



National Competition Council

**National Competition Policy:
being more competitive in an
increasingly competitive marketplace**

A presentation by Graeme Samuel,
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INTRODUCTION

Three years ago, the Commonwealth and all State and Territory governments agreed to implement the most broad-ranging program of micro-economic reform ever attempted in Australia. The National Competition Policy (NCP) program stretches beyond the year 2000, and entails a raft of reforms which seek to extend the productivity-enhancing effects of competition to virtually all sectors of the economy. The aim is to lower business costs, enhance competitiveness and provide the conditions for more sustainable economic and employment growth.

The reform program has the potential to affect every Australian in some way or other. It has implications for big infrastructure sectors like energy and transport, as well as agricultural industries such as wheat and sugar, and professions like lawyers and medical specialists. It could affect the location of petrol stations, the availability of taxis, and the nature and viability of the local corner store. It may also affect the way universities and hospitals are run or financed, the price of rail freight services, how food safety is regulated, and where and when liquor may be purchased and consumed.

And the potential benefits are big — estimated to be worth an ongoing increase of more than 5 percent of GDP and up to \$1500 increased spending power per household per year.

When adopting the NCP package, governments also established the National Competition Council to assist with this process. We administer some aspects of the reforms, assess governments' progress in implementing the reforms, advise Governments on implementation of the policy and where more work is needed, and provide public information on the NCP process generally.

Our role of assessing the progress of governments in meeting their NCP reforms commitments is particularly important, because there is significant funding riding on those assessments. Specifically, as part of the 1995 agreements, the Commonwealth agreed to pay the States and Territories some \$16 billion over the period to 2005, provided they make satisfactory progress on implementing NCP reform.

BACKGROUND TO THE REFORMS

Before discussing the specifics of the reforms themselves, let me set out the background to the development of the NCP program.

The NCP program can be seen as a response to several broad developments.

One is the increasingly difficult economic circumstances facing Australia in recent decades. In the post-war years, full employment, low inflation and 4 percent annual growth were the norm for the lucky country. But since the mid 1970s, we've been beset by various economic problems and shocks in one form or another. The most recent problem is the Asian crisis which is putting pressure on our trade

performance and exchange rate. And from once having the highest material living standards in the world, by 1996 we had slipped down to 19th position according to the World Bank's (imperfect) index. As our economic performance has waned, so pressure has mounted on governments to act to reinvigorate the economy.

But we have also found that the 'macro-economic' levers that seemed to work in the past are no longer sufficient. Fixing the economy is no longer simply a matter of increasing government spending, or adjusting wages, or changing interest rates.

Policy-makers have thus increasingly turned their attention to addressing problems at the 'micro-economic' level — that is, at the level of individual markets and individual industries. In an increasingly global market place, improving our business competitiveness at the micro-economic level is seen by many as vital to our long term economic success.

Governments started addressing these matters from around the mid-1980s, but early efforts were not always well balanced or coordinated among the three levels of government, and failed to address the full range of anti-competitive restrictions which existed throughout the economy.

It was against this background that, in 1992, Paul Keating asked Professor Fred Hilmer to examine the need and scope for a more comprehensive, national approach to competition reform matters. This put in train a process which led to the 1995 agreements, supported by all governments in Australia, to implement the NCP reforms.

THE NCP REFORM PROGRAM

The NCP reforms involved some one-off changes to the Trade Practices Act to reduce the scope for market rigging, plus ongoing reforms to address three broad areas:

- the merits of anti-competitive legislation and regulation;
- the competitiveness of government businesses; and
- the efficiency of infrastructure use and provision.

Implementation of the NCP reform program is now gathering pace. Competition reform has already had significant impacts in several sectors and, over the next four or five years, the NCP program will touch upon each and every Australian in an ever increasing pace of evolution, which for some of those affected will seem more like revolution.

