18 Northern Territory

A3 Fisheries[1]

Fisheries Act

The *Fisheries Act* restricts entry through licensing, permits and season closures; restricts vessels and gear used; and restricts catch through total allowable catches, minimum sizes and bag limits.

ACIL Consulting (now ACIL Tasman) completed a National Competition Policy (NCP) review of the Act for the Northern Territory Government in October 2000. The review recommended, amongst other things:

- adding a clear statement of objectives to the Act
- exploring the potential for replacing input controls with individual transferable quotas in all Northern Territory fisheries, beginning with spanish mackerel and crab fisheries
- removing various restrictions around licensing, including number, eligibility, allocation, foreign ownership, transferability and renewal
- beginning a process of increasing the recovery of fishery management costs from fishers
- considering the adequacy of resources devoted to enforcing fishery controls.

In May 2004 the Northern Territory Parliament passed the Fisheries Amendment Bill, which:

- clarified the stated objectives of the legislation
- replaced the prohibition on the issue of new fishery licences with a regular assessment of the sustainable level of licences for each fishery
- provided for the open and competitive allocation of any new licences
- removed the prohibition on foreign ownership of licences.

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[1] The alpha-numeric descriptors for legislation review subject areas are listed in chapter 9, table 9.11.

Some recommendations for reform are being implemented via the review of related regulations. For instance, the potential for introducing individual transferable quotas is being explored via the review of fishery management plans. In January 2005 the government introduced a new management plan for the spanish mackerel fishery. This retains input controls as the prior review found that individual transferable quotas would impose high management and enforcement costs to control risks such as high-grading and under-reporting. More recently the review of the mud crab fishery management plan has concluded on similar terms. Management and enforcement costs are a key factor given that these are relatively small fisheries[2].

Restrictions on the transfer of licences have been retained only where necessary to ensure sustainability of the fishery. All but two licences in the Timor Reef fishery are fully transferable – the two restricted licences are the last subject to a two-for-one reduction process intended to reduce fishing effort. Controls on the transfer of licences in the aquarium/display fishery are being retained until an accurate assessment of sustainable harvest levels can be made.

The government is also:

- committed to recovering fishery management costs from licence holders, recently increasing some fees, and introducing a fee for fishing tour operators from July 2006

- increasing resources allocated to the enforcement of fishery controls.

The government has rejected several recommendations for reform following further consideration of the public interest. These include the recommendations to issue fishery licences indefinitely, to allow the transfer of development licences, to allow the re-sale of fish and to introduce licensing of amateur (recreational) fishers. The National Competition Council is satisfied that these provisions do not restrict competition to a material degree and/or that they are necessary for enforcement purposes.

In 2003 and 2004, the Council urged the government to reconsider the NCP review finding of a net public benefit from restricting competition in the pearl oyster hatchery industry via hatchery quotas. The NCP review of the Western Australian pearl industry regulation, which is similar to the Northern Territory regulation, found no demonstrable net public benefit from retaining the hatchery policy, notwithstanding a pro-quota submission prepared (on behalf of the Pearl Producers Association) by the same consulting firm that undertook the Northern Territory's NCP review. The government initially declined to resubmit the pearl oyster hatchery quota to NCP review. It has since advised that the future of pearl hatchery quota is being reconsidered in consultation with the Western Australian Government and industry.

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2 Licences in both the spanish mackerel and mud crab fisheries are fully transferable.

The Council assesses that the Northern Territory has made very substantial progress but has yet to fulfil its CPA clause 5 obligations arising from the Fisheries Act. To fulfil these obligations, the Northern Territory needs to remove the pearl oyster hatchery quota or show, via a new open and independent NCP review of the restriction, that it is in the public interest.

A5 Agricultural and veterinary chemicals

Agricultural and Veterinary Chemicals (Northern Territory) Act

Legislation in all jurisdictions establishes the national registration scheme for agricultural and veterinary (agvet) chemicals, which covers the evaluation, registration, handling and control of agvet chemicals to the point of retail sale. The Australian Pesticides and Veterinary Medicines Authority administers the scheme. The Australian Government Acts establishing these arrangements are the *Agricultural and Veterinary Chemicals (Administration) Act 1992* and the *Agricultural and Veterinary Chemicals Code Act 1994*. Each state and territory adopts the Agricultural and Veterinary Chemicals Code into its own jurisdiction by referral. The relevant Northern Territory legislation is the Agricultural and Veterinary Chemicals (Northern Territory) Act.

