
APPENDIX A LEGISLATION REVIEW – CLAUSE 5 OF THE COMPETITION PRINCIPLES AGREEMENT

Clause 5 of the CPA is reproduced below.

- (1) The guiding principle is that legislation (including Acts, enactments, Ordinances or regulations) should not restrict competition unless it can be demonstrated that:
 - (a) the benefits of the restriction to the community as a whole outweigh the costs; and
 - (b) the objectives of the legislation can only be achieved by restricting competition.
- (2) Subject to subclause (3), each Party is free to determine its own agenda for the reform of legislation that restricts competition.
- (3) Subject to subclause (4) each Party will develop a timetable by June 1996 for the review, and where appropriate, reform of all existing legislation that restricts competition by the year 2000.
- (4) Where a State or Territory becomes a Party at a date later than December 1995, that Party will develop its timetable within six months of becoming a Party.
- (5) Each Party will require proposals for new legislation that restricts competition to be accompanied by evidence that the legislation is consistent with the principle set out in subclause (1).
- (6) Once a Party has reviewed legislation that restricts competition under the principles set out in subclauses (3) and (5), the Party will systematically review the legislation at least once every ten years.
- (7) Where a review issue has a national dimension or effect on competition (or both), the Party responsible for the review will consider whether the review should be a national review. If the Party determines a national review is appropriate, before determining the terms of reference for,

and the appropriate body to conduct the national review, it will consult Parties that may have an interest in those matters.

- (8) Where a Party determines a review should be a national review, the Party may request the Council to undertake the review. The Council may undertake the review in accordance with the Council's work program.
- (9) Without limiting the terms of reference of a review, a review should:
 - (a) clarify the objectives of the legislation;
 - (b) identify the nature of the restriction on competition;
 - (c) analyse the likely effect of the restriction on competition and on the economy generally;
 - (d) assess and balance the costs and benefits of the restriction; and
 - (e) consider alternative means for achieving the same result including non-legislative approaches.
- (10) Each Party will publish an annual report on its progress towards achieving the objective set out in subclause (3). The Council will publish an annual report consolidating the reports of each Party.

APPENDIX B NATIONAL COMPETITION POLICY CONTACTS

Further information regarding jurisdictions' legislation review can be obtained by contacting the relevant Commonwealth, State or Territory competition policy unit. For information about NCP, please contact the National Competition Council.

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