

# 23 Social regulation with implications for competition

There are frequently economic aspects to governments' management of social policies and the provision of related services. Legislation seeking to achieve particular social objectives sometimes restricts who can offer particular services, imposes pricing obligations or sets other conditions that affect the competitive environment. Competitive neutrality issues may also arise, given the involvement of government business activities in service delivery.

Decisions about appropriate policy objectives are matters for elected governments, in consultation with their constituents. However, the mechanisms for achieving policy objectives, along with their economic consequences, fall within the scope of the NCP. Thus, in assessing jurisdictions' progress in implementing the NCP, the National Competition Council looks at government regulation of social issues. For this NCP assessment, the Council identified potential restrictions on competition in legislation governing gambling services and child care services. The Council also identified potential competitive neutrality questions relating to child care. These are relevant mainly for local government, which is a significant provider of child care services.

## Gambling

Gambling has been part of Australian life since European settlement. However, the recent growth in the industry is unprecedented. This growth has occurred at different rates across jurisdictions, with the greatest expansion occurring in the jurisdictions that allow most liberal access to modern gaming machines and casinos. Government revenues have grown significantly as a result of this expansion in gambling.

Gambling encompasses a wide range of activities, including:

- gaming machines and keno;
- casino games;
- TABs and other wagering and betting on horse racing, other racing and sporting events;

- lotteries;
- interactive gambling; and
- other forms of betting such as raffles and bingo.

## Legislative restrictions on competition

Gambling activity has long been subject to government regulation. Many of these regulations are aimed at achieving governments' social objectives through, for example, seeking to ensure the probity and integrity of gambling products, minimising harm or protecting consumer rights. Achieving these objectives can sometimes involve restricting competition. Regulations that restrict competition include those governing:

- the operation of different types of venue, including the distribution of gaming machine licences;
- access to gaming machine licences (for example, quantity restrictions);
- ownership structures;
- the monitoring of gaming machines;
- the operation of casinos and lotteries, particularly exclusive licences;
- the conditions attached to the privatisation of TABs, particularly exclusive licences;
- betting and wagering, including restrictions on the types of event on which betting can be conducted, the treatment of on-course and off-course betting services, advertising and accessibility to interstate gambling services; and
- internet gambling.

## Regulating in the public interest

In assessing legislation review and reform activity, the Council focused on the Competition Principles Agreement (CPA) clause 5 tests of whether restrictions provide a net community benefit and whether they are the only way of achieving a government's regulatory objectives.

## Productivity Commission inquiry

In August 1998 the Federal Treasurer directed the Productivity Commission to undertake a review of the economic and social impacts of gambling. While

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this was not an NCP review, the Productivity Commission used an NCP framework to examine the effects of the different regulatory structures that surround Australia's gambling industries. The inquiry report was released in November 1999 (PC 1999b).

The inquiry established a public interest case in support of certain restrictions aimed specifically at minimising harm, ensuring probity and protecting consumers. These restrictions include probity measures with appropriate risk management, requirements for operators to provide consumer information on the nature of the games and the likelihood of receiving large payouts, and codes of conduct. The inquiry found these measures provide a net community benefit and also meet the second CPA guiding principle — that is, that the restriction on competition is the only way in which to achieve the policy objective. The Council considers that such measures comply with the tests in the CPA clause 5.

The Productivity Commission also examined other measures aimed at harm minimisation, probity and consumer protection, including exclusive licences, requirements based on venue type and restrictions on supply or access. The Productivity Commission questioned whether these restrictions are justifiable and argued a general case for using other, more direct approaches. The Council considers that the NCP task for governments is to show that there is no less restrictive way than using these measures to achieve the objective of the legislation.

In addition, governments sometimes impose restrictions for reasons other than harm minimisation, probity or consumer protection. For these measures, NCP compliance requires governments to both demonstrate a net community benefit and establish that the measure is the least restrictive way in which to achieve the objective of the legislation. That is, reviews of gambling regulation need to consider pro-competitive alternatives. The Council has published a detailed analysis of its approach to considering review and reform of gambling legislation, taking account of the Productivity Commission findings (NCC 2000).

## Council of Australian Governments' agreement on gambling

On 3 November 2000 the Council of Australian Governments (CoAG) discussed gambling as a matter of national interest, focusing on problem gambling. CoAG agreed that the Ministerial Council on Gambling would develop a national strategic framework — to be implemented by the State and Territory governments — aimed at prevention, early intervention and continuing support, building effective partnerships, and national research and evaluation.