The Australian Government Acts were subject to a national review (see chapter 19). The national processes established to implement the legislative reforms arising from the review have yet to complete their work. Until changes to these Acts are finalised, the reform of state and territory legislation that automatically adopts the code cannot be completed.

The Council thus assesses that the Northern Territory has not met its CPA obligations in relation to this legislation.

B1 Taxis and hire cars

Commercial Passenger (Road) Transport Act

The Commercial Passenger (Road) Transport Act allows the Northern Territory Government to set the number of taxi and hire car licences. In 1999, the government removed the restrictions on taxi and hire car numbers, and introduced a buy-back program for existing plates. In the 2001 NCP assessment, the Council assessed that the Northern Territory had complied with its NCP obligations.

In late 2001 the government imposed a temporary cap on the number of taxi, hire car and minibus licences. In May 2003, it announced that the number of taxi licences would be capped permanently in Darwin and Alice Springs to

accommodate industry concerns. The caps fix the taxi-to-population ratio at 1:900. The Council's 2003 NCP assessment reversed the 2001 compliance recommendation, finding that the re-introduction of restrictive caps without a robust public interest case was inconsistent with CPA clause 5 obligations.

In September 2003, the government allowed minibuses to respond to hails and to rank at bus stops in addition to minibus ranks already in place. These changes enhanced the capacity of minibuses to offer services similar to taxis. This reinforced the positive impact on taxi services arising from the removal of entry restrictions in 1999, albeit that the overall numbers of taxis and commercial passenger vehicles have fallen since the cap was introduced. The number of taxis in Darwin increased from 88 in 1998 (before reform commenced) to 135 in 2000, before falling to 113 in March 2004.

The following are salient features of the current regulatory arrangements:

- Minibuses can respond to street hails, rank, accept bookings and carry dispatch units. They pay the same licence fee as paid by taxis, and their numbers are not constrained by regulation. Minibuses are unmetered and operate under a zonal fare arrangement. However, they are imperfect substitutes for taxis: quality differences and the greater point-to-point flexibility of taxis mean that the two transport modes remain segmented.

- Taxi licences are not traded but are issued by the government for an annual licence fee. Licence fees are thus set by regulation rather than any scarcity rent attached to the licence. (Licence fees are currently $16 000 per year, to fund the earlier compensation package.)

- Recent calls for more licences in Alice Springs were met through an additional release of plates, which dropped the ratio below 1:900, indicating flexibility in the regulations.

- Numbers of private hire vehicles and limousines are not restricted, but these vehicles are generally barred from ranks and street hails.

In its 2004 NCP assessment the Council outlined that it had ascribed a relatively low benchmark for compliance with the review and reform of taxi and hire car regulation. It also identified the need for a comprehensive review of taxi regulation in Australia—a view echoed by the Productivity Commission (see PC 2005a). The recent experience of taxi regulation in the Northern Territory could form a useful case study for such an inquiry.

It remains the case that the Northern Territory re-introduced restrictions on competition without providing a robust public interest case. The industry is still paying for a compensation package that was not carried to fruition because the government reacted to industry concerns. The industry would likely have settled at an appropriate equilibrium level had the program not been terminated: It is not uncommon in situations where regulation has eliminated market signals for liberalisation to result in a short term 'overshooting' supply response. This was observed, for example, with the de-

restriction of hire cars in South Australia, where new entry boomed initially but numbers later diminished to a sustainable level.

