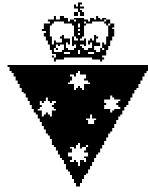

State Government
of Victoria

National Competition Policy

SECOND TRANCHE ASSESSMENT REPORT

Volume I

March 1999

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1 Introduction

National Competition Policy (NCP) contributes to the national economic objectives of improved productivity, enhanced international competitiveness and the maintenance and improvement of living standards.

NCP is contained in three intergovernmental agreements:

- the Conduct Code Agreement (CCA);
- the Competition Principles Agreement (CPA); and
- the Agreement to Implement National Competition Policy and Related Reforms.

Each government reports to the National Competition Council on progress with implementing their commitments made under National Competition Policy.

Victoria's second tranche assessment report provides the NCC with information on Victoria's progress in meeting its commitments under NCP. The report is separated into ten discrete sections, to deal with each particular reform commitment, and is based upon the requirements outlined in the recent NCC second tranche assessment framework.

Victoria has had considerable success at implementing National Competition Policy. Legislation reviews have seen the removal of restrictions on competition in a number of sectors and occupations. Some of the major legislative reforms have involved the areas of retail trade (through shop trading and liquor law reform), fair trading (providing greater flexibility to businesses), agriculture (deregulation of the domestic market for barley), resource industries (through modern framework of issuing rights to explore and extract petroleum) and transport (allowing for greater competition in ancillary services).

Reform of the professions has included both reform to restrictions on competition and administrative arrangements for the operation of professional boards. In general, reviews have resulted in retention of statutory registration and associated restrictions on the use of professional title, removal of restrictions on ownership of practices by registered professionals, and limited restrictions on advertising (principally requirements for fair and accurate advertising). Ongoing reform ensures that regulation does not inhibit growth and change in these specialist labour markets, and provides greater scope for professions to compete, as markets for professional services become increasingly integrated at a national level and with New Zealand.

Victoria has made substantial progress in the two and a half years since the publication of its time table, and the legislation review program is on track to be completed by the December 2000 deadline.

However, success has not been limited to legislation reviews. The introduction and implementation of competitive neutrality (CN) has seen a levelling of the playing field between government organisations and private businesses. All significant Victorian government business enterprises (GBEs) are now subject to income and wholesale

sales tax equivalents. As well, CN has been promoted through presentations to regional hospitals, discussions with universities on the appropriate application of the policy, and advice to government agencies on the application of CN policy to their business activities. The Victorian Government Purchasing Board has incorporated CN into its best practice guidelines - to ensure that tenders put forward by Victorian government businesses are appropriately priced. The result of these reforms are to ensure that the most efficient business (be it government or private) provides the service or good.

The reforms of gas, water, and electricity have all generated benefits to Victorian consumers. These benefits are not only coming through the expected price reductions for these services, but also through increased security and quality of supply. As these reforms progress, the benefits will become even more pronounced.

The following sections will cover Victoria's progress on:

- Legislation Reviews
- Competitive Neutrality
- Local Government Reform
- Structural Reform Compliance
- Prices Oversight
- Conduct Code Obligations
- Electricity Reform
- Gas Reform
- Water Reform
- Road Transport Reform.

It is anticipated that this report will demonstrate Victoria's on-going commitment to abide by the spirit and intent of National Competition Policy.

Legislation

Reviews

2 Legislation Reviews

2.1 Introduction

In order to reduce unwarranted restrictions on competition, all governments have agreed to adopt, under clause 5(1) of the CPA, the following guiding legislative principle:

Legislation (including Acts, enactments, ordinances or regulations) 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*
- *the objectives of the legislation can only be achieved by restricting competition.*

Application of the guiding legislative principle involves both a review of existing legislation contained in the Victorian Government's Timetable for Review of Legislative Restrictions on Competition, June 1996; and the testing of proposed new legislation under the Victorian Government's Guidelines for the application of the Competition Test to New Legislative Proposals 1996.

2.2 Highlights of reform

Victoria has made substantial progress in the two and a half years since the publication of its timetable for review of legislative restrictions on competition. It is anticipated that the legislation review program will be completed by the December 2000 deadline. The following provides a flavour of the legislation review inspired reforms that have occurred in Victoria so far:

Retail regulation

Major reforms to retail regulation have been made through deregulation of shop trading hours in 1996, and reform to liquor licensing in 1998. High levels of retail industry growth have, in part, been sustained by the Government's willingness to provide greater flexibility to businesses and choice to consumers.

Fair Trading regulation

A key fair trading reform to date has been the removal of various competitive restrictions on finance brokers. The licensing of finance brokers and their agents has been discontinued, and finance brokers' commissions are no longer capped.

Agriculture, Resources, and Transport reform

Competitiveness is of particular importance to agricultural industries due to their exposure to international markets. The review of barley regulation found no net community benefit from requiring growers to sell through a statutory marketing authority. Following extensive industry consultation, the Government will complete initial deregulation of the domestic barley market from July 1999, and allow competition in export barley marketing from July 2001. In addition, the Government is facilitating the restructuring of the Australian Barley Board into a company, able to

compete successfully in an open market, and owned by Victorian and South Australian barley growers. An important and far-reaching review of dairy regulation is currently underway.

In the resources industries, reviews of petroleum regulation provided a modernised framework for issuing rights to explore and extract petroleum.

Reviews for transport industries are in progress with a completed review of marine regulation providing a framework for greater competition in ancillary services such as pilotage. Competition and competitiveness in the transport services is important to a wide range of industries, particularly export industries.

Reform of the Professions

National Competition Policy has sparked further reform to the regulation of the professions. Recent reforms have been concentrated in health industries - with reform to regulation of chiropractors and osteopaths in 1996 followed by optometrists and chiropodists in 1997, and physiotherapists in 1998. Reform for psychologists is pending along with dentists.

Reform has included both the removal of unnecessary restrictions on competition and new administrative arrangements for the operation of professional boards. In general, reviews have resulted in retention of statutory registration and associated restrictions on the use of professional title (eg "osteopath"), removal of restrictions on ownership of practices by registered professionals, and limited restrictions on advertising (principally requirements for fair and accurate advertising.) In specific cases, procedures can only be performed by registered professionals, as in the case of prescription of glasses which offers an opportunity to screen for eye disease.

Legal professional regulation was the subject of new legislation in 1996 that removed many barriers to competition in the legal services industry. Significant reforms have included the removal of the distinction between solicitors and barristers with consequent direct access by clients to barristers, and opening of the market for conveyancing services to non-lawyer providers.

Ongoing reform ensures that regulation does not inhibit growth and change in these specialist labour markets, and provides greater scope for professions to compete, as markets for professional services become increasingly integrated at a national level and international level through World Trade Organisation agreements and mutual recognition.

Volume II of the report demonstrates, in detail, Victoria's progress on implementation of the legislative review agenda.

The following sections highlight Victoria's response to the legislative review issues raised by the NCC in the second tranche assessment framework. These are the:

- Legal Practice Act
- Legal Practice (Amendment) Act 1998
- Liquor Control Act 1987
- Residential Tenancies Act (1980) and regulations (1992)
- Housing Act (1983) and regulations (1985, 1994)
- Transport Accident Compensation Legislation
- Workplace Accident Compensation Legislation
- Barley Marketing Act 1993
- Dairy Industry Act 1992
- Public Sector Superannuation (Administration) Act 1996

2.3 Legal Practice Act 1996

The *Legal Practice Act 1996* was developed in consultation with members of the Attorney-General's Working Party on the Legal Profession. Membership of the Working Party was widely drawn from both inside and outside Government, including representatives of both the Victorian Office of Regulation Reform and the Micro-Economic Reform Branch of the Department of Premier and Cabinet. The Working Party paid particular attention to National Competition Policy and the provisions of Part IV of the *Trade Practices Act.*

A competition policy review in accordance with the Victorian Guidelines for the Application of the Competition Test to New Legislative Proposals (December 1995) was carried out concurrently with, and as part of, the drafting of the Act. The Act was passed in the last parliamentary sittings of 1996 and received royal assent on 6 November 1996. The new Act came into operation on 1 January 1997.

The Act contained various features to ensure competition occurred in the market for legal services.

- The Legal Ombudsman was given an ongoing power to investigate anti-competitive behaviour, practice rules or legislation relating to the market for legal services, and to report to Parliament.
- Practitioners were given a full right of appearance before the courts and to practise as advocates without having to be members of the Bar.
- Clients were given direct access to brief barristers, without having to do so through a solicitor.
- Various practice restrictions for barristers were removed (e.g. compulsory clerking and chambers).
- Lawyers were allowed to incorporate their practices.
- Lawyers and clients were allowed to enter into fee agreements and are not bound by any particular costs scales.
- Fee agreements were allowed to be conditional on success.

- Non-lawyers were allowed to carry on conveyancing businesses.
- All interstate practitioners were allowed to practise in Victoria, without having to be admitted to practice in Victoria or obtain a practising certificate in Victoria[1].
- Compulsory practitioner membership of the Law Institute and Bar Council was abolished.

There are, however, two features of the Act which involve some restrictions.

The first is the requirement that lawyers be licensed and that they must hold a practising certificate in order to carry on business. The second is the Solicitors' Guarantee Fund (or Fidelity Fund).

Licensing of lawyers

Licensing of lawyers is justifiable because the benefits to the community of not allowing persons without a minimum level of qualification to represent other persons before the courts, and to carry out work which affects personal property rights, and even personal health and safety, is greater than the costs which flow from the restriction. The costs to the community of allowing unlicensed persons to perform specialised work requiring legal knowledge and skill would include:

- losses suffered in the course of litigation or in commercial or other transactions due to the inadequate knowledge, experience or expertise of the unlicensed person handling it;
- wasted professional fees and expenses;
- increased litigation costs through an increased number of transactions and legal relationships breaking down;
- increased costs being caused to business through delays and failures in the efficient handling of commercial disputes and the creation and management of commercial relationships;
- substantial additional court time and justice system resources (including those of the police, the courts and other enforcement bodies, such as the sheriff's office) being devoted to, and wasted by, unnecessary delays, adjournments and additional unnecessary litigation and appeals, all of which are additional resources that must be funded by taxpayers; and
- additional costs to other parties, caused by inefficiencies arising from dealing with parties being represented by unlicensed persons, and to other court users, as a result of delays and inefficiencies being caused to the overall operation of the court system.

A person is entitled to obtain a practising certificate if the person has been admitted to legal practice. The criteria for admission to practice are not set by the legislation but are rather set independently by a body outside the Act, the Supreme Court of Victoria.

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[1] Victoria is the only State which does not require reciprocal practising certificate recognition legislation in the interstate practitioner's home state as a pre-condition for allowing the interstate practitioner to practise in Victoria.

Possession of a practising certificate is also necessary in order for a practitioner to make use of the national reciprocal practising certificate regime, whereby a Victorian practitioner can then practise in New South Wales or the ACT on the strength of his or her Victorian practising certificate. Similar criteria apply in order for a Victorian practitioner to make use of the Mutual Recognition Scheme to gain admission to practise in other States. The current level of qualifications required for admission to practice and practising certificates have been set nationally to achieve a consistent basis. Maintaining national uniformity in relation to these matters is central to allowing a competitive national market for legal services to develop.

Fidelity Fund

The Fidelity Fund (formerly known as the Solicitors' Guarantee Fund) is a statutory fund required by the Act to provide automatic reimbursement to clients of monies which have been misappropriated from solicitors' trust accounts. It is administered by the Legal Practice Board, a statutory authority independent of the profession. It effectively acts as a monopoly provider of this service.

This restriction on competition is justified as any alternative form of insurance scheme would provide reduced cover at greater cost.

The primary source of income for the Fund is interest earned on pooled monies in trust accounts. This interest could not otherwise be recoverable, as it could not be practically divided up and paid to individual clients without the imposition of a severe administrative and cost burden on practitioners. In fact, until the Solicitors' Guarantee Fund was first introduced, banks did not pay interest on trust accounts.

Fidelity Fund cover is therefore provided at a considerably lower cost to providers of legal services and their clients than would be any kind of comparable insurance, which would have to be fully funded directly by practitioners (and, through increased fees, by their clients). Any refund of interest earned on trust account monies, to offset the cost of insurance, would be reduced by the additional administration expenses incurred in calculating and paying such refunds. Further, as the Fidelity Fund's purpose is to reimburse clients for defalcations of trust monies, there is a direct nexus and rationale for that reimbursement being funded by interest earned on the same trust monies.

No less restrictive alternative will meet the objective of ensuring unlimited cover to users of solicitors' trust account services. There is no per claim limit on the amount of cover provided by the Fidelity Fund. The private market, on the other hand, will not provide unlimited cover.

2.4 Legal Practice (Amendment) Act 1998

The Legal Practice (Amendment) Act 1998 retained the statutory mutual fund monopoly on supply of compulsory professional indemnity insurance for solicitors. Previously the statutory monopoly was to sunset on 31 December 1998.

Net community benefit

It was found that, pursuant to clause 5(1) of the *Competition Principles Agreement*, the benefit to the community conferred by the retention of the current mutual fund monopoly outweighs any costs to the community.

The costs were that the application of a standardised insurance scheme to the whole profession prevented the tailoring of insurance to the individual practice areas or specialisations of practitioners[2].

However, independent reports provided by various external consultants to the Legal Practice Board, including Frank Hoffmann and Geoff Masel and Trowbridge Consulting, found that:

- the mutual fund monopoly's on overall premiums would be cheaper than those of the commercial insurance market over the long term;
- the mutual fund could provide greater premium stability than the commercial insurance market over the long term;
- the mutual fund would not leave gaps in its coverage which the private market definitely would.

Trowbridge Consulting, which carried out an actuarial review of the relevant benefits of an open market scheme for Victorian solicitors, specifically concluded:

> "*Premium levels, premium stability and coverage are fundamental components of any insurance scheme and all three are likely to suffer in a move to a competitive market.... In our view these three advantages significantly outweigh any perceived costs of not having a competitive market.*"

It is likely that, in an open market, private insurers will initially loss-lead to create a market niche and that they will also concentrate their efforts on skimming off the more commercially attractive firms. Later, as claims liabilities mount and the cyclical nature of the re-insurance market impacts, premiums will rise and insurers will become more selective as to which practitioners they will insure. Premiums will therefore exhibit significant volatility. Solicitors' insurance premiums in Victoria are currently the cheapest in Australia. Even so, the average insurance premium for each solicitor costs approximately ten times as much as the solicitor's practising certificate fee. This is therefore a significant cost for solicitors and for their clients (to whom the cost must ultimately be passed on.) Premium stability is in the interests of the community, as excessive volatility may dissuade practitioners from entry into the legal services market, thereby reducing the competitive pressure within that market which consumers would otherwise benefit from.

No alternative to restricting competition

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[2] Risk rating of professional indemnity insurance premiums is already required by the *Legal Practice Act* and this requirement will continue. Accordingly, firms with poor claims histories are already being required to pay higher premiums.

The objectives of the legislation in requiring the maintenance of the mutual fund monopoly are:

- to ensure that each consumer of legal services is covered by comprehensive professional indemnity insurance against financial loss suffered as a result of the actions of their solicitor or former solicitor;
- to ensure that consumers have access to the economical and locally provided services of sole practitioner and small firm legal practices; and
- to ensure that competition within the legal services market is not reduced as a result of the ability to obtain insurance becoming in itself a barrier to entry.

Alternative means of achieving these objectives were considered but found to be deficient. An open market for professional indemnity insurance would not achieve the objectives.

