streamlining a range of regulations affecting livestock industries. Schedule 2 of the *Livestock Act 1997* draws together regulation affecting marketing entry and conduct in relation to the keeping of bees, pigs, cattle and deer, which were previously contained in six separate Acts scheduled for review during the third tranche assessment period.

However, the Council will maintain an ongoing interest in two legislation review areas addressed during the second tranche period.

First, no clear public interest case has been provided to support the retention of restrictions on retail shop trading arrangements and the discriminatory treatment of different retailers. The recommendations of this review have not been provided to the Council and the Government (in its Annual Report) does not demonstrate a supporting community benefit case. If restrictions on trading arrangements are not removed, or shown to be in the public interest, by 31 December 2000, the Council will consider an annual deduction from NCP payments.

Second, a review of liquor licensing arrangements recommended to retain the current "needs based" criteria for licensing but to review the matter again within 3-4 years. South Australia has agreed to review these restrictions again in 2000-2001.

South Australia has made some important advances in meeting the competitive neutrality policy reform commitments during the second tranche assessment period.

Some 30 larger and 17 smaller significant government businesses have been gazetted as subject to competitive neutrality principles and processes. There has also been progress with applying competition reforms at the local government level. During 1998, the Government published a guide to implementing competitive neutrality and is reviewing its Competitive Neutrality Policy Statement. In addition, South Australia's complaints mechanism permits investigation of complaints against any government business.

The Council looks forward to further progress in relation to smaller sized government businesses, corporatisation of outstanding significant government businesses and the treatment of CSOs.

South Australia has made impressive progress on reforms in the electricity industry. Structural arrangements have been comprehensively reviewed. South Australia will establish an independent regulator responsible for pricing, licensing and network access. The arrangements feature an Electricity Ombudsman, an Independent Industry Regulator, an Electricity Supply Industry Planning Council, a Sustainable Energy Authority and a Technical Regulator. NEM legislation has been enacted and a contestability timetable established. Code derogations will be subject to ACCC approval.

The legislative package to give effect to these arrangements will be introduced into Parliament in June 1999. The Council will undertake a supplementary assessment before 31 December 1999 to consider progress with the establishment of the regulatory arrangements recommended in the clause 4 review.

South Australia, as lead legislator, has enacted the national gas code legislation, with derogations and transitional arrangements consistent with the gas agreements, and is making satisfactory progress on its structural reform commitments. South Australia has reviewed legislation that restricts intra-field competition in the Cooper Basin, in accordance with the gas agreements and the CPA, but has yet to formally respond to the recommendations of the review. The Council will revisit this reform area in a supplementary assessment by 31 December 2000.

South Australia has implemented most of the agreed road transport reforms for the second tranche, and will have legislation and associated regulations covering the remaining reforms in place by later this year. However, South Australia anticipates some delay in 'on the ground' implementation due to computer programming requirements. The Council will revisit this reform area in a supplementary assessment by 31 March 2000.

South Australia has achieved progress with implementing water reform. South Australia has developed a comprehensive allocation system that provides for environmental needs (including those of the River Murray) and involves significant community involvement. The Council will revisit this reform area in supplementary assessments by 31 December 1999 and July 2000.

A4.7 Tasmania

Overall, Tasmania continues to make solid progress with implementing the NCP reform package, particularly in the areas of competitive neutrality and legislation review.

Tasmania scheduled more than 200 reviews of legislation over the NCP period to date. Against this large review task, Tasmania is making good progress. One hundred and thirteen reviews have been completed, 14 more are underway, national approaches are being pursued in 12 instances and 25 reviews have been deferred pending the completion of related reviews or the expected repeal of legislation. Further, in 16 cases a preliminary examination revealed the legislation did not contain significant restrictions on competition and, therefore, did not warrant further review.

The Tasmanian Government has responded to the outcomes of 95 reviews, which have included repealing some legislation and removing unjustified restrictions in others. For example, Tasmania has abolished mandatory insurance arrangements for the apple and pear producers with the repeal of the *Apple and Pear Industry (Crop Insurance) Act 1982*. The review found no public interest case to support the retention of a mandatory insurance requirement, notably that it was not necessary for the industry to operate efficiently and effectively.

Tasmania has overcome initial difficulties it experienced with streamlining the State's public vehicle licensing system in response to the recommendations of its 1996 review of the *Traffic Act 1925* (NCC 1997). The Tasmanian Parliament rejected regulations giving effect to these recommendations. The Tasmanian Government is now developing new legislation, based on agreed national transport regulation principles, which will remove existing controls found to stifle innovation and increase costs to consumers.

