NATIONAL COMPETITION COUNCIL

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The Honourable Peter Costello, MP
Treasurer
Parliament House
CANBERRA ACT 2600

Dear Minister

We submit to you the first Annual Report of the National Competition Council, for the eight months from the Council's inception on 6 November 1995 to 30 June 1996. The report is prepared and submitted in accordance with section 29O of the *Trade Practices Act 1974*.

Yours sincerely

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President

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Councillor

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Abbreviations

ACCC	Australian Competition and Consumer Commission
ARMCANZ	Agricultural and Resource Management Council of Australia and New Zealand
AS	Australian Standard
AUS	Australian Union of Students
BIE	Bureau of Industry Economics
CEDA	Committee for Economic Development of Australia
CPA	Competition Principles Agreement
COAG	Council of Australian Governments
CSO	Community Service Obligation
DEETYA	Department of Employment, Education, Training, and Youth Affairs
EEO	Equal Employment Opportunity
FAG	Financial Assistance Grant
FOI	Freedom of Information
GBE	Government Business Enterprise
GRTF	Gas Reform Task Force
IC	Industry Commission
MNC	Multiple Network Corporations
NCC	National Competition Council
NECA	National Electricity Code Administrator
NEMMCO	National Electricity Market Management Company
NGMC	National Grid Management Council
NRTC	National Road Transport Commission
OH&S	Occupational Health and Safety
PRRT	Petroleum Rent Resource Tax
SCARM	Standing Committee on Agricultural and Resource Management
TPA	*Trade Practices Act 1974*

Setting The Scene

When all our Australian governments, Commonwealth, State and Territory, added the National Competition Policy to Australia's microeconomic reform program, they also formed the National Competition Council to support their agenda.

In April 1995, our governments signed the ground-breaking competition policy agreements. The *Competition Policy Reform Act 1995* amended the *Trade Practices Act 1974* (TPA) to extend the competitive conduct rules to State and local government business enterprises and unincorporated businesses, and established a national regime for access to the services provided by nationally significant infrastructure.

The Council comprises five part-time Councillors drawn from various business sectors and regions. We have a research secretariat of 13 people, located in Melbourne. The Council is primarily a support body: it is an advisory group, not a regulator. The regulatory role falls to others, particularly the Australian Competition and Consumer Commission (ACCC).

Effectively, we have two ongoing programs, with several other 'as requested' responsibilities assigned by our stakeholder governments. The two constant responsibilities are:

1. To play a central role in the development of regimes to provide third party access to significant 'bottleneck' infrastructure, such as electricity transmission grids, transmission pipelines and rail networks. The aim of allowing access is competition on either side of the 'bottleneck'.

2. To assess the progress of our stakeholder governments in implementing the agreed competition reform agenda.

A key implicit responsibility is to support and promote the National Competition Policy, and this is done in conjunction with all our other work. We both make and take opportunities to promote and explain the issues. Unless the National Competition Policy reforms and their benefits are understood widely in the community, there is a high risk that people will equate competition reform with job loss in particular sectors, rather than see key benefits such as increased employment opportunities overall arising from a growing economy. Accordingly, we see explaining and promoting competition reform as one of our most important tasks.

As with any new organisation just starting, our first few months were about getting to a full operating mode. The Council has been meeting each month since it was established on 6 November 1995. We consulted widely with all governments, including at Ministerial and Head of Government level. Given the time of the year that the Council came into being, and the building up process, we have been operating effectively for about five months of the period under review.

During the year, we also met with many other parties interested in competition reform. Councillors and senior Secretariat staff have spoken to a range of groups about the National Competition Policy. We developed a comprehensive guide to our approach to access matters, in consultation with governments and the ACCC, and released this for public comment in August 1996. We received and assessed one application for declaration of access. We have commenced evaluation of the policy statements submitted by governments in July 1996.

There have been tensions in some relationships with some of our stakeholders, as the right balance is sought. The combination of our duty to support, promote and advise with that of

assessing progress for transfers of money brings up a natural tension. Our job is to make this a constructive factor, and we are confident that our combination of roles will bring benefits for Australia.

In addition to leveraging the whole reform program off the leadership of front runners, it is inevitable that we will need to address areas with jurisdictions where reform implementation is slow or incomplete. Such work should be seen as a natural part of supporting implementation, not a series of signals that reform is failing.

Australia is now at the stage of implementing the Council of Australian Governments' (COAG) vision of the National Competition Policy. While this represents a huge change program for our governments, the prognosis is overwhelmingly positive. One of the Key Performance Indicators that the Council has set for itself is that all State and Territory governments receive all their competition transfers — a total of about $16 billion over the period to 2005–06. Receipt of full payments will indicate that the Council is satisfied with reform progress; and importantly, that the community is receiving the benefit of improvements in growth, innovation and productivity — estimated by the Industry Commission (IC) at upwards of $23 billion in GDP per year.

The Council's supporting mission statement — to help raise the living standards of the Australian community by ensuring that conditions for competition prevail throughout the economy, which promote growth, innovation and productivity — emphasises our role as part of the COAG team charged with delivering the benefits.

The Council's current views

As required at the end of June 1996, each government delivered three statements to the Council outlining future reform direction in the areas of legislation review, competitive neutrality and local government involvement. These statements, together with previous COAG commitments to establish competitive electricity and gas markets and reform road transport, and the State and Territory agreement to extend the reach of the TPA, constitute the starting point for implementation of the National Competition Policy agenda.

Our governments have combined to form a unique program, quite testing for them on issues of short-term popularity, but embracing a commitment to ensure increasing long-term wealth creation as an end, using constructive competition as a means.

In this report, we refer to areas which we believe jurisdictions need to address better in order to meet their reform commitments. The Council's comments should be seen both as constructive and necessary in the context of progressing a successful and bold program by all participants.

We have given thought to the areas of concentration on our part which will support the optimal delivery of value to the community. For example, in developing access regimes, we will be highly supportive of truly national markets. In the areas of legislation review and reform, we will stress "on-time" commitments to ensure that general benefits are flowing by the year 2000. Prioritising the big gains will also be pursued. We believe that major areas of change will create a "pull-through" that will ensure lasting cultural changes, which is really the task that governments have set for themselves.

Legislation review

1. Governments must complete the process of reviewing and, where appropriate, reforming all their anti-competitive legislation by the year 2000. Within the overall program, the Council urges governments to give priority to reforms which are likely to deliver greatest gain to the community. One example of a government failing to schedule important reviews early is the Commonwealth's planned examination of the *Wheat Marketing Act 1989* in 1999–2000.

2. Exemptions from review should be considered only where a strong public interest case is established. The Council's judgment of satisfactory progress envisages bona fide examination of the community costs and benefits of reform by jurisdictions and reform action regardful of review outcomes, consistent with clause 5 of the Competition Principles Agreement (CPA). In this regard, the Council has sought comment from the New South Wales Government which has retained current arrangements for rice marketing despite the recommendations contained in its review of the *Marketing of Primary Products Act 1983*. The Council also raised the ACT's new *Trading Hours Act 1996* with the ACT Government. While the Council had concerns that development of the legislation contravened the CPA, it recognised the circumstances existing in the ACT retail trading environment, and the fact that the new law repeals more restrictive legislation. The Council has reached agreement with the ACT Government that the continuing restriction provided in the new legislation will be subject to a thorough review to be completed by June 1998.

3. The reform process would be assisted by improved community awareness of the programs proposed by governments and the benefits of removing unnecessarily restrictive regulation. This would promote community understanding and critically, with the help of stakeholder governments, facilitate community input to refine the reform agenda. The Council could assist this objective by publishing a document consolidating all governments' review programs.

Competitive neutrality

1. Governments would assist the reform process by identifying the businesses which are candidates for reform, or review, at an early stage. This should include local government businesses.

2. The mechanism for handling complaints about competitive neutrality matters must ensure a fair hearing for genuine complainants. In particular, where a matter is unable to be readily resolved, it should be examined by a body which is independent of the business about which the complaint is made.

3. We encourage governments to prioritise reforms in order to achieve larger results as early as possible, and understand governments' categorisation of businesses according to size in this regard. However, we would not like these cut-off thresholds to exclude businesses which have a significant impact in their own markets. What is required is the leadership example of larger gains to "pull through" an overall cultural change. What is not required is a feeling of exemption from change on the part of organisations below an arbitrary threshold size.

Local government

1. Competitive reforms at local government level are critical to the overall success of the National Competition Policy program. Competitive neutrality between local government

and private businesses, in the context of competitive tendering, should help the development of the small business sector.

2. State and Territory governments bear responsibility for ensuring that agreed reforms are applied at local government level where appropriate. In particular, the review and reform of anti-competitive legislation and the application of competitive neutrality principles will be important.

3. Reform effort would be enhanced if there were greater incentive for local government to participate. In this regard, the Council notes that Queensland has agreed in principle to allocating a portion of its competition payments to local governments undertaking competition reforms. This is a positive step. The Council will consider whether linking the Financial Assistance Grants available to local government to demonstrated commitment to reform would better encourage local government participation in the national reform process.

The Conduct Code

1. Western Australia must ensure that the Conduct Code is promptly applied within its jurisdiction.

Electricity

1. Satisfactory progress with Queensland's interconnection to the national grid, in both the timing and the capacity of the interconnection, will be a necessary condition for the Council to recommend that Queensland has met the conditions for receipt of National Competition Policy payments.

2. Governments must ensure that COAG's vision for an effective national electricity market is not compromised by legislated restrictions or exemptions from the National Electricity Code.

Gas

1. The National Third Party Access Code is essential to achieving the COAG vision for free and fair trade in gas between and within the States. Accordingly, the Council will place high priority on approval of the Code by Heads of Government such that the COAG vision is achieved in full and on time.

2. Any threats to the free and fair trade in gas offered by legislative or regulatory barriers to trade must be removed. Given the central importance of the Cooper Basin, South Australia must ensure that the *Cooper Basin (Ratification) Act 1975* does not restrict competition.

Other infrastructure reform

1. While not formally part of the National Competition Policy program, railways and shipping are important elements of the wider microeconomic reform agenda and should be explicitly addressed by COAG.

The Council's work program

1. The Council, through its work program, can play a significant role in promoting the benefits of competition reform. We encourage governments to make use of our ability to bring an intergovernmental focus to competition reform. The Council is well placed to examine matters which have an effect beyond any single jurisdiction, such as legislation which regulates activities operating in more than one State or Territory, and the role and structure of national institutions. There are many other matters which would benefit from examination, including statutory marketing arrangements and restrictions on the provision of various professional services.

1 Benefiting From Competition

1.1 A strong case for change

Australians are increasingly recognising that improving our economy's competitiveness will help provide the economic growth we need to raise our living standards, tackle unemployment and reduce our foreign debt.

The National Competition Policy promotes these ends. It involves continuing reform in key infrastructure areas, and an extension of the productivity-enhancing effects of competition to other previously sheltered parts of the economy. This will help achieve the sustained increases in growth which underpin the social outcomes sought by the community.

... the broad benefits of the competition reforms

Competition brings various public benefits. It forces businesses to offer people "more for less", by improving quality and/or reducing waste. It also forces them to adapt quickly to new technologies and changes in what consumers want. At a broader level, competition helps ensure that the community's scarce resources — including our people's skills and ideas as well as our financial resources and physical environment — are used in the most valuable way, now and through time.

The potential community pay-offs from the National Competition Policy reforms are thus numerous. Improving the productivity of our resources will enable Australian businesses to obtain cheaper and/or better quality inputs, develop new and better products and services, reduce prices, expand sales, maintain or increase employment, and become more competitive, both at home and in export markets. Firms which are more efficient have greater capacities to adjust to changes in economic conditions, including global conditions. The Australian economy needs to be adaptable if our living standards are to be maintained and improved.

The infrastructure reforms are especially important. Improvements in the productivity and efficiency of this sector, including energy and transport, will potentially flow through to the competitiveness of all Australian firms. Lower prices for infrastructure services will reduce firms' production costs. As well, firms should benefit from improvements in service quality and improved reliability. For many industries, the reliability of infrastructure services can be more important than price. Reliable infrastructure services are also regarded by the community as basic necessities.

... the estimated pay-offs are considerable

Estimates of the potential benefits consistently point to substantial community gains. For example, the IC found that full implementation of the National Competition Policy and related reforms would add around $23 billion in real terms to Australia's annual GDP (IC 1995). Specifically, consumers would benefit, with estimated gains of the order of $1500 a year on average for each Australian household. Similarly, a study by the Centre for Regional Economic Analysis put the annual gains at around $1750 per household (University of Tasmania 1995).

Sometimes the total gain cannot be foreseen at the time of implementation. With competitive pressures in the longer term encouraging greater innovation, such that costs are lowered and new

and better products and services developed, the benefits flowing from reform might be higher than predicted.

Box 1.1 Some specific examples of the gains from competition: airlines and telecommunications

- The introduction of effective competition into Australia's domestic aviation industry in 1990 was accompanied by a substantial fall in average air fares. The Prices Surveillance Authority found that, at the end of 1994, real average fares were around 24 per cent lower than before deregulation. Passenger numbers grew by almost 60 per cent.
- In telecommunications, prices fell by 16 percent in real terms between 1989–90 and 1993–94, due to a combination of greater competition and technological change. Reductions in Telstra's charges saved consumers $315 million in 1993–94, and a further $500 million in 1994–95. Price reductions were greatest in the most competitive markets — STD, IDD and mobile services.

... reform inevitably involves adjustment

Some in the community equate competition policy directly with problems such as job loss and regional decline. This is understandable since outcomes such as job losses are easily blamed on reform measures, whereas employment growth — being more widely distributed throughout the economy and occurring later down the track — tends to go unnoticed.

But for Australia, the evidence of the past twenty years is of significant structural change associated with a substantial increase in total employment — with industries such as textiles, clothing and footwear declining, and others such as computing and hospitality expanding. This suggests long term high unemployment has other causes.

Reform inevitably involves adjustment. Even where the best course of action is clear, the distribution of gains and losses can impose major obstacles to reform. Effective social support is important, particularly for those in our society who are more vulnerable. At the same time, a more flexible economy and a better trained workforce will reduce the costs of adjustment and, indeed, amplify the benefits of reform.

... avoiding reform will not solve our problems

While adjustment costs should not be discounted, such costs would have arisen even without Australia's recent program of microeconomic reform. With our major competitors undertaking their own reform programs and with changes in the economic environment, substantial structural change would have been forced on Australia through the decline in our relative international competitiveness.

Further, the alternative to continued and comprehensive reform is unpalatable. Australia cannot maintain its current living standards, let alone improve them, unless it uses its scarce resources more productively. In short, we must produce more from what we have. Australia's external accounts deficit and growing foreign debt are testimony to that. The days when Australia can live well on its natural resource wealth and tolerate inefficient manufacturing and service industries are long gone. We must lift our competitiveness and efficiency.

... a major effort is demanded of governments

Reaping the benefits of competition will require effort on a number of fronts. At the international level, as a country whose well-being depends so much on success in international markets, Australia has been at the forefront of the move to reduce barriers to free trade. In doing so, Australia has exposed itself to world class competition. Australia's traded sector has responded well, and must continue to improve. However, the areas of the economy which have remained sheltered from competitive pressures fall well short of world best practice.

To realise the potential gains, a major reform effort will be demanded of the Commonwealth, State and Territory and local governments. Governments are to be congratulated for the commitment they have demonstrated in agreeing to progress competition reform. Now that commitment needs to be translated into effective action.

Some of the COAG reforms are basically broad strategies rather than specific proposals. It is imperative that the reform process not be treated as a 'rubber stamping' exercise whereby governments do the minimum necessary to attract the agreed financial compensation from the Commonwealth.

Governments also have considerable discretion in implementing reforms in areas such as regulation review, the implementation of competitive neutrality arrangements and the application of competition principles to local government. While this discretion recognises that circumstances will differ, it also places a greater responsibility on governments to maintain their commitment to the spirit and intent of the agreements they signed in 1995.

Australia has reached a critical phase in the reform process. Reforms which enhance effective competition — promoting efficient resource use and economic growth consistent with the interests of the community — offer the best way forward. To realise community gains of the order estimated by the IC and others, it is essential that governments' April 1995 commitments are implemented on time and in full.

1.2 How the National Competition Council contributes

The Council's mission

Australia's competition policy agenda is an important innovation with the potential to provide substantial improvements in productivity and living standards. Reflecting this, we see our mission as being part of the team charged with establishing the conditions for effective competition focused on improving the living standards of the Australian community.

Australian governments — Commonwealth, State and Territory — are joint stakeholders in the Council. In recognition of this, our first year has seen the establishment of contacts and work groups involving all nine governments. A principal objective has been to assist governments to develop policies and methodologies to increase the prospect that reforms occur in full and on time, through strategies such as communicating innovations in particular jurisdictions more widely, and promoting community awareness of the benefits of change.

One of the Key Performance Indicators which the Council has set for itself is that States and Territories receive all competition transfers. Full receipt would imply comprehensive and timely implementation of the agreed program of change, with consequent benefits to the community.

The Council's role and responsibilities

The Council has specific functions set out under Part IIIA of the TPA in relation to third party access to infrastructure and under the *Prices Surveillance Act 1983* in relation to recommending prices surveillance of State and Territory government businesses. The Council also has a range of responsibilities conferred by intergovernmental agreement. In summary, our roles and responsibilities include:

- recommendations to relevant Commonwealth, State and Territory Ministers about the treatment of access declaration applications to significant infrastructure services;
- recommendations about whether access regimes established by States and Territories are effective;
- work related to the assessment of the progress of governments in implementing competition policy reform;
- recommendations about whether State or Territory government businesses should be declared for prices surveillance; and
- reports to the Commonwealth Parliament where the Commonwealth is considering overriding State and Territory legislation reliant on section 51 of the TPA.

The work program

Other than the above responsibilities, the Council has a work program developed by agreement of a majority of our stakeholder governments. The work program can include the conduct of reviews and provision of advice to governments covering the review of restrictive legislation, the structural reform of public monopolies, prices oversight and competitive neutrality arising out of the competition policy agreements, and any other projects as agreed by a majority of governments.

Matters which would benefit from examination include statutory marketing arrangements, the structure and operating arrangements of national institutions, and regulations governing the provision of various professional services. In addition, the examination of legislation and/or licensing arrangements which applies in more than one jurisdiction could save potential duplication of work by different governments. We encourage governments to make use of our research and advisory capacities in areas such as these.

Successful implementation of nationally-oriented reforms will depend greatly on cooperation between governments. The Council, as an organisation responsible to the nine Commonwealth, State and Territory stakeholder governments, is well placed to provide this coordination through its work program.

2 Progressing Reform: The State Of Play

Australia's future competition reform agenda is defined by three competition policy agreements signed by all governments in April 1995. The agreements commit governments to a range of pro-competitive reforms, and to continuing with reforms to the electricity, gas, water and road transport industries previously agreed by COAG. These reforms are summarised in Box 2.1 below.