Professional indemnity insurance is written world-wide on a claims made basis. Accordingly, "run off" cover is required for practitioners to cover consumers who do not make a claim until after the practitioner has ceased practice. Almost 50% of all negligence claims are made 3 or more years after the alleged negligence has occurred and 10% of claims are made 7 or more years afterwards. On the other hand, the private industry will resist providing run off cover for more than 1 year at a time and will also resist any requirement which makes its provision, in any form, compulsory. Recent experience in the domestic building, stock broking and insurance broking industries confirms this level of resistance.

Even where private industry run off cover is available to a practitioner, the former lawyer cannot practically be compelled to take out run off cover. Consumers will also be left exposed in the following situations because the former practitioners either will not take out run off cover or run off cover will be unavailable:

- deceased practitioners;
- firms disbanded because of partnership disputes and breakdown;
- practitioners with a poor claims history while in practice;
- retired practitioners who are insolvent; and
- disgraced solicitors who have been struck off.

On the other hand, the mutual fund provides run off cover to all former practitioners and covers all claims made against the practitioners after they cease practice.

An alternative, to deal specifically with the run off problem, would be the imposition of a condition within a standardised insurance policy requiring those private insurers who provide professional indemnity cover to the legal services market also to give "last on risk" run off cover as part of the policy. Last on risk cover involves requiring the insurer to provide run off cover for no extra premium to any practitioner who ceases practice while still insured with that insurer. This alternative would avoid some of the run off problems set out above. However:

- while the run off cover so provided is unlimited in the period for which it applies, the amount of cover is capped for that whole period at the aggregate policy limit

for one year (currently $3 million) - once that limit has been exhausted any further claims are not covered;

- private insurers will try to avoid insuring practitioners who are seen as being at greater risk of ceasing practise and going into the run off stage (such as older practitioners, women who recently had a first child or practitioners with any history of ill health), with the effect that at least some of these practitioners will be forced to leave practice early through inability to obtain insurance;
- there is nothing to stop a private insurer who has written cover on a last on risk basis from withdrawing from the market, ceasing to provide cover to former practitioners and taking its accumulated reserves with it;
- a last on risk requirement would impose a considerable burden on consumers of legal services, who would experience difficulties in identifying what insurer was on risk when the practitioner ceased practice, even more so when the practitioner has since died or his or her location is unknown;
- such a requirement would reduce the number of insurers prepared to compete in the market because it is difficult for insurers to obtain re-insurance cover if run off is to last more than a reasonably short fixed period;
- in any event, such a compulsory requirement would not be accepted by the private market (as has already occurred in the case of proposed run off requirements in the domestic building and insurance broking industries).

The current mutual fund does not suffer from any of these problems. Run off cover is provided for all former practitioners and the amount of run off cover is renewed annually.

An open market would also reduce the availability to consumers of the economical and locally-accessible services provided by sole practitioners and small firm legal practices. This is because the availability of cover for these legal service providers would fall substantially due to the information asymmetry in the professional indemnity insurance market between the insurer and insured.

Of the approximately 2,500 legal practices in Victoria, approximately 1,500 are sole practitioners or small firms. It is costly for insurers to judge the individual risk of each potential customer, and smaller firms will not yield sufficient premium income to warrant carrying out a detailed underwriting assessment of each firm. Sole practitioners and small firms are also perceived by the commercial insurance industry as having lower intra-partnership quality assurance and being at greater risk because they usually involve generalist practitioners practising across multiple areas of legal specialisation. Although not necessarily supported by claims statistics in Victoria, industry perception is therefore that, as a class, smaller practices involve a greater risk than middle to large practices. For the above reasons, insurers will use sometimes arbitrary risk indicators (for instance, whether a firm has had a claim previously or has incurred defence costs, irrespective of the actual merits or success of the claim), and will deny product to firms which fail these risk indicators, rather than properly price in the exposure of the practice. Administration and marketing costs, as a proportion of premium income actually received, are also substantially greater in the case of small firms, as against middle to large firms, and act as a significant disincentive to insurers to market or provide their product to small and country firms.

Because smaller firms do not have the same level of continuity as large firms when founding principals leave the practice, run off exposure is also a particular problem for small firms and this will be exacerbated by private insurer resistance to providing extended run off cover.

To address this, a market combining both commercial insurers and an assigned risk pool could be set up. An assigned risk pool is a system whereby practitioners who are unable to obtain insurance on the open market are able to obtain cover by being placed in an assigned risks pool funded by higher premiums and, possibly, by a levy on the private insurers. However, the problem with this alternative is that such a pool cannot generate sufficient income and reserves to allow it to provide the practitioner with insurance coverage for an unlimited period. The practitioner must always come back out of the pool and try to get insurance on the open market again. For example, the assigned risks pool in Ireland (the only jurisdiction where this system has been tried) allows a practitioner to stay in the pool for only 2 years before the practitioner is required to leave. Yet, once a person has been in an assigned risk pool, the person's insurance history will be such that the person will be effectively uninsurable once they leave. Entry to the pool will therefore do nothing more than delay the practitioner being forced to leave practice.

Another alternative is to legislate, in conjunction with setting minimum terms and conditions of insurance, to control premium setting and risk rating within certain limits and to prohibit insurers from refusing to grant insurance to various practitioners. However, the reality in any open market system is that one cannot force commercial insurers to participate in a particular market or to insure persons against their will or to grant insurance on conditions with which they do not agree. Insurers will refuse to participate in such a market. Experience in the domestic building, stock broking and insurance broking industries is that commercial insurers have refused to grant insurance on terms which they do not like, and have even forced a dropping of certain of those requirements, under threat of withdrawing from the particular market and leaving the various professionals uninsured.

2.5 Liquor Control Act

The review of the Liquor Control Act 1987 against National Competition Policy commenced in September 1997 with the report of the Review Panel provided to the Minister for Small Business and Tourism on 9 April 1998.

The Review was a Model 2 - Semi-Public Review, with the Review Panel consisting of:

- Hon Haddon Storey QC, Professional Associate in the Public Sector Research Unit, Victoria University of Technology (Chair).
- Associate Professor Margaret Hamilton, Director Turning Point Alcohol & Drug Centre, Department of Public Health and Community Medicine, University of Melbourne.
- Mr Gordon Broderick, Secretary of the Liquor Industry Consultative Council of Victoria.

The Review Panel recommended significant reform of Victoria's liquor laws. On 24 November 1998, the Liquor Control Reform Act 1998, which gave effect to the agreed recommendations of the Review Panel, received Royal Assent with the Act being subsequently proclaimed for implementation from 17 February 1999.

Upon considering the recommendations of the Review Panel, the Government determined to retain certain restrictions on competition provided for in the now repealed Liquor Control Act 1987. In particular:

Certain premises not to be licensed

(1) The Director must not grant a licence or BYO permit in respect of –
  - *(a) premises used primarily as a drive-in cinema; or*
  - *(b) premises used primarily as a petrol station; or*
  - *(c) premises that, in the opinion of the Director, are used primarily as a milk bar, convenience store or mixed business; or*
  - *(d) premises in a class of premises prescribed for the purposes of this section.*

(2) The Director, with the approval of the Minister, may grant a licence in respect of premises referred to in sub-section (1)(c) if the Minister is satisfied that the area in which the premises are situated is a tourist area or an area with special needs and that there are not adequate existing facilities or arrangements for the supply of liquor in the area.

The licensing of petrol stations is seen to have implications for drink/driving in that it may encourage the impulse purchase of packaged liquor in conjunction with petrol, unlike the situation in respect of drive-in liquor outlets where the clear intention is to purchase liquor.

Furthermore, in its submission to the Review Panel, the Victorian Police stated that "because there are so few controls over the consumption of packaged liquor, it is submitted that the sale of packaged liquor should be more closely regulated than sale for consumption in licensed premises".

With the current ready availability of packaged liquor through hotels and retail bottle shops and supermarkets, and the ongoing community concerns regarding underage drinking, it is the Government's view that it is not in the community interest that petrol stations be eligible to obtain liquor licences.

In respect of convenience stores, mixed businesses and milk bars, the licensing restriction is such that to be able to be licensed they must meet the standard licensing criteria and additional legislated tests of special need or tourism and an inadequate availability of liquor in the community. Between 1988-1998 seventy-nine (79) convenience stores/mixed businesses in smaller regional communities have been licensed in accord with these criteria. Convenience stores/mixed businesses in CBD and metropolitan Melbourne and provincial cities are unable to meet the licensing criteria.

Convenience stores are generally seen to be premises of not more than 240 square metres selling food, drink and a range of convenience products. They vary from small supermarkets in that the range of products available is such that the purchase of daily or weekly household supplies is unlikely to occur at a convenience store.

Youth under the age of 18 years are often attracted to, or in proximity to, convenience stores, in response to the products offered for sale.

On this basis the Government determined that at this time the potential for increased underage access to liquor through convenience stores, if licensed, would be contrary to its underage drinking policy. Special consideration would be given if there is no alternative supply of liquor available to the community.

Limit on packaged liquor licences held by the same or related persons

The Director must not grant or transfer to a person a packaged liquor licence if, at the time of the application for the grant or transfer –

(a) in the case of a natural person, the person holds more than 8% of all packaged liquor licences granted and in force under this Act; or
(b) in the case of a body corporate, the sum of the number of packaged liquor licences held by the body corporate and by any related entities is more than 8% of all packaged liquor licences granted and in force under this Act.

It is agreed by Victoria Police and Alcohol/Drug agencies that access to packaged liquor through supermarkets is a significant contributor to the problem of underage drinking in public places.

Following a survey of research literature concerning the availability of liquor and harm commissioned by the National Competition Policy Review Panel, Dr Ann Roche, Queensland Alcohol and Drug Research and Education Centre, University of Queensland, found that:

"Ease of access to alcohol for young and very young drinkers highly predictive of problems. As these drinkers do not usually frequent on-licence premises, there are important implications here for the provision of alcohol through off-licence (packaged liquor licence) premises such as supermarkets, convenience store and petrol stations. As such there is a good basis for curtailing sale of alcohol through these outlets .....".
[Liquor Control Act Review P103].

Between March 1996 and June 1998, two thousand five hundred and ninety four (2594) infringement notices have been issued to youth by the Victoria Police for breaches of the underage provisions of the Liquor Control Act 1987. Two thousand one hundred and ninety (2190) or 85% of those notices relate to youth under 18 years of age purchasing/possessing/ consuming liquor.

Additionally, in 1996 and 1997 a total of eight hundred and twenty six (826) prosecutions were pursued in the Magistrates Court in respect of youth purchasing/possessing/consuming liquor.

The draft report of Victorian Secondary Students and Drug Use in 1996 (Centre for Behavioural Research in Cancer, Anti-Cancer Council of Victoria) reported inter-alia that:

> *"episodes of binge drinking were relatively common among secondary students, with well over one-third being involved in at least one session during the two weeks preceding the survey".*
> [Draft Report - Victorian Secondary Students & Drug Use in 1996 - P17].

The Government response to these concerns have included significant education and program initiatives through "Turning the Tide" and amendments to the Liquor Control Act in 1995 to provide for more targeted and pragmatic offence provisions in respect of underage access to alcohol and illegal consumption.

The maintenance of the 8% limit in respect of packaged liquor licences is seen to be consistent with the objective of minimising underage drinking.

From the small business perspective, an expansion of the number of licensed major supermarkets could be expected to result in the closure of smaller retail bottle-shop, particularly in regional Victoria.

In NSW, there is no restriction on the number of licences held by an entity, but an existing packaged liquor licence must be purchased by a new entrant for an average premium of $35,000 paid to the Government. Of the 1416 packaged liquor licences at 30 June 1998, 321 (22.6%) were held by Liquorland/Safeway, compared to 115 (15.5%) of the 1133 packaged liquor licences in Victoria. The fee is a barrier to market entry not applied in Victoria.

Whilst sales ($) market share data has not been available since the abolition of liquor licence fees, such data at 31 December 1996 revealed that whereas Liquorland/Safeway held 14.7% of packaged liquor licences, their sales ($) market share was 33%.

It is not unreasonable to expect that in entirely unregulated market a duopoly may emerge.

2.6 Residential Tenancies Act (1980) and regulations (1992)

The Residential Tenancies Act (1980), Caravan Parks and Moveable Dwellings Act (1988) and the Rooming Houses Act (1990) and associated regulations were subjected to a review under National Competition Policy principles in 1997. The review was undertaken in the context of the introduction of a new Residential Tenancies Act (1997) which consolidated existing legislation in this area. The review also considered a draft of the 1997 Act.

The Review was undertaken by consultants (KPMG Management Consulting) under the direction of a Steering Committee. The Steering Committee was represented by the Department of Premier and Cabinet, Department of Treasury and Finance, Department of State Development, Department of Justice and Department of Human Services.

Consultations occurred with peak real estate industry, landlord and tenant groups. Importantly, the Review was also able to draw on the submissions to, and findings of, the 1995 Ministerial Review into Residential Tenancies Legislation which undertook extensive community consultations and led to the development of new draft legislation.

The review was undertaken in the context of the introduction of important new legislation in relation to residential tenancies. While the model adopted for the review did not directly include an extensive public consultation process, such a process had occurred some 18 months prior to the review which led to the development of draft new legislation.

The consultants found that both the existing and the proposed new legislation has a negligible impact on competition, but the legislation can, by setting the framework within which competition operates, have a significant direct impact on market efficiency and equity. The consultants found that the potential restrictions on competition contained in the legislation apply generally to the market and thereby minimise distortions between existing market participants and do not raise significant barriers or disincentives to new entry. Many of the notional restrictions are in fact clarifications of property rights, and/or interventions designed to enhance efficiency and minimise disputes.

There were several areas in the draft legislation which the consultant identified as restrictions on competition. These were:

- the six month period of notice for termination of a lease without a prescribed reason;
- the six monthly limit on rent increases; and
- the regulation of bonds.

The draft legislation was amended in line with the consultant's recommendations regarding notice for termination and rent increases.

The consultants found that bonds should continue to be regulated to protect low income tenants, but with some flexibility introduced in respect of guarantees. The

Government considered that the introduction of guarantees would require additional legislative controls and act counter to the proposed centralised bond fund. No change to the draft legislation was made in relation to bonds.

2.7 Housing Act (1983) and regulations (1985, 1994)

The Office of Housing has undertaken a scoping review of the Housing Act and associated regulations to determine whether a full legislative review is required.

Since the Housing Act was originally scheduled for Review its major regulatory functions have been repealed from the Act. Sections 46-61 of the Housing Act and associated regulations relating to Rental Housing Cooperative were repealed in 1996 (Cooperatives Act, 1996). Sections 63-66 of the Housing Act which related to Standards of Habitation were also repealed in 1996 (Housing (Amendment) Act, 1996).

There are now no regulatory functions remaining in the Act and it is the initial view of the Scoping Review that the Housing Act has no anti-competitive provisions. External advice on this matter is now being obtained.

Each State and Territory has housing legislation which needs to be considered in the context of competition policy. The States and Territories have agreed to cooperate in examining such legislation and the implications for the bilateral Commonwealth State Housing Agreement (through Housing CEOs meetings). This work is expected to be completed over the next six months.

The Office of Housing will be writing to the Department of Premier and Cabinet before the end of January to request either that the Act be removed from the legislative review schedule or an extension of time be granted to allow the outcomes of the States cooperative examination of housing legislation to be considered.