CoAG identified a range of measures to begin the process, including specific measures to apply to gaming machine venues. These measures included displaying warnings about the risks of problem gambling, enabling patrons to

be aware of the time spent gambling and displaying information on the chances of winning a major prize. Because the Productivity Commission inquiry established the net public benefit case for these measures, the Council considers that government action to implement them is consistent with NCP obligations.

In its Select Committee Report on Gambling (ACT Select Committee 1999) the ACT noted the need for more research to determine profiles of problem gambling. The Council considers that such work would be useful in developing practical policy tools for addressing the negative social impacts of gambling. While the Productivity Commission inquiry provided policy-makers with broad direction on the relative harm from different types of gambling (for example, that lotto and lotteries are least harmful while wagering, gaming and casino table games are more harmful), the inquiry report provided little guidance about the relative effectiveness of particular measures. As part of the CoAG agreed approach, the Ministerial Council on Gambling will develop a national research and evaluation strategy on the social consequences of gambling. This information is likely to enable policy-makers to more accurately target harm-reducing measures.

## Review and reform activity

Table 23.1 summarises governments' review and reform activity relating to the regulation of gambling.

**Table 23.1:** Review and reform of legislation regulating gambling

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Australian Jockey Club Act 1873</i> <i>Sydney Turf Club Act 1943</i>		Review completed.	Restrictions in the Jockey Club Act found to be in the public interest and retained. Review found the Turf Club Act does not restrict competition.	Council to assess progress in 2002.
	<i>Liquor Act 1982</i> <i>Registered Clubs Act 1976</i>	Market conduct, operations	Joint review underway. Preliminary work completed.		Council to assess progress in 2002.
	<i>Gaming and Betting Act 1912</i>	Licensing, market conduct	Not for review.	Act repealed and made into three parts for separate review ( <i>Unlawful Gambling Act 1998</i> , <i>Gambling (Two Up) Act 1998</i> and <i>Racing Administration Act 1998</i> ).	Meets CPA obligations (June 2001).
	<i>Unlawful Gambling Act 1998</i>		Review completed. Act exempt from review.		Meets CPA obligations (June 2001).
	<i>Gambling (Two Up) Act 1998</i>	Market conduct, rules	Review completed.	No change.	Council to assess progress in 2002.
	<i>Racing Administration Act 1998</i> <i>Greyhound Racing Authority Act 1985</i> <i>Harness Racing Act 1977</i> <i>Bookmakers Taxation Act 1917</i> <i>Thoroughbred Racing Board Act 1996</i>	Market conduct, operations, licensing	Review underway. Final report due in 2001.		Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales (continued)	<i>Lotteries and Art Unions Act 1901</i> <i>Charitable Fundraising Act 1991</i>	Conduct, operations	Review underway.		Council to assess progress in 2002.
	<i>Lotto Act 1979</i> <i>NSW Lotteries Act 1990</i> <i>Soccer Football Pools Act 1975</i>		Review not required.	Acts repealed and replaced by the <i>NSW Lotteries Corporatisation Act 1996</i> and the <i>Public Lotteries Act 1996</i> .	Meets CPA obligations (June 2001).
	<i>Totalizator Act 1916</i> <i>Totalizator (Off-Course Betting) Act 1964</i>	Market conduct, rules, establishment of TAB	Review not required.	Acts repealed and replaced by the <i>Totalizator Act 1997</i> .	Meets CPA obligations (June 2001).
	<i>Totalizator Act 1997 (and amendments)</i>	Licensing, exclusive licences	New legislation CPA clause 5(5) applies.		Council to assess progress in 2002.
	<i>NSW Lotteries Corporatisation Act 1996</i> <i>Public Lotteries Act 1996</i>	Licensing, exclusive licences	New legislation CPA clause 5(5) applies.		Council to assess progress in 2002.
	<i>Casino Control Act 1992</i>	Exclusive licence, market conduct	Review completed.		Council to assess progress in 2002.