Anti-competitive legislation

The first area is anti-competitive legislation. Legislation can limit competition by restricting who is able to enter and compete in a market. An example is the Queensland law which prohibits non-lawyers from undertaking conveyancing. But it can also restrict competition by limiting the ways in which people already in the market can operate. Retail trading hour limits and advertising restrictions are examples.

The Hilmer Review found that anti-competitive legislation was widespread, but in many cases of at best questionable merit.

Under the NCP legislation review program, each Australian government has agreed to review all laws that restrict competition. Unless such laws are found to confer a net community benefit, they are to be reformed by the year 2000.

The program is ambitious, with some 2000 pieces of legislation scheduled for review. These cover matters as diverse as statutory marketing arrangements for primary produce, financial sector regulation, occupational licensing, import restrictions, business registration requirements, product safety standards and consumer protection legislation, and workplace relations and retail trading hours regulation. [Box 1 contains a selection of the various legislation that is scheduled to be reviewed].

The legislation review program has important implications for industry, not the least of which will be the removal of unnecessary red tape imposing significant costs and delays on business. For example, in NSW, an examination of 250 business licenses led to the nomination of 34 for repeal and the amalgamation of 44 categories into just 3 — fencing, general maintenance and cleaning.

Further, where restrictions on competition are removed, businesses will be able to enter previously sheltered markets, bringing scope for new innovation and leaner, sharper provision of services, to the benefit of consumers. We have seen this already in telecommunications where, although full legislative restrictions on competition have only recently been removed, earlier reforms have led to an expansion in the range of services and greater customer-focus, as well as lower prices.

There are also benefits for governments: for example, being able to save money where legislation necessitates government expenditures which are excessive or no longer warranted, and by providing an opportunity to rethink approaches to achieving the social, environmental and economic goals which underlie certain laws and regulations. Where governments achieve their objectives more efficiently or at less cost, there are flow-on benefits for the economy generally.

Box 1: Selected legislation from jurisdictions' schedules

<i>Jurisdiction</i>	<i>Name of legislation</i>	<i>Review date</i>
Cmwlth	Insurance (Agents and Brokers) Act 1984	1997-98
Cmwlth	Navigation Act 1912 (Part IV)	1998-99
Cmwlth	Financial Corporations Act 1974	1998-99
NSW	Murray Valley Citrus Marketing Act 1989	1996-97
NSW	Business Licenses Act 1990	1997-98
NSW	Innkeepers Act 1968	1997-98
Vic	Workers' Compensation Act 1958	1996-97
Vic	Fisheries (Commercial) Regulations 1992	1998-99
Vic	Transport (Taxi-Cab) Regulations 1994	1998-99
Qld	Business Names Act 1962	1998-99
Qld	Land Sale Act 1984	1996-97
Qld	Financial Intermediaries Act 1996	1998-99
WA	Casino (Burswood Island) Agreement Act 1985	1998
WA	Health (Liquid Waste) Regulations 1993	1999
WA	Employment Agents Act 1976	2000
SA	Legal Practitioners Act 1981	1997
SA	Environment Protection Act 1993	1999
SA	Landlord and Tenant Act 1936	1999
Tas	Mining Act 1929	1997
Tas	Metropolitan Transport Act 1954	1998
Tas	Land Use Planning and Approvals Act 1993	1999
ACT	Business Franchise ("X" Videos) Act 1990	1997
ACT	Fair Trading Act 1992	1997
NT	Business Franchise Act	1998
NT	Pay-Roll Tax Act	1998

¹ This selection represents a small sample of the 2000 odd pieces of legislation in jurisdictions' schedules (as at June 1996). A full listing is available in the Council's Legislation Review Compendium published in April 1997.

Government businesses

The second reform area is the competitiveness of government businesses.

This became a major issue for all Australian governments during the 1980s. Many studies provided widespread evidence of poor performance, including poor capital and labour productivity, overstaffing and excessive use of material inputs, inappropriate management practices, poor quality goods and services (or, conversely, the 'gold-plating' of infrastructure in some instances), inappropriate pricing practices and poor financial performance.

