

**Review Committee Report on the
National Competition Policy Review of the
Uniform Trade Measurement Legislation**

Stage 1

**Consultants' Scoping Study and Review
Committee Responses and
Recommendations**

December 2001

The views expressed in this Report are the views of the Review Committee only and do not represent the views of State and Territory Governments.

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EXECUTIVE SUMMARY

Requirement to review under National Competition Policy (“NCP”) principles

The Competition Principles Agreement made between all Australian Governments in 1995 provides for the review and where appropriate reform of any legislated restrictions on competition by June 2002. Such a review is undertaken in the context of a public benefit test (“PBT”) of the restrictions only, as opposed to the complete piece of legislation.

The Queensland legislation to be reviewed in this instance was:

- the Trade Measurement Act 1990
- the Trade Measurement (Pre-Packed Articles) Regulation 1991
- the Trade Measurement (Measuring Instruments) Regulation 1991
- the Trade Measurement (Weighbridges) Regulation 1991
- the Trade Measurement (Miscellaneous) Regulation 1991
- the Trade Measurement Amendment Act 1999 and Trade Measurement Regulation (No1) 1999

The review parameters encompassed significantly similar legislation in each other Australian State and Territory excepting Western Australia.

An independent consultant, Economic Insights Pty Ltd, was commissioned to undertake a targeted scoping study of the trade measurement legislation. The scoping study was to assess which restrictions on competition need to be subject to a detailed PBT and to develop a PBT plan as required.

A Review Committee comprising representatives from each stakeholder jurisdiction and including the National Standards Commission and Commonwealth as observers, was formed to oversee the progress of the review.

The role of the consultants was to advise the Review Committee of the arguments for and against modifications to the trade measurement legislation. Responsibility for the final recommendations on the future of the trade measurement legislation was to rest with the Review Committee.

The consultants’ report (attachment A) to the Review Committee concluded that the potentially anti-competitive provisions of the trade measurement legislation fell into three areas – the method of sale; the use of measures and measuring instruments; and participation in the trade measurement industry.

Key restrictions considered in the report related to the method of sale of – meat, beer and spirits; and pre-packaged goods. Non-packed meat cannot currently be sold by each/portion and instead must be sold by kilogram. Spirits must be sold by volume, beer glasses must be marked with their volume and pre-packed goods must be labelled with the packer’s name and address and quantity statement. Certain prescribed goods pre-packed in sizes outside a schedule of sizes must be unit priced (eg marked with the price per kilogram).

The report noted other minor restrictions on competition which were considered by the consultants to be sound, imposing few costs while potentially generating widespread and significant benefits. These restrictions relate to the oversight of measurement standards, the prohibition of end-and-end weighing at public weighbridges and the licensing of service organisations and public weighbridges.

It was argued that in practice, the restrictions on the sale of beer and spirits appeared to have little if any adverse impact on competition but provided benefits to consumers and are justifiable restrictions.

The restrictions on pre-packaged goods were also considered by the consultants to be justifiable as they generally help inform consumers while appearing to impose few costs. However, they did not find it possible to justify the unit pricing of pre-packed goods.

The consultants considered the restriction on the sale of non-prepacked meat to impose significant costs. In their report they argued that it limits the product range offered to consumers, may favour supermarkets and grocery stores over other retailers of non-packed meat and in Queensland favours chicken and fish over red meat. The consultants noted, however, that the restriction also provides benefits for some consumers by facilitating price comparisons between retailers.

The report therefore recommends that if the Review Committee wishes to maintain the restrictions on the sale of non-prepacked meat and unit pricing of pre-packed goods, a detailed public benefit test would be required. The consultant states that this could cost in the order of \$200,000 with a significant share of the costs arising from the need for detailed surveys of consumer attitudes

The consultants' report recommends that such a review would be unnecessary if these restrictions were relaxed and considers that a reasonable case could be made for relaxation based on the work to date.

Review Committee's response to the consultants' scoping study

The Review Committee was satisfied with the key recommendation in the consultants' report that no further investigation is required of most of the restrictions to competition in the uniform trade measurement legislation because the restrictions are justifiable.

However, all jurisdictions disagreed with the extent of further work recommended by the consultants before a case could be made for retaining restrictions on the sale of non-prepacked meat and unit pricing of pre-packed goods.

