

B6 The Conduct Code Agreement

B6.1 The Conduct Code obligations

Under the Conduct Code Agreement, the Commonwealth, States and Territories are required to report legislation reliant on section 51(1) of the *Trade Practices Act 1974* to the Australian Competition and Consumer Commission (ACCC). The reporting obligations are:

- to notify the ACCC of legislation that relies on section 51(1) within 30 days of the legislation being enacted or made (clause 2(1)); and
- to have notified the ACCC by 20 July 1998 of legislation relying on the version of section 51(1) in force at 11 April 1995 that will continue pursuant to the current section 51(1) (clause 2(3)).

In assessing progress against the Conduct Code obligations, the Council sought advice from the ACCC, to determine whether jurisdictions satisfied the notification requirements of the Conduct Code.

In addition, because new legislation reliant on section 51(1) is, by definition, new legislation that restricts competition, jurisdictions are required to demonstrate that new legislation reliant on section 51(1) satisfies the competition tests in clause 5(5) of the CPA. The Council wrote to all jurisdictions on 18 June 1998 to ensure that jurisdictions were aware that Conduct Code obligations were relevant to the June 1999 assessment of NCP progress.

B6.2 Compliance with obligations by jurisdiction

The current progress of each jurisdiction is outlined below, based on information which jurisdictions and the ACCC have provided to the Council.

Commonwealth

Commitment under clause 2(1)

The ACCC has been notified that the following new legislation reliant on section 51(1) has been enacted since 11 April 1995:

- *Trade Practices Amendment (Country of Origin Representations) Act 1998* (notified 7 August 1998);
- *Australian Postal Corporation Act 1989* (notified 15 July 1998);
- *Wheat Marketing Legislation Amendment Act 1998* (notified 11 August 1998); and
- *Year 2000 Information Disclosure Act 1999* (notified 10 March 1999).

Commitment under clause 2(3)

The Commonwealth has advised that it has no legislation that has implications for clause 2(3).

New South Wales***Commitment under clause 2(1)***

The ACCC has been notified that the following new legislation reliant on section 51(1) has been enacted since 11 April 1995:

- *Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998* (notified 29 May 1998);
- *Totalizator Legislation Amendment Act 1997* (notified 10 December 1997);
- *Sydney Organising Committee for the Olympic Games Act 1996*;
- *Marketing of Primary Products Amendment (Rice Marketing Board) Act 1998* (notified 30 July 1998);
- *Marketing of Primary Products Amendment (Wine Grapes Marketing Board) Act 1997* (notified 30 July 1998);
- *Diary Industry Amendment (Trade Practices Exemption) Act 1998* (notified 30 July 1998);
- *Farm Produce (Repeal) Act 1996* (notified 30 July 1998);
- *Competition Policy Reform (NSW) Amendment (Waste) Regulation 1998* (notified 30 July 1998);
- *Competition Policy Reform (NSW) Amendment (Grain Marketing) Regulation 1998* (notified 30 July 1998); and
- *Competition Policy Reform (NSW) Amendment (SOCOG and SPOC) Regulation 1998* (notified 30 July 1998).

Commitment under clause 2(3)

The New South Wales Government advised the ACCC on 10 July 1998 of the following legislation that had implications for clause 2(3):

- *Marketing of Primary Products Act 1983*;
- *Grain Marketing Act 1991*; and
- *Co-operatives Act 1992*.

New South Wales further advised that these Acts are either currently under, or scheduled for, competition policy legislation reviews.

Victoria

Commitment under clause 2(1)

The ACCC has been notified that the following new legislation relying on section 51(1) has been enacted since 11 April 1995:

- *Legal Practice Act 1996* – Schedule 2 of the Act provided for a temporary exemption which expired on 30 June 1997;
- *Electricity Industry (Trade Practices) Regulations 1994* – Regulation 4 operated until 30 June 1996;
- *Competition Policy (Gas Supply Contract Exemption) Regulations 1996* – Regulations 5 & 7 operated until 20 November 1997;
- *Gas Industry Act 1994* (notified 17 July 1998);
 - Part 6B, Competition Policy Authorisation;
 - = section 62M as from 3 June 1997, amended by 91/97;
 - = section 26 as from 8 June 1998;
 - = section 27 as from 11 December 1997 and amended by 40/98;
 - = section 62O as from 3 June 1997;
 - = section 62P as from 3 June 1997;
 - Part 6C, Master Agreements;
 - = section 62Q, section 62S and section 62T as from 8 June 1998;
- *Electricity Industry Act 1993* – section 91AA inserted by 8/1996, section 13, as from 25 June 1996 and to be repealed from 1 January 2001 by section 14 of 8/1996 (notified 17 July 1998).