	Victoria	<i>Tattersall Consultations Act 1958</i>	Legislated monopoly	Review completed.	Government introduced the <i>Public Lotteries Act 2000</i> which has repealed this Act. New Act allows for multiple suppliers.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria (continued)	<i>Gambling Legislation (Responsible Gambling) Act 2000</i> <i>Gambling Legislation (Miscellaneous Amendments) Act 2000</i>	Caps, regional caps, advertising restrictions, conduct.	Review completed. Gatekeeper provisions apply.	New legislation accepted. These Acts are amending Acts which introduced responsible gambling initiatives and key restrictions such as regional caps and advertising controls in all gambling-related legislation in Victoria.	Council to assess progress in 2002.
	<i>Gaming No. 2 (Community Benefit) Act 2000</i>	Operations, conduct	Revised <i>Gaming No 2 Act 1997</i> . Review completed. Gatekeeper provisions apply.	New legislation. Protects minors and reduces market power of bingo venues to enhance charitable and community organisations' fundraising abilities.	Meets CPA obligations (June 2001).
	<i>Club Keno Act 1993</i>	Rules, conduct	Review completed in 1997, but report not released. Review under consideration by Government.		Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria (continued)	<i>Gaming and Betting Act 1994</i> as it relates to betting <i>Racing Act 1958</i> <i>Lotteries Gaming and Betting Act 1966</i> <i>Casino Control Act 1991</i> , part 5A	Licensing, legislated monopoly, market conduct, operations, funding for the racing industry	Review completed. Recommended expansion of sports betting. Found public benefit argument for retaining monopoly and funding arrangements.	Government response released in August 2000. Government supported recommendations on other codes of racing and proprietary racing, minimum phone bets, incorporation and partnerships, 24-hour internet race betting and tipping services. It rejected proposals on expanded sports betting other than issuing an additional football tipping competition licence. It noted review of interstate advertising restrictions were best promoted at the national level and undertook to promote deregulation at national level. <i>Racing and Betting Acts (Amendment) Act 2001</i> enacted in May 2001. The Act deregulates mixed sports gatherings including removing the prohibition on personnel licensed by the Victorian Racing Club and Harness Racing Victoria from competing at these meetings and deregulates betting information services in accordance with the NCP review.	Council to assess progress in 2002.
	<i>Interactive Gaming (Player Protection) Act 1999</i>	Conduct, operations, licensing	Review completed. Gatekeeper provisions apply.	New legislation accepted. Provides for the protection of consumers by regulating the provision of interactive gaming services.	Meets CPA obligations (June 2001)
	<i>Gaming Machine Control Act 1991</i>	Licensing, ownership, numbers of machines	Review completed and under consideration by government.	Review and Government response released 18 July 2001.	Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria (continued)	<i>Casino (Management Agreement) Act 1993</i> <i>Casino Control Act 1991</i>	Exclusive licence, conduct, operations	NCP review did not proceed as preliminary investigations indicated compensation required to remove exclusive licence outweighs any benefits to be gained from removal.		Council to assess progress in 2002.
Queensland	<i>Jupiters Casino Agreement Act 1983</i> <i>Breakwater Island Casino Agreement Act 1984</i> <i>Brisbane Casino Agreement Act 1992</i> <i>Cairns Casino Agreement Act 1993</i>	Exclusive licences, conduct, operations	Review completed.	Provisions retained.	Council to assess progress in 2002.
	<i>Lotteries Act 1994</i>	Exclusive licence	Review completed.	Statutory monopoly of Golden Casket Corporation replaced with limited-duration exclusive licence. Act repealed and replaced with <i>Lotteries Act 1997</i> , which is to be reviewed as part of the omnibus review of gambling in Queensland.	Meets CPA obligations (June 2001).
	<i>Art Unions and Public Amusements Act 1992</i>			Repealed and replaced with the <i>Charitable and Non-profit Gaming Act 1999</i> .	Meets CPA obligations (June 2001).