Review Committee agreement was reached in relation to the perceived shortcomings of the report being:

- Lack of depth to arguments supporting outcomes related to the sale of non-prepacked meat and unit pricing on pre-packed goods;
- The outcome in relation to the sale of non-prepacked meat and the necessity for a further full public benefit test;

- Cost of consultants' proposed strategy for consultation on further PBT work;
- Methodology, especially lack of consumer consultation in the review process; and
- Factual errors in the document.

REVIEW COMMITTEE RECOMMENDATIONS IN CONCLUSION:

This report of the Review Committee makes recommendations on the NCP review of uniform trade measurement legislation based on the findings of the consultant, consideration of submissions received from previous discussion papers issued to amend the legislation and the experiences of each jurisdiction participating in the review through representation of Review Committee members.

The Review Committee recommends that:

- The consultants' scoping study report be acknowledged/noted;
- The Review Committee's response to the consultants' scoping study report be considered;
- The key recommendation in the consultants' scoping study report that most of the restrictions on competition housed in uniform trade measurement legislation are generally justifiable be supported;
- The key recommendation that further public benefit testing on the restriction on the unit pricing of pre-packed goods be noted, however a PBT will not be conducted as the restriction will be relaxed;
- The key recommendation that further public benefit testing on the restriction on the sale of non-prepacked meat be noted but not supported;
- Subject to SCOCA approval, the Review Committee will conduct the PBT on the sale of non-prepacked meat and prepare a PBT report. Rather than developing an issues paper, the Review Committee will tap into TMAC consultation on the issue and conduct further direct consultation with stakeholders, as required;
- The Review Committee will then submit the Review Committee Report and PBT Report, through SCOCA, to the COAG Committee on Regulatory Reform ("CRR") for advice on whether NCP requirements have been complied with; and
- After consideration of CRR comments, the Review Committee will then submit, through SCOCA, the reports to MCCA for public release and then approval.

BACKGROUND TO THE REPORT

Uniform trade measurement legislation

In 1990, Ministers from each Australian State and Territory, with the exception of Western Australia, signed a Formal Agreement to implement uniform trade measurement legislation. Queensland enacted the uniform legislation via the *Trade Measurement Act 1990* (the 'Act'), with the last of the other signatory states/territories to follow suit being Tasmania in 2000.

The objectives of the legislation

The objectives of the legislation are not stated explicitly in the legislation, however for the purposes of this review the consultants worked with the Review Committee to compile objectives for government intervention in trade measurements, which were agreed to by the Review Committee for the purposes of the review.

The agreed legislative objectives are the:

- promotion of commercial certainty;
- reduction of business costs;
- improvement in the efficiency of the trade measurement industry; and
- the maintenance of consumer confidence through suitable protection provisions.

Requirement to review under NCP principles

Trade measurement legislation plays an important role in the economy. By clarifying for business and consumers the measurement of goods offered for sale, trade measurement legislation facilitates market transactions. However, in doing this, some elements of trade measurement legislation have the potential to restrict competition in the economy.

The Competition Principles Agreement made between all Australian Governments in 1995 provides for the review and where appropriate reform of any legislated restrictions on competition by June 2002. Such a review is undertaken in the context of the restrictions only, as opposed to the legislation as a whole.

The Queensland legislation required to be reviewed was:

- the Trade Measurement Act 1990
- the Trade Measurement (Pre-Packed Articles) Regulation 1991
- the Trade Measurement (Measuring Instruments) Regulation 1991
- the Trade Measurement (Weighbridges) Regulation 1991
- the Trade Measurement (Miscellaneous) Regulation 1991
- the Trade Measurement Amendment Act 1999 and Trade Measurement Regulation (No1) 1999

The review parameters encompassed significantly similar legislation in each other Australian State and Territory excepting Western Australia.

In addition the scoping study considered the amendments to the uniform trade measurement legislation agreed to by the Trade Measurement Advisory Committee (“TMAC”) in mid-1998, which are yet to be implemented.

The legislation reviewed is linked to other Commonwealth and State legislation, notably the Commonwealth’s National Measurement Act and the Trade Measurement Administration Acts and supporting regulations of each state and territory. These pieces of legislation are outside the scope of this stage of the review.

National review agreed after consultation with all jurisdictions

In accordance with the proposed Public Benefit Test Plan for uniform trade measurement legislation, endorsed by the Standing Committee of Officials of Consumer Affairs (“SCOCA”) and the Ministerial Council on Consumer Affairs (“MCCA”), Queensland is the lead agency for the conduct of a NCP review of uniform trade measurement legislation, covering all States and Territories, except Western Australia.