Commitment under clause 2(3)

Victoria has advised that it has no legislation that has implications for clause 2(3).

Queensland

Commitment under clause 2(1)

The ACCC has been notified that the following new legislation relying on section 51(1) has been enacted since 11 April 1995:

- *Competition Policy Reform (Queensland – Dairy Produce Exemptions) Amendment Regulation (No. 1) 1997* (notified 12 July 1997);

- *Competition Policy Reform (Queensland – Dairy Industry Exemptions) Regulations 1998* (notified 31 July 1998);
- *Competition Policy Reform (Queensland – Chicken Meat Industry Exemptions) Regulations 1998* (notified 31 July 1998); and
- *Competition Policy Reform (Qld Sugar Industry Exemptions) Regulation 1998*, to expire 31 December 1999 (notified 31 July 1998).

Commitment under clause 2(3)

Queensland has advised that it has no legislation that has implications for clause 2(3).

Western Australia

Commitment under clause 2(1)

The ACCC has been notified that the following new legislation relying on section 51(1) has been enacted since 11 April 1995:

- *North West Gas Development (Woodside) Agreement Amendment Act 1996* (notified 2 August 1996).

Commitment under clause 2(3)

The Western Australian Government advised the ACCC on 18 July 1998 of the following legislation that had implications for clause 2(3):

- *North West Development (Woodside) Agreement Act 1979*.

Western Australia further advised that this Act is scheduled for competition policy legislation review.

South Australia

Commitment under clause 2(1)

The ACCC has been notified that the following new legislation relying on section 51(1) has been enacted since 11 April 1995:

- *Dairy Industry Act 1992* (notified 15 July 1998).

Commitment under clause 2(3)

The South Australian Government advised the ACCC on 15 July 1998 of the following legislation that had implications for clause 2(3):

- *Cooper Basin (Ratification) Act 1975*;
- *Stony Point (Liquids Project) Ratification Act 1981*;
- *Roxby Downs (Indenture Ratification) Act 1982* – has an enabling provision to provide for authorisation, however no authorisation has been provided to date; and

- *Industries Development Act 1941* – contains an enabling provision to provide for authorisation that has not been used to date.

Tasmania

Commitment under clause 2(1)

The ACCC has been notified that the following new legislation relying on section 51(1) has been enacted since 11 April 1995:

- *Electricity Supply Industry Act 1995* (notified 16 July 1998); and
- *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995*.

Commitment under clause 2(3)

Tasmania has advised that it has no legislation that has implications for clause 2(3).

Australian Capital Territory

Commitment under clause 2(1)

The ACCC has been notified that the following new legislation relying on section 51(1) has been enacted since 11 April 1995:

- *Milk Authority (Amendment) Act 1997* – the exemption was initially for a period of 12 months however, an extension has been agreed by the ACT until June 2000 (notified 9 September 1998, ACCC has not been notified of extension).

Commitment under clause 2(3)

The ACT has advised that it has no legislation that has implications for clause 2(3).

Northern Territory

Commitment under clause 2(1)

The Northern Territory has advised that it has no legislation that has implications for clause 2(1).

Commitment under clause 2(3)

The Northern Territory has advised that it has no legislation that has implications for clause 2(3).

B6.3 Assessment

The Council is satisfied that all jurisdictions have met their obligations under clauses 2(1) and 2(3) of the Conduct Code.

The Council notes that jurisdictions have an ongoing obligation under clause 2(1) of the Conduct Code to notify the ACCC of all new legislation reliant on section 51(1) of TPA within “**30 days** of the legislation being enacted or made”.