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland (continued)	<i>Racing and Betting Act 1980</i> and associated rules and regulations (as they relate to the Queensland TAB)	Exclusive licence, market conduct, operations		Repealed and replaced by the new <i>Wagering Act 1998</i> , which is to be reviewed as part of the omnibus review of gambling in Queensland.	Meets CPA obligations (June 2001),
	<i>Racing and Betting Act 1980</i> and associated rules and regulations (as they relate to bookmakers and the Queensland racing industry)	Licensing, market conduct, operations	Review completed. Government endorsed review recommendations in November 2000.	Racing Bill 2001 developed to enact recommendations, including removing the majority of non-probity based restrictions on bookmakers, particularly those relating to minimum phone betting, betting type and recording of betting.	Council to assess progress in 2002.
	<i>Keno Act 1996</i> <i>Casino Control Act 1982</i> <i>Gaming Machine Act 1991</i> <i>Wagering Act 1998</i> <i>Interactive Gambling (Player Protection) Act 1998</i> <i>Charitable and Non-profit Gambling Act 1999</i> <i>Gaming Legislation Amendment Bill</i> <i>Lotteries Act 1997</i>	Exclusive licences, other licences, market conduct, operations, rules	Omnibus public benefit test review underway.		Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	Instant lottery and lotto rules <i>Lotteries Commission Act 1990</i>	Market conduct, operations, licensing	Review completed.	Restrictions retained.	Council to assess progress in 2002.
	<i>Betting Control Act 1954</i> <i>Totalisator Agency Board Betting Act 1960</i>	Market conduct, operations, licensing	Review completed.	Action announced. Previous Government endorsed the review recommendations.	Council to assess progress in 2002.
	<i>Racing Restrictions Act 1917</i>	Licensing	Review completed.	Action announced. Previous Government endorsed the review recommendations.	Council to assess progress in 2002.
	<i>Racing Restrictions Act 1927</i>	Conduct	Review completed.	Action announced. Previous Government endorsed the review recommendation to repeal the Act.	Council to assess progress in 2002.
	<i>Casino (Burswood Island) Agreement Act 1985</i> Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985 <i>Casino Control Act 1984</i>	Licensing, market conduct, exclusivity, operations	Review completed.	Action announced. Previous Government endorsed the review recommendations.	Council to assess progress in 2002.
	<i>Gaming Commission Act 1987</i>	Licensing, market conduct, operations	Review completed.	Action announced. Previous Government endorsed the review recommendations.	Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia (continued)	<i>Western Australian Greyhound Racing Association Act 1981</i>	Registration, conduct	Review completed.	Action announced. Previous Government endorsed the review recommendations.	Council to assess progress in 2002.
South Australia	<i>Casino Act 1997</i> <i>Lottery and Gaming Act 1936</i> <i>State Lotteries Act 1966</i> <i>Gaming Machines Act 1992</i> <i>Gaming Supervisory Authority Act 1995</i> <i>Authorised Betting Operations Act 2000</i> <i>TAB Disposal Act 2000</i>	Exclusive licences, operations, barrier to entry, licensing, market conduct	Omnibus review underway. All gambling legislation(except the <i>Racing Act 1976</i> ), including Bills before the Parliament, to be reviewed.		Council to assess progress in 2002.
	<i>Racing Act 1976</i>	Barrier to entry, market conduct	Review completed.	Act to be repealed.	Council to assess progress in 2002.
Tasmania	<i>Tasmanian Harness Racing Board Act 1976</i>	Registration, conduct	Review completed.	Act repealed and replaced by the <i>Racing Amendment Act 1997</i> .	Meets CPA obligations (June 2001).
	<i>Casino Company Control Act 1973</i>	Ownership	Minor review completed.	Act repealed.	Meets CPA obligations (June 2001).
	<i>Racing and Gaming Act 1952</i> (as it relates to minor gaming)	Licensing, conduct, operations	Minor review completed.	Gaming components of this Act to be transferred to the <i>Gaming Control Act 1993</i> and assessed under gatekeeper requirement.	Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Tasmania (continued)	<i>Racing Act 1983</i> <i>Racing and Gaming Act 1952</i> (except as it relates to minor gaming)	Licensing, conduct, operations	Review completed.	New racing legislation being drafted following the restructure of the racing industry in 2000. The new legislation will be assessed under the gatekeeper provisions.	Council to assess progress in 2002.
	<i>Gaming Control Act 1993</i>	Exclusive rights, conduct and operations	Review completed.	Government considering the recommendations. Recent amendments to the Act removed Tattersalls exclusive lottery licence in Tasmania from 2002.	Council to assess progress in 2002.
	<i>TT-Line Gaming Act 1993</i>	Licensing, market conduct, operations	Review completed.	Government considering the recommendations.	Council to assess progress in 2002.
	<i>Racing Amendment Act 1997</i>		Legislation assessed under gatekeeper provisions (clause 5(5)) and found to not restrict competition.		Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT	<i>Betting (ACTTAB Limited) Act 1964</i>  <i>Betting (Corporatisation) (Consequential Provisions) Act 1996</i>  <i>Bookmakers Act 1985</i>		Review completed.	Government is in the process of implementing a number of reforms: removing the requirement for racing club approval prior to granting bookmakers' licences; removing racing club-specific restrictions on bookmakers' licences; allowing an independent authority (the ACT Gambling and Racing Commission) to assess licence applications; removing limitations on phone betting limits; removing the requirement for sports bookmakers licence-holders (or agents licence-holders) to first obtain a standing bookmaker's licence; removing the limit on the number of sports betting licences granted; allowing flexibility in the locations where betting offices can operate; and relating the size of the betting security guarantee to the amount of risk.	Council to assess progress in 2002.