The Council recognises that the liberalisation of minibuses and hire cars somewhat mitigates the restrictions on taxi licence numbers. Moreover, if the government reduces licence fees administrative cost once the cost of the compensation package has been recouped, there would be significant scope for the reduced taxi operating costs to be shared with consumers. The government acknowledged this point in its 2004 NCP annual report:

> *The Northern Territory bought back the privately owned taxi licences on issue at the end of 1998. Had this not occurred, taxi licence values would now cost approximately $30 000 per annum in Darwin, $5000 more than they did in 1999 and $15 000 per annum more than the current taxi licence fees. The reduction in lease/licensing costs represent savings of up to 10 per cent of the current cost of operating a taxi and, if the buyback had not occurred, would almost certainly have led to pressure for increased taxi tariffs.* (Government of the Northern Territory 2004, appendix A, p. 1)

At present, the availability of 'chauffeured passenger vehicle' options in the Northern Territory could be considered very favourably compared with the availability in some other jurisdictions. Nevertheless, the Council confirms its 2003 NCP assessment that the Northern Territory has not met its CPA obligations in relation to taxi regulation because it reversed its compliant reform program without demonstrating that this was in the public interest.

C1 Health professions

Health Practitioners and Allied Professionals Registration Act 1985

The key recommendations of the Northern Territory review of the Health Practitioners and Allied Professionals Registration Act, which registers chiropractors, occupational therapists, osteopaths, physiotherapists and psychologists, were:

- to continue reserving the use of professional titles for registered practitioners, but to make entry requirements more flexible and clarify personal fitness criteria
- to give the professional boards the ability to restrict treatments or procedures that have a high probability of causing serious damage, if those procedures are likely to be performed by people without the appropriate skills and expertise.

The review was completed in 2000. The government at the time accepted the review recommendations and determined in 2001 that the current legislation regulating health professionals would be repealed and that an omnibus Act

would be created to replace the existing Acts. This position was subsequently endorsed in 2003 and approval was given for drafting the new legislation.

In the 2003 NCP assessment, the Council noted that these recommendations, (except the recommendation to retain title protection for occupational therapists) were consistent with competition policy objectives. The *Health Practitioners Act 2004* passed in April 2004 broadly incorporates the review recommendations.

On 8 October 2004, the Council Secretariat met with the Northern Territory's Department of the Chief Minister, the Northern Territory Treasury and other government representatives. At this meeting, the Council secretariat sought clarification on whether, under the legislation, professional boards may introduce new anticompetitive requirements through codes (including, for example, practice restrictions). The Council received advice that the ability of boards to introduce new restrictions is circumscribed under the Act. The Northern Territory's Health Professions Licensing Authority has also separately advised that codes will be reviewed on an annual basis. In its 2005 NCP annual report, the Northern Territory advised that the professional boards are conducting an annual review of the codes.

Given this advice, the Council confirms that the Northern Territory has met its CPA obligations in relation to these professions, except for occupational therapists. However, the Council notes that this assessment is based on the Northern Territory's ongoing compliance with CPA clause 5(5) requirements.

For occupational therapists, the 2000 review considered that title protection has the potential to reduce risk and costs to the government from service users inappropriately choosing unqualified health care providers. It concluded that restricting the use of professional titles for occupational therapists provides a net public benefit, so long as the costs of operating the registration system are modest. The review did not, however, link the generic benefits of title protection to occupational therapy services in particular.

New South Wales, Victoria, Tasmania and the ACT do not reserve title for occupational therapists. They instead rely on self-regulation supplemented by general mechanisms such as common law, the *Trade Practices Act 1974* and independent health complaints bodies, and patients in these jurisdictions do not appear to be at an increased risk of harm. This indicates that title reservation for occupational therapists does not provide significant benefits to consumers. For this reason, the Council considers that the Northern Territory has failed to meet its CPA obligations in relation to occupational therapists. The Council notes, however, that the retention of title protection does not have a material impact.