In the face of this evidence, and the realisation that government businesses have a significant impact on Australia's economy, all governments have been addressing the nature of their involvement in the businesses they own.

One response to this has been to seek to expose government businesses to the same or similar commercial pressures that private businesses face.

For example, under the NCP "competitive neutrality" reforms, governments are removing net competitive advantages enjoyed by public sector businesses over the private sector. Some of these advantages include exemptions from taxes, planning laws and rate of return requirements. By removing these advantages, government businesses will be forced to compete on an equal footing with private businesses.

From an industry perspective, competitive neutrality, in conjunction with related competition reforms, provides opportunities for private businesses to move into a wide range of areas previously dominated by government suppliers — for example, accounting services, car parking, cleaning, engineering services, legal work, printing, real estate and property management. The scope for new competition in these markets should drive down prices, benefiting the wide range of businesses and consumers which use these services.

The competitive neutrality and related competition-type reforms are also improving the performance of government businesses themselves [see Box 2].

Box 2: Recent performance of Government Trading Enterprises

A recent report by the Standing Committee on National Performance Monitoring found that competitive neutrality and related reforms — many of which predated the NCP agreements — are showing some positive results. The outcomes have varied between the enterprises studied. However, over the four years to 1995-96, overall there have been:

- improvements in labour productivity,
- a doubling of total payments by trading enterprises to governments,
- average price reductions of around 15 percent, and
- some limited improvement in service quality.

While some factors such as technological change may also help explain these improvements, this evidence does suggest that the reforms are paying dividends.

Infrastructure

The third major reform area is infrastructure.

Infrastructure services such as energy provision, transportation, communications and water supply play a vital role in the Australian economy. They are major business inputs, representing between 7 and 16 percent of production costs for most industries. They are also essential services for consumers. And the industries which supply these services are major resource users in their own right. For example, the electricity supply industry alone has \$55 billion in assets, a workforce of 42 000 people, 8 million customers and over \$12.3 billion in annual revenue.

Consequently, the efficiency and competitiveness of these sectors is important not only for their direct customers but also for the broader business environment and the performance of the economy generally.

The NCP agenda includes reform packages to improve the efficiency of four industries which are major providers of infrastructure services to Australian businesses and consumers: electricity, gas, water and road transport. These reforms will promote more efficient supply of energy, water and transport services, with the likelihood of better service and, in most cases, cheaper costs to industry.

In addition, under the NCP 'access' reforms, businesses will be more able to get access to essential infrastructure services which they need to compete effectively

with established players. For example, transport companies may be able to get access to rail networks to run their own trains, in competition with the existing train operator.

Recent measures to inject competition into the big infrastructure sectors are showing some significant benefits [See Box 3].

Box 3: Recent price changes for infrastructure services

Recent measures to inject competition into the big infrastructure sectors are showing some benefits:

- a recent study by Delloite Touche Tomahatsu found that electricity bills have fallen by around 30 percent on average for those businesses able to select their own supplier under the National Competitive Market;
- average airfares are around 20 percent below their pre-deregulation levels (and total domestic air travel has increased by more than 80 percent);
- rail freight rates between Melbourne and Perth fell by 40 percent following the introduction of competition on that route in 1995; and
- under the recently approved AGL undertaking, gas access tariffs in NSW will fall to about 60 percent below their 1995 levels by the year 2000.

IMPLICATIONS FOR BUSINESS COMPETITIVENESS

The NCP reforms will thus have many benefits for business and bring many new opportunities for businesses to move into new markets. Lower prices for inputs, fewer restrictions on business conduct, greater consumer spending power resulting from lower prices generally and a more flexible economy less susceptible to external shocks — these things will all benefit the broad business environment.