Tasmania recently reviewed its arrangements for delivering compulsory third party (CTP) insurance for motor vehicles, and decided in December 1998 to retain its current monopoly. The Council considers that the close links between the team reviewing CTP and the body which delivers CTP insurance in Tasmania, casts some doubt, in terms of NCP compliance, on the recommendations of the review and the Government's response. However, the Council considers that the proposed national review of CTP insurance arrangements for motor vehicles will be important in resolving a way forward.

Tasmania has made good progress with implementing competitive neutrality reforms. Consistent with the CPA, Tasmania's significant government businesses are subject to tax equivalent regimes, debt guarantee fees, dividend requirements and regulatory equivalence with the private sector. Progress has been slower at the local government level due to proposed council amalgamations, which subsequently did not proceed. The Government Prices Oversight Commission, an independent commission, handles competitive neutrality complaints. The mechanism allows for complaints to be brought against any public business activity at either the State or local government level.

Tasmania has made an in-principle commitment to join the national electricity market in the year 2002 through the construction of the Basslink inter-connector. In

preparation for meeting the obligations of the electricity agreements, Tasmania has enacted (but not proclaimed) the National Electricity Law and is progressively reviewing and reforming structural arrangements for electricity utilities. Tasmania has also enacted a code for third party access to transmission and distribution services.

Tasmania has enacted 16 of the 19 road transport reforms agreed by governments at the time of the second tranche assessment. The Council will revisit this reform area in a supplementary assessment by 31 March 1999.

Tasmania has experienced delays in implementing water reform. Legislation has been introduced into Parliament that will establish an effective framework for water allocations and trading. The new legislation will also achieve a degree of institutional separation consistent with COAG commitments. Tasmania has achieved progress in some areas of pricing reform (particularly in relation to bulk water pricing) although much work is still needed on implementing two part tariffs. The Council will revisit this reform area in supplementary assessments by 31 December 1999 and July 2000.

A4.8 Australian Capital Territory

The ACT has set itself an ambitious legislation review schedule with some 180 Acts scheduled for review during the second tranche assessment period. Of these, 56 reviews are completed, a further 43 are underway and the government has repealed 35 pieces of legislation in response to review findings. There has been some slippage against the review program, but the Government has stated that it is confident its program will be completed before the end of the year 2000 as required under the CPA.

The ACT has virtually fully deregulated retail shop trading hours. Following the review of its *Trading Hours Act 1962* the ACT Government removed restrictions on Monday and Sunday trading hours. Consequently, very minimal restrictions relating to retail trade hours remain, allowing traders maximum flexibility in responding to consumer shopping preferences.

The ACT Legislative Assembly recently legislated to prohibit the sale of eggs produced under battery cage farming and to require product labelling clearly stating the farming method used in the production of eggs. The Government engaged the Productivity Commission to undertake a public interest test. The Government accepted the Commission's findings that the restrictions were in the public interest, but failed to gain support from other jurisdictions to implement the prohibition under the *Mutual Recognition Act*. Consequently, the legislation to ban the sale of battery eggs has no effect.

The Council is concerned about the robustness of the cost-benefit analysis undertaken in the ACT's review of dairy marketing arrangements. The Council recognises that the ACT's analysis is predominantly qualitative. However, the review does not appear to weigh up the many costs and benefits listed and thereby provide an overall sense of where the balance of the public interest lies. Further, some of the identified 'benefits' presented in support of retaining marketing arrangements are doubtful. The Council will revisit this area of regulation in 12 months in the light of likely national reform arrangements and reforms in other jurisdictions.

The ACT has made good progress on competitive neutrality reform. Appropriate taxation, debt guarantee and competitive tendering arrangements have been put in place and are progressively being applied to the Government's full range of business activities. A competitive neutrality complaints unit has been established.

The ACT is a full participant in the NEM. The National Electricity Law has been enacted, full contestability in electricity services is scheduled for January 2001 and the Government has been progressively reviewing and reforming structural arrangements.

The ACT has enacted gas reform legislation, with transitional arrangements consistent with the national gas code and no other derogations. It has applied to the Council for certification of this legislation. All legislative barriers to trade in gas have been removed and structural reform arrangements put in place.

The ACT has implemented most of the relevant road transport reforms and is committed to introducing the remainder by the end of the year. The Council will revisit this reform area in a supplementary assessment by 31 March 2000.

The ACT is the only jurisdiction to have fully met its obligations under the water reform agreements.

A4.9 Northern Territory

The Northern Territory has made good progress on its regulation review agenda. Virtually all reviews scheduled for the second tranche period have been undertaken or commenced. Reform implementation has been completed for about 20 per cent of these, including leading reform outcomes in important review areas.