2.8 Transport Accident Compensation Legislation

The current transport accident legislation was enacted in 1986 and the current scheme commenced on 1 January 1987. At that time the new TAC scheme took over an unfunded liability of over $1 billion from the previous Motor Accidents Board. Benefits in the previous scheme were poorly targeted and fraud was a major problem.

The scheme was established by Government to provide no-fault benefits to all persons injured in or as a result of transport accidents. That is the benefits will often flow to third parties. The no fault arrangements avoid the onerous responsibility of victims being required to sue for compensation at a time when they may be physically and emotionally disadvantaged. Common law claims are limited to those who suffer serious injury.

Legislation establishing the transport accident scheme was reviewed in 1997-98 by the Department of Treasury and Finance. The Government announced its decision in

October 1998 to retain the main features of the existing scheme while accepting the need for ongoing review and reform. This review and the Government's response were conducted in accordance with clause 5 of the Competition Principles Agreement.

Net Community Benefit Test

The net community benefit test in clause 5 of the CPA requires that "the benefits of the restriction to the community as a whole outweigh the costs."

Benefits

Premium Level and Stability and Lifetime Care Benefits

The premium compares favourably with that in the other States in terms of its level and stability but the benefits are generally more generous than other jurisdictions - most notably in the provision of lifetime care. For example, TAC's 1998-99 metropolitan premium is $275 compared with the average premium in other jurisdictions of $289. In NSW the premium is $429. The relatively low and stable premium level in Victoria benefits both businesses and household vehicle owners who meet the cost of the scheme. The cost-effective provision of no fault benefits, which includes lifetime care, is rated very highly by the community.

Community Rating

The community rating, that is pricing which is not fully risk reflective, also provides substantial community benefits. Without cross subsidisation of the premium charges, some vehicle owners would face a heavy burden to maintain freedom of movement in their own vehicles as occurs at present. In addition the removal of cross subsidies would increase incentives for avoidance of the premium in some cases. This would result in higher costs for Government in ensuring compliance with the compulsory product. The benefits provided by cross subsidisation are again important to the community.

Potential Costs

The costs of the present scheme were outlined in the NCP review. These include a statutory restriction on entry by private insurers and regulated product and pricing which thereby limits consumer choice and the scope for product differentiation. The review noted that with no direct competition there is less downward competitive pressure on prices normally present as an incentive to maintain market share. With a statutory monopoly there may be fewer incentives than are faced by private managers to control administrative and management costs and reduced incentives to maximise earnings. In addition the review argued that a monopoly provider does not have strong incentives to innovate and to respond to customer needs as the purchaser is unable to purchase the product from any other supplier.

Net Benefit

The Government's view is that the no fault compensation including a provision for lifetime care, lower and more stable premium relative to the other States' average and the community rating in the premium, provide greater benefit to the community than the costs of restricting competition. The benefits have been provided by a stable scheme over a period in excess of 10 years. The costs of restricting competition in Victoria's scheme are judged to be smaller overall than the benefits. The Government has therefore concluded that there is a net benefit to the community as a whole from the existing arrangements.

Alternative Means of Achieving the Legislation's Objectives

Clause 5 of the CPA also requires that competition should only be restricted "where the objectives of the legislation can only be achieved by restricting competition."

Objectives of the Legislation

The critical objectives of the Transport Accident Act are to provide suitable and just compensation in respect of persons who are injured or die as a result of transport accidents which will at times include lifetime care. It is also critical that the compensation provided be universal and affordable which the Government achieves through a compulsory premium with community rating.

The Government believes that the objectives of the existing scheme cannot be achieved by any other means than the current restrictions on competition.

Attempting to achieve these objectives through a system of competing private insurance companies contains fundamental difficulties which are conceptually similar to those outlined above with respect to workplace accident compensation. The difficulties arise from cost effectively providing universal cover in private markets, volatility in private insurance premiums and the inability of private insurers to provide lifetime care.

Adverse Selection and Universal Cover

Adverse selection can develop in a private market. This occurs where insurance is not compulsory. Only high risk individuals or employers have an incentive to insure and the cost may be prohibitive. Universal insurance coverage with community rating may be pursued as legislative requirements on participating private insurers. However where the product is compulsory and the pricing contains community ratings, insurers may require subsidies from Government to support the market. Over time insurers would not want to insure vehicle owners identified as high risk unless Government provided subsidies for higher risks. In addition the regulation required to enforce and subsidise universal cover can be costly. In private markets the Government considers that the high regulatory compliance cost of enforcing universal and affordable coverage, and the high transitional costs that would be required, would potentially lead to a high premium and resulting costs on vehicle owners and the community.

Premium Volatility

Volatility in private insurance premiums is well documented. Insurers decrease prices in order to increase market share when they (or the re-insurance market) hold substantial reserves. Conversely they can sharply raise prices and restrict supply when large losses occur from unsustainably low premiums. This creates an unstable financial environment which can threaten the achievement of the scheme's objectives. Regulating to limit premium volatility such as through "file and write" pricing only introduces a lag in the volatility or causes withdrawal and/or collapse in the market where volatility is attempted to be tightly suppressed. The volatility in "file and write" systems is evidenced by the experience of the NSW Motor Accidents Board.

Lifetime Care

A competitive market in transport accident compensation is simply unable to provide lifetime cover. Insurers often face pressure from investors to deliver benefits in the short term. The insurer therefore has an incentive to dispute and delay claims and to commute long term entitlements.

Conclusion

The Government considers that a competitive model with compulsory coverage, lifetime care and community ratings would result in the problem of high ongoing regulatory costs. Furthermore, the transitional costs that would be required to move from the existing scheme to a competitive model would be a very heavy burden on motorists and could not be justified unless the Government was confident that the benefits would outweigh the costs.

The Government has therefore concluded that the objectives of the existing scheme can only be achieved by restricting competition.

The Government intends to carefully monitor reforms in other jurisdictions. Any experience that demonstrates scope for improvements will be analysed for possible incorporation in Victoria's public monopoly transport accident compensation scheme.

2.9 Workplace Accident Compensation Legislation

WorkCare, a public monopoly, was established in 1985 in response to the inability of the private market to deliver stable and affordable cover and to combat high accident frequency rates. However the previous WorkCare scheme had problems controlling costs. Average premiums rose from an initially projected 2.2 per cent to a high point of 3.3 per cent with unfunded outstanding liabilities peaking at over $4 billion.

At the time of its replacement by WorkCover in December 1992, its unfunded liability was in excess of $2 billion and set to rise again. Design failures meant there was little control over access and little effective focus on return to work within the scheme. The results were high levels of claims and a large cohort of long term partially incapacitated workers who were compensation dependent because the rehabilitation system was inefficient. One unfortunate side effect of this was the stigmatisation of workers on compensation benefits.

The benefits that have flowed from the major reforms to workplace accident arrangements in the existing WorkCover scheme are substantial. Since its inception in 1992 WorkCover has achieved a 40% reduction in claims and a 30% improvement in return to work rates. These gains eliminated a $2.1 billion deficit. The current premium is 1.9% of payroll, down from 3.0% at the start of the scheme.

The legislation establishing the WorkCover scheme was reviewed in 1997-98 by the Department of Treasury and Finance. The Government announced its decision in October 1998 to retain some features of the existing scheme while accepting some of the report's recommendations for reform. This review and the Government's response were conducted in accordance with clause 5 of the Competition Principles Agreement.

Net Community Benefit Test

The net community benefit test in clause 5 of the CPA requires that "the benefits of the restriction to the community as a whole outweigh the costs."

Benefits

Low and Stable Premium

The WorkCover premium, at 1.9% of payroll, is the lowest in Australia. The low and stable premium provides substantial benefits to the community. In 1997-98 alone this has meant a premium saving to employers of $580 million compared with a premium of 3.0% in 1992. The premium savings and the stability of the premium have benefited employers through a more predictable business environment which assists planning and investment decisions which in turn creates further employment. The Government sees these benefits as extremely important to the community.

Lower Injury Rates

The elimination of the deficit has been a genuine efficiency gain in the operation of the scheme. It has not been achieved through a major reduction in benefits or through a simple increase in the premium paid by employers. The improvement in the scheme has been achieved through an increased focus on workplace safety and rehabilitation and improved targeting of the benefits to injured workers. In fact Victoria now has the second lowest injury rate after Tasmania (14.9 and 14.0 per 1,000 employees respectively) and much lower injury rates than most other States according to standardised data in a National Workplace Safety Report recently released by the Federal Minister for Employment, Workplace Relations and Small Business.

Financial Stability and Certainty of Cover

The stability of the scheme overall benefits injured employees by providing a more certain financial environment in which compensation is available and return to work services are given a high priority. The Government has recognised that the community places a high value on "fair" treatment of injured workers and regards this benefit as having a high value. Where a scheme is financially unstable, the longer term focus on return to work for injured employees may necessarily receive less attention and resources in the short term. This results in unequal treatment of injured workers across time or even generations.

Potential Costs

The NCP review ("the review") of the Accident Compensation Act prepared under the Competition Principles Agreement has identified the costs of the existing arrangements. These are restrictions on competition including barriers to entry and regulated pricing in the accident compensation market. No insurer other than WorkCover is able to underwrite accident compensation liabilities and the price or premium charged to employers is set by the Governor in Council. As noted in the review, these restrictions may limit the scope for innovation, flexibility and consumer (employer) choice. The review argued that a regulated premium eliminates potential price competition between insurers and that this reduces opportunities for insurers to engage in innovative premium and product competition and dampens incentives for cost minimisation. The review also criticised the restrictions on self insurance as potentially limiting competition in the market.

The Government accepted some of these findings in the review and has since legislated to introduce greater competition in the delivery of claims management services, the provision of which is now no longer limited to insurers. In addition access to self insurance is being expanded and any unnecessary obstacles to employers taking this route are being removed. The Government recognises that self insurers do have an incentive to invest in prevention and rehabilitation.

Net Benefit

The Government's assessment is that the remaining restrictions on competition represent a lesser cost to the community as a whole than the benefits that are outlined above. The low and stable premium is clear and observable and represents benefits to employers and injured workers that the community rates very highly. The lack of competition in underwriting and the lack of consumer choice are a cost whose value cannot be readily measured. However over the period 1993-94 to 1996-97 workers' compensation costs in Victoria as a percentage of total labour costs fell by 19% while the national average increased by 11%. At the same time benefits in the Victorian scheme are at least comparable or better than the other States, some of which are privately underwritten. The costs of restricting competition are therefore judged to be less than the benefits that are provided by the existing arrangements.

Alternative Means of Achieving the Legislation's Objectives

Clause 5 of the CPA also requires that competition should only be restricted "where the objectives of the legislation can only be achieved by restricting competition."

Objectives of the Legislation

The objectives of the Accident Compensation Act which the Government regards as critical are to provide universal and affordable compensation to all Victorians for work related injury or illness. A further key objective of the scheme is to provide for accident prevention and return to work including long term care and rehabilitation of injured workers.

The Government believes that the objectives of the existing scheme cannot be achieved by any other means than the current restrictions on competition.

The Government believes that it is inherently difficult to achieve these objectives by recourse to other means such as a competitive insurance market due to the problems of:

- adverse selection;
- the volatility in private insurance premiums; and
- the inability of private insurers to capture the benefits of investment in accident prevention and long term rehabilitation.

<u>Adverse Selection</u>

Adverse selection can develop in a private market. This occurs where insurance is not compulsory, only high risk individuals or employers have an incentive to insure and the cost may be prohibitive. Where the product is compulsory, insurers and workers turn to Government to meet or share the costs of covering high risk individuals or employers. This means that the objective of universal coverage cannot be achieved without significant, costly regulation of private markets to enforce and subsidise universal coverage, either directly or through an insurer of last resort. In private markets the Government considers that the high regulatory compliance cost of enforcing universal and affordable coverage, and the high transitional costs that would

be required, would potentially lead to a higher premium and resulting costs on employers and ultimately the community.

Premium Volatility

Volatility in private insurance premiums is also well documented. Insurers seek to increase market share when they (or the re-insurance market) hold substantial reserves and decrease prices. Conversely they can sharply raise prices and restrict supply when large losses occur from unsustainable low premiums. This creates an unstable environment in workplace accident insurance and sends incorrect signals to employers where premium volatility is not dependent on risk but related to other external factors. Significant premium volatility threatens the achievement of all of the objectives of the workplace accident legislation. Regulating to limit premium volatility such as through "file and write" pricing only introduces a lag in the volatility or causes withdrawal and/or collapse in the market where volatility is attempted to be tightly suppressed. The volatility in "file and write" systems is evidenced by the experience of the NSW Motor Accidents Board.

The existing scheme sets premiums to reflect risk or workplace performance. The premium is not affected by external factors such as general capacity in the domestic and worldwide reinsurance market or strategic objectives of insurers, such as enhancing market share. The ability of the scheme to price purely on the cost of workplace injury and rehabilitation, and administration costs, is unlikely to be achieved where competition is not restricted.

Long Term Accident Prevention and Rehabilitation

The existing legislation has removed claimants' access to common law to ensure that long term rehabilitation and return to work remains a primary focus of the scheme. This has significantly increased the size of the scheme's liability tail. Private insurers have, however, a strong preference to commute long term entitlements. Insurers face pressure from investors to deliver short term benefits. For a private insurer, there is a cost advantage in disputing claims rather than investing in programs aimed at long term incidence reduction and injury prevention. Therefore removing restrictions on competition would not be successful without allowing the scheme to revert to benefit types that have been rejected explicitly by Government.

In addition in a private insurance market, an insurer wishing to engage in risk management and prevention activities faces the prospect of developing and maintaining a costly overhead in staff and equipment. This overhead reduces its capacity to compete on price with rivals which do not incur these overheads. An insurer who spends time and resources with an employer in improving that employer's workplace safety is likely to face the risk that the employer will, in the longer term, transfer to another insurer that only competes by offering a lower price. As insurers cannot readily internalise the long term benefits of investing in accident prevention, they tend to prefer to compete on price rather than quality of the product.

Conclusion

The problems of adverse selection, the volatility in private insurance premiums and the inability of private insurers to capture the benefits of investment in accident prevention and long term rehabilitation, mean that the objectives of the legislation can only be achieved by restricting competition. Achievement of the objectives could be pursued through a system of competing private insurance companies which would require heavy handed regulation that imposes high compliance costs, which could result in increases in overall premiums. This approach would also involve substantial transition costs. The Government believes that there is a significant risk that the costs of such regulation would lead to an overall welfare loss rather than a gain.

The Government intends to carefully monitor reforms in other jurisdictions. Any experience that demonstrates scope for improvements will be analysed for possible incorporation in Victoria's public monopoly workplace accident compensation scheme.

2.10 Barley Marketing Act 1993

The National Competition Policy review of the Barley Marketing Act 1993, released in December 1997, recommended (inter alia) the removal of the single export desk after the shortest possible transition period.

The statutory arrangements for the marketing of barley were scheduled to sunset on 30 June 1998. An amendment was passed last year to extend these arrangements for a further twelve months in order to allow time for Government and industry to complete the design of the reforms. This assisted the reform process to take a positive and co-operative approach. Notwithstanding this amendment an open market for domestic stockfeed barley was introduced via the on-demand supply of relevant permits by the Board.

A further amendment Bill was introduced in the Victorian Parliament during the Spring 1998. This provides for the progressive opening of the market to competition, as follows:

- 1 July 1999 - the domestic market for barley and the export market for bagged and containerised barley; and

- 1 July 2001 - the export market for all forms of barley.