Box 2.1 The National Competition Policy and related reforms

The key elements of the package involve:

- closing gaps in laws dealing with anti-competitive business practices;
- reviewing and, where appropriate, reforming all laws which restrict competition;
- restructuring public sector monopolies;
- introducing "competitive neutrality" so that public businesses do not enjoy advantages when competing with private businesses simply because they are government-owned;
- extending prices surveillance to government businesses where necessary;
- providing access for businesses to nationally significant infrastructure services, to promote competition in related markets; and
- applying the competition principles to local government activities.

In many areas, the package gives governments discretion to determine whether particular reforms are appropriate. The package also incorporates pre-existing intergovernmental agreements on industry-specific reforms in electricity, gas, water and road transport.

The agreements also provide for a sharing of the anticipated benefits from reform among all governments. Funds totalling about $16 billion over the period 1997–98 to 2005–06 will be made available by the Commonwealth for distribution to those States and Territories which achieve satisfactory reform progress. The National Competition Council has been assigned the task of undertaking a three stage assessment of State and Territory progress: prior to July 1997, July 1999 and July 2001.

As the first step in implementing the agreed reforms, all governments published, in June 1996, statements outlining their policy approaches in relation to competitive neutrality and the application of competition principles to local government activities and functions. They also developed timetables for the review and, where appropriate, reform of anti-competitive legislation over the period to the year 2000. Mid–1996 was also a 'progress checkpoint' date for COAG reforms to electricity, gas and road transport, and for application legislation to extend the reach of the TPA.

A range of other processes aimed at promoting competition have also been set in train by the competition policy agreements. For example, governments have agreed to examine the structure of publicly-owned monopolies before introducing competition to a sector traditionally supplied by a public monopoly and before privatising a public monopoly. They also undertook to consider establishing independent sources of prices oversight of government businesses where these do not already exist. The new Part IIIA of the TPA provides codified rules on national third party access to services provided by significant infrastructure facilities.

Governments' policy statements and review timetables provide a preliminary indication of progress. In the infrastructure areas where reform is required in 1996 — electricity, gas and road transport — the current state of play can be gauged through the progress achieved by the intergovernmental forums set up to facilitate reform.

This chapter outlines the Council's views about the progress and direction of reform to date. Greater detail about each of the reforms is presented in Appendix C.

2.1 The Conduct Code

States and Territories agreed to enact legislation, by 20 July 1996, to extend the operation of Part IV of the TPA (the Conduct Code) to businesses not currently covered, such as government businesses and unincorporated associations.

Extending the Conduct Code means that prohibitions on anti-competitive conduct now apply to all businesses in Australia. States and Territories have, however, retained their power to exempt conduct from the reach of the TPA, subject to a new requirement that such exemptions be explicitly legislated. This requirement, by exposing exemptions to greater public scrutiny, may mean that governments are less likely to exempt anti-competitive conduct.

With the exception of Western Australia, all States and Territories passed the required application legislation according to the agreed timeframe. Enactment of the Western Australian legislation is expected by September 1996.

Competition law exceptions under section 51 of the Trade Practices Act

Statutory exemption from certain prohibitions is available under the TPA, for among other things, conduct that is specifically authorised or approved by a Commonwealth or State act or a Territory law, or any regulation under such legislation, which expressly refers to the TPA.

The Commonwealth has the discretion to override State/Territory legislation exempting anti-competitive conduct from the provisions of the TPA by tabling regulations in the Commonwealth Parliament. It has four months from notification to override such legislation. Where the Commonwealth Government determines to override a State/Territory exemption after four months, it must first present to the Commonwealth Parliament a report from the Council on the impact of the legislation and possible alternatives, and whether the Commonwealth should table regulations to override it.

During the period under review, the Council was not required to report on any matter concerning State and Territory competition law exceptions. The Council's responsibilities in relation to section 51 exceptions are outlined in Appendix D.

2.2 Review of anti-competitive regulation

Governments agreed to develop, by June 1996, a timetable for the review of all legislation restricting competition and, where appropriate, reform of such legislation by the year 2000. Subsequently, anti-competitive legislation is to be systematically reviewed at least once every 10 years.

All governments have indicated their intention to adopt bona fide review processes aimed at genuine reform. The principle guiding these reviews is that legislation should not restrict competition unless it can be demonstrated that the benefits to the community as a whole outweigh the costs, and that the objectives of the legislation can only be achieved by restricting competition. This principle is also to apply to all new legislation which restricts competition, including amendments to existing anti-competitive legislation. The review should encompass consideration of alternative ways of achieving desired outcomes, other than regulation.

Despite governments' assurances, the Council is not confident that all anti-competitive legislation has been scheduled for review. In particular, some jurisdictions have determined in advance of any review that the benefits of some restrictions outweigh the costs, and are not scheduling the relevant legislation for consideration. For example, some jurisdictions are seeking to exempt certain classes of anti-competitive regulation from review. In this regard, the blanket exemption of ratification/agreement acts proposed by some States is a significant concern.

While there might be a case for exempting certain anti-competitive regulations from *reform*, for example, because of issues of investor uncertainty associated with sovereign risk, there is little justification for exempting a class of anti-competitive legislation from *review*. Even in those exceptional cases where a jurisdiction judges that mere questioning involves unacceptable risks, the Council would expect governments to examine all anti-competitive laws, or at least to justify their decision to exempt these from review. In short, all anti-competitive legislation should be reviewed, with restrictions retained only where a bona fide public interest case is established.

The Council also questions the priorities being placed on important reviews by some governments. While recognising that governments will need to prioritise reviews in order to make the best use of available resources, the Council urges governments to give priority to those reviews where possible reforms are likely to deliver significant gains to the community. One example of a government failing to schedule important reviews early is the Commonwealth's planned examination of the *Wheat Marketing Act 1989* in 1999–2000.

Furthermore, the intergovernmental agreements specify that all reviews and reforms are to be completed by December 2000. The Council would consider any unforseen matters which prevent individual reforms being completed on a case by case basis, but would not regard the timetabling of important reviews late in the review period as implementing reform in good faith.

The Council is aware of at least two cases to date — New South Wales' rice marketing arrangements and the Australian Capital Territory's regulation of trading hours — where governments have retained anti-competitive legislation or have enacted restrictive legislation contrary to the evidence about community costs and benefits obtained from reviews. The Council has raised these matters with the New South Wales and ACT Governments.

Recognising the circumstances existing in the ACT retail trading environment, and the fact that the new *Trading Hours Act 1996* has repealed more restrictive legislation, the Council has

reached agreement with the ACT Government that the continuing restriction provided in the new legislation will be subject to a thorough review to be completed by June 1998. The Council is awaiting comment from New South Wales in relation to that government's *Marketing of Primary Products Act 1983*.

Wide community acceptance of change is crucial to maintaining governments' reform momentum. Community acceptance in turn is dependent on an understanding of the reform agenda and of the benefits expected to accrue. In part, it is also reliant on confidence that governments will deliver on their reform agendas. The annual reporting process required under the CPA provides an opportunity for governments to sell the message that their legislation review programs will provide long term benefits for Australia. A publicly available document consolidating the review timetables of all governments would assist community awareness of, and involvement in, the review process. The Council will also play a significant role in promoting community involvement through its publication of an annual report consolidating the annual legislation review progress reports of each jurisdiction under clause 5 of the CPA.

2.3 Implementing competitive neutrality

Governments agreed to publish a policy statement on competitive neutrality by June 1996, including an implementation timetable and a mechanism for handling complaints.

The CPA proposes the corporatisation of significant government business activities, where appropriate, including implementation of competitive neutrality principles such that government businesses are exposed to the same costs and obligations that they would face in the private sector. This requires identification and removal of any ownership-related advantages and disadvantages affecting government businesses. Examples of ownership-related advantages might include immunity from various taxes and charges and access to finance at concessional interest rates, while requirements to provide unfunded community service obligations may confer a competitive disadvantage.

Where corporatisation is considered not appropriate for significant government business activities, the prices of the goods and services produced by those businesses should reflect full attribution of production costs. The aim of such pricing reform is to ensure that government businesses account for all production costs, including the implicit costs that a similar private business would incur.

Government Business Enterprises which are candidates for reform are listed in the Australian Bureau of Statistics register of public trading enterprises and public financial enterprises. Major examples are publicly-owned enterprises in industries such as energy, water and sewerage, transport, communications, housing, land, gambling, insurance and forestry. There are many business activities subsumed within general government, including vehicle fleet management, cleaning services, refuse collection, construction services, maintenance operations and printing services.

The Council is concerned that the approach proposed in some governments' policy statements — the identification of significant businesses according to their size alone — may see many government business activities which have a significant influence on the market in which they operate arbitrarily exempted from reform. The scope for community benefit will be greatest

where governments apply competitive neutrality principles to business activities which have an important impact on the relevant market(s).

The size of a business, once the business is seen to have a significant market impact, could be a useful determinant of reform priorities. The Council sees governments' categorisation of their businesses according to size as appropriate in this context. Ultimately, governments should identify the specific business activities to be subject to the principles of competitive neutrality. At that point, the Council will be in a better position to assess whether the reforms are being applied in accordance with the CPA.

Similarly, the Council is concerned that the mechanisms for handling complaints being proposed by some governments appear to be inadequate. The confidence of external parties in the arrangements instituted by governments is critical to the success of competitive neutrality reform. In this respect, it is important that the mechanism for handling complaints provide for public access, independence from the activity which is the source of the complaint, public availability of decisions, and formal advice of outcomes to affected parties.

The Council is aware of perceptions in the community that the competitive neutrality obligations arising from the CPA require governments (including local governments) to open services to competition from the private sector, and, that where this occurs, the lowest priced tender should be accepted. Competitive neutrality reform does not, as a matter of course, require that services be 'contracted out'. Nor does the CPA require that price be the only selection criterion where a service is put to competitive tender.

The extent to which governments outsource clearly depends on their assessments of good business practice, and judgments about both price and quality are relevant to the selection of a service provider. If a government believes that it is able to provide services more effectively through outsourcing rather than by supplying them in-house, then it is logical to contract out. Indeed, to the extent that resources can be used more effectively, a by-product may be an increased capacity for governments to deliver the outcomes sought by the community.

Where the provision of government services is opened to competitive tender, and an in-house provider participates in the tender process, the adoption of an appropriate competitive neutrality framework is essential. For the tendering process to deliver the benefits expected of it, it is necessary that external suppliers have confidence in the equality of treatment afforded all participating parties. Complaints about governments' competitive neutrality arrangements will provide one measure of the confidence of external parties. In assessing jurisdictions' progress in implementing competitive neutrality, the Council will place considerable weight on the allegations of non-compliance which all governments are obliged to include in their annual progress reports, and on jurisdictions' responses to such allegations.

2.4 Restructuring public monopolies

Governments agreed to ensure that appropriate competitive arrangements are in place before a public monopoly is privatised, or when competition is introduced into an area traditionally supplied by a public monopoly.

Governments have agreed to review the structure of their public monopolies where they propose to privatise the monopoly or introduce competition to the relevant market. There are three general lines of approach, each aimed at establishing the conditions for effective competition.

The first approach is to separate the regulatory and commercial functions of public monopolies, such as occurred with the transfer to AUSTEL of Telstra's responsibilities for setting standards. The aim of separation is to eliminate any prospect that an incumbent business might use its regulatory powers to frustrate actual or potential competitors.

The second approach to the introduction of effective competition is to separate, where possible, the natural monopoly and potentially competitive elements of a public monopoly. Such separation is aimed at, for example, removing the potential for cross-subsidisation whereby monopoly returns in the monopoly market are used to subsidise otherwise unprofitable prices in the competitive market. At issue here is the appropriate degree of separation: that is, whether accounting separation which makes transparent the financial relationships between the different parts of a business is sufficient, or whether full separation of ownership or control is necessary. In many cases, full separation will be needed to engender confidence that the potential for cross-subsidisation is eliminated.

The third aspect of structural reform involves governments separating the potentially competitive elements of a public monopoly into several smaller independent businesses. Such changes have been a feature of recent reforms in the Australian electricity industry.

While action to restructure public monopolies is not an explicit requirement for receipt of competition transfers, questions of structure are, in some cases, central to the achievement of effective competition where governments introduce competition or privatise their businesses. The Council can see value in governments seeking independent assessments of the appropriate structure of their significant government businesses.

2.5 Prices oversight

State and Territory governments agreed to consider establishing independent sources of prices oversight where these do not exist.

While full separation of ownership or control will enhance the prospect for effective competition, where a government business has natural monopoly characteristics, it is still potentially able to use its monopoly position to charge monopoly prices. Such action may warrant the attention of governments, for example through regulating third party access, or through establishment of independent sources of prices oversight.

Prices oversight of State and Territory government businesses is primarily the responsibility of the owner government. The Council has a role where a government requests the Council to

recommend to the Commonwealth Treasurer that a State or Territory government business be declared for prices surveillance by the ACCC. The Council can recommend declaration only where it is satisfied that effective prices surveillance is not already in place, and that excessive pricing by the business has a significant impact on interstate or overseas trade or commerce.

During the period under review, the Council has not been required to undertake functions in relation to prices surveillance.

2.6 Application to local government

State and Territory governments with a local government sector agreed to publish a policy statement by June 1996, prepared in consultation with local government, specifying the application of the competition principles to local government.

The importance of all spheres of government is recognised in the CPA which gives formal responsibility to the relevant State and Territory governments for applying the competition principles to local government level.

The Council's judgment is that implementation of competitive neutrality arrangements by local governments and the reform of local laws which unnecessarily restrict competition would help boost effective competition, especially between government businesses and the small business sector. Therefore, these reforms will be particularly important to both small business and regional development.

Some jurisdictions appear to be adopting an approach which would see, in the Council's view, insufficient action. In particular, the tendency for governments to arbitrarily exempt certain local government businesses from the implementation of competitive neutrality reform by selecting reform candidates according to size alone has the potential to severely limit the scope of reform.

The Council encourages governments to prioritise reform programs in order to achieve larger results as early as possible. However, it would be undesirable if arbitrary size thresholds were to exclude from competitive neutrality reform those businesses which have a significant impact in their own markets. What is required is the leadership example of larger gains to achieve an overall cultural change. What is not required is a feeling on the part of businesses below a certain size that they are automatically exempt from change.

A more general concern is the tendency of governments to devolve responsibility for reform to local government authorities without adequate support or monitoring mechanisms. This is a difficulty particularly for smaller local governments which may have less experience with implementing microeconomic reform.

One matter which the Council will consider during 1996–97 is the best way of encouraging implementation of the agreed reforms at local government level. In particular, linking the Financial Assistance Grants to demonstrated local government reform action would provide a greater incentive for participation by local governments. Allocating Financial Assistance Grants in this way would recognise that a portion of the monies available for distribution to the different spheres of government derives from comprehensive implementation of reform measures.

Some State governments are beginning to address the matter of incentives for local government in more innovative ways. For example, Queensland has agreed in principle to providing a portion of

the competition payments it receives from the Commonwealth to those local government authorities which undertake reforms. Such innovation is to be supported.

2.7 Determining when reform is appropriate

The CPA recognises that competition reform is not about maximising competition per se, but about using competition to improve people's living standards and employment opportunities.

The CPA lists several factors which governments are to consider, where relevant, in determining the benefits and costs of particular policies or courses of action. These factors include ecologically sustainable development, social welfare and equity matters including community service obligations, government policies relating to industrial relations and occupational health and safety, economic growth and regional development, the interests of consumers, the competitiveness of business and the efficient allocation of resources.

The Council is aware that some people attribute certain costs, for example job losses and regional decline, to competition policy reform. People drawing such links point to the discretion in the CPA to mean that certain anti-competitive activities should be exempt from review because they achieve desired social objectives, or that there should be a presumption favouring the status quo.

While it is important not to ignore the costs to the community, interpretations such as those above are not consistent with the spirit and intent of the intergovernmental competition policy agreements. As evidenced by the work of the IC and others, competition reform, by encouraging improvements in the productivity of Australia's resources and consequently increasing our national income, is consistent with the overall interests of the community. Indeed, the decision of governments to embark on a program of reform was based on a recognition that greater competition will generally benefit the community. Nonetheless, the agreements do explicitly recognise that there will be instances where competition may conflict with particular social objectives, or where the special features of some markets mean that resources are not used efficiently. In these cases, reviews are necessary to assess the value of particular outcomes, and to determine whether restricting competition is the best means of achieving them.

One area in which the Council is aware of some misconception about competition policy is the delivery of community service obligations (CSOs). Many government businesses are required to perform various CSOs, at least some of which are funded through cross-subsidies between different classes of users. Clearly, the competition policy agreements do not prevent governments — Commonwealth, State or local — from providing CSOs through their business activities. The agreements do, however, provide some direction about the delivery and funding of CSOs.

In particular, the objectives of corporatisation of publicly-owned businesses are consistent with a move away from the funding of CSOs through cross-subsidies and associated regulatory restrictions. This is because cross-subsidisation encourages overuse of subsidised services and means that other services are overpriced, and the users of those overpriced services are disadvantaged. Accordingly, the competitive restrictions that exist to support CSOs (including restrictions providing for cross-subsidisation) should be examined by governments in their reviews of anti-competitive legislation.

The Council considers that the CPA, which establishes that legislation should not restrict competition unless community benefits outweigh the costs and the objectives of the legislation

can only be met by restricting competition, places at least a strong obligation on governments wishing to provide CSOs to provide them in a way that does not restrict competition. Such an approach to providing CSOs would, in any case, be consistent with the evidence of widespread acceptance by governments that direct funding is the preferred method of delivery. In any case, governments need to be aware of the cost to their businesses of providing CSOs so that the community is in a position to make informed choices about the use of available resources.

2.8 The infrastructure reforms

All Australian industries are significant users of infrastructure services, such as electricity and transport. For example, the BIE estimates that the costs of infrastructure inputs and services make up between 7 and 16 per cent of production costs for most industries (BIE 1995).

Despite some recent privatisations, infrastructure provision remains dominated by the public sector. Electricity, transport, telecommunications and water are important government-provided infrastructure services.

Reform of some infrastructure services is almost complete. Competition was introduced in the telecommunications sector when a second operator, Optus, commenced in 1992. Full competition in telecommunications will occur from July 1997, when the Telstra-Optus duopoly expires and a multi-carrier environment is introduced through open access arrangements. In the competition policy agreements, governments undertook to implement reforms in the areas of electricity, gas, water and road transport. These reforms are expected to deliver significant benefits, with the largest area of gain initially expected to come from reforms to the electricity and gas industries. Almost one-third of the benefit arising from State and Territory based reforms will come from changes in arrangements to electricity and gas (IC 1995).

