

1 Background

Australian governments introduced the National Competition Policy (NCP) in 1995, acknowledging the importance of a competitive, dynamic and innovative economy to delivering Australia's economic, social and environmental objectives. The NCP program, possibly Australia's most far-reaching microeconomic reform initiative, is set out in three intergovernmental agreements.¹ These focus on:

- infrastructure monopolies such as electricity transmission grids and rail networks (many of which have been, or are, government monopolies) where competition matters are addressed through the infrastructure access regime under part IIIA of the *Trade Practices Act 1974* (TPA) and through reforms specific to electricity and gas called up by the Agreement to Implement the National Competition Policy and Related Reforms;
- monopolistic activities addressed through the extended reach of the TPA under the Conduct Code Agreement; and
- legislated restrictions, where pro-competitive reforms are considered under clause 5 of the Competition Principles Agreement (CPA).

Two other key elements of the NCP are that:

- it addresses concerns about the performance of government businesses by requiring governments to apply competitive neutrality principles to significant government businesses under clause 3 of the CPA and to review the structure of public monopolies under clause 4 of the CPA; and
- it requires governments to focus on the management of Australia's water industry, to ensure appropriate use of water (including use by the environment).

The reform program applies to all sectors of the economy. It also recognises that Australia is essentially one national market and focuses on creating, where possible, integrated national markets by breaking down barriers to trade among jurisdictions.

The program particularly targets the public sector, given the importance of an efficient public sector to the strength of the economy and its protection from competition. However, the NCP also has reform implications for other areas that have traditionally enjoyed protection from competition, such as the professions and agricultural statutory marketing arrangements.

¹ The three NCP agreements are reproduced in NCC (1998). See also CoAG (2000).

Australia's 700 local governments are not formally a party to the NCP agreements. However, significant elements of the NCP program, particularly the application of competitive neutrality principles, the review and reform of restrictive legislation and the water reform program are directly relevant to local government.

NCP payments to the States and Territories

The States and Territories have responsibility for significant elements of the NCP yet much of the financial return from NCP reform accrues to the Commonwealth. This occurs because increases in income and business taxation revenue from greater economic activity flow to the Commonwealth. To share the returns generated from reform across the community, the Commonwealth makes NCP payments to each State and Territory. Over the five years from 2001-02, an estimated \$3.8 billion in NCP payments is potentially available. To receive full NCP payments, the States and Territories must show satisfactory progress against the agreed reform agenda.

The Federal Treasurer allocates NCP payments on the basis of the National Competition Council's assessments of this progress. The 2001 assessment informs the Treasurer's decision on payments for 2001-02. The annual assessments from 2002, which the Council of Australian Governments (CoAG) has asked the Council to undertake, will inform the Treasurer's decisions on payments to States and Territories in subsequent years.² The Council also assesses the Commonwealth's progress in implementing the NCP program but the Commonwealth, although a party to the NCP agreements, does not receive NCP payments.

The Council may recommend that the Treasurer reduce or suspend the NCP payments otherwise available to a State and Territory where that State or Territory has not invested in the reform program in the public interest. The Council considers recommending reduction or suspension because a failure to implement the program as agreed can contribute to a decline in economic activity and, consequently, to a reduction in the overall financial dividend from reform. Under the terms of the NCP agreements, governments that do not implement the program as agreed may receive a reduced reform dividend because there is less to be shared.

² On 3 November 2000, CoAG determined that the National Competition Council should undertake an annual assessment of each party's performance in meeting its reform obligations. See CoAG (2000).

When assessing the nature and level of the reduction or suspension that it recommends for a particular State or Territory, the Council must take into account:

- the extent of the jurisdiction's overall commitment to the implementation of the NCP;
- the effect of one jurisdiction's reform efforts on other jurisdictions; and
- the impact of the jurisdiction's failure to undertake a particular reform (CoAG 2000).

The Council's objective is to work with governments to achieve reform outcomes consistent with the interest of the community. Consequently, the Council recommends reductions in NCP payments only as a last resort: that is, only where no satisfactory path to dealing with implementation questions is agreed. The Council prefers to encourage governments to address competition concerns as comprehensively as possible, rather than to recommend penalties for noncompliance.

Governments' NCP annual reports

The CPA obliges all governments to produce annual reports outlining their progress against their legislation review and competitive neutrality obligations. The aim of these reports is to provide full public reporting on these areas of NCP activity by governments.

As part of the first tranche NCP assessment, governments agreed that it would be beneficial to report on NCP activity more broadly, recognising that the reports provide significant input to the assessments and to community awareness of the NCP. Governments agreed to provide their annual reports in each assessment year by the end of March, detailing their NCP activity to at least the end of the previous year.

All governments provided annual reports on their NCP progress in 2001, so meeting reporting obligations under the CPA. The governments made their reports available at the dates in table 1.1. With the exception of the Commonwealth and Victoria, each government's report was publicly available by the end of June 2001. Victoria indicated it would release its report when the Federal Treasurer announces his decisions on the assessment. The Commonwealth provided a draft annual report on its NCP progress and will publish this subsequently as it has in previous years.

All governments, at the request of the Council, provided additional information augmenting and/or clarifying the material in their NCP reports for 2001. Queensland provided substantial additional information on 25 July. This was too late for the Council to consider the information as part of this

assessment. The Council will consider the material provided by Queensland in the 2002 NCP assessment.

Table 1.1: Governments' provision of NCP annual reports

| <i>Government</i> | <i>Date on which the Council received the 2001 annual report</i> |
|--------------------|--|
| Commonwealth | 6 July 2001 |
| New South Wales | All components (excluding legislation review and water) received on 4 May 2001. Water received on 8 May 2001. Legislation review received in three stages (12 June, 25 June and 12 July 2001). |
| Victoria | 29 March 2001 |
| Queensland | 23 April 2001 |
| Western Australia | 17 May 2001 |
| South Australia | 30 March 2001 |
| Tasmania | 31 May 2001 |
| ACT | 2 April 2001 |
| Northern Territory | 1 May 2001 |