As there was no means of providing a clear final cost of the review, SCOCA directed that the review process be conducted in stages and that it approve the costings of each stage of the review.

Part of the process for conducting the review was a proposal to engage consultants to carry out market analysis and Public Benefit Testing.

Tender documentation for the review process were prepared requesting submissions be presented to the Queensland Office of Fair Trading for assessment and recommendation to SCOCA for approval.

Terms of Reference agreed / approved by MCCA and CRR

Terms of Reference, scoping document and strategies for implementing a national review of trade measurement legislation had been submitted to the TMAC on 16 October 1998.

Following TMAC’s acceptance of the Terms of Reference and scoping documents, they were referred to SCOCA for consideration at its meeting of 27 November 1998. At that meeting SCOCA -

- X Agreed to undertake a national review subject to approval by appropriate Ministers;
- X Agreed in principle, subject to the agreement of the appropriate Victorian agency, to the consultancy costs of the review being met by all jurisdictions, proportional to State and Territory population;
- X Agreed that Queensland would provide a detailed estimate of costs for the project;
- X Noted that final approval of costings and each State’s and Territory’s share of the costs would be submitted for SCOCA’s approval;
- X Noted the timing of the review; and

- X Agreed to Queensland forwarding the submission to MCCA for consideration out of session.

On 18 January 1999 the Terms of Reference and other supporting documents were forwarded to MCCA for consideration.

Western Australia rejected the national review approach and expressed intent to proceed with its own NCP legislative review. In view of the Western Australian approach, SCOCA was informed and gave fresh consideration to whether a national approach was to continue for the review process.

The response from MCCA Ministers was to agree to the continuation of a national review, less Western Australia. The ACT agreed in principle, pending a final consideration of costs prior to undertaking the review. When concerns from ACT were satisfied, the Terms of Reference and scoping study plan were submitted to the CRR for approval of the review process.

Consultants engaged

Requests for Proposals by tender were sent on 23 August 1999 to each of the four consultancy groups engaged by the Queensland Department of Equity and Fair Trading as “preferred providers”.

Tenders closed on Tuesday 7 October 1999 and three offers were received from consultancy groups. An assessment panel consisting of Ms Wil Brown, Principal Policy Officer (NCP), Policy and Executive Services and Mr Pat Malone, Senior Policy Officer (NCP), Policy and Executive Services carried out assessment of the proposals submitted by the three consultancy groups. The assessments were based on the selection criteria contained in the “Request for Proposal” sent to each prospective candidate.

Additionally, Mr Mike Montefiore, a consultant engaged by Queensland Treasury to manage NCP reviews, provided a preliminary independent assessment and overview of the applications.

Assessment recommendations were developed using The Value Selection process established under the “Guidelines for Evaluating Consultancy Proposals” of the Queensland Government’s State Purchasing Policy, and were made on the basis of merit and ‘value for money’.

This brief summary of the recommended application was given to SCOCA for their approval:

- **Economic Insights**

This applicant provided a staged approach to the review proposing two options for the first stage –

- A limited scoping study (steps 1, 2 & 4 of the applicant’s proposal) without in-principle assessment or market enquiries costing \$10,000 but

this approach carries risks in that it may not provide for a sufficiently targeted or effective PBT.

- A fully scoped study with market enquiries and in-principle assessment leading to a determination of the need for further market analysis on any or all anti-competitive trade measurement provisions. This approach has been costed at \$37,000.

The second stage was not estimated at this time because the consultant claimed tasks could not be pre-supposed. However the applicant indicated a cost of \$60-\$80,000 for stage two – conduct and reporting of PBT. Surveys of consumer attitudes would add a further \$60,000 to the cost of the exercise.

This proposal was a satisfactory bid in relation to methodology and expertise. Time lines appeared acceptable at 150 days, which would be within the required timeframe of the PBT Plan. The applicant estimated that the initial stage should be completed within one month of commencement of the consultancy.

Economic Insights demonstrated that it was capable of carrying out the review with a high level of application to the task. Strong research indicators were provided in the submission with examples of two relevant case studies on public weighbridge licensing and the regulation of conditions placed on the sale of meat.