Electricity

(Relevant) governments agreed to develop an interim competitive National Electricity Market by September 1996 and to complete the transition to a fully competitive National Electricity Market by 1 July 1999.

Governments took a significant step towards electricity reform at the 1991 Special Premiers' Conference, when they established the National Grid Management Council to manage the eastern Australian electricity grid.

The first step in creating the fully competitive electricity market — an evolving competitive market encompassing eastern and southern Australia — is now scheduled to commence in September 1996.

Creation of a fully competitive National Electricity Market in eastern and southern Australia will represent the culmination of governments' electricity reform objectives. In essence, the fully competitive market will give customers choices between suppliers, providing further impetus for reducing electricity costs. It will also open up new business opportunities by creating access to transmission and distribution networks and the removal of regulatory barriers to entry for new participants in generation and retail supply.

Establishment of the fully competitive market by the scheduled date of July 1999 is a central issue for the Council in assessing reform progress. The extent to which the principles underlying the competitive market are frustrated by State legislation or continuing exemptions from the National Electricity Code is a significant issue. This is primarily because of the potential of these mechanisms to exclude major electricity customers from the national market. The exclusion of major purchasers of electricity will mean that electricity reform will not deliver the full anticipated benefit.

Accordingly, if large electricity customers are precluded from participating in the national market, the Council is likely to conclude that the jurisdiction has not met its electricity reform commitments. In this context, it is worth emphasising the objectives of the fully competitive national market COAG agreed to in August 1994:

- the ability for customers to choose which supplier, including generators, retailers and traders, they will trade with;
- non-discriminatory access to the interconnected transmission and distribution network;
- no discriminatory legislative or regulatory barriers to entry for new participants in generation or retail supply; and
- no discriminatory legislative or regulatory barriers to interstate and/or intrastate trade.

One particular matter relevant to the national market is the interconnection of Queensland. The Queensland Government agreed on 1 August 1996 that it will complete its interconnection to the national grid by the year 2000. The Council sees the Queensland announcement as a positive step, and reiterates the need for satisfactory progress towards interconnection to the national grid — in terms of both the timing and the capacity of the interconnection — for purposes of assessing reform progress.

Gas

> (Relevant) governments undertook to implement any arrangements agreed to be necessary to introduce free and fair trade in gas between and within the States and Territories, and agreed to full implementation of free and fair trade in gas between and within States and Territories by July 1999.

Achieving free and fair trade will require, among other things, removal of all legislative barriers to trade in natural gas within Australia and the implementation by jurisdictions of complementary legislation so that a uniform national framework applies for third party access.

The Gas Reform Task Force (GRTF) is developing a National Third Party Access Code for Natural Gas Pipelines (the Code) to assist in achieving the COAG commitment to third party access to gas transmission pipelines and distribution systems. The Council recognises the importance of this work in developing common views as to how the national market should operate.

While accepting that establishment of a national market in gas will involve the resolution of some complex issues, the Council questions whether some jurisdictions' stated commitment to national free and fair trade in gas is being demonstrated in practice. This is manifested in the continuing delay in developing a national access framework for the gas industry. The deadline set by COAG for the creation of the national gas market was recently extended such that the national framework

is now to be finalised by 30 September 1996, and subsequently submitted to Heads of Government for their approval. The Council would be concerned if there were any unnecessary delay in approving the framework.

Gas reform raises some particular issues for the Council in relation to uniform national access. First, it is possible that some jurisdictions might seek certification of their existing access regimes or of new regimes which vary from the national framework. Such action would require the Council to both assess the effectiveness of the regime in accordance with its statutory responsibilities under Part IIIA of the TPA, and judge whether the State has met the conditions for receipt of the competition payments, including whether its access arrangements provide for national free and fair trade in gas.

In relation to this, the Council recognises that States and Territories may want to handle their own matters by way of their own regimes, and that these regimes might meet the requirements for certification. On the other hand, there are clearly benefits in ensuring that State access regimes — in gas or in any other area — facilitate and support national markets. This is a complex issue for gas, and turns on whether the basis of trading in gas is fundamentally intrastate or interstate. The Council's discussions with gas industry participants indicate majority support for a single national regulator.

Another significant matter relevant to the Council's assessment of progress towards free and fair trade in gas is COAG's agreement that governments remove any legislation or regulation that restricts the ability of gas consumers and producers to trade with each other on normal commercial terms within or across jurisdictions. Aspects of South Australia's *Cooper Basin (Ratification) Act 1975* appear to conflict with the COAG objective of free trade in gas, at least to the extent that the legislation impinges on trade in gas in New South Wales. Because of the central importance of the Cooper Basin, this issue will need to be satisfactorily resolved in the context of the Council's assessment of State and Territory progress with gas reform.

Water

Governments undertook to implement the reforms agreed by the COAG for the efficient and sustainable reform of the Australian water industry.

Pricing reforms in the water industry, with greater emphasis on user pays and cost recovery, and arrangements for trading in water entitlements are scheduled over the next few years. Development of the reform package, through an intergovernmental task force, has recently commenced.

The reforms proposed extend beyond competition policy matters, and if fully implemented, will probably have a far greater impact on community welfare in the longer term (including explicit consideration of the environment) than any other measure. With the proposed reforms expected to generate more efficient use of water from the viewpoint of consumers, business and the environment, the Council will place a great deal of weight on future implementation in assessing governments' progress.

Road transport

Governments have agreed to the effective observance of road transport reforms.

Reforms in the road transport industry aimed at achieving uniform national arrangements covering both heavy and light vehicles are being developed through the National Road Transport Commission (NRTC).

By late 1996, all States and Territories will have passed the necessary legislation to implement the NRTC charges for heavy vehicles. Reforms in other areas will be progressively developed through the NRTC. The NRTC is proposing to develop integrated standards for both light and heavy vehicle operations, a national framework for the transport by road of dangerous goods, a national vehicle registration system and national approach to driver licensing and compliance and enforcement. Implementation of reforms in these areas, involving States and Territories enacting legislation and putting in place any necessary policy arrangements, will be a consideration for the Council in assessing jurisdictions' reform progress.

During 1996–97, the Council will look closely at the implementation of road transport reform as part of its assessment of State and Territory progress.

Other infrastructure reforms

Given the key role of all infrastructure industries as inputs for Australia's traded goods sector, it is critical that competitive pressures be brought to bear to bring the performance of all infrastructure industries closer to international best practice, including those areas not explicitly considered by COAG.

Apart from the areas specifically scheduled for attention, the Council can see value in governments formally addressing reform progress in other key infrastructure industries. For example, transport services, other than road transport, have not been explicitly scheduled for attention by Australian governments. The performance of Australian rail freight services, despite some recent improvement, remains inferior to world best practice (BIE 1995). This suggests a case for governments to address better the process of national rail reform, for example, through ensuring that rail authorities are subjected to the reforms in the CPA. Similarly, the microeconomic reform agenda in relation to shipping, including the waterfront and coastal and international shipping, appears far from complete.

2.9 Access to the services provided by essential infrastructure[1]

Amendments to the TPA in 1995 created a national access regime in a new Part IIIA. Part IIIA provides codified rules on access to significant infrastructure services which apply to all industries

[1] See Appendix B for a fuller discussion of the rationale underlying access, the processes for providing access and the Council's work on access matters during 1995–96.

(rather than rules designed specifically for each industry), and seeks to minimise the role of the courts. This approach to access regulation is unique among developed countries.

The rationale for access regulation is essentially the promotion of competition. Access regulation recognises that effective competition in some markets may require that competitors have access to the services of facilities that cannot be efficiently duplicated. To enable competition between electricity generators, for example, industry participants need access to electricity transmission and distribution services to transport their products to end markets.

The Australian regime has some important characteristics.

First, it is designed to facilitate commercial negotiation of access arrangements — to enable a right of access for third parties on reasonable commercial terms and conditions — by constraining the ability of owners of essential facilities to charge monopolistic prices for their services.

Second, it encourages the development of effective State and Territory based access regimes by establishing the national arrangements as a fall-back set of rules.

Third, the national regime has an in-built guard against regulatory creep. In the past, the extent and reach of new regulations has often been decided or influenced by the body charged with administering those regulations. This increases the risk that regulations will be extended beyond what is really needed. The role of the National Competition Council specifically addresses this problem. The Council is tasked with setting the parameters of parts of the National access regime, by providing advice on declaration and certification, while the ACCC is tasked with the more detailed, regulatory roles of arbitrating access disputes and assessing access undertakings.

Several threshold issues have arisen in the course of the Council's consideration of access issues during the year. One matter is the appropriate application of the principles in clause 6 of the CPA in assessing whether a State or Territory access regime is "effective". The Council sees the task of interpreting the clause 6 principles as implementing the spirit and intent of the CPA — in brief, the enhancement of effective competition — while supporting the integrity of Part IIIA. In this regard, the Council sees the clause 6 principles as 'guiding' principles which could be satisfied in a variety of ways such that good economic outcomes are achieved. As such, it is likely that State or Territory access regimes which reflect the policy objectives underlying the CPA will be certified as effective.

Another significant issue arises where a series of State access regimes cover infrastructure facilities which are clearly linked into a market which extends beyond the boundaries of any one State, and where relevant States seek certification of the effectiveness of their individual regimes. While the Council recognises that each government may wish to provide for access by way of its own regime, the Council is necessarily concerned with more than this. Both the effectiveness of the State regime and operation, as far as possible, of seamless interstate markets are important. Therefore, the Council will be looking to the ability of State access regimes to facilitate and support national markets, and the (related) choice between a system of State regulators and a single national regulator.

The Council recognises the interaction between its approach to declaration and certification, and certainty for owners of infrastructure. To help address the question of certainty, the Council has developed a guide to the approach it will take to declaration and certification. All States and Territories joined a Task Force to work with the Council in developing the guide, a process which has assisted the Council to address the many difficult issues. The guide was released for public comment in August 1996 and will be finalised during 1996–97.

Applications for the declaration of access and for the certification of regimes considered during 1995–96

On 24 April 1996, the Council received an application from the Australian Union of Students (AUS) seeking access to a service described by the AUS as the "Austudy Payroll Deduction Service". This matter is discussed in Appendix B.

The Council received no formal applications for certification of the effectiveness of State and Territory access regimes during the year. Notwithstanding this, there have been a number of inquiries about certification matters. The Council has had discussions with various parties interested in the certification of access regimes relevant to electricity, gas and rail services.

Appendices

Appendix A The National Competition Council

A1 Origin of the National Competition Council

Since the mid-1980s, the performance of the Australian economy has received increasing attention, with governments at all levels undertaking substantial reforms. By the late 1980s and early 1990s, it had become clear that a coordinated approach to reform across the three spheres of government was required if the full benefits were to be won. Some progress in this direction was made at the 1991 Special Premiers' Conference where there was in principle agreement to reforms such as the mutual recognition of regulations and standards, the establishment of the National Grid Management Council (NGMC) to manage the eastern Australian electricity grid, and the creation of the NRTC to develop nationally consistent road regulations.

Governments created the vision for a national approach to competition reform when they commissioned the Independent Committee of Inquiry into the National Competition Policy. This Committee, better known as the Hilmer Committee after its chairperson, advocated six policy proposals:

- extending the reach of the *Trade Practices Act 1974* (TPA) to unincorporated businesses and State and Territory government businesses so that the competitive conduct rules contained in Part IV apply to all business activity in Australia;
- provision for third party access to nationally significant infrastructure;
- introduction of competitive neutrality so that government businesses do not enjoy unfair advantages when competing with private businesses;
- restructuring of public sector monopoly businesses to increase competition;
- review of all laws which restrict competition; and
- extending prices surveillance arrangements to State and Territory government businesses to deal with those circumstances where all other competition policy reforms prove inadequate.

In April 1995, the Council of Australian Governments (COAG) agreed to implement a package of measures to implement the Hilmer proposals and meet previous reform commitments in the areas of electricity, gas, water and road transport.

The *Competition Policy Reform Act 1995* amended the competitive conduct rules (Part IV) of the TPA and extended their coverage to State and local government businesses and unincorporated bodies. It also created a new Part IIIA of the TPA to provide a National regime for access to the services provided by nationally significant infrastructure facilities (see Appendix B) and amended the Prices Surveillance Act to extend prices oversight arrangements to State and Territory business enterprises.

In addition, the Competition Policy Reform Act created two new institutions to oversee the implementation of the competition policy package. The Australian Competition and Consumer Commission (ACCC) was created through the merger of the former Trade Practices Commission and Prices Surveillance Authority with the principal function of enforcing the TPA. The National

Competition Council was established on 6 November 1995 pursuant to section 29A of the TPA as an independent review and advisory body for all Australian governments on National Competition Policy issues.

The competition policy agreements

The National Competition Policy reform package, agreed by all governments in April 1995, reflected to a considerable extent the Hilmer recommendations. Three agreements were signed by all heads of government:

- the *Conduct Code Agreement* which set out the basis for extending the coverage of the TPA and consultative processes for amendments to the competition laws of the Commonwealth, States and Territories and for appointments to the ACCC;
- the *Competition Principles Agreement* (CPA) which set out the principles agreed by governments in relation to prices oversight, structural reform of public monopolies, review of anti-competitive legislation and regulation, third party access to services provided by essential facilities, the elimination of net competitive advantages enjoyed by government businesses where they compete with the private sector, and the application of these principles to local government, as well as establishing consultative arrangements for determining appointments to, and deciding the work program of, the National Competition Council; and
- the *Agreement to Implement the National Competition Policy and Related Reforms* (Implementation Agreement) which sets out the conditions for provision of financial transfers from the Commonwealth to the States and Territories; and the role and functions of the Council in assessing States and Territories progress on the reforms and advising the Commonwealth Treasurer on eligibility for the competition payments.

A2 Role of the National Competition Council

The Council has statutory responsibilities under both the TPA and the Prices Surveillance Act, being to make:

- recommendations to governments on access to significant infrastructure services; and
- recommendations on whether State and Territory government businesses should be declared for prices surveillance by the ACCC.

Apart from these statutory responsibilities, the three competition policy agreements establish a role for the Council in the following areas:

- assessment of governments' progress in competition policy reform;
- advice to the Commonwealth when considering overriding State or Territory exceptions from the TPA; and
- other work on competition policy as agreed by a majority of the stakeholder governments. Some potential work program items are outlined in the CPA, including prices oversight of government business enterprises (subclause 2(2)), implementation of competitive neutrality principles (subclause 3(3)), structural reform of public monopolies

(subclause 4(4)), and a national review of legislation which restricts competition where the review has a national dimension (subclause 5(8)).

The Council's formal work program objectives, set out in Box A1 below, reflect our role and responsibilities.

Box A1 Work program objectives of the National Competition Council

- To promote micro-economic reform within the community, including by undertaking research and providing advice to governments on competition policy matters.
- To recommend on applications for declaration of access to services provided by nationally significant infrastructure and the certification of access regimes under Part IIIA of the TPA.
- To assess progress with agreed competition policy reforms, and to recommend to the Commonwealth prior to July 1997, July 1999 and July 2001 whether the conditions for National Competition Policy payments to the States and Territories have been met.
- To recommend on whether State and Territory government businesses should be declared for prices surveillance by the ACCC, and to report on the costs and benefits of legislation reliant on section 51 of the TPA.

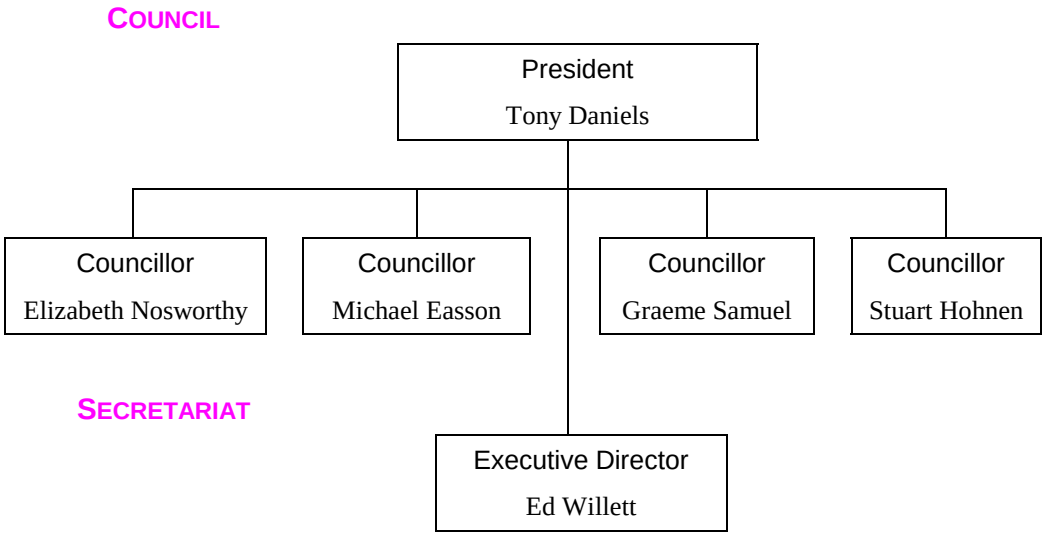
More information about the Council's statutory and other responsibilities are presented in the following areas of this report:

- Chapter 1 outlines the Council's role and responsibilities;
- Appendix B discusses the Council's responsibilities, and relevant action during the period under review, in relation to third party access to nationally significant infrastructure;
- Appendix C explains the National Competition Policy and related reforms, and outlines action by the Council during the period under review; and
- Appendix D discusses other work which may be undertaken by the Council.

A3 Structure of the National Competition Council

The National Competition Council comprises five part-time Councillors, with a secretariat of 13 staff employed under the *Public Service Act 1922*. The structure of the Council at 30 June 1996 is illustrated in Figure A1.

Figure A1 National Competition Council organisation chart



Councillors

The members of the National Competition Council are drawn from different areas of the private sector to provide a range of business skills and experience. The appointments are made jointly by the Commonwealth, State and Territory governments. The Councillors have each been appointed for a term of three years. They are: Mr Tony Daniels, President (who is resident in Sydney); Mr Michael Easson (Sydney); Mr Stuart Hohnen (Perth); Ms Elizabeth Nosworthy (Brisbane); and Mr Graeme Samuel (Melbourne).

Mr Tony Daniels

Mr Daniels was Managing Director of Tubemakers Australia Ltd for eight years until December 1995. He is currently a director of several companies (ICI, Pasminco, Capral Aluminium, IBJ Australia Bank) whose activities encompass the manufacturing, mining and service industries in Australia and internationally. He is also a member of the Trade Policy Advisory Council and a director of Work Skill Australia and Australian Business Ltd, and is an honorary trustee of CEDA.

Mr Daniels previously served as a member of the Business Council of Australia and Chairman of its International Benchmarking Advisory Group, and Chairman of the Joint Accreditation System of Australia and New Zealand. He has also served as a NSW Councillor of the Australian Quality Council.