The Northern Territory is commended for its reforms to taxi licensing arrangements, introducing competition in taxi services for the first time and eradicating speculation on licence plate values. The Territory is examining the public benefit of a new regulation specifying minimum fleet size.

The *Grain Marketing Act* has been repealed, dissolving the Northern Territory's Grain Marketing Board.

The Northern Territory has made significant progress with implementing competitive neutrality reforms. This has involved applying tax and debt equivalents to Government Business Divisions (GBDs), ensuring GBDs pay for all inputs used in providing services and ensuring that prices charged by GBDs fully reflect costs. The Northern Territory has also reviewed the capital structure and dividend policies of GBDs against private sector benchmarks and established monitoring arrangements for GBD performance through a range of financial and non-financial indicators.

Gas reform legislation has been enacted, with no transitional arrangements or derogations. The Northern Territory has reviewed or is reviewing all identified restrictions on gas trade: no restrictions on gas exploitation, development or transportation have been identified. The Territory has also met all structural reform obligations under the national gas code.

The Northern Territory is not a party to the NEM, so obligations on electricity reform are limited to the structural reform provisions of the CPA. The Territory has recently undertaken a major review of the structure of its Power and Water Authority (PAWA).

The Northern Territory has fully implemented all but one of the agreed road transport agenda for the second tranche assessment. The Government is yet to decide whether it will implement the demerit points element of the reform introducing nationally uniform driver licensing or seek an exemption through COAG. The Council will revisit this reform area in a supplementary assessment by 31 March 2000.

The Council will be working closely with the Northern Territory over the coming months to progress consideration and application of the agreed water reform framework. Outstanding reform areas include cost recovery and rates of return in urban services, cross-subsidies, separation of all regulatory and service provision functions, separation of water property rights from land, bulk water pricing and economic viability assessment processes. The Council will revisit this reform area in a supplementary assessment by 31 December 2000.

A5 The Assessment of Governments' Progress

A5.1 Background to the assessment

In accordance with the NCP agreements, the Council completed its first tranche assessment of governments' progress in June 1997.⁴ It identified a range of issues where it did not consider governments had fully met their NCP commitments. Despite this, the Council recommended that all governments receive the 1997–98 component of their first tranche NCP payments (some \$396.2 million), in recognition of the considerable effort governments had committed to establishing the policy and the administrative arrangements necessary to support its implementation.

In June 1998, the Council re-assessed the outstanding issues identified in the first assessment. At that time, it assessed all governments as having satisfactorily progressed those issues, recommending full payment of the remainder of first tranche payments (some \$422.6 million) with one exception. The Council was not satisfied that New South Wales had implemented domestic rice marketing reform consistent with a review recommendation and NCP obligations. Consequently, it recommended that the Commonwealth Treasurer withhold \$10 million from the payments otherwise due to New South Wales if that matter was not satisfactorily progressed by the end of January 1999.⁵

In this second assessment of governments' progress, some \$640 million in payments over the period to July 2000 is available for distribution (on a per capita basis) to

⁴ The Council is required to undertake three assessments – before 30 June in 1997, 1999 and 2001.

⁵ Section B5.4.2 of this report provides further details and subsequent progress with this matter.

States and Territories assessed as having met the NCP reform obligations. A further \$800 million (approximately) is available the following financial year.⁶

A5.2 Secondtranchereformcommitments

The reform commitments for the second tranche competition payments are specified in the Attachment to the Implementation Agreement (NCC 1998b). In summary, the NCP and related reforms commitments require States and Territories to:

- establish and participate in a competitive national electricity market;
- implement the national framework for free and fair trade in gas;
- implement the strategic framework for the efficient and sustainable reform of the Australian water industry;
- effectively observe road transport reforms;
- provide for third party access to significant infrastructure facilities;
- structurally reform public monopolies before privatisation or the introduction of competition to the monopoly market;
- review and, where appropriate, reform existing legislation that restricts competition and ensure new legislation restricting competition is in the public interest;
- consider establishing an independent source of price oversight;
- implement competitive neutrality policy and principles for significant government business activities; and
- apply competition principles to local government.

The specific commitments for each reform area, relevant for the second tranche assessments, are contained in the introduction to each section in Part B of this report.

A6 The Council's Approach to the Assessment

The Implementation Agreement establishes the framework for assessing governments' progress with implementing the NCP and related reforms obligations. This framework is augmented by the COAG agreements and in correspondence between Heads of Government on the related reforms, and by the requirements of the CPA (NCC 1998b).