A transition period for removal of the export market powers was considered necessary to allow the Australian Barley Board (and its successor) to adjust to operating in an open and competitive market. It also recognised the substantial investment which barley growers have in the Board (net assets totalled $37.9 million as at 30 June 1998).

2.11 Dairy Industry Act 1992

The National Competition Policy review of the Dairy Industry Act 1992 commenced in November 1998. The Centre for International Economics has been engaged by the Department of Natural Resources and Environment to undertake the review and report with recommendations in May 1999. An issues paper is to be released in March to facilitate stakeholder and public consultation. In addition there will be public/stakeholder meetings and a call for submissions.

2.12 Public Sector Superannuation (Administration) Act 1996

The supply of information concerning the compliance of Victoria's public sector superannuation legislation with the Government's commitments under clause 5 of the Competition Principles Agreement has been delayed pending an imminent Government decision relevant to the legislation. This information will be delivered shortly.

Competitive

Neutrality

3 Competitive Neutrality

3.1 Introduction

As outlined in the Competition Principles Agreement, clause 3 (4), Victoria has the following obligation to implement competitive neutrality with respect to significant Public Trading and Financial Enterprises (Model 1):

To the extent that the benefits to be realised from implementation outweigh the costs, for significant Government business enterprises which are classified as "Public Trading Enterprises" and "Public Financial Enterprises" under the Government Financial Statistics Classification:

(a) the Parties, will, where appropriate, adopt a corporatisation model for these Government business enterprises; and

(b) the Parties will impose on the Government business enterprise;

> *(1) full Commonwealth, State and Territory taxes or tax equivalent systems;*
>
> *(2) debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees; and*
>
> *(3) those regulations to which private sector businesses are normally subject, such as those relating to the protection of the environment, and planning and approval processes, on an equivalent basis to private sector competitors.*

As outlined in the Competition Principles Agreement, clause 3 (5), Victoria has the following obligation to implement competitive neutrality with respect to other significant business activities (Model 2):

To the extent that the benefits to be realised from implementation outweigh the costs, where an agency undertakes significant business activities as part of a broader range of functions, the Parties will, in respect of the business activities:

(1) ensure the prices charged for goods and services will take account, where appropriate:

- *full Commonwealth, State and Territory 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, such as those relating to the protection of the environment, and planning and approval processes, on an equivalent basis to private sector competitors.*

(2) reflect full cost attribution for these activities.

3.2 Highlights of reform

The Victorian Government has been committed to reforming the structure of Government Business Enterprises, and the financial and regulatory environment within which they operate, so that they do not receive a net competitive advantage over private sector providers simply as a result of their public ownership.

All significant commercial Victorian Government Business Enterprises (GBEs) are subject to income and wholesale sales tax equivalents. There are now 22 GBEs under the Tax Equivalent System (TES) as several have been sold since the NCC's first tranche assessment. Subject to reform timetables, further GBEs will be reviewed for potential TES inclusion subject to benefits exceeding costs. In 1997, exemptions from State taxes were removed and local government rate equivalents were required to be paid by relevant GBEs. The Financial Accommodation Levy applies to all entities who have a government guarantee and have financial accommodation of more than $5 million.

Since 1997, in addition to investigating competitive neutrality complaints, the Government has implemented strategies to:

- monitor the implementation of the recommendations of the Complaints Unit, where a breach of policy was found;
- improve compliance with competitive neutrality policy in areas where there are concerns that the policy may not be correctly applied; and
- improve awareness of competitive neutrality policy and the benefits of correctly applying the policy.

3.3 Victoria's progress

In order to demonstrate Victoria's progress, the following information is provided to the NCC on competitive neutrality, consistent with the requirements outlined in the second tranche assessment framework:

- Tables outlining relevant business activities and the status of application of competitive neutrality (Model 1 and Model 2);
- Reasons for non-application of competitive neutrality;
- Competitive neutrality complaints;
- Specific competitive neutrality matters; and
- Other relevant information.

Table 3.3.1 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 1

: Public Trading or Public Financial Enterprises	Status as at 31 December 1998
it of Treasury and Finance	
ution businesses	Model 1 policy applies to the three distribution businesses. To be s
on Pipelines Australia Lt	Model 1 policy applies. To be sold in 1999.
:s Business Pty Ltd	Model 1 policy applies. To be sold in 1999.
	Model 1 policy applies.
Victoria (Ecogen)	Required to make income and sales tax equivalent payments; to be
Water Corporation	Model 1 policy applies.
/ater Ltd	Model 1 policy applies.
Water Ltd	Model 1 policy applies.
:y Water Ltd	Model 1 policy applies.
politan and Rural Water Authorities	Major review of the application of CN is under way.
Port Corporation	Model 1 policy applies.
Channels Authority	Model 1 policy applies.
l Corporation (ULC)	The ULC was corporatised in 1997 and is now liable for all taxes a payments. It is also subject to the Tax Equivalent System.
ısport Corporation	Unbundled into one statutory authority and five corporatised passe businesses. The five passenger businesses will be franchised to the sector.
ght	To be sold. Until the sale, required to make income tax equivalent
Rail Track Corporation	Required to make income tax equivalent payments.
unds Management Corporation	Required to make income and sales tax equivalent payments.
Accident Commission	Required to make income and sales tax equivalent payments.

Table 3.3.1 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 1

Public Trading or Public Financial Enterprises	Status as at 31 December 1998
es Ltd	Required to make income and sales tax equivalent payments.
ice Corporation	Required to make income and sales tax equivalent payments.
Vorkcover Authority	Required to make income tax equivalent payments.
t of State Development	
oject Corporation of Victoria	Made a State Owned Company on 1 July 1996 under section 66 of Owned Enterprises Act 1992, and became subject to the Commonv Equivalent Regime administered by the Department of Treasury ar

Table 3.3.2 General Application of Model 1 Policy

nent of Model 1	Status as at 31 December 1998
ion	In 1997, the Urban Land Authority was corporatised and is now liable for all taxes and divid payments. It is also subject to the rates equivalence regime.
alth Tax Equivalents	All significant commercial Victorian Government Business Enterprises (GBEs) are subject to wholesale sales tax equivalents. There are now 22 GBEs (several have been sold) under the T Equivalent System (TES), and subject to reform timetables, further GBEs will be reviewed fo TES inclusion subject to benefits exceeding costs.
ccommodation Levy	The FAL applies to all entities who have a government guarantee and have financial accomn more than $5 million.
und State taxes and	Legislative amendments in 1997 provided for the removal of ownership based exemptions fro taxes and charges and provides for local government rate equivalents to be paid by relevant C 1 July 1998, exemptions for water and sewerage charges in the metropolitan area, were remo connected properties. Therefore, all GBEs are liable for a fixed water service charge and a fix sewerage charge from that date.

Table 3.3.3 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
of Premier and Cabinet		
tivities (such as venue and facility hir tre type activities and catering) of majo uding Museum of Victoria, Geelong Arts Centre, State Film Centre, Nationa ictoria, Victorian Arts Centre Trust and th of Victoria	Model 2	All venues have implemented Comp accordance with Government policy
of Infrastructure		
rmation Survey Bridge Design us Surfacing Services	Model 2	Arrangements for compliance with developed and are in place.
vices Agency	Model 2	Competitive Neutrality Pricing prin implemented.
of Natural Resources and Environment		
search institutes and research an activities.	Identified for review	Following a review undertaken in 1 Standing Committee of Agriculture Management (SCARM), each State responsible for determining implem

Table 3.3.3 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
		continuing to raise this matter unde: view to developing a uniform comm jurisdictions to the application of co to research and development.
activities in National Park	Identified for review	Competitive neutrality is being impl Victoria following its establishment service agency responsible for mana
wood logs from State forests	Identified for review	A review of the application of comp the Department's commercial forest undertaken in 1997/98. Competitiv principles are to be implemented fol review of Forests Act 1958 and the t the forest management activities of t to be completed in 1998/99.
consultancies of the Environment Protectio	Model 2	Competitive Neutrality Pricing prin implemented.
Aarket Authority	Identified for review	A review of the application of comp the Melbourne Market Authority wa 1997/98. This matter is to be furthe an NCP review of the Melbourne M 1977, to be undertaken in 1999.
urvey of Victoria	Model 2	Competitive Neutrality Pricing prin implemented.

Table 3.3.3 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
Ltd (now known as Agriculture Services Ltd)	Identified for review	Competitive Neutrality Pricing prin implemented in 1998/99.
mental commercial activitie	Model 2	Departmental procedure for applicat neutral pricing fully implemented.
rts Commissior		The Alpine Resorts (Management) Alpine Resorts Commission with re management boards. These boards competitive neutrality principles.
of Justice		
vernment Solicitor's Office	Model 2	CN has been identified as applicabl
spection and servicing etc of fire equipmen	Model 2	CN now applies.
nanagement planning and trainir services by VICSES	Model 2	CN now applies.
of State Development		
ctivities (such as venue and facility hir tre type activities and catering, anc sporting, reational, social, entertainment and relate major venues, including the Melbourne and ks Trust (which includes the National Tenni the Melbourne Sports and Aquatic Centre	Model 2	The Melbourne Convention an recognises the requirements of the Policy, in relation to the pricing of with competitively neutral pricing. in the process of reviewing its pri regard to the obligations outlined Policy Statement, with the aim o

Table 3.3.3 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
		achieving these obligations over term. The Melbourne and Olympic P Greyhound Racing Control Board the requirements and application o to competition policy. The Melbourne Sports and Aquati implemented the principles in re policy. The Cinemedia Corporation repor comply with the Victorian Gov competitive neutrality.
: of Education		
ɔusiness activities of post secondary educatioı viz: TAFE Institutes, Universities, an ‹dult Education.	Model 2	All post secondary education agenci they have complied with the applica neutrality principles to their busines
:ultural Education Services (AMES)	Model 1—AMES has been restructured as a service agency.	As a service agency, AMES receive funding and is therefore obliged to a

Table 3.3.3 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
		principles that reflect full cost attrib
ll fee paying students in Universitie	The further application of competitive neutrality is subject to consultation with the other States and the Commonwealth because of national implications and joint State/Commonwealth funding arrangements.	The tuition of full fee paying studen Victoria is based on full cost attribu
tendering between TAFE institutes anc ivate training providers for taxpayer fundec	Model 2 reform is being applied to the Victorian Government Funded Program and the New Apprenticeship Program, currently about 18 per cent of TAFE budget.	Competitive neutrality is being appl institutes in Victoria in all competit Government funded programs. This of mandatory reporting in the annua institute.
ng overseas students in government schools	This matter is subject to a special policy review of the school sector ordered by the Premier.	Standard fees are set for Governmer the relevant entity being the Govern rather than individual schools. In se Department has been mindful of the cost attribution so as to avoid any su competition with non-government s been at issue.

Table 3.3.3 Relevant Business Activities and the Status of Application of Competitive Neutrality
Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
: of Human Services		
f private patients in public hospital	Review	This issue is being examined as part Services Act review which is due to 1999. However, as noted in the CN decision to apply CN will need to be consultation with other States and th because of the national implications Commonwealth/State funding arran
ly provided ancillary services undertaken b :als*	Model 2	Individual hospitals have developed application of CN principles to their These hospitals have applied CN fro

oublic hospitals have the legal status of independent public statutory bodies and all qualify as Public Benevolent Instituti policy strictly defined does not apply to Victorian hospitals. Nevertheless, the Department of Human Services ha develop timetables for the application of CN policy including Model 2 pricing to their business activities to support mo tures and foster competition for the provision of support services.

Table 3.3.4 Reasons for Non-Application of Competitive Neutrality Model 1

t Public Trading or Public Financial Enterprises	Status as at 31 December 1998
nt of Treasury and Finance	
Smelters of Victoria Ltd (Aluvic	Sold to existing partners; policy no longer applicable.
distribution businesses	Five distribution businesses sold over the period August 1995 and 1995.
Power Corporation	Sold in August 1996; policy no longer applies.
Power Corporation	Loy Yang Power was sold in June 1998; policy no longer applies.
A Power Station	Sold in May 1997; policy no longer applies.
Victoria	Sold in October 1997; policy no longer applies.
ydro Ltd	Sold in November 1997; policy no longer applies.
nergy	Sold in May 1996; policy no longer applies.
bourne Authority	Assets transferred to Melbourne Port Corporation.
Port Services	Sold; policy no longer applies.
long Authority	Sold in 1996; policy no longer applies.
land Authority	Sold in 1996; policy no longer applies.
lantations Corporation	Sold in 1998.
nission Corporation	Not applicable - no material items remaining following industry - to be wound up.
orporation Victoria	Not applicable - centralised borrowing service for State Governm operating in non competitive environment.
l	Not applicable - manages residual issues and non commercial co following industry restructuring in non competitive environment

Table 3.3.4 Reasons for Non-Application of Competitive Neutrality Model 1

t Public Trading or Public Financial Enterprises	Status as at 31 December 1998
'ower Exchange	Not applicable - functions to be transferred following industry res be wound up.
	Not applicable - centralised transmission operator ensuring reliat supply in non competitive environment.
ıt of Human Services	
ıputing Services	The company was sold on 31 July 1997.
ousing	Due to the Commonwealth/State Housing Agreement, no unilater can be made by any State on the issue of CN pricing. A replacem agreement proposed to operate from July 1999 contains similar su objectives to the current CSHA and therefore no progress on CN anticipated in the medium term.

Table 3.3.5 Reasons for Non-Application of Competitive Neutrality
Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
of Treasury and Finance		
Australia		Sold in August 1996, policy no long
of Premier and Cabinet		
terpreting and Translating Service (VITS		CN no longer applicable
of Infrastructure		
tation of Urban Traffic Control Systems	Model 2	This activity was identified in the G However, this involves only intermit with private sector partners and does Government's definition of significa Formal arrangements for complianc therefore not been implemented. Ho kept under review.

Table 3.3.5 Reasons for Non-Application of Competitive Neutrality Model 2

ficant Government Business Activity	Model 1 or Model 2 or other (eg. review)	Status as at 30 June
of Justice		
ıg, installation and monitoring of alarm uni		CN not applicable, as the business a
tries	Model 2	Not required to apply CN principles exempted Prison industries from ap principles on the grounds that the p the business activity is to provide m employment for prisoners and to ass rehabilitation.
and sale of fire trucks and equipment (CFA		Commercially operated - CFA holds venture; therefore CN not applicabl
of State Development		
ng Board		Not required to undertake CN pricii undertakes a regulatory function.

3.4 Competitive Neutrality Complaints

The Competitive Neutrality Complaints Unit in the Department of Treasury and Finance has been operational since July 1996. It is the aim of the Unit to investigate all complaints fairly, independently and rigorously and to come to a finding on the basis of the best available information.

The attached table shows a summary of allegations of non-compliance with Competitive Neutrality policy from 1 July 1997.