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Table 23.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT (continued)	<i>Casino Control Act 1988</i> <i>Games Wagers and Betting-houses Act 1901 (NSW)</i> <i>Gaming and Betting Act 1906 (NSW)</i> <i>Gaming Machine Act 1987</i> <i>Lotteries Act 1964</i> <i>Pool Betting Act 1964</i> <i>Unlawful Games Act 1984</i>		Review completed. Further examination of social and economic impacts of gambling undertaken by a Select Committee of the Legislative Assembly. Select Committee did not consider all the recommendations of the original review.	The Government not to extend the life of the casino licence beyond the current period. Gaming machines not allowed in Casino. In principle support for removal of restrictions on types of gaming machines permitted in hotels.	Council to assess progress in 2002.
	<i>Racecourses Act 1935</i> <i>Racing Act 1999</i>	Approvals, conduct, licensing	Review completed.	<i>Racecourses Act 1935</i> was repealed and in part replaced by the <i>Racing Act 1999</i> . Legislation assessed under gatekeeper provisions (Clause 5(5)).	Council to assess progress in 2002.
Northern Territory	<i>Gaming Control Act and regulations</i>	Licensing, operations, conduct	Review underway.		Council to assess progress in 2002.
	<i>Gaming Machine Act and regulations</i>	Licensing, operations, conduct	Review underway.		Council to assess progress in 2002.
	<i>Racing and Betting Act and regulations</i>	Licensing and registration	Review underway.		Council to assess progress in 2002.
	<i>Totalisator Administration and Betting Act</i>	Exclusive licence	Review not required.	Act repealed and replaced with the <i>Totalisator Licensing and Regulation Act</i> and the <i>Sale of NT TAB Act</i> .	Meets CPA obligations (June 2001).

(continued)

**Table 23.1** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory (continued)	<i>Totalisator Licensing and Regulation Act</i> <i>Sale of NT TAB Act</i>		Review completed and under consideration by the Government.		Council to assess progress in 2002.



## Child care

Child care generally refers to arrangements made for the care of children (usually under 12 years of age) by people other than their parents. It can be formal child care — such as pre-school, a child care centre, family day care and before and after school care — or informal care, which is care that is non-regulated and includes care by family members, friends and paid baby-sitters. According to the Australian Bureau of Statistics, 51 per cent of children under 12 years of age used some kind of child care in 1999 (ABS 2000a).

Competition policy issues arise in the regulation of formal child care, usually by way of licensing requirements that are linked to funding arrangements. In addition, as local governments often provide formal child care services competitive neutrality issues may arise.

## Regulating in the public interest

Legislation to regulate child care services exists in all jurisdictions. Regulation usually involves a requirement to be a licence-holder to operate a child care business. Other requirements relate to matters such as health and safety considerations and the meeting of staff/child ratios. Restrictions aimed at ensuring the health and development of the children in care are likely to provide a net public benefit. However, NCP also requires jurisdictions to review whether the restrictions are the only way of achieving the legislation's objectives and whether they are overly prescriptive.

## Competitive neutrality

When there are significant government-owned providers of child care services (usually local government), these business activities should be exposed to the application of competitive neutrality principles where appropriate. In all jurisdictions except Queensland, the application of competitive neutrality principles requires government-owned child care businesses to set prices that reflect the full cost of production. This means ensuring that pricing is based on costs incurred in providing the service, as well as appropriate adjustments to remove any advantage of public ownership.

Queensland's competitive neutrality policy means that government businesses that provide child care services are not generally of a size that will ensure the automatic application of competitive neutrality principles (that is, income in excess of \$5 million per year). Queensland encourages smaller government businesses to apply a voluntary code of conduct, based on competitive neutrality principles. The code includes a complaints mechanism and guidance on matters such as accountability and pricing.

