Competition Reform
- An Invitation to Innovate -

A presentation by Graeme Samuel
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to
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Thank you very much for inviting me to address you tonight.

What I would like to do is to talk to you about some competition issues generally and then specifically focus on what competition reform means for the professions.

Personally, I have just entered my sixth year as a member of the National Competition Council, my fifth year as President. I was reappointed for another three year term last December.

It has been a roller coaster ride and a fascinating experience to be involved in this reform process from the start.

Given the typically glacial slowness of any sort of major over-arching reform, the implementation of National Competition Policy has positively sped along.

It has only been six years since all governments signed up to the policy and agreed to the reforms.

When Fred Hilmer presented his report to the Council of Australian Governments in 1993 – the members were Prime Minister Paul Keating, NSW Premier John Fahey, Victorian Premier Jeff Kennett, Queensland Premier Wayne Goss, South Australian Premier Lynn Arnold, Tasmanian Premier Ray Groom, Western Australian Premier Richard Court, ACT Chief Minister Rosemary Follett and NT Chief Minister Marshall Perron.

Today none of them is still in office and only two out of the nine Governments have the same Party in power. Of those two, Queensland has, of course, changed and changed back again.

I sincerely believe that the signing of the National Competition Policy in 1995 was the greatest bipartisan, multi-jurisdictional agreement we have managed to achieve since Federation.

Being a keen observer of politics from way back I still find it hard to believe that it was ever possible to reach an agreement between one prime minister, six premiers, two chief ministers, and their governments, to implement such a massive micro-economic reform agenda.

One of the specific agreements of National Competition Policy was the undertaking that every government would review every piece of anti-competitive legislation on their books

If the anti-competitive restrictions cannot be proved as being to in the public interest then the legislation must be reformed and competition enabled.

It has been a mammoth task.

Australia-wide, 1700 restrictive laws and regulations were identified as review.

It is quite an extraordinary list. And you would be amazed at some of the sometimes quite bizarre laws that have been reviewed as part of this process.

For example, we have had reviews of:

The Protection of Movable Cultural Heritage Act
The Homing Pigeons Protection Act
The Tobacco Leaf Stabilisation Act
The White Phosphorous Matches Prohibition Act
The Hairdressers Registration Act
The Bread Act

On a more serious note, reviews of statutory marketing arrangements for agricultural industries, taxi-licensing, liquor licensing, import restrictions, shop trading hours and, of course, professional regulation are all required.

Not surprisingly the reviews of the Taxi Licensing Arrangements have caused more of an outcry that the review of the Homing Pigeons Protection Act.

Not surprising either that Homing Pigeons was one of the first Acts to be reviewed and reformed but most of the aforementioned are still to be done.

That is not to say that all of the outstanding reforms are difficult or controversial or even particularly ground breaking.

Last week as I hung up the phone from yet another radio interview about shop trading hours in Tasmania one of my staff members reminded me of an old episode of the comedy series *"Fawlty Towers"*.

In this particular episode John Cleese's character, Basil, had sarcastically suggested to his long suffering wife Sybil that she should appear as a contestant on the game show 'Mastermind' with her special subject being "the bleeding obvious".

'Bleeding obvious' is probably too harsh a term to use - but in the situation where reform has been implemented very successfully in other jurisdictions – it can be very frustrating when reform is not implemented even when it has been shown to be in the public interest by a rigorous, transparent and independent review.

Even more frustrating is when you know that the bulk of public sentiment supports reform.

The Editorial in the Hobart Mercury last Wednesday read "*Shop-trading policy is a poor joke in Tasmania…the Government must act promptly to sweep away archaic and inappropriate laws that prevent Tasmania from enjoying the benefits that shop-trading deregulation has brought other states*".

It went on to say, "*the Government should put the interests of the community above the perceived political threat from the small business lobby and allow all shops to determine when they will open*".

This final point is really the pertinent one.

Competition policy and competition reform are not an exact science and in a modern democracy, reform is always intrinsically linked with politics.