Date of receipt	Target of Complaint	Summary of Complaint	Finding
22/8/97	Melbourne Sports and Aquatic Centre (MSAC) gymnasium	It was alleged the gymnasium at MSAC had competitive advantages which allowed it to offer low memberships, including a special deal offered to residents of Port Phillip.	No breach of the policy was established, although MSAC was advised that its costing and pricing should be more transparent.
9/12/97	Hawthorn International Education Ltd (part of Melbourne University)	It was alleged that Hawthorn submitted a bid for an AusAID contact which was not consistent with competitive neutrality. The bid was submitted in June 1997.	No breach of the policy was found as the bid was submitted before July 1997, the date for the application of the policy to business activities of universities. Even in the absence of the timing issue it was found that Hawthorn was consistent with competitive neutrality policy and any tax advantages derive from legal status not from government ownership.
6/2/98	Energy and Telecommunications Training Australia, Central Gippsland College of TAFE	It was alleged that ETTA had a competitive advantage in providing fee for service training courses in competition with the private sector.	A breach of the policy was found. Although the TAFE had attempted to comply with competitive neutrality from July 1997, some practical steps required to fulfil the Model 2 guidelines had been misapplied.

Date of receipt	Target of Complaint	Summary of Complaint	Finding
11/2/98	Soils and Concrete Laboratory, Bendigo Campus of La Trobe University	It was alleged that the laboratory had a competitive advantage in bidding for contracts to undertake analysis of soil samples.	A breach of the policy was found. Although the laboratory had attempted to identify and offset its competitive advantages, the Complaints Unit had concerns about the methodology adopted by the laboratory, and whether it was appropriately pricing its bids.
20/2/98	Hospital Central Linen Services, in particular those of Warrnambool Base Hospital, Hamilton, Hamilton Base Hospital and Wimmera Health Care Group.	It was alleged that the linen services of the three regional hospitals have advantages which allow them to consistently underquote for work.	No breach of policy was found as hospitals do not have to apply Competitive Neutrality to their business activities until 1 July 1998. Hospitals do have advantages of Government ownership (such as requiring a rate of return) and will be in breach if they do not apply Competitive Neutrality after July 1998.
28/4/98	School of Earth Sciences, La Trobe University	It was alleged that the School of Earth Sciences submitted a bid for an Indonesian Government contract on the basis of subsidised prices.	No breach of policy was found. The University had included Competitive Neutrality adjustments in submitting its bid for the contract. While some adjustments lacked transparency, the University indicated its intention to review adjustments from first principles in accordance with the Guide.

Date of receipt	Target of Complaint	Summary of Complaint	Finding
21/5/98	Shire of Campaspe Echuca War Memorial Aquatic Centre	Complainant alleged that the Aquatic Centre offered gymnasium and aerobics activities for less than full cost recovery and benefited from a number of competitive advantages.	The Complaints Unit found that the Council has not applied competitive neutrality to the gym/aerobics facility but as the existing management contract was entered into prior to 1 July 1997 when the policy came into operation, no breach of the policy was found. The Complaints Unit recommended that if competitive neutrality principles can be accommodated in the existing contract that this be done and that any new contract be consistent with the policy.
2/7/98	Victorian non-metropolitan water authorities	Complainant alleged that Victorian non-metropolitan water authorities require connection to the reticulated sewerage system they provide and are not approving alternative waste treatment systems.	The Complaints Unit recommended that competitive neutrality principles be applied to the water authorities by separating the regulatory and business activities of water authorities. This would reduce the perception that water authorities may be exercising an unfair advantage over potential competitors.

Date of receipt	Target of Complaint	Summary of Complaint	Finding
5/6/98	Ambulance Service Victoria (ASV) - North Eastern Region; Goulburn Ovens Institute of TAFE; and Goulburn Ovens Murray Regional Council of Adult, Community and Further Education	Complainant alleged that level 2 first aid courses offered by the three Government entities are priced at well below market rates and may be in breach of competitive neutrality policy.	The Complaints Unit found that: • ASV is required to apply the policy to first aid courses. The ASV was found in breach of the policy because the Complaints Unit found that were problems in the way in which the ASV applied the policy; • The TAFE is not required to apply competitively neutral pricing to the delivery of centrally funded courses because the courses offered by the TAFE are centrally funded. As a result, it was not in breach of the policy; and • the regional council was not in breach of the policy because it does not directly provide first aid courses.
20/7/98	CityWide Service Solutions Pty Ltd (CityWide) / City of Melbourne	Complainant(s) alleged that CityWide's lower prices for two recycling bids may be due to CityWide not implementing competitive neutrality costing and pricing policies.	The Complaints Unit found no breach of the policy but recommended that the City of Melbourne: • improve the transparency of CityWide's tax equivalent payments by undertaking a tax audit on CityWide under the tax equivalent policy; and • review the ownership of CityWide to (1) reduce the commercial risk to the City of Melbourne of CityWide's business activities and (2) reduce the cost to CityWide of its current borrowing constraints.

Date of receipt	Target of Complaint	Summary of Complaint	Finding
24/9/98	Baw Baw Shire Council	The complainant alleged that: • the Council had agreed to subsidise the operation of the saleyards while they remained in Council ownership; and • that the Council's offer had been made to a single operator only and had not been subject to competition.	The Complaints Unit found there had been no breach of the policy. This was because the saleyards were to be sold and the benefits offered to the single operator were not due to Government ownership but had been made available by the Shire to other privately owned businesses. However, the Complaints Unit recommended that councils conducting similar asset sales in future should carefully consider how they manage the sale so as to obtain the most cost-effective result and ensure community confidence in the integrity and fairness of the sale process.
24/9/98	Department of Human Services	The complainant alleged that: • Government-owned childcare centres were eligible for higher subsidies from the Department of Human Services than private providers; and • some funding programs operated by the Department of Human Services were not available to private sector providers.	The Complaints Unit found that in the absence of any underlying policy reasons for targeting funding arrangements under the Youth and Family Services program specifically to non-profit services providers, the Department of Human Services had breached the policy by not allowing existing private sector providers to apply for funding. The Complaints Unit also examined some issues related to Commonwealth Disadvantaged Area Subsidy and Childcare Assistance programs. These were found to be outside the scope of the Victorian complaints mechanism and referred the matter to the Commonwealth complaints mechanism.

Date of receipt	Target of Complaint	Summary of Complaint	Finding
12/10/98	Gascor / Department of Treasury and Finance	The complainant alleged that health card holders could only be reimbursed for repairs and replacement of hot water systems if they were Gasmart customers.	The Complaints Unit found that there was no breach of the policy because of the unusual circumstances under which the decision was made and evidence that there were implicit policy objectives of responding quickly and cost-effectively to cases of genuine hardship caused by the gas shutdown. But the Complaints Unit recommended that in future, Government agencies should ensure that alternative methods of providing financial assistance are assessed so that the most cost-effective provider is selected.
24/10/98	Landata	The complainant alleged that Landata provided exclusive rights to data to two of the business activities of the Titles Office and that competitive neutrality costing and pricing was not being applied.	The Complaints Unit found that: • Landata pricing has not breached competitive neutrality pricing principles; and • Landata has breached the competitive neutrality structural review requirements due to the absence of adequate policy documentation to justify the decision not to implement the principal recommendations of a structural review of Landata's ongoing service delivery arrangements.

Date of receipt	Target of Complaint	Summary of Complaint	Finding
18/11/98	City of Port Phillip	The complainant alleged that the City of Port Phillip provided competitive advantages to not for profit and council operated childcare centres that were not available to private sector childcare centres, including access to funding and use of rent free buildings and facilities.	The Complaints Unit found that the City of Port Phillip has breached the Victorian Government's competitive neutrality policy because it has: • provided financial assistance to council managed childcare centres which is not available to competing private sector centres; and • not applied competitive neutrality pricing principles in estimating the full cost of its childcare services.

3.5 Government Policy Responses to Complaints Unit recommendations

Date of receipt of complaint: 6/2/98

Energy and Telecommunications Training Australia (ETTA), Central Gippsland College of TAFE

The Complaints Unit prepared separate, written advice to ETTA on how their costing and pricing should be adjusted to accurately incorporate competitive neutrality policy. Issues addressed included the opportunity cost of capital and tax exemptions due to Government ownership.

Date of receipt of complaint: 11/2/98

Soils and Concrete Laboratory, Bendigo Campus of La Trobe University

The Complaints Unit prepared technical guidance to the Laboratory on the preparation of future bidding documentation and financial statements consistent with competitive neutrality. The guidance focussed on the treatment of alleged competitive disadvantages, adjustments for tax advantages of Government ownership and the treatment of the cost of capital in the costing and pricing of the Laboratory's services.

Date of receipt of complaint: 21/5/98

Shire of Campaspe Echuca War Memorial Aquatic Centre

The Office of Local Government and the Complaints Unit is working with the Shire of Campaspe to consider options for achieving compliance with competitive neutrality policy of the gym/aerobics facilityunder the existing management contract.

Date of receipt of complaint: 2/7/98

Victorian non-metropolitan water authorities

Two reviews are to be conducted which examine the structural reform of water authorities, namely:

1. an Environment Protection Authority-led review of the regulatory role of water authorities; and
2. a National Competition Legislative Review of the *Water Act* 1989, which is scheduled for December 1999. The Act establishes the legislative framework for the activities of non-metropolitan water authorities.

The Department of Premier and Cabinet is coordinating the activities of relevant Victorian Government agencies to ensure that the recommendations of the Complaints Unit are addressed in these reviews.

Date of receipt of complaint: 5/6/98

Ambulance Service Victoria (ASV) - North Eastern Region

The contestability of ASV public education services is currently being considered in the current National Competition Policy Legislative Review of the *Ambulance Services Act* 1986.

The ASV (North Eastern Region) has advised the Complaints Unit that it is reviewing its approach to its costing of First Aid courses and is seeking advice on the issues identified by the Complaints Unit.

Date of receipt of complaint: 24/9/98

Department of Human Services

In response to the Complaints Unit's investigation, the Department of Human Services indicated that it will amend its funding policies to ensure that any legally constituted service providers are able to apply for funding.

The Complaints Unit advised the Commonwealth Competitive Neutrality Complaints Office and the Commonwealth Department of Treasury of issues raised in the course of the investigation that related to the application of competitive neutrality under Commonwealth programs.

Date of receipt of complaint: 18/11/98

City of Port Phillip

The Complaints Unit has recently completed an investigation relating to the childcare services provided by the City of Port Phillip. It will contact the City of Port Phillip by June 1999 to seek information on action taken or proposed to ensure compliance with competitive neutrality policy.

3.6 Specific Competitive Neutrality Matters

3.6.1 Prison based industries

Victoria has written to the NCC on 10 June 1998 and 13 July 1998, and outlined our justification for the exemption of competitive neutrality in the prison industries. As the NCC has not requested any further explanatory material since this time, the following is a reiteration of our position.

Achievement of Social Objectives

The Premier has recommended that CORE (Public Correctional Enterprise) prison industries be exempted from the application of model 2 CN policies. The objective of prison employment in publicand privately owned and/or operated prisons is to provide meaningful employment for prisoners and to assist in the management, control and rehabilitation regimes within the prison environment. The CN pricing principles are not intended to over-ride these social policy objectives.

The application of CN to CORE prison industries may help to determine any competitive advantages that exist (compared with competitors that supply the same product) such as a return on capital employed. However, whether prisons are public or private, a return on the capital employed is not and should not be the objective from prisoners work for rehabilitation purposes.

Problematic application of CN

A prerequisite for the application of CN to prison industries is the attribution of all costs incurred in the production of outputs, consistent with the Government's financial management reforms. In order to ensure competitive neutrality, these costs would then be adjusted for any net competitive advantage.

The allocation of costs can only be correctly allocated when the outputs are clearly identified. In prison industries the two outputs are rehabilitation and goods. These outputs are not currently identified separately.

The cost of the goods produced would depend on the allocation of costs. Some of the building and staff costs should be allocated to rehabilitation and some to the output. The costs of the goods produced would include some capital (building costs, tools, equipment etc), some consumables (raw materials, power etc), some supervisory costs (wardens), an administration (office, marketing, management etc) component, and large amounts of cheap labour. Labour is captive and low cost: prisoners are paid between $4.50 and $6.50 per day.

The application of CN would require:

- adjustment to offset exemptions from wholesale sales tax, land tax, local government rates, and FID.
- an 8% return on the capital employed. As prison industries are labour intensive, this would have little impact on total cost.

Although labour costs are very low, productivity is also low and supervision costs high. The production of goods for sale is a secondary objective, and in some cases may lead to goods being sold at a loss. These losses are accepted in order that rehabilitation objectives are met.

This situation may lead to a conflict between prison industries and private sector providers of similar goods. However, this is not due to any unfair advantage as a result of ownership. It is true irrespective of ownership.

Prison Industry Code of Practice

The Government is aware of the problems this may cause, and as a result has required CORE to implement a "Prison Industries Code of Practice." This practice requires CORE to place a particular emphasis on marketing its products into areas which provide an alternative to imports. CORE is also required to prepare a market impact statement before entering into new industries, and to ensure no promotional activities result in a perception that prison industries pose a threat to private sector businesses. The Department of Premier and Cabinet is satisfied that this policy is being adhered to.

Conclusion

Therefore, it is our belief that the application of CN would not lead to increased efficiency in prison industries, or to more efficient competition with the private sector, than what are already realised through the Government's reform program. This, along with out stated desire that CN should not over-ride social objectives, are the rationale for prison industries not been required to comply with model 2 CN pricing principles from July 1997.

3.6.2 Water authorities

The NCC has identified the separation of regulatory and business functions of non-metropolitan water authorities as an issue that requires resolution. Victoria agrees with the NCC that the functions of the non-metropolitan urbans needs to be separated. As a result, it is progressing this issue in order to reach a viable long term solution. However, it needs to be noted, that while Victoria (like the NCC) would prefer the matter to be resolved quickly, there remains a problem regarding regulatory gap - which needs to be worked through.

Specifically, the concerns relate to a complaint from a Mr Burrows that regional water authorities in Victoria are refusing to allow customers to opt out of compulsory connection to reticulated sewerage systems. Mr Burrows complains that there is no opportunity for consumers to utilise alternative waste water treatment systems which have been endorsed by health and environmental regulators.

The Competitive Neutrality Complaints Unit investigated the matter in July 1998. The Unit recommended that a decision to require a person to connect should be based on health and environmental grounds, and that the business and regulatory activities of water authorities should be separated to reduce perceptions that water authorities are exercising an unfair advantage over potential competitors.

It is accepted that a strong case can be made that the regulatory and commercial activities of the non-metropolitan urbans should be separated. However, it is also clear that it would be irresponsible to leave the regulatory function unfulfilled or to assign it to a body that is not equipped to carry out the function properly. The issue, therefore, is one of regulatory gap.

We agree with your proposal that, in the interim, all non-metropolitan urbans could be requested to not exercise their current statutory powers to require connection to mains sewerage, where a customer can demonstrate an alternative is available that meets the requirements of health and environmental regulators. However, it is our opinion that the only acceptable way in which a customer can demonstrate that an alternative has met the requirements of health and environmental regulators is by approval from a relevant body for the use of a particular system in a specific location.

To this end, the Environment Protection Authority (EPA) established a Working Party earlier this year to review existing arrangements, and identify a body that could take on this regulatory function. One of the proposals arising out of the review was that local government should take responsibility for enforcing connections and assessing, in the first instance, whether public and environmental needs can be met by alternative on-site waste water systems.

However, this and other measures which placed new responsibilities on local government, are yet to be resolved. As a result, the package of proposals developed by the EPA is to be further reviewed. The Department of Natural Resources and Environment, and Department of Premier and Cabinet, have kept the NCC informed of these developments.

It is anticipated that the working group, after developing new proposals and taking into account the need to still have a proper regulatory system, will be able to provide an acceptable alternative that will satisfy all parties.