The Council has adopted a “no surprises” approach to its assessment role. In practice, this has meant the Council has ensured that governments are aware at an early stage of

⁶ Appendix A provides an estimate of the maximum funds potentially available to each State and Territory in 1999–2000.

any areas where it is not clear that the NCP reform commitments have been (or will be) met and the approach it intends to take in its assessment. The Council's work with governments has included multilateral engagements, such as with COAG Senior Officials, the Committee of Regulatory Reform, the Gas Reform Implementation Group, the High Level Steering Group on Water Reform and the Australian Transport Council's Senior Advisor Group. The Council has also discussed specific issues on a bilateral basis. Some of this work has involved negotiation of a course of action to enable the Council to positively assess progress.

Box A.1 Approaches the Council does *not* adopt to assessments

The Council often receives suggestions on how the assessment process should be conducted, despite the fact that (or perhaps because) the Implementation Agreement provides little guidance.

At times it is suggested that, in assessing progress, the Council should focus on areas of significant reform, such as the related infrastructure reforms, rather than reform areas which have a relatively minor economic impact, such as individual legislation reviews.

However, even though many of the individual reforms may have a relatively minor economic impact, when taken as a whole, the NCP reform program will produce substantial economic benefits. To disregard 'minor' reform areas would see the downgrading of the importance of most of the NCP program.

The NCP Agreements require the Council to assess governments' progress against the entire reform package. The Agreements do not give the Council discretion to selectively assess parts of the package and not others.

It has also been suggested that the Council "trade-off" significant reforms in one area of the NCP package against shortcomings in other areas. The NCP Agreements do not provide for the Council to take such a view, nor is it a sensible way of dealing with the totality of the reform program. Further, such an approach is likely to be interpreted by those currently afforded protections from competition as setting a precedent for seeking exemptions from reform.

The Council does recognise that, within the overall assessment program, some matters do have a lesser economic impact. This is reflected in the Council's recommendations on competition payments where satisfactory progress is not achieved.

Together with the parties to the NCP agreements, the Council has a responsibility for ensuring that the scope and pace of reform is maintained. This means that the commitments specified in the Attachment to the Implementation Agreement, unless modified by formal agreement of the parties, must form the basis of the Council's assessment of progress. As a result, the Council is compelled to reject variations to the scope of the agenda and the implementation timetable, except where a formal agreement exists between all parties to vary the terms of the original agreements. In this respect, the Council notes that for the second tranche assessment:

- the November 1997 Heads of Government signed the *Natural Gas Pipeline Access Agreement*, which modified the 1994 COAG gas reform program, including the implementation deadline;⁷
- the Australian Transport Council agreed to a 19 point package of national road transport reforms in December 1998. COAG subsequently endorsed the package as the framework for the second tranche assessment;⁸ and
- the reform timetable for water has been modified by the agreement of all parties.⁹

The Council has assessed progress in terms of a demonstrated commitment to the NCP program, both in substance and spirit. This includes evidence that governments have committed themselves to a genuine and comprehensive NCP program, rather than to technical compliance with a preferred interpretation. All of this means that, for a large part of the NCP agenda, there may be a variety of outcomes which satisfy the requirement for adequate progress against the objectives set out in the inter-governmental agreements, particularly in relation to the CPA commitments.

The Council assesses the Commonwealth's progress against the same benchmarks even though its progress is not linked to competition payments.

A7 Progressing Outstanding Second Tranche Issues

Governments have made significant progress in implementing NCP. However, in this assessment the Council has identified a number of matters where governments have not made sufficient progress on implementing aspects of the NCP reform program.

A particular focus of the Council in the current assessment round has been to try to find ways to progress problematic issues, rather than recommend deductions against the competition payments – deductions are a last resort.

In addition to ongoing multilateral and bilateral engagement with jurisdictions on NCP implementation, a number of reporting and consultation processes between governments and the Council have been undertaken specifically to address outstanding second tranche assessment issues.

First, governments and the Council agreed that annual reports on progress with regulation review and competitive neutrality reforms due in 1999 under the CPA should be provided by the end of March and include reporting on all NCP reform areas. This agreement greatly assisted the Council's assessment process and enabled early feedback to governments on problem areas. The date that each government forwarded its annual report to the Council is provided in Box A.2, together with an indication of when the report was publicly released. The Council had previously

⁷ See Section B8.1

⁸ See Section B9.1.

⁹ See separate water reform assessment volume.

provided to all jurisdictions (in November 1998) a summary framework detailing all significant assessment matters.

Box A.2 Annual Reports on progress with implementation

Jurisdictions forwarded their annual reports on progress with implementing NCP for the second tranche assessment on the following dates.

Jurisdiction	Date Lodged	Public Release
Commonwealth	25 June 1999	First published in Volume 3
NSW	31 May 1999	May 1999
Victoria	31 March 1999	March 1999
Queensland	27 April 1999	April 1999
Western Australia	31 March 1999	March 1999
South Australia	30 March 1999	March 1999
Tasmania	4 May 1999	May 1999
ACT	3 June 1999	May 1999
Northern Territory	7 May 1999	First published in Volume 3

Second, governments were notified of any deficiencies in the Annual Report, such as the lack of any discussion of a particular review of anti-competitive legislation.