Based on the assessment of the three proposals received, Economic Insights was recommended as the Service Provider for the NCP review and scoping study for PBT uniform trade measurement legislation.

It was recommended to SCOCA that the option to provide a four stepped approach to the scoping/costing stage, including the initial in-principle assessment and market analysis at \$37,000 be accepted.

Prior to the engagement of the Service Provider, authority/approval on costings of the review was obtained from SCOCA. A memorandum for circulation out of session to SCOCA members was endorsed and forwarded to the SCOCA Secretariat for distribution.

SCOCA determined that the \$37,000 option proposal in the first stage of Economic Insights' proposal was appropriate to successfully complete the review to the satisfaction of CRR and the National Competition Council.

The recommendations were ratified and, following SCOCA approval of the costings of the review, a formal contract was negotiated with the successful consultancy firm.

Review Committee established

A Review Committee was established to oversee the work of the consultants in this scoping study stage. Review Committee membership was drawn from each state and territory participating in the review and included invitations extended to the National Standards Commission and the Commonwealth Department of Industry, Science and Resources, to observe and participate in discussions.

Review Committee members were:	
Malcolm Bartlett, Trade Measurement	QLD
Vic Lawrence, Trade Measurement	NSW
Janice Boyle, Policy and Regulatory Division	ACT
Murray Gordon, Trade Measurement	TAS
Adam Wilson, Policy and Legal Unit	SA
Les Anderson, Trade Measurement	NT
Martin Oakley, Office of Regulation Reform	VIC

Observers:	
Wil Brown, Secretariat to the review	QLD
Mike Montefiore, Queensland Treasury - Advisor	QLD
Grahame Harvey, National Standards Commission	CWTH
Brian Phillips, Department of Industry, Science and Resources	CWTH

Scoping study conducted

This section summarises the consultation Economic Insights drew on in preparing their report.

Trade measurement inspectors accompanied the consultant to 15 retail outlets and 3 weighbridges in the Brisbane region. Some premises were officially inspected. Interviews on operating practices and the impact of trade measurement legislation were held with most on-site manager/operators. The consultant separately interviewed by phone or face-to-face more than 30 organisations in Australia and New Zealand, most being industry participants or industry association. In addition, a number of weighbridge owners in Queensland and inter-state were consulted in order to obtain data used in an indicative examination of the benefits of the public weighbridge system.

Consultation sought to identify the impact of current legislation. It was expected that it would be difficult to identify the benefits of the current legislation because they are almost unnoticeable and are spread over a large number of transactions by a large number of people.

Consequently the consultation focussed on establishing if any problems were created by the current legislation. When significant problems were identified without provision of the legislation, the consultation sought to identify the potential benefits of the legislation. A list of typical questions asked of those consulted is provided at table E.2 in the consultant's report.

Over 1997 and 1998 TMAC consulted industry and consumer groups on a range of proposed changes to the trade measurement legislation. It is understood that some members of TMAC were not completely satisfied with this round of consultation, with the absence of any issues paper explaining the pros and cons of the proposed amendments seen to result in a lack of suitable understanding by some respondents. Nevertheless, the material provided useful insights into industry and consumer attitudes and was drawn upon in preparing their report.

Interviews with interested parties

Organisations interviewed included 13 Queensland association representatives, 9 national association representatives, 2 New South Wales association representatives, 1 Northern Territory association representative, 2 Victorian association and industry representatives and 4 New Zealand association and industry representatives. They ranged from Public Weighbridge Owners Association, Queensland Consumers Association to National Meat Association of Australia and industry representatives.

Typical questions asked of these groups are noted in the report and were based on determining the industry and consumer view of any restrictions, qualifying any impacts of the current legislation and determining influences and trends in trade measurement as it impacts on choice and quality.

OUTCOMES OF SCOPING STUDY

Restrictions identified

The consultants' report to the Review Committee concluded that the potentially anti-competitive provisions of the trade measurement legislation fell into three areas: the method of sale; the use of measures and measuring instruments; and participation in the trade measurement industry.

Key restrictions considered in the report related to the method of sale of – meat, beer and spirits; and pre-packaged goods. Meat, other than packaged meat, must currently be weighed and priced per kilogram, at the point of sale. Spirits must be sold by volume, beer glasses must be marked with their volume and pre-packed goods must be labelled with the packer name and address and a quantity statement. Certain prescribed goods pre-packed in sizes outside a schedule of sizes must be unit priced (eg marked with the price per kilogram)

The report noted other minor restrictions on competition which were considered by the consultants to be sound, imposing few costs while potentially generating widespread and significant benefits. These restrictions relate to the oversight of measurement standards, the prohibition of end-and-end weighing at public weighbridges and the licensing of service organisations and public weighbridges.