But it is important to realise that NCP is not all benefits and no costs for business.

In those markets directly affected by reform, there will be both winners and losers. To give just one example, where anti-competitive regulations are removed, new businesses may be able to enter into markets by competing with incumbent producers. Where new businesses succeed, they will obviously be better off. So will consumers. But incumbent businesses may need to lift their game or risk losing market share.

To improve their competitiveness, existing businesses may need to develop or rethink business plans, examine staff training needs and managerial skills, look for opportunities to expand their product range, improve service quality or find ways of reducing costs.

That said, in many cases, incumbent businesses will be well placed to fend off new competition. Often they will understand their market well and know their customers' needs. They may have had time to build up a loyal clientele and, as mature businesses, they are likely to have more settled and stable financial positions than new businesses.

For new businesses, the removal of anti-competitive legislation brings with it normal commercial risks involved in starting a new business. To make inroads into the market, such business people will generally need to be able to offer a more attractive product — whether it be lower priced, higher in quality, or better suited to customer needs — than the products offered by incumbents.

The NCP processes do not seek to favour any one kind of business over another. Rather, the aim is to allow competition to occur such that businesses compete on their merits. In other words, while the NCP is designed to enhance the performance and competitiveness of the Australian economy overall, it is not designed to improve the profitability or viability of specific businesses or industries themselves. Rather, it is intended to foster conditions in which the businesses and industries that most benefit the community prevail.

SOME SPECIFIC REFORM ISSUES

So far, I have been talking at a fairly broad level about the NCP reforms. Let me turn now to some specific issues and case studies in competition reform.

Professions regulation

Traditionally, the professions have been surrounded by an array of controls, standards and restrictions, contained not only in statutes but also in professional codes of conduct administered by professional associations [see Box 4 for summary]. In many instances, these regulations and practices have shielded the professions from normal competitive pressures.

A range of regulations governing various professions are listed for review in the period to the year 2000. Some of these have been nominated for national review, although getting national reviews in place has proven to be more difficult than originally envisaged.

From a competition policy viewpoint, regulation of certain aspects of some professions may well be justifiable. In the market for medical services, for example, the availability of subsidised health care, and the fact that doctors both

advise patients of the need for treatment and supply the service, mean that some form of regulation may be necessary to ensure that doctors do not over-service their patients. The problems consumers face in selecting a practitioner of suitable capability may also justify regulation of entry into a profession through appropriate accreditation standards and reservation of professional title.

But some traditional forms of professions' regulation appear to have different motives. For example, prescribed fee scales for professional services appear to serve no real purpose other than to restrict price competition. Controls on advertising and ownership structures are also questionable. Likewise, accreditation standards are sometimes set at very high levels and have the potential to unduly exclude entrants from the market. Indeed, in some cases, licensing schemes restrict the number of practitioners rather than just setting acceptable minimum entry standards. Like other closed shops, the result of this particular restriction is likely to be higher prices for consumers (and higher incomes for practitioners), rather than better services.

Without pre-judging the outcome of detailed reviews of all these matters, these aspects of professions regulation appear on first glance to be candidates for reform.

Some professional associations have expressed reservations about aspects of the reviews and possible reforms, but the Council is encouraged by its discussions with professional groups that progress can be made, and we will continue this dialogue and continue to pursue sensible review processes and balanced reform outcomes.

Box 4: Some forms of professions regulation which can affect competition

The legislation applying to professions can effect the market structure and conduct of these practitioners. Market structure can be affected through:

- restrictions on the use of professional titles;
- restrictions on entry into the market by professionals, para-professionals and other potential suppliers - such as licensing, certification requirements, educational and competency standards;
- functional splitting - arrangements where certain professions or persons within professions are not permitted to compete with each other; and
- restrictions on the ownership and organisation of professional practices.

Market conduct can be affected through:

- fee scales and fee limits;
- restrictions on certain types of advertising; and
- professional and ethical standards and disciplinary procedures.