Third, meetings between Heads of Government/Treasurers/Senior Officials and the Council President/Executive Director were arranged to discuss outstanding assessment areas and possible reform paths to resolve these matters. The people involved in, and dates of, these meetings are outlined in Box A.3. These meetings prompted a series of negotiations in some cases.

Fourth, the Council's draft assessment was provided to each jurisdiction late in June for comment. Some sections of the draft assessment, notably in relation to water and road transport reform, were provided separately to governments for comment earlier than this.

Box A.3 Meetings with Ministers and Senior Officials

The following meetings were conducted by the Council President and/or Executive Director to discuss outstanding assessment issues with representatives of each jurisdiction, with a view to resolving any assessment problems:

Date	Jurisdiction	Representatives	Council
1 June*	NSW	Director –General Cabinet Office	President Executive Director
13 April	Victoria	Premier	President Executive Director
4 June	Queensland	Treasurer	President Executive Director
29 June*	Queensland	Treasurer	President
18 June	Western Australia	Under–Treasurer	Executive Director
3 June	South Australia	Premier	President Executive Director
20 May	Tasmania	Treasurer Secretary, Treasury & Finance	President Executive Director
29 June*	Tasmania	Secretary, Treasury & Finance	President
7 June	ACT	Chief Minister	President Executive Director
21 June	Northern Territory	CEO, Chief Minister’s Dept Deputy Under–Treasurer	Executive Director
29 June*	Northern Territory	Deputy Under-Treasurer	Executive Director

* Denotes meeting by conference phone call

In these engagements with governments, the Council has adopted four approaches to dealing with outstanding issues.

1. Where the Council and the relevant government agreed a course of action to resolve an outstanding matter, the Council recommends that the 1999–2000 year competition payments be made to the government. The remaining second tranche payments (that is, for the year 2000–2001) will be subject to a further assessment by the Council before July 2000¹⁰ to ensure the matter has been progressed as agreed. The Council has applied this approach where, for example, a government has given a commitment to provide a community benefit justification in support of retaining legislative restrictions or to re-examine a policy response to review recommendations.
2. Where discussions between the Council and the relevant government are continuing, with agreement on a course of action to resolve the matter expected within six months, the Council has recommended suspension of the 1999–2000 year competition payments for that government for six months or until agreement is reached. This has occurred, for example, where a government requires policy approval from Cabinet before committing the government to the proposed course of action or where the passage of legislation through Parliament is required to give effect to reform.
3. Where investigations have revealed that the timeframe for resolving an outstanding matter is likely to be more than 12 months, the Council has deferred assessment of these matters until the third tranche assessment which will be conducted before July 2001. The Council has adopted this approach where, for example, an issue is common across jurisdictions and governments have agreed to conduct a national review to examine the matter. The Council sees merit in allowing such processes to run their course and inform the policy debate.
4. Where the Council and the relevant government have been unable to reach agreement, and are unlikely to do so, on a course of action to resolve a non-trivial outstanding issue, the Council has recommended the Commonwealth Treasurer deduct monies from the 1999–2000 competition payments otherwise due to that government. In some cases, consistent with the recommendations of reviews, the Council has recommended that deduction commence after 31 December 2000. In most cases, an equivalent deduction will be recommended from subsequent competition payments until such time as the matter is resolved in a manner consistent with the NCP agreements. If the matter is subsequently resolved, monies already deducted will not be reimbursed to the government.

¹⁰ In case of road transport, the supplementary assessment will be made before 31 March 2000. For some areas of water reform, the supplementary assessment will be made before 31 December 1999.

A8 Summary and Recommendations

The following tables summarise the Council's assessment findings and recommendations.

Table A1 details the outstanding second tranche issues which have drawn a recommendation from the Council on the 1999–2000 competition payments otherwise due to the relevant governments.

Table A2 summarises other outstanding issues, including where the Council and relevant government have agreed to a course of action to progress the issue. Progress with these issues will be the subject of a further consideration by the Council over the next year as detailed in the table.