It was argued that in practice, the restrictions on the sale of beer and spirits appeared to have little if any adverse impact on competition but provided benefits to consumers and are justifiable restrictions.

The restrictions on pre-packaged goods were also considered by the consultants to be justifiable, as they generally help inform consumers while appearing to impose few costs. However, they did not find it possible to justify the general practice of unit pricing of pre-packed goods.

The consultants considered the restriction on the sale of non-prepacked meat to impose significant costs. In their report they argued that it limits the product range offered to consumers, may favour supermarkets and grocery stores over other retailers of non-packed meat and in Queensland favours chicken and fish over red meat. The consultants noted, however, that the restriction also provides benefits for some consumers by facilitating price comparisons between retailers.

The report therefore recommends that if the Review Committee wishes to maintain the restrictions on the sale of non-prepacked meat and unit pricing of pre-packed goods, a detailed public benefit test would be required. The consultant states that this could cost in the order of \$200,000 with a significant share of the costs arising from the need for detailed surveys of consumer attitudes

The consultants' report recommends that such a review would be unnecessary if these restrictions were relaxed and considers that a reasonable case could be made for relaxation based on the work to date.

Consultants' recommendations for further public benefit testing

The consultants' assessment prepared for this review points to the restrictions on the competition in the trade measurement industry falling into two categories:

- 1) those that appear to provide net benefits on the basis of economic principle and the consultation to date. In this case it appears unlikely that the objectives of the legislation could be achieved without anti-competitive legislation and there is no overt concern about or opposition to the restrictions; and
- 2) those that could not be shown based on the research to date to generate benefits that outweigh the costs. In this case further research and consultation is required if the restrictions are to be retained.

The restrictions on the sale of non-prepacked meat and on the unit pricing of pre-packed goods fall into the second category. The consultant's assessment is that further work is required before a case could be made to retain restrictions on competition. Their report claims there is a reasonable case for removing such restrictions and, if this assessment is accepted and acted upon, further investigation is unnecessary. If the Review Committee considered it desirable to retain such restrictions, a more detailed PBT would be required of these restrictions only. The consultants anticipate that such a PBT would be a national one that considered all jurisdictions given the potential for differences between jurisdictions (particularly with respect to meat).

In summary the consultants key recommendations are that :

- 1) no further investigation is required of most of the restrictions to competition in the uniform trade measurement legislation. These restrictions include the oversight of measurement standards, the prohibition of end-and-end weighing at public weighbridge and the licensing of service organisations and public weighbridges; and
- 2) a detailed public benefit test would be required if the Review Committee wishes to maintain the current restrictions on the sale of non-prepacked meat and the unit pricing of pre-packed goods.

The report therefore recommends that if the Review Committee wishes to maintain the restrictions on the sale of non-prepacked meat and unit pricing of pre-packed goods, a detailed public benefit test would be required. The consultant states that this could cost in the order of \$200,000 with a significant share of the costs arising from the need for detailed surveys of consumer attitudes

The consultants' report recommends that such a report would be unnecessary if these restrictions were relaxed and considers that a reasonable case could be made for relaxation based on the work to date.

Estimated cost of PBT

The consultant considered that should the Review Committee wish to further explore the case for maintaining the restrictions on the sale of non-prepacked meat and the unit pricing of pre-packaged goods, a PBT would be required. This they estimated would cost in the order of \$200,000 with a significant share of the costs arising from the need for detailed surveys of consumer attitudes. In the view of the consultant, the restrictions on the sale of non-prepacked meat could only be maintained if it could be

demonstrated from a survey that the potential gains to some consumers outweighed the costs to other consumers and to producers. A survey of consumer attitudes was also considered by the consultants to be desirable in examining the unit pricing of pre-packaged goods, but not essential. Targeted interviews with suppliers were also considered to be important in both cases if a rigorous case was to be made.

REVIEW COMMITTEE’S COMMENTS ON SCOPING STUDY

Economic Insights was commissioned to undertake a targeted NCP scoping study of anti-competitive restrictions contained in uniform trade measurement legislation (excepting Western Australia) and provide a report on their findings to a Review Committee established to oversee the review process.