Measures similar to the NCC's interim proposal have already been adopted by Coliban Water, which decided to not enforce connection of individual properties to the community systems where the owners obtain the approval of the EPA and the Municipal Environmental Health Officer to an alternative on-site system which provides an equivalent service. However, the Victorian Government may assume unnecessary health and environmental risks if it were to direct all authorities to not exercise their current statutory powers to require connections to mains sewerage while the regulatory gap exists.

It should also be noted that this is not the only initiative that Victoria is undertaking to resolve these concerns. The regulatory role of Victorian water authorities will be considered as part of the review of the *Water Act 1989*, the terms of reference of which is before the Treasurer.

The Department of Premier and Cabinet has contacted each of the relevant departments and agencies - each of which is aware of the NCC's and the complainant's concerns - and is in a position to co-ordinate and push along the resolution of this matter. However, as noted earlier, this is not an issue that is likely to be resolved overnight. Victoria is in agreement that a resolution is required and is endeavouring to reach that resolution as soon as is practicable - to ensure a long term, viable independent regulatory body.

3.7 Other Relevant Information

The Victorian Government has played an active role in publicising and ensuring the satisfactory compliance with competitive neutrality policy. The following information is a summary of some of its more major initiatives.

Promotion of competitive neutrality policy

In 1998, the Department of Treasury and Finance:

- completed presentations to regional hospitals and health sector interest groups such as the Victorian Hospitals Association and the Health Sector Finance Managers Association;
- participated in sessions convened by the Local Government Compliance Working Party;
- met with university officers to discuss the application of the Government's policy to universities; and
- advised Government agencies on the application of competitive neutrality policy to their business activities.

New procedures to monitor implementation of recommendations of the Complaints Unit

From 1 July 1998, Victorian competitive neutrality policy applied to all Victorian Government business activities. As a result, the issue of how the Complaints Unit should respond to concerns that Government agencies may not be applying competitive neutrality policy after a breach of policy has been found has become increasingly important.

In response, the Complaints Unit has recently amended its protocol. Where the Complaints Unit has found a breach of policy, the Complaints Unit now seeks information from agencies within six months of the investigation on how compliance with competitive neutrality policy has been achieved.

Best practice guidelines developed for Victorian Government purchasing on competitive neutrality

On 7 December 1998, the Accredited Purchasing Units in Victoria agreed to incorporate suggested wording on competitive neutrality into the Victorian Government Purchasing Board's best practice guidelines. The guidelines advise on the preparation of Registration of Interest (ROI) and Request for Tender (RFT) documentation when Victorian Government agencies are among the likely bidders for Victorian Government contracts.

The Department of Treasury and Finance developed the guidelines in response to requests for assistance by Government agencies on applying competitive neutrality during the tender evaluation process. A draft of the guidelines was distributed to Victorian Government purchasing units for their comments.

Joint Municipal Association of Victoria (MAV) / Complaints Unit proposal to undertake case studies on local government implementation of competitive neutrality

The Municipal Association of Victoria (MAV) and the Complaints Unit are planning to jointly develop case studies in relation to the implementation of competitive neutrality by local councils. This exercise is intended to provide informed advice to councils on whether their implementation of competitive neutrality is consistent with the Victorian Government's policy.

The MAV and the Complaints Unit hopes to be able to disseminate and publish the case studies.

Application of

Competition Policy to

Local Government

4 Application of Competition Policy to Local Government

The Minister for Planning and Local Government is responsible for ensuring that councils comply with National Competition Policy.

Early in 1998 the Department of Infrastructure, with support from the Department of Premier and Cabinet, issued guidelines to Councils to assist them in planning and undertaking reviews of local laws to remove unwarranted restrictions on competition by June 1999. The guidelines were workshopped with Councils in a series of regional and metropolitan seminars. In mid-1998 the Department of Infrastructure issued guidelines to Councils for annual reporting on the implementation of NCP. The guidelines gave particular emphasis to the implementation of competitive neutrality.

The following points relate to the key NCP obligations for Victorian local government and indicate the progress made by councils in implementation:

- Councils are subject to the Competition Code (Part IV of Trade Practices Act) and will report on implementation of their trade practices compliance programs in the financial year 1998/99;

- Councils were required to subject a minimum of 50% of their total expenditure to competitive tendering in 1997/98, with some Councils achieving results as high as 85%. In this period, with only 4 of 78 councils failing to achieve the legislated target, 60.9% of total local government expenditure across Victoria was market tested;

- a small number of complaints of non-compliance with competitive neutrality principles was investigated by the Competitive Neutrality Complaints Unit in the Department of Treasury and Finance. The Department of Infrastructure liaised with the Complaints Unit on these investigations;

- all Councils reported satisfactorily to the Minister on all elements of NCP for 1997/98; and

- all new local laws made during the year by councils and submitted to the Department of Infrastructure had been certified by the council to comply with competition principles.

Victorian Government

Competitive Neutrality
In-house Agreements and Significant Business Activities

ACTS & INESS	APPLICATION OF COMPETITIVE NEUTRALITY STRUCTURAL REVIEW	APPLICATION OF COMPETITIVELY NEUTRAL PRICING
cludes: ts; council ocess ternal *nly - not gislation .]*	Model 2 is the approach reported by and observed in most councils. Model 1 has been applied by two metropolitan councils. The second round of Compulsory Competitive Tendering (CCT) has commenced. Many councils reported that they intended to undertake structural reviews as part of their CCT program.	All councils reported applying the pricing principles to in-hou agreements entered into since July 1997. For contracts which have been entered into prior to July 1997, councils will be required to apply CN pricing principles once they are retendered. Councils' reports confirm their intention to continue to apply CN review and pricing principles in 1998/99.
tivitie ys) f total significanc	As above. A number of councils do not own, or have already divested, significant businesses. A small number of councils are considering joint ventures and other Model 1 type structures, but none have yet been concluded.	Councils with significant businesses have applied CN pricing principles to them or are currently reviewing them and applyi CN pricing in the course of review. CN pricing complaints were made about a small minority of significant council businesses.

Structural

Reform

5 Structural Reform

5.1 Introduction

Under clause 4(3) of the Competition Principles Agreement:

Before a party introduces competition to a market traditionally supplied by a public monopoly, and before a Party privatises a public monopoly, it will undertake a review into:

(a) the appropriate commercial objectives for the public monopoly;
(b) the merits of separating any natural monopoly elements from potentially competitive elements of the public monopoly;
(c) the merits of separating potentially competitive elements of the public monopoly;
(d) the most effective means of separating regulatory functions from commercial functions of the monopoly;
(e) the most effective means of implementing the competitive neutrality principles set out in this Agreement;
(f) the merits of any community service obligations undertaken by the public monopoly and the best means of funding and delivering any mandated community service obligations;
(g) the price and service regulations to be applied to the industry; and
(h) the appropriate financial relationships between the owner of the public monopoly and the public monopoly, including the rate of return targets, dividends and capital structure.

This clause is relevant to the structural reforms affecting the following organisations:

- Australian Barley Board;
- Victorian Public Transport Systen; and
- V/Line Freight.

5.2 Australian Barley Board

The Victorian Government is confident that imminent reforms of the statutory monopoly currently held by the Australian Barley Board will fulfil its commitments under clause 4 of the Competition Principles Agreement.

Following the December 1997 report of the Centre for International Economics into the Barley Marketing Acts of Victoria and South Australia, the respective State Governments have agreed to progressively open up the barley acquisition and trading market in both State's to competition. The key market opening milestones are:

- 1 July 1998 - the domestic market for stockfeed barley;

- 1 July 1999 - the domestic market for malting barley and the export market for bagged and containerised barley; and

- 1 July 2001 - the export market for all forms of barley.

In addition, the Australian Barley Board is to be dissolved by 30 June 1999. Its assets and liabilities will be transferred to ABB Grain Ltd, and its wholly-owned subsidiary ABB Grain Export Ltd, and shares in ABB Grain Ltd transferred to barley growers under a scheme of arrangement determined by the Victorian and South Australian Governments.

A Bill to amend the Barley Marketing Act along these lines is currently before the Victorian Parliament. This will remove all provisions from the Act that are not required for the progressive opening of the market and the "privatisation" of the Australian Barley Board. In particular, neither the Board nor its successor will have any responsibilities for industry regulation, or for fulfilling community service obligations. The objectives of ABB Grain Ltd, its pricing and trading policies and practices, will be determined under the authority of its grower-shareholders.

Prior to completion of market opening, the export monopoly powers will be quarantined from the domestic market through the conduct of export market trading activities by ABB Grain Export Ltd. Trading rules for both companies will ensure that all grain sales and grain swaps are transparent and auditable. Further, the State Governments will retain the power to require the companies to provide information on their operations.

5.3 Victorian Public Transport System

The Victorian Government has made significant progress in the structural reform of public monopoly businesses providing public transport services.

Until 1993 the Public Transport Corporation (PTC) provided a significant part of Melbourne's public route bus transport services. On 27 December 1993 the National Bus Company assumed responsibility for about 75 per cent of the service previously provided by the PTC following a comprehensive public tender process. The National Bus Company purchased buses and leased depots from the Government under a 10 year patronage-based incentive contract.

On 13 April 1998, the Melbourne Bus Link Company assumed responsibility for the balance of the services provided by the PTC (trading as Met Bus). This also followed a comprehensive public tender process. The Melbourne Bus Link Company purchased the remaining buses and depots from the Government under a 10 year contract similar to that entered into with the National Bus Company.

The Government has adopted a two-stage approach to structural reform of its public sector train, tram and rail freight businesses -

- From 1 July 1997 V/Line Freight Corporation, and from 1 July 1998 five separate Corporations were created under the Rail Corporations Act to provide metropolitan train and tram services and country rail passenger services:
  - Bayside Trains
  - Hillside Trains
  - Swanston Trams

- Yarra Trams
- V/Line Passenger

The Public Transport Corporation (PTC) remains as a statutory corporation with a limited life to manage residual non-operational functions and to provide certain integration services for the new operating Corporations.

- The Transport Reform Unit of the Department of Treasury and Finance is conducting a process of franchising the five businesses to the private sector and selling the V/Line Freight business. Expressions of Interest have been sought for the passenger businesses. They are being assessed to establish a short list of bidders to be invited to make final submissions.

The Public Transport Division within the Department of Infrastructure has been established to manage all contractual arrangements with private sector public transport service providers.

Guarantees of third party access to infrastructure have been clearly established in the privatisation arrangements.

Public transport industry regulation is now fully separated from service provision. Importantly a separate Public Transport Safety Directorate has been established within the Department of Infrastructure to regulate safety across all of the public transport modes.

5.4 V/Line Freight

As part of the restructuring of the Victorian rail industry, two new directorates have been created within the Department of Infrastructure. These are the Director of Public Transport and the Director, Public Transport Safety. The private sector operator of the V/Line freight business has no responsibility for the safety accreditation of third party operators.

Given the lightly trafficked nature of most of the Victorian country rail network, it was considered that a vertically separated model would impose transaction cost and inefficiencies in excess of the benefits of this structure. Accordingly, the V/Line freight business has been sold with a long term lease over the country rail infrastructure. Operational control and maintenance responsibilities for the leased infrastructure lie with the private operator. However, the lease imposes significant obligations in relation to minimum standards of maintenance, carrying out of state sponsored investment, line closures etc.

The entire country network leased to the new operator of the V/Line freight business, plus its Dynon freight terminal, will be subject to a third party access regime as set out in the Rail Corporations Act. Under the terms of this regime, an operator of rail services (either passenger or freight) that is unable to obtain access to the network on agreed terms, or that considers its rights of access are being hindered, may apply to the Office of the Regulator General for a determination. The Office also has significant powers in relation to the specification of the form of information which must be

provided to access seekers and the ring fencing of the provision of network access from the rest of the activities of the V/Line freight business.

In the public sector, V/Line conducted a business of transporting parcels and palletised freight. This was an uneconomic business and resulted in loss making over a number of years. However, it is considered to have a significant Community Service Obligation (CSO) element, and continuation of this activity while this remained the case was a condition of sale. A specific and defined CSO payment will be made to the private sector operator in this regard. No CSO payments are made for maintenance of the infrastructure or for any above rail activities.

Prices Oversight

6 Prices Oversight

6.1 Introduction

As outlined under Clause 2(4) of the Competition Principles Agreement:

An independent source of price oversight advice should have the following characteristics:

(a) it should be independent from the Government business enterprise whose prices are being assessed;
(b) its prime objective should be one of efficient resource allocation but with regard to any explicitly identified and defined community service obligations imposed on a business enterprise by the Government or legislature of the jurisdiction that owns the enterprise;
(c) it should apply to all significant Government business enterprises that are monopoly, or near monopoly, supplier of goods or services (or both);
(d) it should permit submissions by interested persons; and
(e) its pricing recommendations, and the reasons for them, should be published.

6.2 Current Arrangements

In Victoria, the Office of the Regulator-General provides independent prices oversight in electricity, gas, water, ports and grain handling.

This prices oversight is done in accordance with the conditions outlined above under clause 2(4) of the Competition Principles Agreement.

Conduct Code

7 Conduct Code

Under clause 2 (1) of the Conduct Code Agreement:

> *Where legislation, or a provision in a legislation, is enacted or made in reliance upon section 51 of the Competition Laws, the Party responsible for the legislation will send written notice of the legislation to the Commission within 30 days of the legislation being enacted or made.*

Under clause 2 (3) of the Conduct Code Agreement:

> *Each party will, within three years of the date on which the Competition Policy Reform Act 1995 receives the Royal Assent, send written notice to the Commission of legislation for which that Party is responsible, which:*
>
> *(a) existed at the date of commencement of this Agreement;*
>
> *(b) was enacted or made in reliance upon section 51 of the Trade Practices Act (as in force at the date of commencement of this Agreement); and*
>
> *(c) will continue to except conduct pursuant to section 51 of the Trade Practices Act after three years from the date on which the Competition Policy Reform Act 1995 receives the Royal Assent.*

Under Clause 2 (3) of the Conduct Code Agreement, statutory exemptions that existed at the time of the Conduct Code Agreement included:

Water Industry Regulations 1995 made under the Water Industry Act 1994.

These regulations exempted the three metropolitan water agencies from Part IV of the Trade Practices Act.

This exemption expired on 31 December 1996. Therefore, no further information is relevant to meet the requirements of clause 2 (3).

The following information is for statutory exemptions that have occurred since the Conduct Code Agreement was signed, clause 2 (1):

Legal Practice Act 1996:

Schedule 2 of the Act provided for a temporary exemption to the Act with regard to the employment of Barrister's clerks. The transitional provision sunsetted on 30 June 1997.

Electricity Industry (Trade Practices) Regulations 1994

Reg.4, approval. This only operated until 30/9/96 as per Reg 4.

Competition Policy (Gas Supply Contract Exemption) Regulations 1996

Reg.5, approval expired 20/11/97.
Reg.7, approval expired 20/11/97.

Gas Industry Act 1994:

Part 6B - Competition Policy Authorisation
s.62M, definitions inserted by 36/1997, s.13, as from 3/6/97, amended by 91/1997, s.27, as from 11/12/97 and amended by 40/1998, s.26 as from 8/6/98.
s.62O, approval inserted by 36/1997, s.13, as from 3/6/97
s.62P, application, inserted by 36/1997, s.13, as from 3/6/97.