Table A1 Second tranche non-compliance issues and recommendations on 1999–2000 competition payments

	Second Tranche Non-compliance Issues	Recommendations on Competition Payments
Commonwealth	<p>No review of structural and regulatory arrangements prior to privatising Australian National (see section B4.2).</p> <p>No review of structural and regulatory arrangements prior to privatising the Tasmanian rail services (TasRail) (see section B4.2).</p>	Not applicable.
New South Wales	Nil – subject to outstanding second tranche issues listed in Table A2	<p>Full payment of first part of second tranche NCP payments due in 1999–2000.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>
Victoria	Nil – subject to outstanding second tranche issues listed in Table A2	<p>Full payment of first part of second tranche NCP payments due in 1999–2000.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>
Queensland	Demonstration of robust independent appraisals being conducted to determine economic viability and ecological sustainability prior to investment in rural schemes and/or implementation of the recommendations of such appraisals (see section B10.4.2).	<p>Suspension of 25 per cent of second tranche 1999–2000 competition payments until 31 December 1999. Final recommendation on these payments to be made by 31 December 1999 following a supplementary assessment.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>

	Second Tranche Non-compliance Issues	Recommendations on Competition Payments
Western Australia	Nil – subject to outstanding second tranche issues listed in Table A2	<p>Full payment of first part of second tranche NCP payments due in 1999–2000.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>
South Australia	Nil – subject to outstanding second tranche issues listed in Table A2	<p>Full payment of first part of second tranche NCP payments due in 1999–2000.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>
Tasmania	Nil – subject to outstanding second tranche issues listed in Table A2	<p>Full payment of first part of second tranche NCP payments due in 1999–2000.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>
Australian Capital Territory	Nil – subject to outstanding second tranche issues listed in Table A2	<p>Full payment of first part of second tranche NCP payments due in 1999–2000.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>

	Second Tranche Non-compliance Issues	Recommendations on Competition Payments
Northern Territory	Nil – subject to outstanding second tranche issues listed in Table A2	<p>Full payment of first part of second tranche NCP payments due in 1999–2000.</p> <p>Second tranche NCP payments due in 2000–2001 subject to supplementary assessment of identified outstanding second tranche issues (see Table A2).</p>

Table A2 Second tranche issues subject to supplementary assessment

	Second Tranche Issues	Comment
Commonwealth	<p>Establishment of an effective access regime to Australia Post's network to enhance competition in line with review recommendations (see section B5.4.8).</p> <p>Incomplete implementation of road transport reforms (see section B9.4):</p> <ul style="list-style-type: none"> • Reform 2: Uniform or consistent national registration requirements for heavy vehicles; • Reform 5: Uniform in-service heavy vehicle standards; and • Reform 14: Adoption of national bus driving hours 	<p>Compliance with NCP depends on adoption of an acceptable access regime. The Council to examine progress on this matter in subsequent assessments.</p> <p>Supplementary assessment of progress before 31 March 2000.</p>
New South Wales	<p>The dairy industry review panel was not sufficiently independent and the review did not clearly demonstrate that retaining market arrangements delivered a public benefit to the community as a whole (see section B5.4.1).</p> <p>In-principle agreement by New South Wales to reform domestic rice marketing arrangements consistent with review recommendation (continuing first tranche issue) and Working Group recommendation (see section B5.4.2).</p> <p>Legislation to provide for comprehensive system of water entitlements and trading not in place (see section B10.2.4).</p>	<p>Supplementary assessment before July 2000 taking into account the proposed national reform and adjustment package for the dairy industry.</p> <p>Supplementary assessment of progress before July 2000.</p> <p>Supplementary assessment before July 2000 to review whether the legislation is in place.</p>

	Second Tranche Issues	Comment
Victoria	<p>Retention of 8 per cent cap on the number of packaged liquor licences able to be held by an individual or company contrary to a review recommendation (see section B5.4.4).</p> <p>Retention of monopoly delivery of its compulsory third party (CTP) motor vehicle insurance contrary to review recommendations (see section B5.4.5).</p> <p>Retention of monopoly delivery of workers' compensation arrangements contrary to a review recommendation (see section B5.4.6).</p> <p>Retention of the statutory monopoly in the provision of professional indemnity insurance for solicitors reverses an earlier decision to introduce competition as recommended by a review (see section B5.4.7).</p>	<p>If the 8 per cent rule is not removed by 31 December 2000, the Council will consider an annual deduction from NCP payments.</p> <p>Victoria has undertaken to support a national review of motor vehicle CTP arrangements by the Productivity Commission. The Council will conduct a supplementary assessment if national review not progressed by July 2000.</p> <p>Victoria has agreed to support a national review of workers' compensation arrangements by the Productivity Commission. The Council will conduct a supplementary assessment if national review not progressed by July 2000.</p> <p>The Government has undertaken to conduct a further review to determine if changes are appropriate. The Council will conduct a supplementary assessment before July 2000.</p>
Queensland	<p>Questions about the implementation of competitive neutrality principles arising from the Coachtrans competitive neutrality complaint concerning Queensland Rail (see section B3.3).</p>	<p>A supplementary assessment will consider the implications of the Coachtrans complaint and progress in developing a CSO framework for public transport in SE Qld as agreed by Queensland.</p> <p>The Council will consider recommending a deduction from the second tranche competition payments if there is evidence that competitive neutrality principles are not being appropriately applied.</p>