The role of the consultants’ was to advise the Review Committee of the arguments for and against modifications to the legislation. Responsibility for the final recommendations on the future of the trade measurement legislation was to rest with the Review Committee.

In that capacity, a draft report was submitted to the Review Committee for consideration in March 2000. The Review Committee provided substantial comments to the consultants’ and those comments were incorporated in varying degrees into a final draft report delivered to the Review Committee in May 2000.

However, the comments provided by the Review Committee concerning the consultants’ cost/benefit analysis of the restrictions on the sale of non-prepacked meat and unit pricing of pre-packed goods were not reflected in the consultants’ final report.

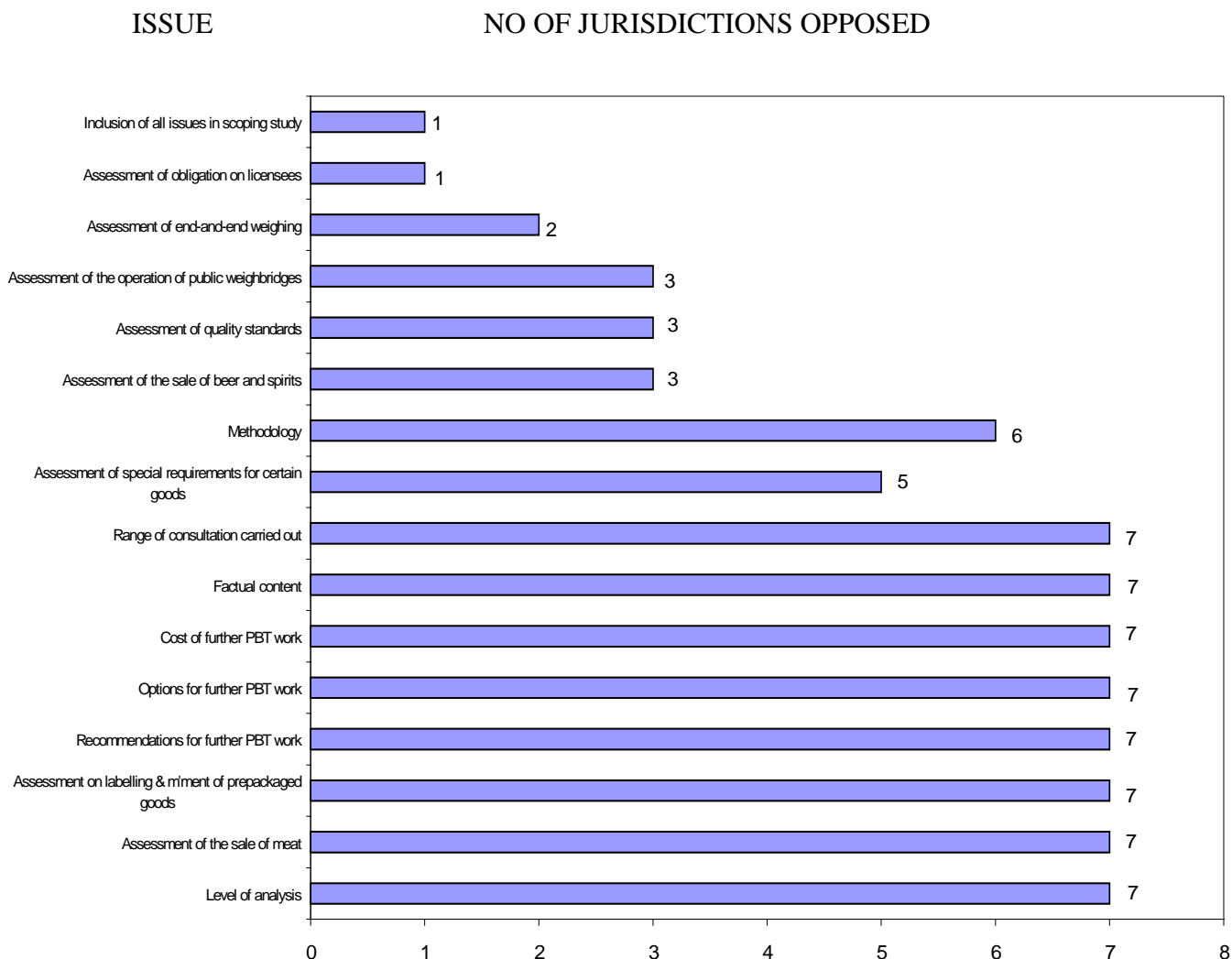
The following table summarises comments made by each jurisdiction’s Review Committee members in response to the final report submitted:

Areas of specific concern to Review Committee jurisdiction representatives

Jurisdiction Representative	Primary Concern
Queensland – including Queensland Treasury in an oversight capacity	Cost of consultants’ proposed strategy for consultation on further PBT work. Lack of value added in use of weighbridge scenario.
New South Wales	Cost of consultants’ proposed strategy for consultation on further PBT work.
Victoria	Concerns regarding methodology used in assessing sale of meat restrictions. Cost of consultants’ proposed strategy for consultation on further PBT work. Wants the National Measurement Act included in this review process.
Australian Capital Territory	Cost of consultants’ proposed strategy for consultation on further PBT work. Flawed arguments in relation to section on sale of meat – lack of consumer representation and consultation in the

	arguments posed.
Tasmania	Methodology and argument supporting recommendations especially in relation to sale of meat – argument unconvincing. Factual errors. Cost of consultants’ proposed strategy for consultation on further PBT work. Use of scenarios for weighbridge assessments does not add value.
South Australia	Lack of depth to argument supporting recommendations in relation to sale of meat and labelling requirements. Factual errors, particularly in relation to labelling of packaged goods. Cost of consultant’s proposed strategy for consultation on further PBT work.
Northern Territory	Cost of consultants’ proposed strategy for consultation on further PBT work. Flawed arguments in relation to section on sale of meat – lack of consumer representation and consultation in the arguments posed. Lack of value added by use of weighbridge scenario.
National Standards Commission – Observer status only	Level of analysis flawed especially in relation to sale of meat – detracts from credibility of the report. Report argument does not justify any requirement to carry out further PBT work.
Commonwealth - Observer status only	No comment made.

The bar chart below illustrates the primary concerns of the Review Committee membership of jurisdictions. This comprises QLD, NSW, ACT, VIC, TAS, SA, NT. Comments and direction from the Queensland Secretariat to the review, Queensland Treasury and Commonwealth Observers are not recorded in these statistics.



At its last meeting the Review Committee decided that despite these deficiencies in the consultants' report, they would accept the report and note the findings of the consultant and supplement the report with a report of its own outlining jurisdictional concerns and making alternative recommendations to SCOCA.

At that last meeting, the Queensland Treasury representative gave direction to the Review Committee on the matter of agreement in each jurisdiction. In summary, that direction was that while NCP principles require that each jurisdiction be comfortable with retaining restrictions, it may not be necessary for each jurisdiction to be uniformly accepting of the recommendations or issues raised in the consultants' report.

It was noted by the Review Committee that other suitable alternatives to proceeding with a PBT were available and that in the decision to proceed, Review Committee

members should differentiate between the NCP requirement to review and the TMAC imperative for uniformity. Given that Western Australia was not party to the review, this was a pertinent point.

The Queensland Treasury representative emphasised that in this Review Committee capacity it is important to establish a base from which each participating state and territory can assess whether or not it supports retaining restrictions contained in the legislation.

The Review Committee was satisfied with the key recommendation in the consultants' report that no further investigation was required of most of the restrictions to competition in the uniform trade measurement legislation because the restrictions are justifiable.

However, all jurisdictions disagreed with the extent of further work recommended by the consultants before a case could be made for retaining restrictions on the sale of non-prepacked meat and unit pricing of pre-packed goods.

Review Committee agreement was reached in relation to perceived shortcomings of the consultants' report being:

- Lack of depth to arguments supporting outcomes related to the sale of non-prepacked meat and unit pricing on pre-packed goods;
- The outcome in relation to the sale of non-prepacked meat and the necessity for a further full public benefit test;
- Cost of consultants' proposed strategy for consultation on further PBT work;
- Methodology, especially lack of consumer consultation in the review process; and
- Factual errors in the document.

Review Committee members agreed that other restrictions identified in the report were relatively minor in the context of the broad application of uniform trade measurement legislation, and had been dealt with adequately in the consultants' report.

Review Committee members were comfortable with the consultants' work on developing objectives for government intervention in the use of measurement in trade and commerce.