Pharmacy Act 1996

Council of Australian Governments (COAG) national processes for reviewing pharmacy regulation recommended that jurisdictions remove restrictions on

the number of pharmacies that a pharmacist can own and allow friendly societies to operate in the same way as other pharmacies (see chapter 19). Further, while the Wilkinson review commissioned by COAG provided that pharmacies should continue to be owned and operated by pharmacists, it noted:

> … *[w]here a jurisdiction's regulation does not extend as a far as the review's recommended line, that jurisdiction should not be compelled to extend that regulation*. (Wilkinson 2000, p. 19)

The Northern Territory's Pharmacy Act never contained restrictions on how many pharmacies a pharmacist can own. It also did not rule out the ownership of pharmacies by persons other than pharmacists (Wilkinson 2000). In the context of the 2003 NCP assessment, however, the Department of Health and Community Services advised the Council that the government intended to introduce ownership restrictions on pharmacies, with some discretion for the minister to grant exemptions to this restriction.

On 1 April 2004 the Northern Territory passed the *Health Practitioners Act 2004*, but the specific provisions pertaining to pharmacy ownership in schedule 8 did not commence with the rest of the Act. This schedule restricts the ownership and control of pharmacies (subject to several exceptions) to pharmacists or business entities owned and controlled by pharmacists. Further, the schedule provides that the minister cannot grant an exemption to friendly societies unless doing so:

- will improve health services or access to health services
- will meet the needs of the community in which the pharmacy business is situated.

On 3 February 2004 the Council advised the Northern Territory of its obligations under COAG national processes. It also emphasised that the Northern Territory should consider introducing a restriction on pharmacy competition (where one does not exist) only if there is clear evidence that this would be in the public interest. Given the comprehensiveness of the Wilkinson review and the subsequent COAG working group consideration of ownership restrictions, the Council considered that the Northern Territory should not introduce ownership restrictions. A Northern Territory review finding to the contrary would need to rigorously demonstrate the analytical shortcomings of the outcomes of COAG national processes.

Consistent with this advice, the Northern Territory has reviewed the pharmacy ownership provisions in accord with terms of reference that incorporate the comments of the Council. However, following a letter from the Prime Minister stating that no penalty would attach to the introduction of new restrictions on competition, the Northern Territory Government has advised that it will not publish its independent review report.

Schedule 8 of the Health Practitioners Act commenced operation on 23 February 2005. On the evidence to date, the Northern Territory's actions

will serve the interests of a vested group rather than the community, which is inconsistent with COAG outcomes. Consequently, the Council considers that the Northern Territory has failed to meet its CPA obligations in relation to the pharmacy profession.

C2 Drugs, poisons and controlled substances

Poisons and Dangerous Drugs Act
Therapeutic Goods and Cosmetics Act
Pharmacy Act 1996

Following the outcome of the Galbally review (see chapter 19), the Australian Health Ministers Council endorsed a proposed response to the review's recommendations that COAG has now endorsed. The proposed response provides for each jurisdiction's implementation of the recommendations over a 12-month period from July 2005, the date of COAG's endorsement.

The Northern Territory Department of Health and Community Services has commenced a review of the Poisons and Dangerous Drugs Act. The review will:

- determine the best way to accommodate the recommendations of the Galbally review
- consider the merits of adopting the Commonwealth *Therapeutic Goods Act 1989* to replace the Therapeutic Goods and Cosmetics Act
- address outstanding issues from the former Pharmacy Act that are not included in Schedule 8 of the Health Practitioners Act.

The department advised that it intends to release a discussion paper in late 2005 and that the government expects to implement reforms arising from the review towards the end of 2006.

The Council acknowledges that Northern Territory is progressing with the Galbally reforms. However, because the reforms are still outstanding, the Council assesses that the Northern Territory has not met its CPA obligations in this area.

D Legal services

Legal Practitioners Act

The Northern Territory review of the Legal Practitioners Act made recommendations, including that:

- areas of work reserved for legal practitioners should accord with areas of work reserved on a national basis (that is, appearances in court, probate work and the drawing up of wills and documents that create rights between parties, except conveyancing)

- the provisions that prohibit barristers from acting independently of one another should be repealed, but barristers should continue to be subject to regulations suitable to that kind of sole practice.

The Northern Territory Government decided to implement outstanding review recommendations in conjunction with national model laws (see chapter 19). It is concurrently drafting legislation to implement the model laws and the recommendations from the review of the Legal Practitioners Act. The Northern Territory will also consider its legal professional indemnity regime in the context of the national model law process. It advised that it expects to introduce legislation to Parliament in mid 2006.