Previous non-executive directorships include Tubemakers, Steel and Tube Holdings N.Z., Bundy Asia Pacific (Chairman) and Vinidex Tubemakers.

Mr Michael Easson

Mr Easson is Adjunct Professor at the Centre for Corporate Change at the Australian Graduate School of Management, University of NSW. He is an adviser with Corrs Chambers Westgarth and with Hill and Knowlton. His current directorships include Australian Stadium 2000, Industrial Property Trust (Macquarie Bank), UNICEF Australia, Barclay Mowlem, ACT Electricity and Water and Australian Stationery Industries Group.

Mr Easson's previous appointments include Chair of the Commonwealth Task Force on Payments to Statutory Authorities and Special Purpose Payments to States in 1995–96, Director of the NRMA Insurance Group from 1994 to 1996, Director of the NSW State Rail Authority from 1989 to 1993, Secretary of the Labor Council of NSW from 1989 to 1994, Vice President of the Australian Council of Trade Unions from 1993 to 1994 and Member of the Economic Planning Advisory Commission from 1989 to 1994. Mr Easson has also been an Associate Commissioner on two Industry Commission inquiries.

Mr Stuart Hohnen

Mr Hohnen is a resource sector management consultant. He is Deputy Chairman of the Gas Corporation of Western Australia (AlintaGas) and a Director of Carnarvon Petroleum NL. He holds a Bachelor of Engineering (Hons) and a Master of Business Administration (Stanford).

Mr Hohnen's previous appointments include Chief Executive of the WA Department of Resources Development from 1982 to 1987, Executive Director of Anglo Pacific Resources PLC from 1987 to 1991 and Managing Director of the Cockburn Corporation from 1991 to 1993.

During 1992–93, Mr Hohnen was a member of the WA Energy Board of Review (Carnegie Review) and in 1993–94 was a member of the Energy Implementation Committee which was responsible for the restructuring of the WA energy sector.

Ms Elizabeth Nosworthy

Ms Nosworthy is a Director of Telstra Corporation Ltd and David Jones Ltd, Deputy Chairman of the Queensland Treasury Corporation, Chairman of the Port of Brisbane Corporation and a member of the Supervisory Board of General Property Trust. She holds a Bachelor of Arts (Queensland), a Bachelor of Laws (Queensland) and a Master of Laws (London School of Economics).

Ms Nosworthy's previous appointments include partner in the law firm Morris Fletcher and Cross from 1975 to 1989, partner in the national law firm Freehill Hollingdale and Page from 1989 to 1995. During 1986–87 she was President of the Queensland Law Society.

Ms Nosworthy was a Director of the Federal Airports Corporation from 1991 to 1994. She is an ex-Chancellor of Bond University Ltd. During 1988–89 Ms Nosworthy was a member of the Companies and Securities Consultative Group appointed by the Commonwealth Attorney General.

Mr Graeme Samuel

Mr Samuel is a company director and corporate strategic consultant. He is Chairman of The Australian Opera, President of the Australian Chamber of Commerce and Industry, Chairman of the Inner & Eastern Health Care Network, Chairman of the Melbourne & Olympic Parks Trust, Trustee of the Melbourne Cricket Ground Trust and a Commissioner of the Australian Football League. He is a Director of a number of companies, including The Baker Medical Research Institute, Thakral Holdings Ltd, Strategic Pool Ltd and Portfolio Partners Ltd. Mr Samuel holds a Bachelor of Laws (Melbourne) and Master of Laws (Monash).

Mr Samuel was a Partner of the law firm Phillips Fox & Masel from 1972 to 1980, Executive Director of Hill Samuel Australia Ltd and subsequently Macquarie Bank Ltd from 1981 to 1986, and co-founder of Grant Samuel & Associates in 1988.

The Secretariat

The Council is supported by a Secretariat which provides analytical and research assistance. The Secretariat is located in Melbourne and is headed by an Executive Director who oversees 12 staff, comprising 10 research and policy officers and 2 administrative staff.

The chief functions of the Secretariat are to undertake analysis at the Council's direction on matters related to the implementation of National Competition Policy. The Secretariat also liaises with officials in Commonwealth, State and Territory governments on competition policy implementation issues. Secretariat staff have consulted widely with interested parties in the private sector, particularly in relation to access issues. In addition, the Secretariat represents the Council on several intergovernmental committees dealing with competition issues including, the Access Working Group of the Gas Reform Task Force. Senior Secretariat staff present conference papers on issues related to the Council's work program.

Council meetings

Table A1 lists the meetings of the Council held during 1995–96. Since its establishment, the Council has met on a monthly basis: a total of eight meetings during 1995–96. Meetings have been held in Melbourne (4), Sydney (2), Brisbane (1) and Adelaide (1).

The scheduling of Council meetings in State and Territory capitals provides an opportunity for the Council to consult with State and Territory governments and government officials involved in competition reform. The Council will continue its policy of meeting in State and Territory capitals, with meetings scheduled in Perth, Canberra and Hobart in the first half of 1996–97.

In addition to their monthly meetings, Councillors and Secretariat staff have met with representatives of all State and Territory governments and/or State and Territory competition policy units during 1995–96.

Table A1 National Competition Council meetings 1995–96

Date of meeting	*Location of meeting*
21 November	Melbourne
20 December	Melbourne
19 January	Melbourne
26 February	Sydney
21 March	Brisbane
22 April	Melbourne
17 May	Adelaide
19 June	Sydney

Appendix B Access To Services Provided By Essential Infrastructure

B1 Introduction

One element of the National Competition Policy reform package is a National access regime, contained in the new Part IIIA of the TPA.

The National access regime applies to a narrow but important range of infrastructure, including certain rail networks, electricity grids, and water and gas pipelines. These types of infrastructure are characterised by entrenched monopoly, and their services are essential for competition in upstream and downstream markets.

Under the regime, businesses (or individuals or other organisations) can gain a legal right to use the services of these types of infrastructure. For example, an electricity generating company may be able to gain a legal right to have its electricity transmitted through another company's grid, in competition with the grid operator and/or other users. The regime also seeks to ensure that businesses are offered reasonable terms and conditions of access, such as a fair price.

The National regime sets out three ways in which businesses can get access:

- *declaration:* businesses can apply to have an infrastructure service 'declared' and then enter into negotiation, or legally binding arbitration, with the infrastructure operator to determine the terms and conditions of access;
- *undertakings:* where an infrastructure operator has made an access undertaking, businesses can get access to the infrastructure services on the terms and conditions set out in the undertaking; and
- *other regimes:* businesses can seek access under an existing access regime — for instance, the States and Territories often have their own regimes covering certain infrastructure services.

The Council has a central role in the administration of the National access regime. It recommends which infrastructure services should be subject to declaration under the regime. It also recommends whether particular State or Territory regimes should be certified as 'effective' — if an existing access regime is effective, businesses must use it rather than the National declaration process to gain access.

Section B2 sets out the rationale for access regulation. Section B3 discusses the mechanics of the different means of gaining access in more detail. Section B4 reports on the process of development of the Council's guide to Part IIIA, while Section B5 discusses applications relating to access considered by the Council during 1995–96.

B2 The rationale for access regulation

As discussed in Chapter 1, competition generates substantial public benefits. However, in some markets, competition is limited. Some firms have substantial and sustainable "market power" which they can exploit, to the disadvantage of other businesses and consumers.

"Essential" infrastructure is a special case where competition is likely to be absent because it is not economic to have more than one company supplying the service. These services are essential for businesses operating in upstream or downstream markets. For example, electricity generators must have access to an electricity grid to deliver their output. Because of their strategic position in an industry, owners and operators of essential infrastructure are likely to have substantial market power.

An access regime is an instrument which governments can use to inject competition into markets where it may otherwise be lacking.

One way infrastructure operators could seek to exploit their market power is by charging monopolistic prices to businesses using the infrastructure. This would raise costs for other businesses, and prices for consumers.

But beyond this, if the infrastructure operator also has a commercial arm in an upstream or downstream market, it might discriminate against its upstream or downstream competitors by offering them access to its infrastructure only on unfavourable terms and conditions. Or it might deny them access altogether. For example, if an electricity grid owner also owned an electricity generation plant, the owner might not agree to carry electricity from rival generating plants, or might only do so at an unduly high price. Just the prospect that infrastructure owners will do this may deter other businesses from entering upstream or downstream markets, thereby limiting competitive pressures.

In these situations, an access regime may be warranted.[2] As noted earlier, an access regime gives businesses a legislated right to use the services of another business's infrastructure, in competition with existing users. This should encourage the entry of new firms into the upstream and downstream markets which rely on the infrastructure, and thereby instil greater competition in those markets. This in turn would promote more efficient production and lower prices for consumers.

B3 The mechanics of the National regime

As noted earlier, Part IIIA provides three ways in which a third party can gain access to the services of an essential facility:

- a service may be 'declared' for access;
- a facility owner may offer an undertaking setting out terms and condition for access; or

[2] There are several mechanisms which can be used to deal with market power and its manifestations, of which an access regime is but one. The TPA contains various mechanisms to address anti-competitive behaviour by business, and several aspects of the National Competition Policy reforms, such as structural separation and prices oversight, could be used to deal with some of the problems associated with essential infrastructure. In considering the case for access regulation, it is important to compare it against alternative measures to address the problems. And where access regulation is deemed appropriate, it needs to be applied carefully to ensure that the incentives for people to invest in infrastructure are not *unduly* diminished in the name of short term efficiency gains and lower prices.

- access may be available through 'effective' access arrangements.

Declaration

A business (or anyone else) can request the Council recommend to the relevant Minister[3] that an infrastructure service be 'declared', making it available for access.

Before recommending declaration, the Council (and the Minister) must be satisfied that a number of criteria are met. These criteria, which are summarised in Box B1 below, are designed to ensure that access regulation is imposed only where necessary.

If the service is declared, the business can gain access by:

- negotiating with the infrastructure operator;
- failing that, agreeing with the operator about the appointment of a private arbitrator and then subsequently entering into a contract in accordance with the arbitrator's decision; and/or
- seeking legally binding arbitration by the ACCC.

The process also entails opportunities to appeal decisions to declare (or not declare) an infrastructure service, and on the terms and conditions determined by the ACCC.

Access undertakings

As an alternative to declaration, an infrastructure owner or operator may submit a voluntary "undertaking", setting out the terms and conditions under which another party can obtain access. The undertaking is submitted to the ACCC, which will need to be satisfied that the arrangements are pro-competitive. Undertakings are enforceable by the ACCC in the Federal Court. They can be varied or withdrawn by the service provider, although this must be with the consent of the ACCC.

Effective regimes

The National access regime is not the only access regime in Australia, and nor is it intended to be. Access regimes applying to telecommunications carriers[4] and certain gas transmission pipelines[5] predate the National regime. Further, other access regimes have recently been, or are being, developed for various gas pipelines and an interconnected national electricity transmission grid.

The National regime provides an umbrella to cover other access regimes. Where an existing regime is deemed "effective", businesses seeking access must use it. Where there is no effective regime, businesses can use the declaration process set out in Part IIIA.

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3 The Premier or Chief Minister in the case of a facility owned by a State or Territory; or the Commonwealth Treasurer otherwise.

4 See the *Telecommunications Act 1991*.

5 See, for example, the *Moomba-Sydney Pipeline System Sale Act 1994*, and the *Natural Gas Pipelines Access Act 1994* (South Australia).

Box B1 Criteria for declaration of access

- Access would need to promote competition in an upstream or downstream market. For example, for access to an electricity transmission grid to be granted it would need to enhance competition in the market for electricity generation or distribution.
- It would need to be uneconomical for another facility to be developed to provide the service. It could be argued, for example, that an electricity grid satisfies this criterion because duplication of the grid is likely to be prohibitively expensive and a waste of resources.
- The facility to which access is sought would need to be of national significance, having regard to its size, its importance to Constitutional trade or commerce, or its importance to the national economy. This criterion puts relatively insignificant facilities outside the declaration framework.
- Access must not be associated with undue risk to health or safety.
- The service for which an application for declaration is made must not already be the subject of an effective access regime.
- Access must not be contrary to the public interest. Public interest considerations include economic efficiency and other objectives such as jobs, community service obligations, regional development, environmental matters, social welfare and various equity considerations.

Assessing effectiveness

As part of the Council's consideration of applications for declaration, it must assess whether the infrastructure service is not already subject to an effective access regime. For State and Territory regimes, the Council (and subsequently the Minister) must apply the guiding principles set out in clause 6 of the CPA. For Commonwealth and private regimes, the Council will consider these criteria and other matters related to the outcomes of an access regime.

Certification of effectiveness

To provide certainty about which regime will cover a particular infrastructure service, the National access regime includes a "certification" process for State and Territory access regimes.[6] Under the process, State and Territory governments can at any time seek to have one of their access regimes certified as "effective". If a regime is certified, people know in advance that infrastructure services covered by it cannot be declared under the National regime.

[6] While State and Territory regimes can be certified, there is no equivalent process for Commonwealth and private regimes.

B4 The Council's guide to Part IIIA

The Council spent considerable time during 1996 developing a guide to the operation and application of Part IIIA of the TPA. As part of a consultative process involving all jurisdictions, the Council established a working party consisting of representatives from New South Wales, Victoria, Queensland and the Commonwealth to assist in developing the guide. A draft guide was issued as a Council document for public comment in August 1996.

The guide aims to promote a better understanding of the operation of Part IIIA. In particular, the guide sets out relevant background information in relation to Part IIIA, the legislative role and responsibilities of the Council and the ACCC, and the approach the Council proposes to adopt when assessing applications for declaration and certification.

The Council will carry out its functions under Part IIIA so as to further the competition policy objectives of access regulation. The Council considers it important to adopt an approach that is responsive to the respective interests of industry, governments and the wider community. In this regard, the Council is keen to hear the views of others about the issues surrounding access regimes. Public discussion and comment on these issues will assist the Council to refine its approaches to access regulation.

B5 Applications received during 1995–96

Australian Union of Students declaration application for the Austudy payroll deduction service

On 24 April 1996, the Council received an application from the Australian Union of Students (AUS) seeking access to a service described by AUS as the "Austudy Payroll Deduction Service". AUS identified the facility to provide the 'service' as the computer network of the Commonwealth Department of Employment, Education, Training and Youth Affairs (DEETYA). Austudy is a form of financial assistance provided by the Commonwealth Government to approved students.

The major elements of the 'service' as defined by AUS are:

- the service Provider, DEETYA, is to require Austudy recipients ("students") to complete and sign a payroll deduction form where the students can elect to have AUS or other organisation membership fees deducted directly from their Austudy and these fees will then be paid to the organisation;
- if a student elects to have their fees deducted in this way, the student will enter a legally binding contract with the organisation, and DEETYA will act as an agent for the relevant organisation;
- DEETYA will be required to provide students with information prepared by the relevant organisation to enable students to decide whether they should elect to have DEETYA make payments from their Austudy to the organisation;
- DEETYA will be required to advance monies to students to enable them to pay their membership fees in one instalment and then to recover the monies from the student in instalments over the year; and

- DEETYA will recover the costs of providing the 'service' from all students who receive Austudy and will not seek to recover the costs from the organisation being provided with the 'service'.

The 'service' sought by AUS requires DEETYA to establish a system of payroll deductions to enable the Applicant, AUS, to be paid membership fees directly from students' Austudy payments. The facility to provide the 'service' is DEETYA's computer network. DEETYA currently does not provide a payroll deduction service. In seeking declaration of the service, AUS requested that the Council require DEETYA to establish the service in the form outlined by AUS.

Process adopted in considering the application

In compliance with section 44F(2)(a) of the TPA, the Council wrote to the Secretary of DEETYA advising that it had received the AUS application.

For the purpose of determining its recommendation to the Commonwealth Treasurer (under section 44F(2)(b) of the TPA), the Council considered all information provided by both the Applicant and the Provider. The Council adopted an expedited process, consulting directly with both the Applicant and the Provider of the service, before making its recommendation to the Minister.

The recommendation

After considering all information provided by both the Applicant (the AUS) and the Provider (DEETYA) relevant to the application for declaration in accordance with sections 44F and 44G of the TPA, the Council recommended that the Commonwealth Treasurer not declare the service sought by the AUS.

The Council's reasons for its recommendation were that:

- it was not satisfied that it would be uneconomical for anyone to develop another facility to provide the service;
- it was not satisfied that the DEETYA computer facility is of national significance; and
- in weighing considerations of public costs and benefits, providing access to the service would be contrary to the public interest.

The Treasurer accepted the Council's recommendation, and the reasons supporting it. Accordingly, the DEETYA service was not declared.

Appendix C Progressing The National Competition Policy And Related Reforms

C1 Introduction

Increasing the exposure of Australia's industries to competitive pressures has been the focus of a range of microeconomic reforms by Australian governments since about 1987. Governments have been particularly active in pursuing policies aimed at improving the performance of their business enterprises.

The National Competition Policy, which expands on this focus, represents a comprehensive package of microeconomic reforms. It addresses barriers to competition in markets, including restrictive legislation and other anti-competitive provisions such as arrangements which give special advantages to government businesses simply because they are publicly owned. It also provides for pro-competitive regulation to foster competition, and to reduce monopolistic behaviour in markets where competition is lacking.

Related reforms focus on some of Australia's important infrastructure industries — energy, water and road transport. The challenge facing Australia in these areas is perhaps most clearly seen in some of the work undertaken by the former BIE. The BIE's indicators for infrastructure provision show that, despite recent improvement in areas such as electricity, rail freight, telecommunications and coastal shipping, Australia's performance in these industries is still below world best practice. With infrastructure services comprising a significant share of final output costs in many industries, poor performance has a direct impact on Australia's growth and ability to compete overseas.

Under the competition policy agreements, governments have agreed to a range of pro-competitive reforms over the period to the year 2000. These include:

- extension of the competitive conduct rules in the TPA to State and local government businesses and unincorporated businesses;
- consideration of the establishment of independent prices oversight arrangements;
- the application of competitive neutrality principles to significant government business activities;
- reform of the structure of public monopolies when introducing competition to a market or privatising a monopoly;
- the review, and where appropriate, reform of all anti-competitive legislation by the year 2000;
- the application of the competition principles to local government activities and functions; and
- implementation of previously agreed reforms in the areas of electricity, gas, water and road transport.

The detail of these reforms is set out in three competition policy agreements signed by all governments in April 1995 and various COAG agreements.

The competition policy agreements also provided for a sharing of the benefits from reform amongst all governments, and established a role for the National Competition Council in assessing progress with reform. In this respect, the Commonwealth will make payments to the States and Territories which make satisfactory progress, worth around $16 billion over the period to 2005–06. The National Competition Council is to assess, prior to 1 July 1997, 1 July 1999 and 1 July 2001, whether the conditions for the payments have been met.

Section C2 sets out the agreed reforms and the conditions for receipt of competition payments. Sections C3 and C4 examine the rationale underlying the National Competition Policy reforms and action taken to date to implement reforms to the electricity, gas, water and road transport industries.