Nevertheless, as I have said on other occasions, the professions must not be immune from competition reform.

This is not just a matter of combating the problems consumers of some professional services face due to current practices, such as high prices, lack of customer focus, and long waiting lists and queues. Nor is it purely a matter of unleashing the full productive potential of the professions themselves.

Rather, there is also a fundamental question of equity here. Whilst many other sectors of the economy are exposed on a daily basis to the true rigor of the competitive marketplace, with industry pay and conditions to match, it is not clear that all professionals are subject to the same disciplines. That is not to say that, in a fully competitive market, professionals incomes and conditions would not be better than the norm. They probably would. However, just as many people rightly question the monopolistic wages and conditions attained by waterside workers, people have a right to question the incomes and conditions enjoyed by professionals to the extent that those incomes and conditions derive from unwarranted restrictions on competition.

Competition reform, like justice, must be seen to be blind when it comes to matters of class, career and collar colour. Hence, equity, as well as economic efficiency, demands that the professions be subject to scrutiny and, where appropriate, genuine reform.

Liquor licensing

Another area to be reviewed is liquor licensing.

There are obviously important social concerns associated with the consumption of liquor, and some form of regulation may well be appropriate.

However, current regulations often discriminate between different types of outlets and thereby limit competition. Indeed, in arguing that “sophisticated Sydneysiders should be allowed to enjoy a cognac at a café”, one scribe suggested that liquor laws “have been cobbled together over many years as some sort of legislative protection racket for the pubs and clubs industry.” While I do not know the exact historical developments behind the laws in that State, they clearly do provide some special protections for the hotel industry, at the expense of other entertainment venues and, perhaps more importantly, at the expense of consumers who might simply wish to have a drink in a non-pub atmosphere.

Further, it is not clear that regulating the outlets at which liquor can be sold is a particularly effective way of dealing with problems associated with its inappropriate consumption. This is not only the case in relation to served drinks at hotels vis a vis restaurants and cafes. It is particularly so in the case of packaged liquor, such as slabs of beer.

Among other things, reviews will need to identify exactly what the social policy objectives in this area are, whether controls on outlets in fact help achieve these objectives, and can they be achieved by alternative less anti-competitive means. In particular, reviews will need to establish what justification there is for discrimination between different outlets.

Retail trading hours

One area being addressed under the NCP legislation review program is that of retail trading hours.

This is a contentious issue in some quarters, but it nevertheless makes a useful case-study as it illustrates not only the opportunities and risks confronting businesses in the reformed industry, but also the broader benefits which competition can bring. It also illustrates something about the way debates on competition reform are often conducted in the media.

As you are no doubt aware, the review of trading hours regulation in Victoria led to the deregulation of shopping hours around eighteen months ago. You may not be so familiar with the position in other States. The ACT also removed its restrictions last year, and there have been partial moves towards deregulation in both Queensland and NSW dating back several years, although significant regulation remains in some cases. Current trading hours regulations in South Australia are quite restrictive and something of a hotch-potch.

There is currently a review being conducted in South Australia on this matter. It is not surprising that this review has generated a fair degree of media coverage, and that several groups have lined up either to support or to argue against reform. Nor is it surprising that some of the arguments being tendered appear to align more closely with the interests of those tendering them than with the broader public interest. There also appears to be limited understanding of the role that unfettered competition between businesses in the market place, competing for the consumer dollar, might play in promoting outcomes that are in the public interest.

So let us look at what has happened elsewhere.

As set out in some detail in a recent paper I gave in South Australia, the key changes following deregulation in Victoria have been:

- shops are now open more often when people want to go shopping;
- as well as greater convenience, this has given some consumers an opportunity to cut their grocery bills. (In this context, it is pertinent to note that a recent Choice survey found that prices for items at late night convenience stores are on average around 43 percent higher, and in some cases almost double, compared with the prices of the same items in late night supermarkets);

- net retail employment has grown more than 10 percent. (This presumably reflects the effects of Sunday trading in particular);
- there does not appear to have been any significant change in the number of retail businesses operating in Victoria since deregulation occurred;
- however, there is some evidence that deregulation has caused problems for at least some existing small retailers.