The reforms recommended by the review of the Legal Practitioners Act are consistent with CPA principles, but yet to be implemented. For this reason, the Northern Territory has not met its CPA clause 5 obligations in relation to the legal profession.

E Other professions

Consumer Affairs and Fair Trading Act (travel agents)

Governments are taking a national approach to reviewing their travel agent legislation. The Ministerial Council on Consumer Affairs commissioned the Centre for International Economics, overseen by a ministerial council working party, to review legislation regulating travel agents. The working party did not accept the review recommendations. More detail is provided in chapter 19.

The Northern Territory advised that its legislation does not require compulsory membership of the travel compensation fund. However, the government formed an advisory committee which released an issues paper early in 2004 and will address whether the government needs to establish a territory-specific alternative to the travel compensation fund. Any competition restrictions introduced as a result of new legislation will be subject to the Northern Territory's competition impact analysis process. The territory also advised that there are no other national review recommendations that are yet to be implemented in the territory.

The Council assesses the Northern Territory as having met its CPA clause 5 obligations in relation to travel agents legislation.

F1 Compulsory third party motor vehicle insurance

Territory Insurance Office Act
Motor Accidents (Compensation) Act

Not assessed (see chapter 9).

G2 Liquor licensing

Liquor Act

The Northern Territory's Liquor Act and liquor Regulations contained a public needs test that required the licensing authority, when determining applications for a new licence, to consider whether existing sellers could meet consumer needs. In addition, the Act discriminates between hotels and liquor stores in Sunday trading: liquor stores are prohibited from trading on Sundays whereas hotels taverns and clubs may trade from 10 am to 10 pm.

The Liquor Act review has been finalised and submitted to government for consideration. In September 2003, the government announced its response to the review. Of the review's 29 recommendations (17 of which required legislative amendments), 27 were endorsed by the government and the required amendments were passed in March 2004. Among the amendments is the replacement of the needs test with a 'public interest' test. This change effectively removed competition with surrounding outlets as a factor preventing the grant of new licences. The licensing criteria now focus on public amenity/harm minimisation issues. The government did not accept the review's recommendation about the wording of the Act's objectives, preferring alternative (but consistent) wording.

The only outstanding review recommendation, therefore, is the removal of the discriminatory restriction on packaged liquor trading, which allows only hotels to sell packaged liquor on Sundays. In considering the finding of the NCP review of the Liquor Act, the government rejected this recommendation because a major additional review of alcohol related issues, (the Alcohol Framework project), was not finalised and thus abolition of the restriction at that time was perceived as premature at that time.

The Alcohol Framework report was published in July 2004. It recommended deferring the extension of Sunday trading to liquor stores for 12 months following implementation of the Alcohol Framework, to assess whether the framework's proposals (particularly on the sale of cheap high alcohol products) had been effective. It further recommended removing the prohibition on Sunday trading by liquor stores if there was a significant

decline in alcohol sales and/or other evidence that Sunday trading by particular stores would not exacerbate alcohol related harm

In August 2004, the government reaffirmed its decision to retain the Sunday trading restriction. For the 2004 NCP assessment, the territory provided a public benefit case supporting the restriction on packaged liquor sales. The Council, however, found that the territory had not provided a credible justification for restricting packaged liquor sales in a manner that discriminates between types of liquor outlet. The Council recommended that the public interest assessment should also have considered a range of alternative approaches, including:

- banning all packaged liquor sales on Sundays, regardless of outlet type
- instituting bans on particular beverages considered to cause harm
- instituting a roster system that retains the current number of sellers on Sundays but allows all incumbents the opportunity to trade
- allowing all liquor outlets to trade on Sundays but for a more restricted period than the current 12 hours.

Alternatively, the Council requested the Northern Territory Government to develop additional policy options that promote harm minimisation objectives in a nondiscriminatory manner, or to provide an analysis demonstrating why the suggested options are inconsistent with public benefit objectives. In response, the government advised that it would further consider alternative approaches to the control of packaged liquor sales when implementing the Alcohol Framework related reforms during 2005. This reform work, which includes a complete overhaul of the Liquor Act, is underway and is not expected to be finalised for 12 months. Consequently, the restriction on Sunday packaged liquor sales remains in place.