C2 The competition policy and related reforms: conditions for the competition payments

The agreed reforms and associated conditions governing payments to the States and Territories are detailed in the Attachment to the Agreement to Implement the National Competition Policy and Related Reforms. The Attachment is reproduced below.

(a) Per capita guarantee and first tranche of the competition payments

Payment under the extension of the per capita guarantee and the first tranche will start in 1997–98 to each State and Territory that:

- has signed the Competition Principles Agreement and the Conduct Code Agreement at the COAG meeting in April 1995;
- in accordance with the Conduct Code Agreement, passed the required application legislation so that the Competition Code applied within that State or Territory jurisdiction by 12 months after the Commonwealth's Competition Policy Reform Bill received the Royal Assent;
- is a fully participating jurisdiction under the Competition Policy Reform Bill and a party to the Competition Principles Agreement at the time at which the payment is made (States and Territories must apply the Competition Code as a law of the State without making significant modifications to the Code in its application to persons within their legislative competence and must remain a party to both Competition Policy Intergovernmental Agreements);
- is meeting all its obligations under the Competition Principles Agreement, which include, but are not limited to:
  - when undertaking significant business activities or when corporatising their Government Business Enterprises, having imposed on these activities or enterprises full government taxes or tax equivalent systems, debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees and those regulations to which private sector businesses are normally subject on an equivalent basis to the enterprise's private sector competitors,

- having published a policy statement on competitive neutrality by June 1996 and published the required annual reports on the implementation of the competitive neutrality principles,
- having developed a timetable by June 1996 for the review and, where appropriate, reform of all existing legislation which restricts competition by the year 2000,
- having published by June 1996 a statement specifying the application of the principles in the Competition Principles Agreement to local government activities and functions (this statement to be prepared in consultation with local government); and

- (for relevant jurisdictions) has taken all measures necessary to implement an interim competitive National Electricity Market, as agreed at the July 1991 special Premiers' Conference, and subsequent COAG agreements, from 1 July 1995 or on such other date as agreed by the parties, including signing any necessary Heads of Agreement and agreeing to subscribe to the National Electricity Market Management Company and National Electricity Code Administrator;
- (for relevant jurisdictions) has implemented any arrangements agreed between the parties as necessary to introduce free and fair trading in gas between and within the States by 1 July 1996 or such other date as agreed between the parties, in keeping with the February 1994 COAG agreement; and
- effective observance of the agreed package of road transport reforms.

(b) Second tranche of the competition payments

Payments under the second tranche will commence in 1999–2000, and be made each year thereafter to the States and Territories that have undertaken the following specified reforms by July 1999 in so far as they apply to them:

- (for relevant jurisdictions) completion of the transition to a fully competitive National Electricity Market by 1 July 1999;
- (for relevant jurisdictions) full implementation of free and fair trading in gas between and within the States including the phasing out of transitional arrangements in accordance with the schedule to be agreed between the parties;
- implementation of the strategic framework for the efficient and sustainable reform of the Australian water industry and the future processes as endorsed at the February 1994 COAG meeting and embodied in the Report of the Expert Group on Asset Valuation Methods and Cost-Recovery Definitions, February 1995;
- continuing to be a fully participating jurisdiction under the Competition Policy Reform Bill and a party to the Competition Principles Agreement at the time at which the payment is made;
- continued effective observance of the agreed package of road transport reforms; and
- meeting all obligations under the Competition Policy Intergovernmental Agreements.

(c) Third tranche of the competition payments

Payment under the third tranche will commence in 2001–02 and be made each year thereafter to the States and Territories on the basis of each State's or Territory's progress on the implementation of the following reforms:

- the extent to which each State and Territory has actually complied with the competition policy principles in the Competition Principles Agreement, including the progress made in reviewing, and where appropriate, reforming legislation that restricts competition;
- whether the State and Territory has remained a fully participating jurisdiction as defined in the Competition Policy Reform Bill;
- the setting of national standards in accordance with the Principles and Guidelines for National Standard Setting and Regulatory Action and advice from the Office of Regulation Review on compliance with these principles and guidelines; and
- continued effective observance of reforms in electricity, gas, water and road transport.

C3 The National Competition Policy reforms

Extension of competitive conduct rules

Under the Conduct Code Agreement (Conduct Code), governments agreed to extend the operation of Part IV of the TPA to all business activities. Constitutional limitations had previously prevented application of the competitive conduct rules to unincorporated businesses operating solely in intra-State trade, and many State and Territory businesses had 'Shield of the Crown' immunity from the TPA.

Broadly speaking, Part IV of the TPA prohibits a range of anti-competitive trade practices, including anti-competitive agreements, misuse of market power, exclusive dealing, resale price maintenance, and mergers which have the effect, or likely effect, of substantially lessening competition.

Extension of the Conduct Code has been achieved by State and Territory governments enacting, by July 1996, a modified version of Part IV, the Competition Code, in each of their jurisdictions. All States and Territories, with the exception of Western Australia (expected in September 1996), have enacted the necessary application legislation.

Competitive neutrality policy and principles

Improving the performance of government businesses became a major issue for all Australian governments during the 1980s. Many studies and reviews 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, 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 examining the nature of their involvement in the businesses they own. They have pursued various reforms, including corporatisation, commercialisation, privatisation, franchising and contracting out.

An underlying objective of each of these reforms needs to be the creation of a competitively neutral operating environment for government businesses. Competitive neutrality is the application to public enterprises of the same taxes and incentives as face private businesses. This allows the two sectors to compete on an equal footing and increases the incentives for the efficient operation of public enterprises.

The efficiency of government businesses is a significant influence on resource allocation, with two important aspects being:

- the prices which government businesses charge for their goods and services; and
- the way in which government businesses use inputs to produce those goods and services.

Competitive neutrality principles aim to overcome pricing and production inefficiencies by creating an environment in which all organisations — public, private and not-for-profit — compete on their inherent strengths, irrespective of ownership. Competitive neutrality is achieved by removing any competitive advantages and disadvantages which a government business experiences over its private sector rivals by virtue of being government-owned. Such advantages may include tax exemptions and access to finance at concessional rates, while requirements to provide and fund community service obligations may confer a competitive disadvantage.

Prices which exceed supply costs act as a tax on users. As a result, consumers have less income to devote to other purposes, while businesses face inflated cost structures and a consequent reduction in competitiveness. Where government businesses supply goods and services at less than cost, usage of the goods and services is being subsidised and the businesses can face financial losses. If losses are funded through cross-subsidies, then some users are paying more than the cost of supply so that others can pay less. If the losses are funded from general revenue, then taxes and charges and/or the level of public sector debt will be higher than necessary.

Government businesses use significant amounts of raw materials, physical capital, management and labour, and technical know-how. Where their production practices are inefficient, government businesses will use more of these resources than necessary to produce a given level of output. This reduces the availability of resources to other businesses, and increases their cost to all users. Inefficient production processes also increase costs of production, thus undermining the business's financial performance.

GBE candidates for reform are listed in the Australian Bureau of Statistics (ABS) register of public trading enterprises and public financial enterprises. GBEs are common in industries such as energy, water and sewerage, finance, transport and communications. Other businesses operating within wider agency functions are also candidates for reform. Within government agencies, business activities such as vehicle fleet management, cleaning services, refuse collection, construction services, maintenance operations and printing services commonly compete with private firms.

Clause 3 of the CPA outlines the competitive neutrality principles which governments have agreed to apply to significant GBEs and significant business activities which are part of general agency functions.

Where appropriate, GBEs and the significant business activities of government agencies are to be corporatised, encompassing application of full taxes or tax equivalent systems, debt guarantee fees, and regulations on an equivalent basis to the business's private sector competitors. Where this is not practicable, the CPA calls for the prices charged by government businesses for goods and services to reflect full attribution of production costs, including taxes and charges.

While each government is able to determine its own agenda for the implementation of competitive neutrality principles, each committed itself to:

- publishing a policy statement on competitive neutrality, including an implementation timetable and a complaints mechanism, by June 1996; and
- publishing annual reports on the implementation of competitive neutrality principles, including allegations of non-compliance.

All States and Territories have delivered their competitive neutrality policy statements. As part of its evaluation of progress with reform, the Council will examine each statement to ensure that it provides a blueprint for reform consistent with the intent and spirit of the competition policy agreements.

Legislation review

Regulation is an important means by which governments endeavour to safeguard the interests of individuals and the community. Regulations can help to satisfy a range of legitimate concerns, including consumer protection, the environment and public health and safety.

However, in common with many other developed countries, Australia faces a range of problems with its regulatory systems. Overly stringent regulations reduce competition, and can impose substantial costs on consumers and society. Regulations which focus on existing problems and are not adaptable to new situations lose relevance once the problem they were designed to address is resolved. Fragmented State-based legislation, or differences in regulations between levels of government, can add unnecessarily to the costs of Australian business, which is operating increasingly on at least a national level. Moreover, the development of global markets for many goods and services means that the domestic regulatory environment is becoming increasingly important for the international competitiveness of Australian firms.

Each government has agreed to review and, where appropriate, reform all existing regulation which restricts competition by the year 2000. The purpose of the review is to identify the nature of the restriction on competition, to analyse its effects including on the economy generally, and to ensure that the costs of the restriction are justified. The review should also consider alternative means, including non-legislative approaches, of achieving the objective of the restriction. Once examined, anti-competitive legislation is to be reviewed systematically at least once every 10 years.

The principles governing the process for the review and reform of all anti-competitive legislation are set out in Clause 5 of the CPA. The guiding principle is that legislation should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and that the objectives of the legislation can only be achieved by restricting competition. This principle is also to apply to all new legislation that restricts competition and to amendments to existing anti-competitive legislation.

A range of criteria might identify restrictive legislation. For example, anti-competitive legislation may directly or indirectly:

- restrict the freedom with which firms or individuals can enter or exit markets;
- impose excessive conditions or restrictions on businesses which make it costly or difficult to enter a market;
- control prices or production levels;

- restrict the quality, quantity or location of goods and services available;
- restrict advertising and promotional activities;
- restrict price or type of inputs used in the production process;
- be likely to confer significant costs on businesses; and/or
- provide advantages to some firms over others by, for example, sheltering some activities from the pressures of competition.

To facilitate the review and reform process, all governments agreed to develop a legislation review timetable by June 1996 and, thereafter, to report annually on their progress against the timetable. Reports are to be consolidated by the National Competition Council and published annually.

All governments have provided their review timetables to the Council. In examining these timetables, and subsequent progress in reforming anti-competitive legislation, the Council is focusing on the following questions.

- Does the process used by each government to determine which legislation has an anti-competitive effect ensure that all restrictive legislation is identified?
- Has each jurisdiction scheduled all legislation identified as having an anti-competitive effect for review, and if not, has the jurisdiction provided an adequate explanation for any exemption from review?
- Will the review process proposed by each jurisdiction ensure that the review objectives outlined in subclause 5(9) of the CPA are met?
- Will the review timetable developed by jurisdictions provide for the completion of all reviews and associated reforms by the year 2000 target date?
- Has each jurisdiction adequately demonstrated that all new legislation restricting competition is justified?

Where a review issue has a national dimension or effect on competition (or both), the government responsible for the review will consider whether the review is more appropriately conducted as a national review. If the jurisdiction believes a national approach is warranted, it is to consult other governments with a potential interest, and may request the National Competition Council to undertake the review.

Structural reform of public monopolies

In competitive markets, the structure of firms and industries evolves over time in response to changing market conditions, including shifts in consumer demand and cost structures. This flexibility and responsiveness to change enables competitive markets to deliver outcomes that are consistent with the efficient allocation of society's resources and the requirements of consumers.

However, in the case of some public monopolies, protection from competition through regulation or other government policies has allowed structures to develop that are less responsive to market conditions, with potentially adverse effects on the efficient use of resources and community welfare. The application of competitive neutrality principles and the removal of regulatory restrictions on competition are two strategies for increasing the potential for competition in a

market supplied by a public monopoly. However, such reforms might not be sufficient to establish effective competition.

Where a business has developed into an integrated monopoly, structural reform might be needed to dismantle the monopoly operation.

The Independent Committee of Inquiry into National Competition Policy (Hilmer Review) considered that questions about the appropriate structure of public monopolies were relevant in two main contexts. First, the Committee pointed to the desirability of ensuring that reforms to introduce competition to a former monopoly market should result in effective competition without a need for ongoing regulatory intervention. Second, it noted the risk that privatisation of a public monopoly without appropriate restructuring might entrench the anti-competitive structure of the former public monopoly.

In either case, establishing the conditions for the introduction of effective competition could require the restructuring of the public monopoly. Restructuring could involve one or more of the following actions.

- Responsibilities for industry regulation may have to be separated from commercial functions to prevent a former monopolist from enjoying a regulatory advantage over its existing and potential rivals.
- Natural monopoly elements may need to be separated from potentially competitive elements to remove opportunities for cross subsidisation, whereby monopoly returns in the monopoly market are used to finance otherwise unprofitable prices in the competitive market in order to disadvantage existing or potential competitors.
- Structural separation of the natural monopoly elements might also be desirable where there is a vertical relationship between activities, particularly when access to the monopoly element is necessary for effective competition in the downstream or upstream market.
- In some cases, it may be desirable to separate the potentially competitive elements of a monopoly into distinct businesses. This can provide an opportunity for 'yardstick' competition between what were previously parts of a single enterprise.

Under Clause 4 of the CPA, governments agreed to review the structure of publicly-owned monopolies where they propose to privatise the monopoly or to introduce competition to the relevant market. When introducing competition, governments agreed to relocate any industry regulation functions. When introducing competition, and before privatising a monopoly, governments agreed to review:

- the appropriate commercial objectives of the public monopoly;
- the merits of separating potentially competitive elements of the public monopoly from the natural monopoly elements;
- the merits of separating potentially competitive elements into independent competing businesses;
- the best way of separating regulatory functions from the monopoly's commercial functions;
- the most effective means of implementing competitive neutrality arrangements;

- the merits of any community service obligations provided by the public monopoly, and the best means of funding and delivering any mandated community service obligations;
- the price and service regulations to be applied in the relevant industry; and
- the appropriate financial relationship between the owner of the public monopoly and the public monopoly.

Governments are able to seek the assistance of the Council in reviewing conducting such a review.

Prices oversight

Legislated monopolies, and businesses which operate in markets with natural monopoly characteristics or markets where competition is weak, have considerable potential to engage in monopolistic pricing behaviour. That is, firms are able to restrict output and charge higher prices than might be possible in a contestable market.

Exposing sheltered areas of the economy to enhanced competition can encourage greater efficiency in the supply of goods and services. To achieve this, governments in the CPA committed themselves to reviewing regulatory barriers to entry, implementing competitive neutrality arrangements, restructuring public monopolies and providing rights of access to significant facilities.

However, effective competition may not be achievable in all markets or may take time to develop. In these circumstances, government oversight of prices could be an appropriate policy option.

The principal mechanism for prices oversight in Australia is the *Prices Surveillance Act 1983*. Under this legislation, the Commonwealth Treasurer may 'declare' private businesses and major Commonwealth agencies such that they must notify proposed price increases to the ACCC. With the extension of oversight arrangements to State and Territory businesses under the CPA, the Commonwealth can also declare a State and Territory authority for prices surveillance by the ACCC. It can do this without the consent of the owner government, provided it receives a recommendation to do so from the National Competition Council. The Council needs to be satisfied that effective prices surveillance is not already in place, and that the pricing of the business has a significant impact on interstate or constitutional trade or commerce.

Governments agreed, under the CPA, to consider establishing independent sources of prices oversight of their business enterprises where oversight arrangements do not already exist. States and Territories are able to establish their own process or, with the agreement of the Commonwealth, subject their business enterprises to a mechanism administered by the ACCC. New South Wales, Victoria and Tasmania each have their own prices oversight arrangements.[7]

Care needs to be exercised in relation to prices oversight, as there are unlikely to be benefits from oversight where firms do not have effective market power. To quote the Hilmer Review, 'regulated solutions can never be as dynamic as market competition'. Price control does not address the fundamental problem of a lack of effective competition and, moreover, has potential costs. Poorly designed regulation can impede incentives to invest and hamper efforts to improve productivity. Consequently, a better approach to monopoly pricing issues is to introduce

[7] In New South Wales, prices oversight is performed by the Independent Pricing and Regulatory Tribunal; in Victoria, by the Office of the Regulator General; and in Tasmania, by the Government Prices Oversight Commission.

measures which directly increase the potential for competition in the market. This philosophy underlies the CPA reforms.

Governments are able to seek assistance concerning issues associated with prices oversight of government businesses from the National Competition Council is accordance with the Council's work program.

Local government

Although public sector spending by local government is less than for the other spheres of government, local government authorities deliver services and administer legislation which impact significantly on business and consumers. For example, research by the IC pointed to potential benefits from examining areas such as building regulation and approvals processes and the appropriate use of competitive tendering for service provision (IC 1995). Accordingly, reform at local government level is an important part of the overall reform program.

Clause 7 of the CPA commits States and Territories, in consultation with local government, to applying the competition principles to local government activities and functions.

All States and Territories, with the exception of the Australian Capital Territory which has no local government sphere, have published local government policy statements. These statements, which are to have been prepared in consultation with local government, outline the application of the principles to particular local government activities and functions.

Formal responsibility for applying the principles to local government lies with States and Territories, as parties to the agreements. In this context, where State or Territory governments devolve responsibility to relevant local governments, they should consider reporting mechanisms to monitor progress with the implementation of agreed reforms, and some means for providing assistance and advice to local government authorities.

The major reform implications for local government lie in the areas of competitive neutrality and the review of anti-competitive legislation (including regulations), although the structural reform questions will be relevant for some local government businesses. As a consequence, in examining governments' local government policy proposals and subsequent reform progress, the Council is focusing on the following questions.

- Has there been adequate consultation with local governments and/or their representative bodies?
- Does each government's proposals for competitive neutrality reform address local government business activities in accordance with the CPA?
- Does each government's legislation review process encompass all restrictive local government regulation?
- Is the scope of application of structural reform principles to local government monopoly businesses appropriately identified?

National standard setting and regulatory action

Under the competition policy agreements, governments agreed to set national standards in accordance with the Principles and Guidelines for National Standard Setting and Regulatory Action and advice from the Office of Regulation Review on compliance with these principles and

guidelines. In particular, the Principles and Guidelines establish a requirement for a Regulatory Impact Statement to ensure the full effects of a proposed national regulation are explicitly considered.

As part of their obligations in this area, government representatives on Ministerial Councils and on national regulatory agencies with an intergovernmental focus (that is, those which are not purely Commonwealth or State based) need to be aware of the requirement for the preparation of a Regulatory Impact Statement.