	Second Tranche Issues	Comment
	<p>The dairy industry review did not clearly demonstrate that retaining market arrangements delivered a public benefit to the community as a whole (see section B5.4.1).</p> <p>Queensland's application of the National Gas Access Code is not operational (see section B8.2).</p> <p>Incomplete implementation of road transport reforms (see section B9.4):</p> <ul style="list-style-type: none"> • Reform 3: Uniform national driver licensing transactions; • Reform 5: Uniform in-service heavy vehicle standards; and • Reform 15: Simplified fee-free interstate conversion of driver licences. <p>Incomplete implementation of water reform (see section B10.4):</p> <ul style="list-style-type: none"> • cost and pricing reforms of urban (metropolitan and town) water and wastewater providers; • implementation of the recommendations of independent reviews on the introduction of two part tariffs (consumption based pricing) by local government; • devolution of irrigation management; and • separation of water service providers from regulation, standard setting and resource management functions. 	<p>Supplementary assessment before July 2000 taking into account the proposed national reform and adjustment package for the dairy industry.</p> <p>Supplementary assessment of progress before July 2000.</p> <p>The Government has a clear program for implementing the outstanding reforms. Supplementary assessment of progress before 31 March 2000.</p> <p>Supplementary assessment of progress before 31 December 1999.</p>

	Second Tranche Issues	Comment
	Legislation to provide for comprehensive system of water entitlements and trading not in place (see section B10.4.4).	Supplementary assessment before July 2000 to review whether legislation is in place.
Western Australia	<p>The dairy industry review did not clearly demonstrate that retaining market arrangements delivered a public benefit to the community as a whole (see section B5.4.1).</p> <p>Incomplete implementation of road transport reforms (see section B9.4):</p> <ul style="list-style-type: none"> • Reform 2: Uniform or consistent national registration requirements for heavy vehicles; • Reform 3: Uniform national driver licensing transactions; • Reform 4: Vehicle operations; • Reform 5: Uniform in-service heavy vehicle standards; • Reform 9: Common and simplified driver licence categories; • Reform 13: Enhanced safe carriage and restraint of loads; and • Reform 15: Simplified fee-free interstate conversion of driver licences. <p>Legislation to provide for comprehensive system of water entitlements and trading not in place. (See section B10.5.4)</p>	<p>Supplementary assessment before July 2000 taking into account the proposed national reform and adjustment package for the dairy industry.</p> <p>The Government has a clear program for implementing the outstanding reforms. Supplementary assessment of progress before 31 March 2000.</p> <p>Supplementary assessment before July 2000 to review whether legislation is in place.</p>

	Second Tranche Issues	Comment
<p>South Australia</p>	<p>No clear public interest case to support the retention of restrictions on retail shop trading arrangements (see section B5.4.3).</p> <p>Review recommendation to retain restrictions on liquor licensing but to review the matter again within 3–4 years (see section B5.4.4).</p> <p>Progress with implementation of electricity reforms – establishing regulatory arrangements as recommended by a review of structural arrangements (see section B7.2.1).</p> <p>Insufficient information on Government’s response to the recommendations of the <i>Cooper Basin (Ratification) Act 1975</i> review to ensure free and fair trade in gas (see section B8.2).</p>	<p>Recommendations of the review are not provided and the Government’s case as outlined in the Annual Report does not demonstrate a supporting community benefit case. If restrictions on trading arrangements are not removed or shown to be in the public interest by 31 December 2000, the Council will consider an annual deduction from NCP payments.</p> <p>The Government has agreed to consider review of the “needs based” criteria for licensing in 2000–2001.</p> <p>Supplementary assessment of progress before 31 December 1999.</p> <p>The Government is due to respond prior to 30 June 1999, otherwise supplementary assessment before 31 December 1999.</p>

	Second Tranche Issues	Comment
	<p>Incomplete implementation of road transport reforms (See section B9.4):</p> <ul style="list-style-type: none"> • Reform 2: Uniform or consistent national registration requirements for heavy vehicles; • Reform 3: Uniform national driver licensing transactions; • Reform 4: Vehicle operations; • Reform 8: National mass and dimension limits for heavy vehicles; and • Reform 13: Enhanced safe carriage and restraint of loads. <p>Progress with reforming commercial water pricing.</p> <p>Further progress on commercial bulk and wastewater pricing (see section B10.6.2).</p>	<p>The Government has a clear program for implementing the outstanding reforms. Supplementary assessment of progress before 31 March 2000.</p> <p>Supplementary assessment of progress before 31 December 1999.</p> <p>Supplementary assessment of progress before July 2000.</p>
Tasmania	<p>Process for review of compulsory third party (CTP) motor vehicle insurance arrangements casts doubt over review recommendation to retain monopoly arrangement (see section B5.4.5).</p>	<p>The Government has undertaken to support a national review of motor vehicle CTP arrangements by the Productivity Commission. The Council will conduct a supplementary assessment if national review not progressed by July 2000.</p>