Some Queensland local governments choose to apply the voluntary code. However, other local government providers of child care services have chosen not to apply the code so child care provision in these local government areas is not subject to competitive neutrality principles.

Under the new competitive neutrality policy in Victoria, government businesses can apply a public interest test if the activities of the business have broader social, environmental and public policy objectives which may be compromised by the implementation of competitive neutrality measures. Victoria stated that one of the characteristics of child care is that there are inherent social policy issues at stake. It may therefore be the case that public interest test is necessary before competitive neutrality pricing is applied. The public interest test requires child care providers to explore a range of options, including competitive neutrality pricing. To ascertain which option provides the greatest community benefit, the process requires clarifying the public policy objectives, scoping the market, consulting with relevant stakeholders (including competitors) and identifying the costs and benefits of different approaches.

A competitive neutrality matter has been raised in the ACT. The complaint was against the government provision of long stay child care services. The assessment of the complaint was that the Government does not provide child care services, but that it does provide access to facilities to third party operators at below market rates. Evidence indicated that the private service providers price at or below community based providers.

## Review and reform activity

Table 23.2 summarises governments' review and reform activity relating to the regulation of child care.

**Table 23.2:** Review and reform of legislation regulating child care

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Commonwealth	<i>A New Tax System (Child Care Services) Act 1999</i> <i>A New Tax System (Family Assistance Administration) Act 1999</i>				Council to assess progress in 2002.
New South Wales	<i>Child Care and Protection Act 1987</i> <i>Children and Young Persons (Care and Protection) Act 1998</i>	Licensing	Provisions arising from the Child Care and Protection Act to be transferred to the Children and Young Persons (Care and Protections) Act. New provisions to be subject to gatekeeper provisions (CPA clause 5(5)).		Council to assess progress in 2002.
Victoria	<i>Children's Services Act 1996</i>	Licensing, operating requirements, standards setting	Reviewed as part of the gatekeeper process (CPA clause 5(5)) when introduced.	Amendments to include family day care and outside school hours care, to be introduced in spring 2001, will also be subject to NCP review.	Council to assess progress in 2002.
Queensland	<i>Child Care Act 1991</i> Child Care (Child Care Centres) Regulation 1991 Child Care (Family Day Care) Regulation 1991	Licensing, operating requirements, standards setting	Draft NCP review report under consideration by Government in February 1999. Department advised at that time that the incoming Minister responsible for the legislation had established a forum to examine all aspects of child care legislation in consultation with a wide cross section of stakeholders. NCP requirements are to be addressed as part of the forum's deliberations. Major themes considered include the level of prescription of the current legislation and possible tiering of regulatory requirements. The Treasurer approved review framework and terms of reference in November 2000. The review will be finalised during 2001.	Cabinet and parliamentary processes for new legislation expected to be completed by mid-2002.	Council to assess progress in 2002.

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Table 23.2 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Community Services Act 1972</i> and the <i>Community Services (Child Care) Regulations 1988</i>	Licensing, standards, operating procedures	A Bill to replace this and other acts is being developed and will be reviewed once finalised.		Council to assess progress in 2002.
South Australia	<i>Children's Services Act 1985</i> <i>Children's Protection Act 1993</i>	Licensing, standards. Operating procedures	Review completed.	No change.	Council to assess progress in 2002.
Tasmania	<i>Child Welfare Act 1960</i>		The Children, Young Persons and Their Families Bill passed by Parliament in 1997 but not yet proclaimed. The Bill deals with assistance and intervention in relation to children at risk of abuse or neglect which were previously contained in the Child Welfare Act. The Department of Education now administers the existing child care provisions of the Child Welfare Act.	A number of anti-competitive elements identified in the gatekeeper process. RIS available for comment.	Council to assess progress in 2002.
ACT	<i>Children's Services Act 1986</i>	Licensing, standards setting	Review completed. Full public consultation.	Act assessed as not restricting competition. The Legislative Assembly passed the replacement Act, the <i>Children and Young People Act 1999</i> on 21 October 1999.	Meets CPA obligations (June 2001).
Northern Territory	<i>Community Welfare Act</i>	Licensing, standards setting	Targeted review completed awaiting Government's response. Review recommended: standards for child care be expressed in terms of outcomes to be achieved rather than as prescribed practices; conditions for granting a child care centre licence be clarified; and consideration be given to including all purchased child care within the scope of the legislation.		Council to assess progress in 2002.