C4 The infrastructure reforms

In Australia, as in other advanced countries, the services sector dominates economic activity, contributing of around 70 per cent of measured national income. Infrastructure services are an important part of the services sector, providing energy supply, transport and communications.

Infrastructure services are major inputs in all industries. Consequently, any inefficiencies in infrastructure provision have a direct impact on Australia's growth, and on the competitiveness of Australian firms in international markets. Infrastructure also provides essential services to the community. Australia has a relatively small population widely dispersed over a very large area. This further emphasises the importance of efficient infrastructure provision.

Bringing the cost and efficiency of Australia's infrastructure services at least into line with world best practice must continue to be a central focus of Australia's microeconomic reform program. This is recognised in the competition policy agreements, which commit governments to implementing previously agreed COAG reforms to the energy, water and road transport sectors.

Electricity

Governments have a number of commitments in relation to electricity reform. In summary, these include:

- For the first tranche of competition payments, the effective implementation of all COAG agreements on electricity arrangements through the National Grid Management Council (NGMC). Participating States and Territories ('relevant jurisdictions') are to take all measures necessary to implement an interim competitive National Electricity Market, as agreed at the July 1991 Special Premiers' Conference, and subsequent COAG agreements, from 1 July 1995 or on such other date as agreed by the parties,[8] including signing any necessary Heads of Agreement and agreeing to subscribe to the National Electricity Market Management Company (NEMMCO) and National Electricity Code Administrator (NECA);
- For the second tranche of competition payments, the effective implementation of all COAG agreements on the establishment of a competitive National Electricity Market. 'Relevant jurisdictions' are to complete the transition to a fully competitive National Electricity Market by 1 July 1999; and

[8] In November 1995, Commonwealth, State and Territory Energy Ministers agreed to delay the commencement date until September 1996.

- For the third tranche of competition payments, States and Territories are to fully implement, and continue to observe fully, all COAG agreements with regard to electricity.

The interim National Electricity Market

The July 1991 Special Premiers Conference established the NGMC, a body comprising representatives of the Commonwealth, all States and Territories except Western Australia and the Northern Territory, and an independent chairperson. The NGMC's charter is to co-ordinate development of an interstate electricity market in eastern and southern Australia.

The NGMC is seeking to facilitate the establishment of an interim competitive market for electricity and subsequently a fully competitive national market subject to a National Electricity Code (the Code). The Code is expected to define the terms of participation in the National Electricity Market for generators, transmission and distribution network owners, retailers and customers. It covers network pricing, network connection and access, market rules and operation, metering and systems security. The Code is expected to be ratified by all relevant jurisdictions and submitted to the ACCC for authorisation under the TPA later this year. At the same time, the sections of the Code that deal with third party access are expected to be submitted to the ACCC in the form of an access undertaking.

Under the COAG agreements on electricity, the interim national market is to comprise the electricity transmission networks of 'three States and/or Territories, two of which are interconnected'.[9] On 9 May 1996, New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory signed an agreement recommitting themselves to the National Electricity Market. Under the agreement, New South Wales, Victoria and the Australian Capital Territory agreed to 'harmonise their market arrangements' from 1 October 1996, as the first step in the evolution of the national market.

Essentially, the 9 May agreement is designed to provide a smooth transition from intrastate to interstate competition. The principles guiding harmonisation of State markets are designed to bring jurisdictions closer to implementation of the Code, to provide equal effective access to customers within each jurisdiction, and to provide common regulatory oversight for interstate trade. Harmonisation of markets will enable national 'merit order dispatch' and customer-to-generator trading across jurisdictions. These arrangements will subsequently evolve as the Code is applied and NEMMCO establishes systems to support the operation of the National Electricity Market.

The agreement of South Australia to support the application of the Code signals its support for the national market. South Australia has announced structural reforms to its electricity authority, ETSA Corporation, to take effect on 1 January 1997 which are designed to facilitate its participation in the national market and to meet its COAG commitments for electricity reform. On 1 August 1996, an in-principle agreement was reached to construct an electricity grid interconnection between New South Wales and South Australia.

[9] This has been agreed by the NGMC in the commitment to establish the interim National Electricity Market.

NEMMCO and NECA

Under the intergovernmental agreements, the parties are required to subscribe to the NECA and to the NEMMCO. The functions of both these bodies are to be set out in the Code.

On 9 May 1996, the governments of New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory agreed to become foundation members of NEMMCO and NECA. These two organisations have since been established under Corporations Law. [10]

NEMMCO will manage the operation of the National Electricity Market (including the spot and forward trading markets and settlements systems) and the power system (including arrangements for national merit order dispatch of generation). Initially, NEMMCO's role will be restricted to managing all interstate trades in electricity between New South Wales, Victoria and the Australian Capital Territory. NECA will administer the Code, including enforcing compliance, resolving disputes and managing changes to the Code.

Other COAG requirements

At the June 1993 COAG meeting, New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Commonwealth 'agreed to have the necessary structural changes put in place to allow a competitive electricity market to commence as recommended by the NGMC from 1 July 1995'.[11] These structural changes included 'the establishment of an interstate electricity transmission network with those States which are already inter-connected, together with Queensland, working towards implementation by 1 July 1995 of the Multiple Network Corporations (MNC) structural option outlined in the NGMC's report'.

The June 1993 Agreement noted, however, that South Australia was considering the use of a subsidiary structure pending the resolution of cost issues associated with separating transmission from its vertically integrated authority, and that resolution of those issues would enable the adoption of the MNC model. In addition, the Agreement noted that Tasmania was reserving its position pending the outcome of its electricity industry review.

The MNC model, as outlined in the NGMC's report referred to above, requires the complete separation of electricity generation from electricity transmission. The report also recommended that the 'retail' side of distribution should be separated from the 'wires' or 'network' side of distribution. At the August 1994 COAG meeting, the relevant Heads of Government clarified their position on the separation of the retail and network functions by agreeing that 'within distribution, the retail and network functions should be ring-fenced and separately accounted for'.

The fully competitive National Electricity Market

The August 1994 COAG meeting agreed that during the operation of the interim National Electricity Market, 'transition arrangements are to be developed on the basis of the earliest practicable achievement of each of the objectives of the fully competitive market'. Each participating jurisdiction is to move towards the fully competitive market between September 1996 and 1 July 1999.

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10 Both NECA and NEMMCO have been established under Corporations Law as companies limited by guarantee by the members of the companies — the governments. For each company, each member will nominate one director to the board and the board may appoint up to two additional directors. Board members will be subject to the normal provisions of the Corporations Law and as such will represent the interests of the company, rather than the interests of particular governments.

11 The commencement date for an interim national market was subsequently changed to September 1996.

The objectives of the fully competitive national market, as agreed at the August 1994 COAG meeting, are:

- the ability for customers to choose which supplier, including generators, retailers and traders, they will trade with;
- non-discriminatory access to the interconnected transmission and distribution network;
- no discriminatory legislative or regulatory barriers to entry for new participants in generation or retail supply; and
- no discriminatory legislative or regulatory barriers to interstate and/or intrastate trade.

The NGMC envisages that the fully competitive market will be characterised by the following features:[12]

- electricity produced by generators will be traded through a common electricity pool serving the interconnected jurisdictions;
- the dispatch of generators, with an output greater than 30MW, will be coordinated by NEMMCO under a multi-State system control process;
- contestable customers will be able to choose to purchase electricity either in their own right in the wholesale market (the pool) or in the retail market from a retailer or trader;[13]
- contestable customers purchasing in the wholesale market will be able to enter into any hedging arrangements with any counter-party, including generators, retailers and traders; and
- a pool settlement function will handle spot and forward trading with the pool.

The Council understands that, in the absence of derogations to the contrary, the ACCC is to scrutinise market conduct by participants through the TPA. The ACCC will also monitor prices, where necessary, through the Prices Surveillance Act for both the interim competitive and fully competitive markets.

At the time of writing, the derogations chapter of the Code was still to be finalised. In this chapter of the Code, it is intended that jurisdictions will identify specific provisions of the Code that are not to apply within their jurisdiction for a period of time. The NGMC envisages that derogations from the provisions of the Code may be required in general, and for specific areas of the Code by some jurisdictions.

The Council considers that derogations from the Code should be kept to a minimum in accordance with the spirit of the intergovernmental competition agreements. In this respect, the Council would expect that derogations are phased out to meet the objectives of the fully competitive market. Derogations which remain in conflict with the objectives at the time of implementation of the fully competitive market would need to have strong public policy justification.

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12 The August 1994 COAG Meeting defined customer market thresholds. COAG agreed that, at the commencement of the transition phase, competitive access be allowed by each State for customers of 10MW (as a minimum). COAG agreed that the move to the fully competitive national market by 1 July 1999 include an agreed timetable for the progressive reduction in the threshold level for 'competitive' (ie contestable) customers.

13 At the commencement of the interim competitive market, only relatively large customers (ie those customers with loads in excess of 10 MW) will be able to choose their electricity supplier. Victoria and New South Wales are to progressively lower their eligibility thresholds so that, following some initial disparities, their customer thresholds will converge at zero some time around 1999–2000. Other States have made no commitments to lowering customer thresholds below 10 MW.

There are also issues associated with the participation of Queensland and Tasmania in the national market. Queensland signalled its support for the fully competitive market by agreeing to support the application of the Code, and to become a foundation member of NEMMCO and NECA. On 1 August 1996, an in-principle agreement was reached to construct an electricity grid interconnection between Queensland and New South Wales.[14]

The participation of Tasmania in the fully competitive market will depend on whether the proposal to connect Tasmania to the Victorian network via an underwater cable (Basslink) proceeds.

Gas

Governments have a number of commitments in relation to gas reform. In summary, these include:

- for the first tranche of competition payments, the effective implementation of all COAG agreements on the national framework for free and fair trade in gas. 'Relevant jurisdictions'[15] are to have implemented any arrangements agreed between the parties as necessary to introduce free and fair trading in gas between and within the States by 1 July 1996 or such other date agreed by the parties in keeping with the February 1994 COAG agreement;[16]
- for the second tranche of competition payments, the effective implementation of all COAG agreements on the national framework for free and fair trade in gas. 'Relevant jurisdictions' are to have fully implemented free and fair trading in gas between and within the States including the phasing out of transitional arrangements in accordance with the schedule to be agreed between the parties; and
- for the third tranche of competition payments, participating States are to fully implement, and continue to observe fully, all COAG agreements with regard to gas.

In February 1994, COAG agreed to a number of principles designed to progress 'free and fair trade' in gas between and within jurisdictions. In particular, COAG noted that the main features of a national framework characterised by free and fair trade would be:

- no legislative or regulatory barrier to either inter- or intra-jurisdictional trade in gas;
- third-party access rights to both inter- and intra-jurisdictional supply networks;
- uniform national pipeline construction standards;
- increased commercialisation of the operations of publicly-owned gas utilities;
- no restrictions on the uses of natural gas (eg for electricity generation); and
- gas franchise arrangements consistent with free and fair competition in gas markets and third party access.

14 Subject to economic and environmental assessments.

15 The Council understands that the Commonwealth and all States and Territories are to be signatories to the National Access Code to introduce free and fair trade arrangements for gas.

16 The June 1996 COAG meeting proposed a 30 September 1996 timeframe to finalise the Access Code and associated Intergovernmental Agreement, for subsequent provision to Heads of Government for endorsement.

The 1994 COAG meeting agreed to introduce a range of reforms in relation to free and fair trade in natural gas by 1 July 1996. At this meeting, COAG:

1. agreed to remove all remaining legislative and regulatory barriers to the free trade of gas both within and across their boundaries by 1 July 1996 (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT[17] issue);

2. agreed to implement complementary legislation so that a uniform national framework applies to third-party access to all gas transmission pipelines both between and within jurisdictions, by 1 July 1996 (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT issue);

3. noted that legislation to promote free and fair trade in gas, through third-party access to pipelines, should be developed co-operatively between jurisdictions and be based on the following principles:

   - pipeline owners and/or operators should provide access to spare pipeline capacity for all market participants on individually negotiated non-discriminatory terms and conditions,
   - information on haulage charges, and underlying terms and conditions, to be available to all prospective market participants on demand,
   - if negotiations for pipeline access fail, provision be made for the owner/operator to participate in compulsory arbitration with the arbitration based upon a clear and agreed set of principles,
   - pipeline owners and/or operators maintain separate accounting and management control of transmission of gas,
   - provision be made for access by a relevant authority to financial statements and other information necessary to monitor gas haulage charges, and
   - access to pipelines would be provided either by Commonwealth or State/Territory legislation based on these principles by 1 July 1996;

4. noted that Heads of Government were addressing the question of access to essential facilities in the context of their consideration of the Hilmer Report on National Competition Policy and that any legislation arising from decisions in this context would be able to cover gas pipelines;

5. agreed to adopt AS 2885 to achieve uniform national pipeline construction standards by the end of 1994 or earlier;

6. noted that open-ended exclusive franchises are inconsistent with the principles of open access expounded in points 1, 2 and 3 above:

   - agreed not to issue any further open-ended exclusive franchises, and
   - agreed to develop plans by 1 July 1996 to implement more competitive franchise arrangements;

[17] The Petroleum Resource Rent Tax (PRRT) is a tax on profits from offshore petroleum projects.

7. agreed that approaches to price control and maintenance in the gas industry be considered in the context of agreed national competition policy;

8. agreed to place their gas utilities on a commercial footing, through corporatisation, by 1 July 1996;

9. noted that contracts, between producers and consumers for the supply of gas, entered into prior to the enactment of gas reform legislation would not be overturned by that legislation;

10. agreed that where publicly-owned transmission and distribution activities are at present vertically integrated, they be separated, and legislation introduced to 'ring fence' transmission and distribution activities in the private sector by 1 July 1996 (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT issue);

11. agreed that reforms to the gas industry to promote free and fair trade be viewed as a package, that each Government would move to implement the reforms by 1 July 1996; and

12. noted that Victoria has commissioned an independent study of the impact of PRRT on the Bass Strait gas industry.

The June 1996 COAG meeting agreed that the national access framework should apply to distribution systems as well as transmission pipelines. The framework is to be finalised by 30 September 1996 and submitted to Heads of Government for endorsement.

The Council notes the progress report on gas reform which the chairman of the Gas Reform Task Force (GRTF) presented to the June 1996 COAG. The report advised that full legislative implementation of the framework for free and fair trade in gas is unlikely to be completed before December 1996. The Council understands that Heads of Government may seek an implementation date for the Code.

The Council considers that the timeframe for finalisation of the national access framework as determined by the June 1996 COAG meeting changes the dates specified in points (2) and (11) of the 1994 COAG gas reforms. The issue of the mode of regulation for the national code has yet to be resolved.

Creating free and fair trade in gas — the Gas Reform Task Force

Established in June 1995, the GRTF comprises representatives of the Commonwealth, State and Territory governments. Its role is to coordinate national gas reforms, including identifying the actions required to implement the COAG commitment to free and fair trade in gas.

The GRTF released a scoping study on 22 December 1995 which, among other things, identified the establishment of access arrangements for transmission and distribution services as an issue requiring the collective agreement of governments. In relation to access, the GRTF proposed that:

- third-party access arrangements be put in place for all transmission systems by 1 July 1996, with a uniform single regime for third party access to all transmission pipelines by 1 December 1996;

- third-party access arrangements for all reticulation systems be uniform in the long term, though adequate consistency for a national marketplace should be aimed for by 1 July 1996;

- there be a genuinely competitive upstream sector (which will force competition and diversity in exploration, production and processing);
- legislative and regulatory impediments to free and fair trade be removed in phase with the implementation of access arrangements;
- the future role of reticulation franchises in a market characterised by free and fair trade be assessed to guide the reform of franchise arrangements;
- transition timeframes should be as short as possible and as consistent as possible between jurisdictions to minimise market distortions; and
- there be consistent application of government policies across all relevant markets so as not to give any market participant a government-provided advantage.[18]

The GRTF has now developed a draft national framework for third party access to gas transmission pipelines and distribution systems. The draft framework was released in June 1996 for a period of two months public consultation. The GRTF has established a Working Group to develop and assess options for enhancing competition and the diversity of natural gas supply through measures applied to the upstream (ie production) sector.

The Council's role in gas reform during 1995-96

The National Competition Council has two main roles in the reform process:

- assessing progress in implementing agreed gas reforms; and
- assisting with the development of access arrangements for gas.

On the first point, as part of its broader task of assessing progress with reform, the Council has monitored the movement towards free and fair trade in gas between and within the States and Territories. This has included consideration of actions needed to remove legislative and regulatory barriers to free trade.

As part of this process, the Council has been involved in extensive discussions with State governments and with the GRTF Secretariat in relation to the nature of the National Competition Policy gas reform commitments. The Council Secretariat has also consulted widely with key players in the gas industry. The purpose has been to ensure that the Council has a well developed understanding of the nature of the gas industry, the current state of gas industry reform (from both government and industry perspectives) and the implications for the gas industry of the National Competition Policy reforms. The Council Secretariat has also been a participant on the GRTF Access Working Group and has met regularly with the GRTF.

The Council's second main task relates to access arrangements for gas. Once a uniform national framework for access is in place, jurisdictions applying the framework may seek Council certification of their application regime.

Several jurisdictions have previously introduced non-certified access regimes for their gas transmission services. For example, access regimes currently apply to transmission services in Queensland and South Australia, and to the Dampier to Bunbury and Goldfields pipelines in Western Australia.

The Council is available to assist jurisdictions in the development of gas access regimes.

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[18] Gas Reform Task Force, *Scoping Study Report*, December 1995.

Water

Governments have a number of commitments in relation to water reform. In summary, those commitments include:

- for the second tranche of competition payments, the effective implementation of all COAG agreements on the strategic framework and future processes as endorsed at the February 1994 COAG meeting and embodied in the February 1995 Report of the Expert Group on Asset Valuation Methods and Cost-Recovery Definitions; and
- for the third tranche of competition payments, full implementation and continued observance of all COAG agreements with regard to water.

COAG agreement on water reform

The February 1994 COAG meeting agreed to develop a strategic framework for the efficient and sustainable reform of the Australian water industry (the strategic framework).

The agreed water reforms are detailed in an Attachment to the COAG Communique of 25 February 1994. In summary, COAG agreed to introduce a range of reforms, including:

- pricing reform based on the principles of consumption-based pricing and full-cost recovery, the removal of cross-subsidies, and making subsidies transparent;
- implementation by States and Territories of comprehensive systems of water allocations or entitlements backed by separation of water property rights from land title;
- by 1998, the structural separation of the roles of water resource management, standard setting and regulatory enforcement and service provision; adoption of two-part tariffs for urban water where cost-effective; and the introduction of arrangements for trading in water allocations or entitlements;
- by 2001, rural water charges reflecting full-cost recovery (with subsidies made transparent), and the achievement wherever practicable of positive real rates of return on the written-down replacement costs of assets;
- that future investment in new schemes or extensions to existing schemes be undertaken only after appraisal indicates it is economically viable and ecologically sustainable; and
- that States determine allocations or entitlements to water including allocations for the environment as a legitimate user of water.