	Second Tranche Issues	Comment
	<p>Incomplete implementation of road transport reform (see B9.5):</p> <ul style="list-style-type: none"> • Reform 2: Uniform or consistent national registration requirements for heavy vehicles; • Reform 3: Uniform national driver licensing transactions; and • Reform 6: Nationally consistent arrangements for managing truck driver fatigue; use of log books not mandated and no exemption approved. <p>Progress with water pricing reform and the devolution of irrigation management (see section B10.7).</p> <p>Progress with the agreed water reform framework (see section B10.7):</p> <ul style="list-style-type: none"> • passage of legislation for comprehensive system of water entitlements, trading and institutional separation; and • progress with pricing reform and CSOs provided by local government. 	<p>Supplementary assessment of progress before 31 March 2000.</p> <p>Supplementary assessment before 31 December 1999 to ensure provision of a two part tariff implementation timetable and review progress on participant involvement in management of irrigation schemes.</p> <p>Supplementary assessment before July 2000 to review whether legislation is in place and progress achieved against pricing reform timetable.</p>
ACT	<p>The dairy industry review process did not clearly demonstrate that retaining market arrangements delivered a public benefit to the community as a whole. (See section B5.4.1)</p>	<p>Supplementary assessment before July 2000 taking into account the proposed national reform and adjustment package for the dairy industry.</p>

	Second Tranche Issues	Comment
	<p>Incomplete implementation of transport reform (see section B9.5):</p> <ul style="list-style-type: none"> • Reform 2: Uniform national or consistent registration requirements for heavy vehicles; • Reform 3: Uniform national driver licensing transactions; • Reform 4: Vehicle operations; and • Reform 9: Common and simplified driver licence categories. 	<p>The Government has a clear program for implementing the outstanding reforms. Supplementary assessment of progress before 31 March 2000.</p>
Northern Territory	<p>Incomplete implementation of transport reform (see B9.5):</p> <ul style="list-style-type: none"> • Reform 3: Uniform national driver licensing transactions; demerit points not implemented. <p>Progress with elements of the agreed water reform framework (see section B10.9):</p> <ul style="list-style-type: none"> • cost recovery and rates of return achieved by urban water and wastewater services and cross-subsidies; • separation of all regulatory and service provision functions; • removal of ties between water property rights and particular pieces of land and thus removal of all barriers to trade;0 • provision of an implementation program for environmental allocations; and • bulk water pricing and economic viability assessment processes. 	<p>Northern Territory to determine approach to demerit points. Supplementary assessment of progress before 31 March 2000.</p> <p>Supplementary assessment of progress by 31 December 1999.</p>

A9 Looking Forward

A number of issues have arisen during this assessment process which will be relevant to the Council's third assessment of government progress, due before July 2001.

Electricity reform will be a major area for consideration in the third tranche assessment. While the NEM is operational, there are indications of important issues either still outstanding (many of which have been identified by the ACCC) or emerging (as discussed in Section A3.2 above). There will also be third tranche electricity reform issues in relation to the non-NEM jurisdictions: Western Australian and the Northern Territory.

While most jurisdictions have made substantial progress in water reform, most of the reform agenda is yet to be tackled. Water reform will again be a major area for consideration in the third tranche assessment.

Similarly, in road transport reform, all jurisdictions have completed or made substantial progress against the second tranche obligations. However, most of the original reform program remains outstanding and the Council will be looking to governments to again agree on the details of reform obligations for the third tranche assessment.

In relation to governments' programs for review and appropriate reform of legislative restrictions on competition, there are some difficult challenges ahead. Regulation review and reform will be a major component of the third tranche assessment, especially in the following areas:

- taxi licensing arrangements;
- responses to the current Productivity Commission review into the social and economic implications of gambling regulation;
- the forthcoming national review of pharmacy regulation;
- restrictions in relation to professions and occupations, especially in the areas of health and legal services;
- outstanding statutory marketing arrangements, including dairy, grains and (in Western Australia) potato marketing;
- compulsory insurance arrangements, especially in motor accident and workers compensation; and
- broadcasting regulation, with particular reference to digital television, at the Commonwealth level.