Most public policy reforms have winners and losers. By its very nature, competition removes artificial market protection, and those who have benefited from that protection (at the expense of the greater public interest) stand to lose their privileged position.

Usually any adverse financial effects are felt immediately by a small group, whilst the benefits usually take longer to flow through and are far more dispersed.

As you may know, vested interest groups have a habit of being very vocal, very self-righteous, and when they are well funded and well connected they can campaign very successfully against the public interest.

It is very hard for the general public and policy makers to hear both sides of the story.

The dairy deregulation experience is often presented to me as an example of bad reform.

But, I am constantly amazed that the full story on this one never comes out – the ABARE report released in December found that Victorian dairy farmers were significantly better off after deregulation … and there are more than double the number of dairy farmers in Victoria than in the rest of Australia put together.

Australian consumers are significantly better off - they are getting cheaper milk and they no longer need to subsidise the dairy industry to the tune of half-a-billion dollars a year.

Those farmers who had relied on having the government set an artificially high price for milk have received financial assistance in the order of tens of thousands of dollars to assist them in doing the restructuring that the Victorian farmers did in the mid 1970s.

That said, I do have the utmost sympathy for anyone who is genuinely adversely affected by reform, in particular, for those whose livelihoods may genuinely be threatened by a change to the market in which they operate.

I strongly believe that governments have a moral and actual obligation to assist those individuals – and I would really see it as an abdication of their social responsibility to not consider the social consequences of change and financially and actually ease the adjustment process.

I have far less sympathy for those who oppose reform for the sake of it or oppose reform for purely self serving reasons.

I have even less sympathy and, in fact, it makes me very angry when I see those, who should know better, using irresponsible scare tactics in an attempt to lobby against public interest reforms.

I experienced this last week during an interview on Adelaide radio about South Australian restrictions on the ownership of dental practices.

In South Australia, dental practices may only be owned by qualified dentists, their spouse or children.

A National Competition Policy review found that this increased costs and provided no public benefit whatsoever and, therefore, it recommended that these restrictions be removed.

The South Australian government has indicated that they will implement all of the other recommendations of the review except for this one.

We have some concerns about this.

Bear in mind that these sort of restrictions were removed in other states years ago without any apparent public health disaster.

So the radio debate was between myself, a representative of the South Australian Branch of the Australian Dental Association and a representative of the AMA.

It was frustrating and annoying to hear the dental representative blatantly telling the listeners that changes to ownership restrictions would, and I quote, "make people cut costs on really important things like sterilisation procedures and I think the general public are going to miss out in the end".

It was frustrating - not because I personally think that its rubbish but because an in-depth, rigorous, transparent and independent review came to the considered conclusion that it was not true.

It is interesting to have a look at the experience of the Victorian veterinary industry in Victoria where these sort of ownership restrictions were lifted three years ago.

At the time, vested interests warned of an impending agricultural disaster.

Of course it didn't happen.

There has also been very little corporatisation - the other big fear of the small practitioners.

In fact, the biggest ownership change has been that a lot of veterinary nurses, particularly the ones who have worked in practices for years and often run the business side of it, have been able to take an equity share or partnership in the business.

Surely, this could only be a good thing for the business??

I have to say that generally I have been astounded at the almost hysterical reaction from the professions lobby groups to any move to alter or remove some of the more restrictive legislation that they must adhere to.

My own career experience is a good example of the craziness of some of the existing regulations.

Early in my career I worked as a lawyer before becoming a merchant banker.

As a merchant banker I was constantly amused to find that I was doing very similar work to that which I had done as a lawyer. The difference was that I was being paid twice as much. In fact, my clients often got a little bit of value adding as I could offer them ad hoc legal advice in addition to the financial advice.

What I don't understand is why lawyers aren't out there banging down the doors of government to be allowed to offer merchant banking services. Multidisciplinary practices must surely be the way of the future – some professions already allow them.

I noted with interest that Alan Cameron, the former head of ASIC, has chosen for his future career direction to be a consultant to Arthur Andersen rather than returning to a traditional law firm.