COAG anticipated that implementation of the strategic framework would result in a restructuring of water tariffs, with cross-subsidies for metropolitan and town water services being reduced or eliminated. COAG considered that the impact on consumers would be offset by cost reductions from more efficient service provision. In the case of rural water services, the strategic framework aims to generate the financial resources to maintain supply systems, and through a system of tradeable entitlements to allow water to flow to higher value uses subject to social, physical and environmental constraints. Consequently, the COAG agreements for water reform extend well beyond competition policy to embrace efficiency in water pricing and social policy issues.

Implementing the strategic framework

The processes required to facilitate national water reform are still at an early stage of development. While development of a strategy for the implementation of the strategic framework is underway, many of its fundamental elements are still embryonic.

In June 1993, COAG established a Working Group on Water Resource Policy to develop the strategic framework. Subsequently, COAG endorsed the implementation of the Working Group's strategic framework, and agreed to establish an Expert Group on Asset Valuation Methods and Cost-Recovery Definitions (the Expert Group). The Expert Group focused on the methods and definitions that might underpin charging for water and water services.

In February 1995, the Working Group released its Second Report. This covered progress in the preceding twelve months in implementing the strategic framework. The Working Group pointed to significant reform progress, particularly in relation to the corporatisation and/or commercialisation of water authorities and the adoption of user-pays principles.

Under the terms of the competition policy agreements, States and Territories are to implement all COAG agreements on the strategic framework. Because the strategic framework sets a 1998 deadline for most water reforms, State and Territory performance will be assessed in the context of the second tranche of competition payments.

The exception is reform of rural water supply arrangements, which will need to be completed at least by the time that the National Competition Council undertakes its third tranche progress assessment. Charges for rural water are to provide for full-cost recovery and, wherever practicable, achieve positive real rates of return on the written-down replacement costs of rural water assets.

The objectives of water reform

In 1994, COAG requested that the Agricultural and Resource Management Council of Australia and New Zealand (ARMCANZ) oversee and report on the national water reform agenda. In turn, ARMCANZ, through the Standing Committee on Agricultural and Resource Management (SCARM), has appointed an intergovernmental task force to coordinate the COAG water reform program (the SCARM Task Force).

The SCARM Task Force has identified 10 key objectives, called "deliverables", arising from the strategic framework. Each government is required to implement these deliverables, with ARMCANZ to report on progress. The deliverables provide for:

(i) full cost recovery pricing and related National Competition Policy issues;

(ii) comprehensive water allocation systems;

(iii) trading in water entitlements;

(iv) effective performance monitoring;

(v) integrated natural resources;

(vi) institutional separation;

(vii) devolution of irrigation management;

(viii) public education and consultation;

(ix) stormwater and wastewater re-use; and

(x) groundwater management.

Involvement by the National Competition Council

In December 1995, the National Competition Council gave a presentation to the second meeting of the SCARM Task Force on the implications of competition policy for the water industry. In January 1996, ARMCANZ wrote to offer the Council observer status on the SCARM Task Force. The Council has accepted this invitation.

Road transport

The Special Premiers' Conference of July 1991 took a significant step towards nationally uniform road transport law and policies by signing the Heavy Vehicles Agreement and agreeing to establish the National Road Transport Commission (NRTC). Subsequently, establishment of the NRTC was formalised by the *National Road Transport Commission Act 1991*, No. 8 of 1992, which incorporated the Heavy Vehicles Agreement as a schedule. The Light Vehicles Agreement was signed by all jurisdictions in May 1992.

The two intergovernmental agreements identify three principles as a guide to the NRTC's responsibilities in the road transport area. These principles are:

- improvements in road safety;
- improvements in transport efficiency; and
- reductions in the cost of administration of road transport.

The Heavy Vehicles Agreement envisaged a single piece of comprehensive national Road Transport Law. However, because of the complexities associated with developing a single comprehensive piece of legislation, the process was split into six practical segments. This modular approach to the development of the legislation covers:

- heavy vehicle charges;
- dangerous goods;
- vehicle operations;
- vehicle registration;
- driver licensing; and
- compliance and enforcement.

It has subsequently been agreed that the heavy vehicles charges and dangerous goods modules will stand alone with their respective regulations, with the remaining four modules to be integrated into a single national law.

The concentration to date has been on heavy vehicles because of the timing of the intergovernmental agreements, and because the NRTC anticipates greater benefits from uniformity or consistency for heavy vehicles than for light vehicles. Light vehicle matters are incorporated where possible.

The first legislative package available for template adoption by jurisdictions, covering heavy vehicle charges, was adopted on the agreed date (1 July 1995) by only three governments. Adoption nationally was achieved on 1 July 1996 (excepting Tasmania which is expected to adopt the legislation in September 1996), but most jurisdictions maintained local concessions.

The Dangerous Goods Act is available for template adoption by jurisdictions, but the attendant Regulations and Code will not be available until early in 1997. With minor amendments to the Act also required, the module is expected to be available for implementation in the first half of 1997.

The NRTC has advised the Council that the remaining four modules will be integrated into a single national piece of legislation, with the integrated package not expected to be available until the end of 1997.

Appendix D Other Council Work

In addition to the Council's statutory responsibilities under Part IIIA of the TPA (see Appendix B) and the assessment role under the Implementation Agreement (see Appendix C), the Council has an examination and reporting role on competition law exceptions under section 51 of the TPA. The Council may also be required to make a recommendation to the Commonwealth Treasurer that a State or Territory enterprise be declared for the purpose of prices surveillance by the ACCC.

D1 Competition law exceptions under section 51 of the Trade Practices Act

Subclause 2(2) of the Conduct Code Agreement (Conduct Code) enables the Commonwealth Treasurer to request the Council to examine and report on legislation which relies upon statutory exceptions under section 51 of the TPA. Section 51 allows for the exception of conduct specifically authorised by State or Territory laws from Part IV of the TPA.

Subclause 2(1) of the Conduct Code requires State and Territory governments to notify the ACCC, in writing, of any new legislation relying upon section 51 exceptions within 30 days of legislation being made. The Commonwealth Minister has the discretion to override the exception within four months of notification by tabling regulations in the Commonwealth Parliament under section 51(1C)(f) of the TPA. If the Minister tables the regulations after four months, the Minister may only override the exception upon tabling a report by the Council on:

(a) whether the benefits to the community from the legislation referred to in the notice, including the benefits from transitional arrangements, outweigh the costs;

(b) whether the objectives achieved by restricting competition by means of the legislation referred to in the notice can only be achieved by restricting competition; and

(c) whether the Commonwealth should make regulations for the purposes of paragraph 51(1C)(f) of the TPA.

D2 Recommendations for prices surveillance

The principal mechanism for prices oversight in Australia is the *Prices Surveillance Act 1983*. Under this Act, the Commonwealth Treasurer can declare businesses such that they are required to notify proposed price increases to the ACCC for the purpose of price surveillance.

Clause 2 of the CPA calls for governments to consider independent sources of prices oversight advice where these do not exist. Under Clause 2, the Commonwealth Minister can declare a State or Territory enterprise for prices surveillance by the ACCC without the consent of the owner government upon the recommendation of the Council that the authority be declared. In making its decision, the Council must be satisfied that effective prices surveillance is not already in place, and that the business has a significant impact on interstate or constitutional trade or commerce. The Council's recommendations on prices surveillance under Clause 2 are in accordance with section 21 of the *Prices Surveillance Act 1983*.

Appendix E Staffing And Management

E1 Staffing overview

The Secretariat commenced operation on 6 November 1995 with six full-time staff drawn principally from the IC and the Commonwealth Treasury, including some on temporary secondment. Nine additional full-time staff commenced at the Council during December 1995 and January 1996. Two seconded officers returned to their Departments in early 1996.

In December 1996, the Council agreed to create a new position of Deputy Executive Director. During February to May 1996 the Council conducted a recruitment round to fill this position, as well as one Director and three Policy Officer positions. These positions were subsequently filled in July 1996.

Two temporary appointments were made during March 1996. In line with the Council's desire to develop cooperative working arrangements with State and Territory governments, a senior officer from the ACT Chief Minister's Department was seconded for a period of approximately three months to assist consultation between the Council and State and Territory governments. An administrative officer was seconded from the Commonwealth Department of the Prime Minister and Cabinet to assist in the establishment of the Council's office structure and systems for a period of three months.

All Secretariat staff, including temporary secondments, are employed under the *Public Service Act 1922* and located in Melbourne. The Council has no inoperative staff.

Senior Executive Service information

The National Competition Council has one Senior Executive Service position, that of Executive Director.

Mr Michael Warlters was seconded from the Commonwealth Treasury to fill this position on a temporary basis from 6 November 1995, pending the commencement of the Executive Director, Mr Ed Willett.

Mr Willett commenced on 30 November 1995, and continued to occupy the position of Executive Director as at 30 June 1996. Mr Warlters remained with the Council as Senior Adviser (a Senior Executive Service position) until 1 March 1996.

There were no additional permanent or temporary appointments to a Senior Executive Service position at the Council during 1995–96.

Table E1 Staff profile, 30 June 1996

Level	*Female*	*Male*	*Total*
Senior Executive Service Band 1	0	1	1
Senior Officer Grade A	1	0	1
Senior Officer Grade B	0	2	2
Senior Officer Grade C	2	1	3
Administrative Service Officer Grade 6	1	3	4
Administrative Service Officer Grade 5	0	1	1
Administrative Service Officer Grade 4	0	0	0
Administrative Service Officer Grade 3	1	0	1
Administrative Service Officer Grade 2	0	0	0
Administrative Service Officer Grade 1	0	0	0
Total	**5**	**8**	**13**

Table E2 Staff by employment status, 30 June 1996

Level	*Female*	*Male*	*Total*
Full-time permanent	3	7	10
Full-time temporary	2	1	3
Part-time staff	0	0	0
Total	**5**	**8**	**13**

E2 Staff training

Excluding salary costs of staff undertaking training, a total of $9000, representing 2.2 per cent of the Secretariat's salary costs was devoted to staff training for 1995–96. Some 20 person days were spent by 10 staff in relevant training programs during the eight months to 30 June 1996. In total, five Secretariat staff participated in a variety of training programs in areas such as financial management, skills development, reporting requirements and professional development. In addition, five Secretariat staff attended conferences on issues associated with competition policy and its implementation.

The Council proposes to survey staff training needs early in 1996–97 in order to identify directions for future training. Future training requirements are also likely to encompass the further professional development of staff including further tertiary education.

E3 Social justice and equity

Since its inception in November 1995, the Council has instituted social justice and equity objectives through open and transparent processes. For example, declaration and certification applications for third party access to essential facilities explicitly provide interested parties the opportunity to have their views considered by the Council, including through meetings with members of the Council and Secretariat. The Council Secretariat has also had meetings with representatives of local government and the private sector on competition policy matters during the year.

During 1995–96, the Council developed two documents designed to assist the community's understanding of its role and functions:

- an introductory pamphlet outlining its processes (June 1996); and
- a guide to the Council's processes for handling applications for declaration of access and certification (draft released for comment in August 1996).

The Council will continue to develop arrangements for compliance with the Commonwealth Government's access and equity objectives in 1996–97, including providing improved access to its processes to people from non-English speaking backgrounds.

E4 Internal and external scrutiny

The Council did not undertake any internal reviews of its processes during 1995–96. There were no cases of fraud during 1995–96.

The Council's operations were not the subject of any reports of Parliamentary Committees during 1995–96. There were no comments by the Ombudsman or decisions by the courts or administrative tribunals on matters involving the Council in 1995–96.

The Council is subject to external scrutiny through the publication of its recommendations to States and Territories on matters relating to access determinations and competition reforms, external publications, and other work which may be placed on the work program from time to time.

E5 Equal employment opportunity

The Council adopted the *Equal Employment Opportunity (EEO) Program* of the Commonwealth Department of Treasury as its guide in this important area.

The Executive Director undertook responsibility for EEO during 1995–96.

All recruitment conducted during 1995–96 included a selection criterion relating to understanding of the principles and practical effects of policies on EEO. Selection panels included at least one male and one female. At 30 June 1996, five Secretariat staff were members of an EEO group (see Table E3).

The Council has identified the development of its own EEO strategy in 1996–97 as a priority. It is expected that this will form part of the Council's corporate planning process to be conducted in 1996–97. The Deputy Executive Director will be responsible for developing the EEO strategy.

There were no reported cases of workplace harassment at the Council during 1995–96. The Secretariat will nominate and train two workplace harassment officers in 1996–97.

Table E3 Staff by EEO group, 30 June 1996

Level	*Female*	*NESB 1*[a]	*NESB 2*[a]	*A&TSI*[b]	*Disabilities*
Senior Executive Service Band 1	0				
Senior Officer Grades A–C	3		1		
Administrative Service Officer Grades 1–6	2				
Total	5		1		

a *Non-English speaking background (first and second generation)*
b *Aboriginal and Torres Strait Islanders*

E6 Industrial democracy

Industrial democracy plan

The Council adopted the Commonwealth Department of Treasury's draft *Industrial Democracy Plan 1994–96* as the basis of its own industrial democracy practices during the year.

As required under section 22(c) of the *Public Service Act 1922*, the Council will develop its own industrial democracy plan during 1996–97. Development of the plan will occur in conjunction with the Council's corporate planning process and involve consultation with all Secretariat staff. The Council's Deputy Executive Director will have formal responsibility for the implementation of industrial democracy principles and practices.

Consultative mechanisms

The Executive Director conducts a meeting with all Secretariat staff within one week of the Council's monthly meetings. These staff meetings are the principal forum for informing Secretariat staff of Council decisions and inviting staff consideration of issues currently facing the Council. Proposed changes to research priorities, staffing arrangements, office accommodation, information technology issues and training are discussed at these regular meetings. During 1995–96, Secretariat staff participated in decision making regarding information technology requirements (including training), flexible team arrangements and office accommodation.

Industrial democracy priorities

The Council's industrial democracy priorities in 1995–96 related to development of management and work practices for the new organisation.

In 1996–97, the Council will devote attention to processes for the involvement of staff in organisational planning in addition to the existing monthly staff meetings.

E7 Occupational health and safety

During 1995–96, the Council undertook the following initiatives to ensure the health and safety of its staff and contractors, including:

- appointment of fire wardens and fire safety training for all Secretariat staff;
- adoption of Treasury accident/incident reporting procedures for internal and Comcare use;
- participation in OH&S training; and
- encouragement of Secretariat staff participation in lunch-time and after-hours exercise programs.

During 1996–97, the Council will develop a formal OH&S agreement which will ensure a safe and healthy work environment for staff. Initiatives which the Council will consider introducing under this policy include:

- election of a health and safety representative;
- establishment of an occupational health and safety committee;
- an Employee Assistance Program to provide Secretariat staff with access to an independent, confidential and professional counselling service;
- two-yearly eyesight testing for screen-based equipment users;
- the appointment and training of a First Aid Officer;
- inspection of the workplace for OH&S hazards and action on identified hazards; and
- advice on ergonomic furniture usage and posture.

The Council received no accident/incident reports during 1995–96. There were no notices lodged or directions given to the Council under sections 30, 45, 46 or 47 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* during 1995–96.

E8 Freedom of information

The Council received no requests for documents under the Freedom of Information Act during 1995–96.

The following information is provided in accordance with subsection 8(1) of the *Freedom of Information (FOI) Act 1982*.

Organisation of the National Competition Council

Details of the National Competition Council's organisational structure, role and functions are detailed in Appendix E and elsewhere in this report.

Arrangements for outside participation

Persons or organisations outside the National Competition Council are encouraged to participate in the formulation of Council advice on access declarations, competition reform or other work program matters, by making representations in person or in writing to the Council.

Categories of documents held by the National Competition Council

The following classes of documents are held by the Council Secretariat:

(a) Representations to the Council President and Executive Director

The Council receives correspondence covering a number of aspects of government microeconomic policy and administration.

(b) Working files

The Council holds policy and administration files relevant to the Council's responsibilities. The documents on these files include correspondence, analysis and policy advice prepared by Secretariat officers. There are two main categories of working files:

- Council views on matters relating to competition reform provided to Commonwealth, State and Territory governments; and
- Council recommendations and accompanying reasons relating to access declarations provided to the designated Minister. The designated Minister is required to publish either the declaration or the decision not to declare the service. The Minister must give reasons for the decision and provide a copy of the declaration recommendation to the provider and the applicant. The Council will make its recommendations and reasons publicly available after the designated Minister has published a decision.

(c) Documents on internal departmental administration

The Council holds a broad range of documents relating to the personal details of staff and to the organisation and operation of the Council. These documents include personal records, organisation and staffing records, financial and expenditure records, and internal operating documentation such as office procedures and instructions.

Documents open to public access subject to a fee or a charge or available free of charge upon request

It is the Council's intention to make the following categories of documents publicly available:

- introductory pamphlet on Council processes;
- the Council's Annual Report to Parliament;
- speeches presented by Council and Secretariat staff;
- discussion papers and guides on specific competition policy issues;

- submissions made by interested parties on access declaration or certification applications where information contained is not commercial in confidence;
- issues papers developed by the Council in response to access declaration or certification applications;
- departmental plans; and
- declaration or certification applications.

At 30 June 1996, the following documents were publicly available.

- National Competition Council (introductory pamphlet).
- Graeme Samuel, The National Competition Council and Infrastructure Reform, Paper for IIR Conference Infrastructure 2000, 27 November 1995.
- Ed Willett, Analysis of the Role of the Other Key Competition Watchdog: The National Competition Council, Paper presented at the Competition Summit '96, 21–22 February 1996.
- Tony Daniels, Council of Capital City Lord Mayors: 1996 National Competition Summit, 22 February 1996.
- Tony Daniels, The Role of the National Competition Council in the Competitive Gas Market, Paper for the AGA Gas Industry Forum 1996, 15 April 1996.
- Ed Willett, Outsourcing on a Level Playing Field, Paper for the AIC Conference on Outsourcing, Contracting and Competitive Tendering, 6–7 May 1996.
- Ross Campbell, The National Competition Policy, Paper for the Victorian Department of Treasury and Finance Open Day, 16 May 1996.
- Michael Easson, The National Competition Council's Role in the Reform of Public Business Activities, Paper presented at the IIR Conference Commercialised Government 1996, 30–31 May 1996.
- Tony Daniels, National Competition Policy, Paper presented at a Conference of the Japanese Chamber of Commerce and Industry, 12 June 1996.