In correspondence to the Council, the territory confirmed that a needs test would not be re-introduced because the principle of the public interest is enshrined in the objects of the Liquor Act and in specific provisions of the Act. It also confirmed that the overhaul of the Act will involve a competition impact analysis (including a cost-benefit assessment of alternative options to address harm minimisation) and that any legislative change will be subject to gate keeping requirements.

In its 2004 NCP assessment, the Council noted that the territory had demonstrated substantial review and reform progress, particularly by removing the needs test, which was the major restriction in its legislation. Also, the Council is encouraged by the territory's undertaking to reexamine its other restrictions, in part, because the territory has robust gate keeping arrangements. However, the Northern Territory is continuing to discriminate between sellers in relation to Sunday trading hours, without providing a convincing public interest case.

The Council thus assesses that the Northern Territory has not met its CPA obligations for liquor licensing.

H3 Trade measurement legislation

Trade Measurement Act

Each state and territory has legislation that regulates weighing and measuring instruments used in trade, with provisions for prepackaged and non-prepackaged goods. Regulated instruments include shop scales, public weighbridges and petrol pumps. State and territory governments (except Western Australia) formally agreed to a nationally uniform legislative scheme for trade measurement in 1990 to facilitate interstate trade and reduce compliance costs (see chapter 19).

Because the national review and reform of trade measurement legislation have not been completed, the Northern Territory is yet to meet its CPA obligations for trade measurement legislation.

I2 Child care

Community Welfare Act

The Northern Territory review of the Community Welfare Act was completed in April 2000. The review concluded that there was a strong net community benefit from retaining the potentially anticompetitive elements of the Act, but recommended:

- either enforcing or removing the licensing requirements for children's homes
- re-framing child care centre standards as outcomes rather than prescribed standards
- clarifying the basis and status of standards for child care
- broadening the scope of child care activities that are brought within the licensing net to encompass all forms of purchasable child care service.

The government considered that the public interest would be served best by not attempting to institute the reforms in isolation and with limited public consultation, so decided to undertake the reforms as part of a broad early childhood strategy. Subsequently, in its 2005 NCP annual report, the government advised that the Care and Protection of Children and Young People Bill is being developed as a result of the NCP review of the

Community Welfare Act. The Bill is subject to a competition impact analysis and will be introduced to the Legislative Assembly in the second half of 2005.

The Council thus assesses the Northern Territory as not having met its CPA clause 5 obligations because it has not completed the reform process in this area.

I3 Gambling

Totalisator Licensing and Regulation Act
Sale of NT TAB Act

The Northern Territory regulates wagering via the Sale of NT TAB Act and the Totalisator Licensing and Regulation Act.[3] The former Act gave the minister the authority to sell NT TAB, while the latter establishes the scheme of regulation for the resultant privately owned entity. The Centre for International Economics reviewed both Acts, and the government has endorsed the review recommendations. In its 2004 NCP assessment, the Council assessed the Northern Territory as having met its CPA obligations in relation to the Sale of NT TAB Act.

The Totalisator Licensing and Regulation Act does not stipulate that a wagering licence shall be exclusive. Rather, it gives that power to the Northern Territory Licensing Commission, which may grant an exclusive licence under s21. The Commission exercised this power in 2002, granting UNiTAB Limited (the purchaser of NT TAB) an exclusive licence for 15 years.

The review found that arguments for exclusivity based on maintaining the size of the pool were not convincing for the Northern Territory, where it is unlikely that a 'Northern Territory-only' pool would be sufficient to secure the benefits typically associated with pool size in any event. Historically, the Northern Territory has merged with larger pools in other jurisdictions in offering services to territory punters. Similarly, the argument that exclusivity is necessary to prevent free riding on the racing industry was also found not to apply to the Northern Territory, where most betting takes place on events outside the Northern Territory, and where the government directly supports the local racing industry.