Review Committee to conduct PBT work

The Review Committee rejected the consultants' proposed strategy for carrying out consultation in relation to further public benefit testing on issues relating to the sale of non-prepacked meat and unit pricing of pre-packed goods.

The consultants' proposed strategy was rejected mainly because Review Committee members could not identify in the consultants' report any reasonable justification for spending over \$200,000 in the manner recommended by the consultants to test consumer sentiment, when other avenues for establishing whether the restriction delivers significant benefits for all consumers were available.

The Review Committee notes that TMAC has recently conducted public consultation on a number of proposed amendments to the uniform trade measurement legislation, which included the issues of the sale of non-prepacked meat and the unit pricing for pre-packed goods. Following public consultation, TMAC made a number of recommendations to SCOCA to amend the legislation. On 15 June 2001, SCOCA directed Queensland to draft a number of the recommended amendments to the Queensland trade measurement legislation and that these amendments be used as a model by the other participating States and Territories to amend their own legislation. One amendment relates to the unit pricing of pre-packed goods. The proposed amendment would remove the obligation for nominated pre-packed goods to be sold in prescribed sizes and instead requires that such goods (excluding fruit and vegetables) be unit priced when packed in random mass packs. As this restriction will be relaxed, the Review Committee does not consider it necessary to conduct a PBT.

Subject to SCOCA approval, the Review Committee considers that it would be cost and time effective for it to conduct the PBT on the sale of non-prepacked meat and to prepare a PBT report. Rather than developing an issues paper, the Review Committee could tap into TMAC consultation and conduct further direct consultation with stakeholders, as required. Once the PBT report has been approved by the Review Committee, SCOCA's approval will be sought to forward the Review Committee Report and PBT Report to CRR for approval. After consideration of CRR comments, the Review Committee will then submit, through SCOCA, the reports to MCCA for public release/approval.

REVIEW COMMITTEE RECOMMENDATIONS IN CONCLUSION:

This report of the Review Committee makes recommendations on the NCP review of uniform trade measurement legislation based on the findings of the consultant, consideration of submissions received from previous discussion papers issued to amend the legislation and the experiences of each jurisdiction participating in the review through representation of Review Committee members.

The Review Committee recommends that:

- The consultants' scoping study report be acknowledged/noted;
- The Review Committee's response to the consultants' scoping study report be considered;
- The key recommendation in the consultants' scoping study report that most of the restrictions on competition housed in uniform trade measurement legislation are generally justifiable be supported;
- The key recommendation that further public benefit testing on the restriction on the unit pricing of pre-packed goods be noted, however a PBT will not be conducted as the restriction will be relaxed;
- The key recommendation that further public benefit testing on the restriction on the sale of non-prepacked meat be noted but not supported;

- Subject to SCOCA approval, the Review Committee will conduct the PBT on the sale of non-prepacked meat and prepare a PBT report. Rather than developing an issues paper, the Review Committee will tap into TMAC consultation on the issue and conduct further direct consultation with stakeholders, as required;
- The Review Committee will then submit the Review Committee Report and PBT Report, through SCOCA, to the COAG Committee on Regulatory Reform (“CRR”) for advice on whether NCP requirements have been complied with; and
- After consideration of CRR comments, the Review Committee will then submit, through SCOCA, the reports to MCCA for public release and then approval.

TIMING

In accordance with the Government’s NCP obligations, it is anticipated that the recommendations from the Review Committee and the consultation results, be presented to the MCCA for its consideration in 2002.

REVIEW COMMITTEE MEMBERSHIP ENDORSEMENT OF RECOMMENDATIONS

Malcolm Bartlett, Trade Measurement QLD

Signature Date

Vic Lawrence, Trade Measurement NSW

Signature Date

Janice Boyle, Policy and Regulatory Division ACT

Signature Date

Murray Gordon, Trade Measurement TAS

Signature Date

Adam Wilson, Policy and Legal Unit SA

Signature Date

Les Anderson, Trade Measurement NT

Signature Date

Martin Oakley, Office of Regulation Reform VIC

Signature Date

Observers:
Grahame Harvey, National Standards Commission CWTH

Signature Date

Brian Phillips, Department of Industry, Science and Resources CWTH

Signature Date

Catherine Niven for Wil Brown, Secretariat to
the review QLD

Signature Date

Laurie Trueman for Mike Montefiore,
Queensland Treasury Advisor QLD

Signature Date