Facilities for access to National Competition Council documents

Applicants seeking access under the FOI Act to documents in the possession of the Council should apply in writing to:

The Executive Director
National Competition Council
GPO Box 250B
MELBOURNE VIC 3001
Attention: Freedom of Information Co-ordinator

Requests must be accompanied by an application fee of $30. Unless an application fee is received, or explicit waiver given, the request will not be processed. Telephone enquiries should be directed to the FOI Co-ordinator, telephone (03) 285 7484 between 9.00 am and 5.00 pm.

The Deputy Executive Director is authorised under section 23 of the FOI Act to make decisions to grant or refuse requests for access to documents. In accordance with section 54 of the FOI Act, an applicant may apply to the Executive Director within 28 days of receiving notification of a decision under the Act, seeking an internal review of a decision to refuse a request. The application should be accompanied by a $40 application review fee as provided for in the FOI Act.

If access under the FOI Act is granted, the Council will provide copies of documents after receiving payment of all applicable charges. Alternatively, applicants may make arrangements to inspect documents at the National Competition Council office, Level 12, Casselden Place, 2 Lonsdale Street, Melbourne between 9.00 am and 5.00 pm, Monday to Friday.

E9 Advertising and market research

Recruitment advertising and related activities conducted since the Council's inception in November 1995 were arranged through the Commonwealth's master agency, Neville Jeffress Advertising, at a cost of $10 147. Initial recruitment of Secretariat staff prior to 6 November 1996 was undertaken by the Commonwealth Department of Treasury, through Neville Jeffress Advertising and CP Recruitment at a cost of $31 570.

During 1995–96, the Council paid $19 823 to Beers Pym Steiner (BPS) for the design, development and printing of its Corporate brochure outlining the role of the Council. BPS also designed and developed the Council's logo, office signage and stationery at a cost of $18 800. Payments totalling $4 896 were made to four other companies which tendered for this project for preliminary design work.

E10 Annual reporting requirements and aids to access

Information contained in this annual report is provided in accordance with section 74 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, section 50AA of the Audit Act 1901, and section 8 of the *Freedom of Information Act 1982*.

The entire report is provided in accordance with section 29(O) of the *Trade Practices Act 1974*.

The report has been prepared in accordance with the guidelines issued by the Department of the Prime Minister and Cabinet. The guidelines seek to minimise the amount of detail contained within annual reports but state that matters of detail previously required for inclusion in annual reports should be made available within five working days of the request from Parliament.

A compliance index is at Appendix G.

The contact officer for inquiries or comments concerning this report, and for inquiries about any Council publications, is:

Deputy Executive Director
National Competition Council
GPO Box 250B
MELBOURNE VIC 3001
Telephone (03) 9285 7474
Facsimile (03) 9285 7477

Appendix F Financial Statements

For the period 6 November 1995 to 30 June 1996

National Competition Council

STATEMENT BY THE COUNCIL PRESIDENT AND PRINCIPAL ACCOUNTING OFFICER

We certify that the attached financial statements for the period 6 November 1995 to 30 June 1996 are in agreement with the National Competition Council's accounts and records and, in our opinion, the financial statements present fairly the information required by the Minister for Finance Guidelines on Financial Statements of Departments.

Signed	Signed .....
Mr Tony Daniels	Mr Ed Willett
President	Executive Director
Date	Date

Audit report

Audit report

NATIONAL COMPETITION COUNCIL

OPERATING STATEMENT

for the period 6 November 1995 to 30 June 1996

	Notes	6/11/95 – 30/6/96 $
NET COST OF SERVICES		
Expenses		
Employee expenses	3	716,221
Other administrative expenses		686,009
Total expenses		1,402,230
Revenues from independent sources		
User charges		409
Total revenues from independent sources		409
Net cost of services		**1,401,821**
REVENUES FROM GOVERNMENT		
Appropriations used for ordinary annual services		1,460,337
Resources received free of charge from other departments	4	299,882
Total revenues from government		1,760,219
Excess of revenues from government over net cost of services		**358,398**
Net expenses from extraordinary items:		
Establishment expenses	5	99,390
Total revenues less expenses		**259,008**
Accumulated expenses less revenues at beginning of reporting period		Nil
Accumulated expenses less revenues at end of reporting period		**259,008**

The above Statement should be read in conjunction with the accompanying notes

NATIONAL COMPETITION COUNCIL
STATEMENT OF ASSETS AND LIABILITIES
as at 30 June 1996

	Notes	30/6/96 $
CURRENT ASSETS		
Cash on hand		7
Receivables	6	382
Other – prepayments		167,893
Total current assets		**168,282**
NON–CURRENT ASSETS		
Property, plant and equipment	7	362,943
Total non-current assets		**362,943**
Total assets		**531,225**
CURRENT LIABILITIES		
Creditors	8	37,111
Provision	9	87,094
Other	10	44,756
Total current liabilities		**168,961**
NON–CURRENT LIABILITIES		
Provisions	9	103,256
Total non-current liabilities		**103,256**
Total liabilities		**272,217**
NET ASSETS	11	**259,008**

The above Statement should be read in conjunction with the accompanying notes

NATIONAL COMPETITION COUNCIL
STATEMENT OF CASH FLOWS
for the period 6 November 1995 to 30 June 1996

	Notes	6/11/95 – 30/6/96 $
CASH FLOWS FROM OPERATING ACTIVITIES		
Inflows:		
Appropriation revenue		1,460,337
User charges		27
Outflows:		
Employee expenses		(513,272)
Other administrative expenses		(781,919)
Net cash provided by operating activities	12	**165,173**
CASH FLOWS FROM INVESTING ACTIVITIES		
Outflows:		
Payment for the acquisition of property, plant and equipment		(165,166)
Net cash used in investing activities		**(165,166)**
Net increase in cash held for the reporting period		**7**
Cash at beginning of the reporting period		Nil
Cash at end of the reporting period		7

The above Statement should be read in conjunction with the accompanying notes

NATIONAL COMPETITION COUNCIL
STATEMENT OF TRANSACTIONS BY FUND
for the period 6 November 1995 to 30 June 1996

	Notes	6/11/95 30/6/95 Budget $	6/11/95 – 30/6/96 Actual $
CONSOLIDATED REVENUE FUND			
RECEIPTS		–	27
Total Receipts		**–**	**27**
EXPENDITURE			
Expenditure from annual appropriations: Advance from the Minister for Finance Audit Act 1901 (section 35)	13	–	1,460,364
Total Expenditure		**–**	**1,460,364**
Loan Fund			
RECEIPTS		Nil	Nil
EXPENDITURE		Nil	Nil
Trust Fund			
Heads of Trust (private moneys):			
Receipts		Nil	Nil
Expenditure		Nil	Nil
Trust Account (Commonwealth activities):			
Receipts		Nil	Nil
Expenditure		Nil	Nil
Total Receipts		Nil	Nil
Total Expenditure		Nil	Nil

The above Statement should be read in conjunction with the accompanying notes

NATIONAL COMPETITION COUNCIL

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

for the period 6 November 1995 to 30 June 1996

Note 1 – Aim and Objectives of the National Competition Council

The National Competition Council (the 'Council') was established on 6 November 1995 by the *Competition Policy Reform Act 1995* following agreement by the Commonwealth, State and Territory governments.

The Council is an independent advisory body for all governments involved in implementing the competition reforms. The Council's aim is to help raise the living standards of the Australian community by ensuring that conditions for competition prevail throughout the economy which promote growth, innovation and productivity.

The Council's program objectives are:

- to promote micro-economic reform within the community, including by undertaking research and providing advice to governments on competition policy matters;
- to recommend on applications for declaration of access to services provided by nationally significant infrastructure and the certification of access regimes under Part IIA of the Trade Practices Act;
- to assess progress with agreed competition policy reforms, and to recommend to the Commonwealth prior to July 1997, July 1999 and July 2001 whether the conditions for National Competition Policy payments to the States and Territories have been met; and
- to recommend on whether State and Territory government businesses should be declared for prices surveillance by the Australian Competition and Consumer Commission, and to report on the costs and benefits of legislation reliant on section 51 of the Trade Practices Act.

Note 2 – Summary of Significant Accounting Policies

2.1 Basis of Accounting

The production of the financial statements is required by section 50 of the *Audit Act 1901*. They have been prepared in accordance with the Guidelines on *Financial Statements of Departments* issued by the Minister for Finance for reporting periods ending on or after 30 June 1995 (the 'Guidelines'). The Guidelines require compliance with Statements of Accounting Concepts, Australian Accounting Standards, Accounting Guidance Releases issued by the Australian Accounting Research Foundation and other relevant mandatory professional reporting requirements (Consensus Views of the Urgent Issues Group).

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention. They have not been adjusted to take account of either changes in the general purchasing power of the dollar or changes in the prices of specific assets.

2.2 'Departmental' and 'Administered' Items

A distinction is required to be made within the financial statements between 'departmental' items and 'administered' items.

'Administered' items represent those assets, liabilities, expenses and revenues which are controlled by the Government and managed in a fiduciary capacity by the Council.

'Departmental' items represent those assets, liabilities, expenses and revenues which are controlled by the Council.

The purpose of this distinction is to enable an assessment to be made of the efficiency of the Council in providing goods and services ('departmental' items), while at the same time enabling accountability by the Council for all resources administered by it.

The Council did not manage 'administered' items on behalf of the Government in relation to the reporting period.

Note 2 - Summary of Significant Accounting Policies (continued)

2.3 Taxation

The Council is exempt from all forms of taxation except fringe benefits tax.

2.4 Insurance

In accordance with Commonwealth Government policy, assets are not insured and losses are expensed as they are incurred.

2.5 Comparative figures

The financial statements represent the Council's first financial statements following establishment under *the Competition Policy Reform Act 1995*. As a result comparative figures for the preceding reporting period do not exist.

2.6 Program Statements

The Council represents a component of a sub-program within the Department of the Treasury portfolio. As a result there is no requirement for a program statement to be included in the financial statements.

2.7 Appropriations

Appropriations are recognised as revenue when the Council obtains control over the funds. Control is obtained at the time of expending the funds.

Note 2 - Summary of Significant Accounting Policies (continued)

2.8 Employee Entitlements

The provision for employee entitlements encompasses annual leave, leave bonus and long service leave.

No provision has been made for sick leave as all leave is non-vesting and the value of sick leave estimated to be taken in the future is expected to be less than the entitlement that will accrue to Council staff in those future periods.

The provision for long service leave reflects the present value of the estimated future cash flows to be made in respect of all employees. In determining the value of the liability, the Council has taken into account attrition rates and pay increases through promotion and inflation.

The determination of current and non-current liability portions of the long service leave provision is based on staff survey. The value of long service leave entitlements estimated to be taken within the next twelve months are classified as current.

Annual leave and leave bonus entitlements are classified as current liabilities.

2.9 Superannuation

Staff of the Council contribute to the Commonwealth Superannuation Scheme and the Public Sector Superannuation Scheme. Superannuation contributions made by the Council on behalf of staff in relation to these schemes have been expensed in these financial statements.

A liability is not shown for any unfunded superannuation liability that exists in relation to Council staff. Such liabilities are assumed by the Commonwealth.

Note 2 - Summary of Significant Accounting Policies (continued)

2.10 Resources Received Free of Charge

Resources received free of charge are recognised in the Operating Statement as revenue where the amounts can be reliably measured. Use of those resources is recognised as expenses, or where there is a long term benefit, as an asset.

Resources received free of charge which cannot be reliably measured are disclosed in the notes.

2.11 Cash

For the purposes of the Statement of Cash Flows, cash includes notes, coins and cheques on hand.

2.12 Inventory

Inventory not held for sale which is material in value is recognised as an asset and valued at cost.

2.13 Capitalisation Threshold – Property, Plant and Equipment

All items of computers, plant and equipment with historical cost equal to or in excess of $500 are capitalised in the year of acquisition. The items below this threshold are expensed in the year of acquisition.

All items of leasehold improvements controlled by the Council and with historical costs equal to or in excess of $5,000 are capitalised in the year of acquisition.

The capitalisation threshold is applied to the aggregate cost of each functional asset.

Note 2 - Summary of Significant Accounting Policies (continued)

2.14 Measurement of Property, Plant and Equipment

All property, plant and equipment assets in excess of the capitalisation threshold are recorded at cost, except in the following circumstances:

property, plant and equipment acquired at no cost from other Commonwealth controlled entities are recorded at the amounts at which they were recognised in the transferor's books of account immediately prior to transfer.

2.15 Depreciation and Amortisation of Property, Plant and Equipment

Depreciable property, plant and equipment are depreciated over their estimated useful lives.

Depreciation is calculated using the straight–line method which reflects the pattern of usage of the Council's depreciable property, plant and equipment.

Leasehold improvements are amortised over the estimated useful life of each improvement, or the unexpired period of the lease, whichever is shorter.

2.16 Leases

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased plant and equipment asset and operating leases under which the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at the present value of minimum lease payments at the inception of the lease and a liability recognised for the same amount. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are charged to the Operating Statement.

Note 2 - Summary of Significant Accounting Policies (continued)

2.17 Lease Incentives

The value of rent which would otherwise have been incurred during a rent free period, provided by building owners, is initially recognised as a liability. This liability is reduced once the rent free period ceases by allocating payments between rental expense and reduction of the liability.

2.18 Agreements Equally Proportionately Unperformed

Assets and liabilities which arise from agreements equally proportionately unperformed are not recognised in the Statement of Assets and Liabilities. Such assets and liabilities are disclosed in the notes.

2.19 Economic Dependence

The Continued existence of the Council in its present form is dependent on Government policy and on continuing appropriations by Parliament for the Council's administration and programs.

	6/11/95 – 30/6/96 $

Note 3 – Items of Expenses

The amounts and particulars of the following classes of expenses were included in the aggregate amounts shown in the Operating Statement:

Superannuation expense	69,498
Provision for depreciation and amortisation – property, plant & equipment	46,114
Operating lease rental expenses	3,578
Provision for employee entitlements	29,693
Abnormal expense: the value of employee leave entitlements of staff transferred from other departments and agencies within the Australian Public Service	162,947
Loss on disposal of property, plant & equipment	757

Note 4 – Resources Received Free of Charge

The following resources received free of charge from other Departments have been recognised in the Operating Statement:

Australian National Audit Office	
Provision of audit services	23,500
Department of the Treasury	
Property, plant and equipment	244,648
Other	29,444
Other	
Employee entitlements of temporary secondments from other Commonwealth agencies	2,290
Total	**299,882**

Note 5 – Extraordinary Item: Establishment Expenses

The Council paid the Department of the Treasury a corporate services levy of $99,390 for the value of resources expended by Treasury for the establishment of infrastructure, information technology and procedures to enable the Council to operate as an independent agency.

Note 6 – Receivables

	30/6/96 $
Current	
Other debtors	382
less: Provision for doubtful debts	–
Total	**382**
Receivables are aged as follows:	
Not overdue:	382

These debts are owed by other Commonwealth Departments.

	30/6/96 $
Note 7 – Property, Plant and Equipment	
Computers, plant and equipment – at cost	168,997
less: accumulated depreciation	(15,283)
	153,714
Leasehold improvements – at cost	239,979
less: accumulated amortisation	(30,750)
	209,229
Total – at cost	**408,976**
Less: accumulated depreciation and amortisation	**(46,033)**
	362,943
Included within the above-named are the following assets which have been received free of charge:	
Computers, plant and equipment	25,137
less: accumulated depreciation	(4,031)
	21,106
Leasehold improvements	219,511
less: accumulated amortisation	(28,506)
	191,005
Note 8 – Creditors	
Current	
Trade creditors	26,802
Other creditors	10,309
Total	**37,111**

	30/6/96 $
Note 9 – Provisions	
Current	
Employee entitlements:	
Annual leave & leave bonus	84,614
Long service leave	2,480
Total	**87,094**
Non-current	
Employee entitlements	
Long service leave	**103,256**
Note 10 – Other Liabilities	
Current	
Lease incentives	44,756
Note 11 – Net Assets	
Opening balance	Nil
Add: Total Revenues less expenses for the reporting period	259,008
Closing balance (Residual interest in assets)	**259, 008**

Note 12 – Cash Flow Reconciliation

	6/11/95 – 30/6/96 $
Reconciliation of net cost of services to net cash provided by operating activities:	
Net cost of services – gain/(loss)	(1,401,821)
Extraordinary items	(99, 390)
Loss on disposal of property, plant and equipment	757
Depreciation/ Amortisation	46,114
Revenue from government	1,760,219
Changes in assets and liabilities	
(Increase) in receivables	(382)
(Increase) in other assets	(167,893)
Increase in creditors	37,111
Increase in other liabilities	44,756
Increase in provisions	190,350
Assets included in resources free of charge	(244,648)
Net cash provided/ (used) by operating activities	**165,173**

Note 13 – Expenditure from Annual Appropriations

	Appropriation 6/11/95–30/6/96 $	Expenditure 6/11/95–30/6/96 $
Advances to the Minister for Finance:		
Other running costs	1,982,907	1,389,359
Running costs – SES salaries	89,000	71,005
	2,071,907	**1,460,364**

Note 14 – Aggregate Employee Entitlement Liability

	30/6/96 $
The aggregate value of employee leave liabilities is as follows:	
Provisions – annual leave and long service leave	190,350
Creditors – salary accruals	10,309
Total	**200,659**

Note 15 – Services Provided by the Auditor-General

Audit services are provided free of charge by the Auditor-General. The fair value of audit services provided in relation to the reporting period is $23,500.

No other services were provided by the Auditor-General in relation to the reporting period.

Note 16 – Executive Remuneration

There were no executive officers within the employ of the Council who received or were due to receive fixed remuneration in excess of $100,000 in relation to the reporting period.

Note 17 – Agreements Equally Proportionally Unperformed

Amounts not recognised in the financial statements, from agreements equally proportionally unperformed, are payable as follows:

	30/6/96 $
Non-cancellable operating leases:	
Not later than one year	89,285
Later than one year but not later than two years	122,172
Later than two years but not later than five years	38,854
Total	**250,311**
Other:	
Not later than one year	**19,500**

Note 18 – Act of Grace Payments, Waivers and Amounts Written Off

No Act of Grace payments were made pursuant to sub-section 34A(1) of the *Audit Act 1901* during the reporting period.

No waivers of amounts owing to the Commonwealth were made pursuant to sub-section 70C(2) of the *Audit Act 1901* during the reporting period nor pursuant to any other legislation.

No amounts were written off pursuant to sub-section 70C(1) of the *Audit Act 1901* during the reporting period nor pursuant to any other legislation.

No action was taken under Part XIIA of the *Audit Act 1901* during the reporting period in relation to cases of loss of, or deficiency in, public moneys, or of loss or destruction of, or damage to, other property under the control of the Council.

Note 19 – Events Occurring After Balance Date

No events of a material nature have occurred since 30 June 1996 which warrant disclosure within the financial statements.

Note 20 – Appropriations for Future Reporting Periods

Appropriations relating to future reporting periods at 30 June totalled $724,000 (*Supply Act 1996–97*).

Appendix G Compliance Index

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