Notwithstanding this latter point, overall I think that it is difficult to mount a case that deregulation in Victoria has not been in the public interest. It is pertinent to note, for example, that in a recent referendum held in Ballarat, around 75 percent of electors chose to retain Sunday trading.

Likewise, in the ACT, after a period of liberal trading arrangements, the government reintroduced restrictions on trading hours in larger shopping centres in 1996, essentially to protect retailers in small suburban shopping centres from competition from big supermarkets. But subsequent consumer surveys found that the costs of re-regulation clearly outweighed the benefits, and the decision was reversed.

Nevertheless, in South Australia, the prospect that small shop-keepers might lose out to competition from larger supermarkets has been seized upon by some groups as a basis for arguing against deregulation.

Another argument put forward has been that deregulation could pose commercial risks for city retail businesses (and the owners of the properties that those businesses trade from) because consumers might choose to shop elsewhere. Specifically, the concern is that some consumers might choose to shop late at night or on Sundays in suburban shopping centres near where they live, rather than pick up their shopping in the city during the working week.

A similar type of argument has been raised in the Queensland where, in a study prepared initially for the Brisbane City Heart Business Foundation, it is estimated allowing Sunday trading would reduce retail sales in the CBD by \$63 million annually, representing 7.7 percent of takings.

Given these types of arguments, the question which arises is:

Should consumers be forced to:

- *pay higher prices; and/or*
- *forgo the convenience of extended shopping hours; and/or*
- *forgo the convenience of shopping where they want;*

to reduce the commercial risks that certain retailers and commercial property owners face?

As I said in my South Australian speech, it appears difficult to establish a convincing case that they should. Business exists to serve the needs of consumers — consumers are not there to serve the needs of business. Further, while the small business sector is an important component of the economy and a large employer in aggregate, ensuring the viability of any particular small business should not be an aim of government policy. Rather, just like the case of big businesses, whether any particular small business adds value to our economy depends on whether the benefits which flow to its owners, employees and the consumers which use it exceed the costs of maintaining the business. Likewise, whether a retail outlet in a particular area adds value to our economy depends on whether the benefits which flow from it exceed the costs of maintaining it.

How well a business does when subject to full competition in the market place is generally the best way of ascertaining whether this is the case. Under the competitive approach, those businesses which are most able to provide the value-for-money, product range, location, convenience, service, friendliness and other attributes consumers are seeking will prevail in the market place. In some instances, this will be a small business. In others, it will be a large business. In some it will be a city-based business. In others, it will be a suburban business. As I mentioned earlier, competition policy does not seek protect the viability of particular businesses. Rather, it aims to establish the environment in which those businesses most able to benefit society can prevail.

CONCLUDING REMARKS

The NCP reform program is ambitious, with the potential to affect virtually every Australian and, in particular, to substantially alter the way we approach doing business.

As part of competition reform, some existing business will be exposed to greater competition. This will require them to rethink their business strategies and lift their game, or risk losing market share to other players.

At the same time, all businesses will benefit from lower costs and improvements in the general business environment flowing from competition reform.

The ultimate goal of competition reform is a more productive, efficient, innovative and dynamic economy — one more able to cope with external shocks rather than immediately plummeting into recession; one better able to sustain or enhance the material living standards of its people, or to achieve its social, cultural and environmental goals, without simply adding to national debt; and one in which resources are used, or conserved, in the most valuable way.

And just as there is a compelling economic efficiency case for competition reform, so too equity demands that those currently sheltering behind undue anti-competitive arrangements face the same competitive disciplines as all of us.