The review's principal argument in support of exclusivity was its doubt as to whether more than one operator would survive in a market of the Northern Territory's size and whether an agency network business would continue to service the market without exclusivity. Given these doubts, the review found it probable that exclusivity would deliver a net benefit.

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3 These Acts repealed and replaced the *Totalisator Administration and Betting Act*.

In its 2004 NCP assessment, the Council expressed reservations about both arguments. The Council considered that the way in which to test whether the market can support only a single seller would be to remove exclusivity and that there are ways other than totalisator exclusivity (for example, subsidies for the provision of remote facilities) to ensure the availability of totalisator facilities. The Council assessed the Northern Territory as not having complied with its CPA obligations in relation to the totalisator legislation.

The Northern Territory's 2005 annual NCP report to the Council again emphasised its view that exclusivity was necessary to ensure that a network of physical outlets across the territory was upgraded and maintained and that the territory market was adequately serviced given its relatively small size.

In addition, the report raises the issue of compensation to UNiTAB in the event of a buy back of the exclusive licence. The report notes the review's estimate that the total purchase price paid by UNiTAB was approximately $60 million in net present value terms. Whilst maintaining the assertion that the territory market is sufficiently served by a single operator, the government considers that to buy back the exclusive license would leave it liable to UNiTAB for compensation, with the cost likely to exceed any public benefit from removing exclusivity.

The Northern Territory is therefore in a similar position to Victoria, Queensland, New South Wales and South Australia, each of which has provided an exclusive licence to their privatised totalisator operators. In previous assessments, the Council has assessed these jurisdictions as being in compliance with their CPA obligations on the basis that the cost of removing exclusivity is likely to be greater than any resultant public benefit.

The Council thus assesses that the Northern Territory has met its CPA obligations for totalisator legislation.

Non-priority legislation

Table 18.1 provides details on non-priority legislation for which the Council considers that the Northern Territory's review and reform activity does not comply with its CPA clause 5 obligations.

Table 18.1: Noncomplying review and reform of the Northern Territory's non-priority legislation

Legislation (name)	*Key restrictions*	*Review activity*	*Reform activity*
Companies (Trustees and Personal Representatives) Act	Regulates trustee companies.	The matter is to go to the Standing Committee of Attorneys General (SCAG) to develop a national solution.	
Consumer Credit (Northern Territory) Act	Regulates the provision of consumer credit.	National review completed. The review recommended maintaining the current provisions of the consumer credit code, reviewing its definitions to bring term sales of land, conditional sales agreements, tiny term contracts and solicitor lending within the scope of the code. The review also recommended enhancing the code's disclosure requirements. The Ministerial Council on Consumer Affairs endorsed the final report in 2002 and referred it to the Uniform Consumer Credit Code Management Committee, which is facilitating the resolution of some issues.	The Uniform Consumer Credit Code Management Committee is working on implementation of the review's recommendations. Queensland has drafted revised legislation which will form a template for other jurisdictions. In addition, New South Wales has completed drafting code provisions relating to pre-contractual disclosure which will be incorporated in the template legislation. Reforms are likely to be finalised by the end of 2005.
Public Health (Shops, Eating-Houses, Boarding Houses, Hotels and Hostels) Regulations	Provides for the registration of a boarding house (ss35, 36), and the registration of an eating house (ss12, 13).	Targeted review: refer to the Public Health Act.	On commencement of the Food Act 2004, part III of these Regulations was repealed. The remainder of the Regulations will be reviewed in conjunction with the finalisation of the Public and Environmental Health Bill.
Public Health Act	Includes registration of barbers' shops (s5), registration of a boarding house (ss 35, 36), registration of an eating house (ss12, 13), general sanitation, noxious trades, medical and dental inspection of school children and cytology register, among other things.	Review completed in May 2000. The review recommends that no attempt be made to amend the current legislation but rather completely new legislation be drafted. A general structure for public health legislation has been circulated by the Government in an issues paper. This proposed structure reduces inconsistency and favours outcome rather than input standards.	The Public and Environmental Health Bill is expected to repeal the Public Health Act.