Part 6C - Master Agreements
s.62Q, definitions inserted by 40/1998, s.27 as from 8/6/98
s.62S, approval inserted by 40/1998, s.27 as from 8/6/98
s.62T, application inserted by 40/1998, s.27 as from 8/6/98

Electricity Industry Act 1993

s.91AA - TPA and Competition Code
inserted by 8/1996, s.13, as from 25/6/96, and to be repealed from 1/1/2001 by 8/1996, s.14

Related Reforms:

Electricity

8 Related Reforms: Electricity

8.1 Introduction

Under the *Agreement to Implement the National Competition Policy and Related Reforms*, the second tranche obligation is for 'relevant jurisdictions' to complete the transition to a 'fully competitive national electricity market' by 1 July 1999.

The reform program and timetable proposed in the Prime Minister's letter of 10 December 1996 is being used as the basis on which to assess relevant jurisdictions' progress in meeting the second tranche commitment to establish a national electricity market.

The information provided by Victoria in this report will demonstrate the State's progress in:

- Implementing the National Electricity Market; and
- Providing an appropriate structure for the electricity sector.

8.2 Benefits of reform

In 1992, average electricity prices were 40 per cent above the most efficient Australian State (Queensland) and well short of world's best practice, despite Victoria having an abundance of relatively low-cost brown coal and gas reserves as a natural resource. Construction costs of new plant were 60 per cent higher than would be expected under best practice and generation availability was around 65 per cent.

Restructuring and reform of the State's electricity industry undertaken by the Government has since transformed the industry from a State owned vertically integrated monopoly based structure to a dynamic and competitive structure. The reforms are almost complete with only the sale of Ecogen Energy remaining to complete the privatisation process.

These reforms have resulted in substantial benefits for Victorian consumers and businesses in terms of lower prices, and improved service and reliability. In this new energy market, consumers have greater protection than ever before. The Office of the Regulator General regularly monitors price and service levels. An Energy Ombusdsman has been established to protect consumer interests and to resolve disputes between customers and energy businesses in the gas and electricity industries. Also, the Office of the Chief Electrical Inspector has been created to ensure both industry compliance with set regulations and, increasingly, auditing and monitoring of industry behaviour against statutory safety outcomes.

With the commencement of the National Electricity Market (NEM) in December 1998, the Government embarked upon the last phase of its successful electricity reform program.

8.3 National Electricity Market

The National Electricity Market (NEM) formally commenced on 13 December 1998 after several weeks of extensive testing. The National Electricity Market Management Company (NEMMCO) and the National Electricity Code Administrator (NECA) have taken up their respective functions under the National Electricity Law and the National Electricity Code (NEC). The NEM is currently operating under the auspices of an authorised NEC.

The NEC was submitted to the Australian Competition and Consumer Commission (ACCC) on 15 November 1996 and has since undergone a process to obtain authorisation. Currently some sections of the Code are operating under an interim authorisation. This has come about primarily because changes were made near to the commencement of the Market to accommodate specific arrangements in some other jurisdictions and because of the procedure adopted by NECA in presenting the Code to the ACCC. These interim authorisations will lapse when the Commission reaches a final determination in regard to each application.

In February 1999, the ACCC re-opened its public consultation process regarding proposed amendments to the Code. If the ACCC authorises the NEC, an application to vary the Access Code is then likely to be submitted to the ACCC.

In 1997 the commencement of the NEM was scheduled for March 1998. However, NEMMCO were unable to finalise the necessary systems and develop a suitable testing regime to meet this tight deadline. This delay was aggravated by the need for all participants in the Market to develop interfaces with the NEMMCO systems. The development of these arrangements ultimately proved in practice to be extremely complex.

Market participants faced substantial commercial risks in shifting from the existing Market arrangements (NEM 1) to the NEM. NEM 1 delivered most of the functionality of the NEM along with a capacity to trade between NSW and Victoria. Consequently, participants in NSW and Victoria were unwilling to switch to the new Market until the system had been rigorously tested and until the settlements system was proven. Testing included 'live trials' which required changes to NEM 1 rules to be agreed, drafted and authorised. The success criteria for the tests also needed to be clearly identified and agreed. A dispute resolution process was developed (chaired by a representative from the Commonwealth) and used to manage the issues raised through the testing and acceptance procedure.

Delays to the commencement of the NEM came about for a variety of reasons. However, the over-riding issue was one of co-ordinating a large number of participants facing substantial commercial risks arising from potential system failures in commencing the NEM.

Victoria has supported all attempts to bring forward the establishment of the NEM and has undertaken a substantial amount of work to achieve that objective. For example, in September 1997, Victoria engaged an external consultant to determine the readiness of NEMMCO and NECA to deliver the NEM by March 1998. The consultant identified several issues and this report was provided to all Market participants. The 'readiness criteria' developed were used to establish a joint process between the participating jurisdictions to take the Market forward and to obtain agreement from all

stakeholders as to what was required to commence the operation of the NEM. This process led to the successful implementation of the NEM on 13 December 1998.

8.4 Structural Reform of the Electricity Sector

Victoria has completed all its commitments with regard to the structural reform of the electricity industry as detailed in the First Tranche Assessment Report to the NCC.

Victoria had fully disaggregated its electricity supply industry by 1994 and has since privatised most of the electricity industry assets previously in public hands. Full structural separation of generation and transmission and ring fencing of retail and distribution businesses were completed as part of the reform program. Independent economic and safety regulators (Office of Regulator General and Office of Chief Electrical Inspector respectively) were also established.

Related Reforms:

Gas

9 Related Reforms: Gas

9.1 Introduction

Under the April 1995 *Agreement to Implement the National Competition Policy and Related Reforms*, the second tranche obligation is that jurisdictions fully implement free and fair trading in gas between and within the States including the phasing out of transitional arrangements.

The 1994 COAG gas reform agreement proposed that future arrangements for the gas industry be settled within two years, with the objective of achieving free and fair trade in natural gas by 1 July 1996. The central plank of the reform program was a uniform national framework for third party access to natural gas transmission pipelines. In addition, COAG called for the removal of all legislative and regulatory barriers to trade in gas and the structural reform of gas utilities.

In accordance with the COAG Agreement of 1994, and the NCC's second tranche assessment framework, the information provided by Victoria will demonstrate the State's progress in:

- effective implementation of the national gas access code;
- removal of all legislative and regulatory barriers to free and fair trade in gas; and
- structural reform of gas utilities.

9.2 Benefits of reform

A comprehensive reform of the Victorian gas industry is now almost complete. The objective of the reform process is to encourage the development of a fully competitive and integrated energy market in south-eastern Australia.

The industry is being restructured from a State-owned monopoly to a competitive industry based on providing the lowest possible cost and better service to all consumers.

The reform of the Victorian Gas Industry will deliver the following benefits for consumers:

- Lowest possible gas prices;
- Better choice of supply services and products;
- Greater consumer protection;
- Retention of Community Service Obligations;
- Higher service standards; and
- New jobs through more efficient industry and greater investment.

9.3 National Gas Access Code

Victoria originally introduced the national gas access code by way of the Victorian Access Code in December 1997. The Gas Pipelines Access (Victoria) Act 1998 applying the national code in accordance with the National Gas Law was passed on 19 May 1998. The Act could not be proclaimed during 1998 because:

1. Regulatory processes commenced under the code in November 1997 were not completed;
2. Due to the delays in regulatory approval of the access arrangements, effective transitional provisions had to be added to the application law, and errors corrected; and
3. The national law could not commence until the effective commencement of the operation of the access arrangements approved under the Victorian code.

Victoria intends to proclaim the Gas Pipelines Access (Victoria) Act by 31 March 1999 following consultation with COAG Ministers on a minor amendment to the Act. The amendment is necessary to correct an anomaly in the wording of the savings provisions in the Act as originally approved by COAG Ministers.

The savings provisions refer to "the first review" of the access arrangements and were intended to operate until the Victorian access arrangements had been reviewed under the Code in 2002 and new access arrangements commenced on 1 January 2003. The provision needs to be amended to ensure that any interim revisions under the Access Code to the existing access arrangements before the 2002 review do not inadvertently repeal the savings provision.

The necessary amendment will be considered by the Parliament in May 1999. To ensure the Act can commence in a workable form as soon as possible, Victoria proposes to proclaim the Act as soon as the amendment has been approved in principle by COAG Ministers. Subject to the agreement of the relevant COAG Ministers, the Act, and therefore the National Gas Access Code, can be expected to commence by 31 March 1999.

9.4 Removing Regulatory Barriers to Free and Fair Trade in Gas

Historical legislative and regulatory barriers to free trade in gas were removed as part of the November 1996 settlement of the dispute between the Commonwealth Government, Victorian Government and the Bass Strait producers (Esso and BHPP) regarding the liability for the Petroleum Resource Rent Tax on Bass Strait gas production.

The settlement removed the State's exclusive contractual franchise and allowed other

gas suppliers to enter the market on a competitive basis. In particular, restrictions preventing:

a) Esso or BHP from selling gas, directly or indirectly, to end consumers;
b) GASCOR buying gas from suppliers other than Esso or BHPP; and
c) GASCOR's customers from on-selling gas;

were removed.

In addition, the market arrangements established in Victoria, including the Market and System Operating Rules enacted under the Gas Industry Act 1994, facilitate trade in gas and provide for its more efficient use. A Gas Release Program has also been established to ensure gas is available for new entrants.

9.5 Structural Reform of Gas Utilities

The Gas Industry Act 1994 provides for the restructuring of gas utilities. The industry have been restructured in the following way:

(a) three gas retailers which initially sell gas to non-contestable customers in defined areas of Victoria and will compete to directly supply gas to customers as they progressively become 'contestable" over the period to 1 September 2001;

(b) three gas distributors which own and operate the existing gas distribution systems in defined areas of Victoria. As these are effectively monopoly service providers, the terms and conditions upon which access to the networks is provided to third parties are subject to regulation by the Victorian Office of the Regulator General;

(c) a transmission business, Transmission Pipelines Australia Pty Ltd, which maintains existing high pressure transmission pipelines in Victoria and undertakes related activities. The terms and conditions upon which access to the pipelines is provided to third parties are subject to regulation by the ACCC;

(d) an independent system operator, Victorian Energy Networks Corporation (VENCorp) which is responsible for operating the capacity of the high pressure transmission pipelines, managing the proposed gas spot market and maintaining transmission system security; and

(e) Gas Services Business Pty Ltd which provides a number of centralised services to a number of the new businesses under relatively short term contracts, including information technology support, call centre services and a number of specialised and technical functions.

The three gas retailers and distributors have been structured with three holding companies each owning one retailer and one distributor. Legal and operational separation of the distribution and retail businesses is a requirement under the National and Victorian Gas Industry Third Party Access Codes.

The Victorian Government has announced the sale of all three gas retailer/distributors. Competition between private companies is expected to increase innovation and investment in new technologies. It is expected that Transmission Pipelines Australia Pty Ltd will be sold by the end of April 1999.

Related Reforms:

Water

10 Related Reforms: Water

10.1 Introduction

Under the *Agreement to Implement the National Competition Policy and Related Reforms*, jurisdictions by June 1999 must have implemented the requirements specified in the strategic framework and the processes as endorsed at the February 1994 COAG meeting.

The specific obligations arising from these agreements on water reform have been subject to considerable discussion. Victoria, in line with the requirements set out in the second tranche framework, will provide information on progress on water reform in the following areas:

- Cost reform and pricing;
- Institutional reform;
- Allocation and trading;
- Environment and water quality; and
- Public consultation and education.

10.2 Benefits of reform

Over the past five years the Government's wide ranging reforms have improved the structure of the water industry and the regulatory framework within which it operates. These changes have encouraged efficiency, delivered service improvements and led to lower prices for consumers and improved environmental outcomes.

Most recently, a reform package implemented on 1 January 1998 has reduced the water and sewerage bills for 85 per cent of Victorian properties, with the average household receiving an 18 per cent reduction in its bill. The Government also injected $450 million into the non-metropolitan and rural water authorities, in order to accelerate water quality and environmental projects and to fund a range of projects by rural water authorities and catchment management authorities.

10.3 Cost Reform and Pricing

10.3.1 Full Cost Recovery

(a) Drawing on the advice of the Expert Group and complying with the Agriculture and Resources Management Council of Australia and New Zealand full cost recovery guidelines, jurisdictions are to implement full cost recovery.

Victoria has been implementing the principles of full cost recovery pricing since the early 1990s. Full cost recovery pricing has been implemented successfully for Victoria's major and non-major urban authorities.[3] Victoria's rural water authorities

[3] For the purposes of this paper major urbans are Victoria's 4 metropolitan corporatised service providers – a water/wastewater/major drainage wholesaler and 3 water/wastewater retailers. The non-major urbans are Victoria's 15 non-metropolitan urban water authorities.

began implementing full cost recovery in 1992 and are well placed to meet the 2001 deadline.

10.3.1.1 Major Urban Authorities

In terms of the requirement to price between incremental cost (lower bound) and standalone cost (upper bound), the major urban authorities all set prices within these bounds. Victoria's understanding of the upper bound is that prices should not exceed those which would be charged by an efficient new entrant to the industry. This could be interpreted as the ratio of the industry's Earnings Before Interest and Tax (EBIT) to the Optimised Depreciated Replacement Cost (ODRC) of its assets not exceeding the weighted average cost of capital (WACC).

With respect to the lower bound, the metropolitan industry's earnings after the recent price reductions remain sufficient to cover operating expenditures, including tax, the capital expenditure required to meet service obligations, interest payments and dividends. This indicates that earnings exceed the lower bound.

While exhaustive analysis of the appropriate upper and lower bounds was not undertaken, Victoria's view in early 1997 was that the metropolitan industry's revenues were close to or even above the upper bound. The metropolitan industry's return on assets (EBIT/ODRC) in 1996-97 was around 10 percent. However, the October 1997 price reforms, which delivered an overall 18% reduction in revenue, have brought revenues below the upper limit. Late last year, following extensive debate over the appropriate WACC for determining gas distribution reference tariffs, the Office of the Regulator-General ultimately determined the WACC to be 7.75 percent. While this WACC is not directly transferable to water, it is nevertheless consistent with the view that the current revenues are below the upper bound. The projected long-term return on assets is currently around 5 to 6 per cent.

10.3.1.2 Non-Major Urban Authorities

Victoria's non-major urban authorities (NMUs) also meet the full cost recovery guidelines.

To assess whether NMU revenues comply with the cost recovery guidelines, lower and upper bounds have been estimated for each NMU and graphed alongside revenue levels. With NMUs, the concern was that revenues may not reach the lower bound.

NMUs do not use or report on renewals expenditure. Instead they develop capital expenditure plans which they fund through retained earnings and/or borrowings. Three renewal figures were estimated to establish the lower bound. The three estimates were: 2% of written down replacement costs of fixed assets; 1.5% of written down replacement costs of fixed assets; and an average of "capital expenditure on asset replacement" forecasts for the next five years, expressed in 1997/98 dollars. The first two estimates are based on work done by the Asset Management Group at the Water Agencies Branch which estimated the required expenditure on assets for maintaining current NMU service levels as being 1.5% to 2% of the written down value of fixed assets.

Using these renewal estimates, three lower bounds were estimated for each NMU. Two upper bounds based on WACC values of 8% and 6% respectively were also calculated for each NMU. When revenue from each NMU was graphed alongside its lower and upper bound estimates, revenue levels for all of the NMUs were found to lie between their lower and upper bound estimates.[4]

Although the lower and upper bound values are estimates, Victoria is confident that its NMU revenues meet the cost recovery requirements.