He was quoted in last Friday's Financial Review as saying he was "attracted to the idea of working in a multi-disciplinary global practice".

When asked if his decision could send startling signals to the top-tier traditional law firms he said "the signals, in a sense, are quite intentional. I do think the future of the stand-alone law firm is a real issue".

The thing about removing restrictions is that usually it only means that options are opened – it offers CHOICE –choices which you or your practice may or may not choose to take advantage of.

The other thing that I must repeat over and over is that deregulation and pro-competitive reforms are not about reducing standards.

The public interest is paramount in competition policy and reform only takes place where it is independently proven as being in the public interest. Professional regulation which acts in the public interest, for example to protect public health and safety, is absolutely essential and is not being questioned.

Kerryn Phelps, President of the AMA, responds to any move to examine medical regulation with ultra vigorous shroud waving. I have personally been accused of promoting "dodgey brothers medical school".

In fact, as Kerryn well knows, National Competition Policy does nothing of the sort. What it does do is give governments an opportunity to have a long, hard, independent look at their regulatory regimes to determine whether those regimes are working in the public interest in terms of quality, standards, and value for money, among other things.

In the case of medical regulation, the $48 billion spent on health care in this country each year, and the omnipresent calls for more funding, it is clearly sensible that governments review their regulation to determine whether it is serving everyone well or simply serving some very well.

Last August the Productivity Commission released its review into the legislation regulating the Architectural Profession.

After spending months travelling around the country and accepting submissions from every man and his dog, the review recommended that all Architects Acts and statutory certification of architects be repealed.

It found these regulations added very little to other existing measures for addressing concerns about the quality of the built environment and various health and safety issues related to buildings.

The review suggested that deregulation would lead to current architects establishing a credible system of certification and marketing the advantages of their qualifications.

My advice to all professions is to go and get yourselves a copy of the report and read it.

It is a very useful model for analysing professional regulation - an excellent starting point for some serious examination of some of the anti-competitive, anti public interest practices of many professions.

I am not in any way suggesting that all professions are the same or that the architects model, applied to other professions would lead to the same conclusions.

Obviously the benefits and costs of regulation of surgeons, for example, are unlikely to be the same as the benefits and costs of regulation of architects.

But, the report and its discussion, are useful food for thought when considering regulatory regimes for things like entry standards, registration requirements, reservation of title, disciplinary processes, reservation of practice, business licensing, advertising restrictions and ownership restrictions.

We should remember that professional regulation is there to serve the community, not the professionals.

CONCLUSION

The National Competition Policy reform program must be completed by June 2002. That is the deadline that governments have set themselves.

That means that during the next eighteen months professional regulation around the country will be coming under scrutiny and many of you will be asked to contribute or participate in reviews.

It is important that we get the reviews and recommendations right.

Australian professional standards are among the best in the world. I have spent years working with lawyers, architects, surveyors, nurses, doctors, and allied health professionals.

I have the utmost respect for the standards of Australia's professionals. These standards must be maintained. Where reform compromises individual standards, it should clearly be rejected.

However, I do not believe that easing restrictions on ownership, advertising and commercial practice could easily compromise these standards. In my experience, professionals have too much integrity and too much professional pride to allow compromise on standards.

And may I point out that I fully support legislative prohibitions on seeking to influence a professional in the choices they offer their clients.

As long as individual standards are maintained, I can't see competition leading to the sky falling in.

I can see competition offering choice – choice for your businesses, choice for your customers, and choice for you as individuals.

Competition can offer your businesses the opportunity to merge with others. Competition can give you the opportunity to capitalise on your investment and goodwill. Competition can give you the comfort of either working for a comfortable wage or giving your entrepreneurial spirit free rein.

It will give you the opportunity to give your customers what they want – and in the process attract a larger and more profitable practice.

Competition will give you more opportunities. I know that change can be confronting, even scary at times, but you have the ability to take advantage of the wealth of opportunity that competition offers to all Australians.

You may be surprised at some of the beneficial outcomes.