10.3.2 Consumption Based Pricing

(b) Jurisdictions must implement consumption based pricing. Two part tariffs are to be put in place by 1998 where cost effective. Metropolitan bulk water and wastewater suppliers should charge on a volumetric basis.

Victoria's major urbans, non-major urbans and rural water authorities have all implemented consumption based pricing. Two part tariffs, including a volumetric component, have been implemented throughout Victoria.

10.3.2.1 Major Urban Authorities

In relation to wholesale prices, the three metropolitan retail companies have paid bulk water and sewerage charges to Melbourne Water since 1995. For both services, these are presented as two part tariffs, with a fixed component and a volumetric component. A cost allocation model is used to allocate Melbourne Water's overall revenue requirement between the three retailers on the basis of factors which are broadly related to the proportion of assets used to service each retailer and the operating expenditure attributable to each retailer. A long run marginal cost calculation is used to determine the volumetric component of the tariffs paid by each retailer, with the fixed charge making up the residual revenue requirement.

As part of the October 1997 water reforms, the 3 metropolitan retail water authorities introduced two part tariffs comprised of different, more cost reflective, service and usage charges. The fixed service charges for connected properties have replaced water and sewerage property rates. The usage charge has been set having regard for long run marginal cost, which ensures customers are paying for the incremental cost of supply while ensuring the correct pay-for-use signals are being given.

10.3.2.2 Non-Major Urban Authorities

All non-major water and sewerage services are provided on a pay-for-use basis. Victoria's NMUs have been implementing two part tariffs since the early 1990s – all water services were provided on a pay-for-use basis by 1995. The October 1997 reforms enabled those few authorities still using sewerage rates based on property value to progress to a fixed charge and, in some instances, an additional volumetric charge.

Total usage charges account for 61% of the NMU sector's total water tariff revenue.[5]

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[4] For more detail see "Item 5: Full Cost Recovery", submitted to the NCC in December 1998.
[5] For more detail see "Item 2: Tariffs for Major Towns", submitted to the NCC in December 1998.

10.3.3 Removal of Cross-Subsidies

(c) Jurisdictions are to remove cross-subsidies, with any remaining cross subsidies made transparent (published).

Given that the underlying purpose of the COAG agreement on water policy is to promote greater efficiency in the use of assets, it is appropriate to apply an efficiency test for assessing cross-subsidies, namely that cross-subsidies are:

- received when one customer or location pays less than its incremental cost of supply for services received;
- paid when one customer or location pays more than the bypass or standalone cost of supply for services received.

By removing water and sewerage rates based on property valuations Victoria has removed its distortionary cross-subsidies. Victoria has commissioned consultants, Marsden Jacob Associates, to develop a methodology for identifying whether, after removing rates based tariffs, there are any remaining cross-subsidies. An initial case study of one of the non-major urban water authorities has established that it has no remaining distortionary cross-subsidies.

10.3.3.1 Major Urban Authorities

Prior to the October 1997 reforms[6], Victoria's metropolitan water tariffs had many deficiencies, which included:

- 70 per cent of revenue for water and sewerage services was raised through rates based charges;
- these charges bore no relationship with the use of the service which gave rise to large cross-subsidies between customers;
- non-domestic customers received a "free allowance" which meant that they only paid for usage once the value of the water consumed exceeded their rates. In practice, most non-domestic customers did not pay a usage charge for water;
- there was no sewage disposal charge for non-domestic customers;
- unconnected land (including vacant land) was liable for the (higher) domestic rate, even if it was zoned residential;
- some properties which were deemed to be "gratuitous" also did not pay usage charges for water and sewage disposal. These non-rateable and exempt properties were exempt from rates by virtue of being non-rateable under the *Local Government Act.*

By removing these deficiencies the October 1997 reforms effectively removed its distortionary cross-subsidies. The retail prices have been completely restructured to correct the deficiencies outlined above:

- water and sewerage property rates have been abolished and replaced by fixed service charges for connected properties;
- charges for unconnected properties have been abolished;
- each retailer now charges different, more cost reflective, service and usage charges;

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[6] For more detail on October reforms see "The Melbourne Metropolitan Price Reforms", a paper prepared by the Department of Treasury and Finance, submitted to the NCC in August 1998.

- the sewage disposal charge has been substantially increased and there has been a small increase in the water usage charge;
- the sewage disposal charge is now applied in the non-domestic sector;
- the "free allowance" for non-domestic customers has been abolished; and
- all legislated exemptions have been abolished and a new CSO scheme of rebates for not-for profit organisations has been introduced.

Under the new tariff structure, all customers pay a volumetric price which has been set having regard to Long Run Marginal Cost[7]. Hence it is unlikely that any customers are paying less than the incremental costs involved in supplying them. With the abolition of rates, there is much less variation between the average prices paid by different customers. It is therefore also unlikely that any customers are paying above the standalone costs of supply.

10.3.3.2 Non-Major Urban Authorities

Following the October 1997 reforms, the NMU sector also removed its distortionary cross-subsidies by removing sewerage rates based on property values, in the few cases where this still applied. The reforms also provided the opportunity to remove some cross-subsidies between customer groups, lower or eliminate charges for vacant land and to rationalise demarcations between customer and authority responsibilities.

As with the metropolitan reforms, legislated exemptions for non-rateable and exempt properties have been abolished and a new CSO scheme of rebates for not-for profit organisations has been introduced for both major and non-major urban businesses.

To ensure all inefficient cross-subsidies have been removed, Victoria has commissioned consultants, Marsden Jacob Associates, to develop a methodology for identifying whether, after removing rates based tariffs, there are any remaining cross-subsidies. An initial case study on one of the NMUs using the methodology developed by Marsden Jacob has established that the authority has no remaining distortionary cross-subsidies. However, further case studies will be carried out and the findings will be reviewed by the Department of Natural Resources and Environment and the Department of Treasury and Finance before any decision is made on the Marsden Jacob methodology.

Victoria has removed distortionary cross-subsidies in the NMU sector.

[7] With the exception of fire hydrants, which do not pay for water use.

10.3.4 Community Service Obligations

(d) Where service deliverers are required to provide water services to classes of customers at less than full cost, this must be fully disclosed and, ideally, be paid to the service deliverer as a community service obligation.

Community Service Obligations (CSOs) in Victoria include the provision of concessions to pensioners, rebates for not-for-profit organisations, and the rates and charges relief grant scheme. The Government funds all of these CSOs in a transparent way.

10.3.4.1 Major and Non-Major Urban Authorities

There are three circumstances under which urban water and sewerage services can be delivered at less than full cost:

- a rebate of up to $260 a year is available on the fixed water and sewerage charges of not-for-profit organisations in the fields of education, hospitals or nursing care, religious worship, charity, outdoor sporting or recreation, activities and war veterans organisations. These rebates are explicitly listed on customers' bills. The water authorities are reimbursed for these rebates directly by the Government. (It is the Government, not the water authorities, which determine eligibility for the rebate);
- concessions of up to 50% of service and usage charges are available to pensioners; and
- the Water Relief Grant Scheme, which is administered by the Department of Human Services, provides once-off assistance to eligible domestic customers who are unable to pay their water and/or sewerage bills due to a temporary financial problem.

The Government funds all of these CSOs in a transparent way to ensure authorities continue to charge full cost recovery prices, with the difference between the full cost recovery price and the amount paid by a customer receiving services at less than full cost being funded by the Government.[8]

10.3.5 Rates of Return

(e) Publicly owned supply organisations should aim to earn a real rate of return on the written down replacement cost of assets for urban water and wastewater.

Victoria's major and non-major water authorities earn positive rates of return. Each authority covers operating expenditures, including tax (where applicable), the capital expenditure required to meet service obligations, interest payments and dividends. This indicates that positive rates of return have been achieved.

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[8] For more detail see "Item 7: Community Service Obligations", submitted to the NCC in December 1998

10.3.5.1 Major and Non-Major Urban Authorities

As discussed in section 1.1, revenue levels in the metropolitan and non-metropolitan sectors are set within an upper and lower bound. Victoria's major urban and NMU authorities meet the full cost recovery requirements, with revenue levels set above the lower bound but below the upper bound, which indicates that a real rate of return is being achieved.

10.3.6 Rural and Irrigation Services

10.3.6.1 Full Cost Recovery

(a) Where charges do not currently cover the costs of supplying water to users, jurisdictions are to progressively review charges and costs so that no later than 2001 they comply with the principle of full cost recovery with any subsidies made transparent.

Victoria's rural water authorities will recover operational, maintenance and administrative costs, finance charges and renewals annuity for all districts by 2001. Only 11 (of the 34) districts in Goulburn Murray and one in Wimmera Mallee do not currently recover full business costs.

Victoria's rural water authorities are well placed to achieve full cost recovery by 2001. Using normalised revenues based on ten year rolling averages of sales, all authorities have already achieved or will achieve full cost recovery by 2001.

Only 11 (of the 34) districts in Goulburn Murray and one in Wimmera Mallee do not currently recover full business costs. The 11 districts in Goulburn Murray represent only 10% of Goulburn-Murray Water's total rural water services revenue.

With the agreement from their Water Services Committees, both Wimmera Mallee Water and Goulburn-Murray Water will phase full cost recovery prices in for these remaining districts before 2001.

10.3.6.2 Economic Viability and Ecological Sustainability

(b) Jurisdictions are to conduct robust independent appraisal processes to determine economic viability and ecological sustainability prior to investment in new rural schemes, existing schemes and dam construction. Jurisdictions are to assess the impact on the environment of river systems before harvesting water.

Any work on new or existing schemes must meet the legislative requirements of the *Water Act* 1989. The *Act* requires ecological sustainability to be assessed before any revisions can be made to a bulk entitlement order. Since bulk entitlement orders are affected by changes to rural schemes and dam construction, any new investment must prove its ecological sustainability before a new bulk entitlement or the necessary amendments to the existing bulk entitlement will be approved. The "Investment Evaluation Policy and Guidelines (1996)" and "Infrastructure Investment Policy for Victoria (1994)", issued by the Department of Treasury and Finance, ensure that all new investments are economically viable.

Under the legislative framework of the *Water Act* 1989, Victoria's bulk entitlement program, discussed in section 3.1 below, directly deals with the allocation of water to authorities and the environment and provides a comprehensive framework for the trading of surface water entitlements.

Any work on new or existing schemes or dam construction on the system will affect the nature of the bulk entitlement for that system. A new bulk entitlement will be required or the existing bulk entitlement on that system will need to be amended before the work can proceed. Since the *Act* requires any new bulk entitlements or amendments to existing bulk entitlements to be ecologically sustainable, the proposed investment must also be ecologically sustainable.

Victoria's rural water authorities are well placed to meet the full cost recovery requirements by 2001. Victoria's compliance with the full cost recovery principles ensures that, as a minimum, any revenue raised from new schemes will be set above the economically viable lower bound.

Project evaluations must also comply with "Investment Evaluation Policy and Guidelines (1996)" and "Infrastructure Investment Policy for Victoria (1994)", issued by the Department of Treasury and Finance. These documents require new investments to earn rates of return which lie between the lower and upper bounds of the COAG full cost recovery requirements.

In addition to meeting the legislative requirements of the *Water Act* 1998 and complying with full cost recovery principles, extensive pre-feasibility studies, assessing economic viability and ecological sustainability, are undertaken prior to any investment in major rural schemes or dam construction.[9] These pre-feasibility studies are made available to the public.

10.3.6.3 Devolution of Irrigation Management

(c) Jurisdictions are to devolve operational responsibility for the management of irrigation areas to local bodies subject to appropriate regulatory frameworks.

All of Victoria's rural water authorities have Water Services Committees in place. By negotiating district Corporate Plans with their authorities, Water Services Committees provide local input into the management of their irrigation areas.

By setting up Water Services Committees (WSCs), rural water authorities ensure they receive local input into the management of irrigation areas.

An authority's customers, who hold voting rights weighted in proportion to water rights, elect the WSCs. Once elected, WSCs represent either a district or a group of customers.

WSCs provide an invaluable service to rural water authorities and the Government. The function of a WSC may include:

[9] See "Deakin Irrigation Development Pre-Feasibility Study", submitted to the NCC in February 1999.

- negotiating district Corporate Plans with the authority;
- developing its own WSC Corporate Plan;
- negotiating a water services agreement;
- prioritising local investment/replacement program;
- involvement in local salinity management plans;
- communicating strategies between the authority and customers; and
- advising on service delivery issues.

Both the authority and the WSC sign off on the Water Services Agreement, which covers:
- pricing;
- service availability;
- performance standards for each service delivered;
- the authority's expectations of customers; and
- customers' expectations of the authority.[10]

The authorities and WSCs negotiate trade offs between price and service delivery standards. For example, if a WSC wants to pay a lower price it may negotiate a reduction in the level of service it receives from its authority. These types of trade offs have helped to facilitate the move towards full cost recovery. The WSCs understand the principles of full cost recovery and have assisted authorities by negotiating the necessary price, service delivery and work programs to meet the 2001 deadline.

As well as negotiating the Water Services Agreements, WSCs provide a vital communication link between authorities and their customers. Some of the activities undertaken by WSCs include:
- producing newsletters;
- holding field days;
- organising "Hayshed" information sessions;
- performing customer service reviews;
- producing irrigation handbooks;
- providing induction programs for new customers; and
- writing information columns in local press.

[10] For an example of a Water Services Agreement see "Customer Services Agreement between Central Goulburn WSC and Goulburn-Murray Water", submitted to the NCC in February 1999.

10.4 Institutional Reform

10.4.1 Institutional Role Separation

(a) As far as possible the roles of water resource management, standard setting and regulatory enforcement and service provision should be separated institutionally by 1998.

Victoria's institutional arrangements for the provision of water and sewerage services ensure that the responsibility for service provision is as far as possible separated from water resource management, standard setting and regulatory enforcement. Victoria's major urbans, NMUs and rural water authorities are responsible for service delivery, with the Office of the Regulator-General, the Department of Natural Resources and Environment, the Department of Treasury and Finance, the Department of Human Services and the Environment Protection Authority assuming responsibility for the other roles in a manner which minimises conflicts of interests.

10.4.1.1 Major Urban Authorities

Table 1 outlines the Ministerial responsibilities for the major urban authorities.

Table 1: Major Urban Industry: Current Ministerial Responsibilities

Function	
Service Provision	Retail water supply and sewerage services are supplied by three State owned *Corporations Law* companies. Wholesale water supply and sewerage functions are supplied by Melbourne Water Corporation. The Minister for Agriculture and Resources (*Resources Minister*) is the relevant portfolio Minister for these businesses and, under current arrangements, responsible for licensing the retail businesses. The Treasurer also has responsibilities in relation to the financial performance of the businesses and is responsible for appointing Directors to their Boards.
Water Resource Management	Responsibility for water resource management issues throughout the State lies with the Resources Minister.
Standard Setting	

• Customer Service	Minimum standards are established and issued by the Resources Minister through the operating licence. These standards are monitored and reported on by the Office of the Regulator-General (ORG). Under the licence, ORG is responsible for determining the benchmark terms of the customer contract between customers and the relevant retail service provider, in consultation with its customer consultative committee. Also, each retail business consults with its own customer consultative committee on customer matters and to set the terms of the customer contract within the framework established by the ORG. The ORG is a statutorily independent regulatory body, which reports to the Minister for Finance.
• Drinking Water Quality	Water quality standards are contained in the retail businesses' licences, which are issued by the Resources Minister. The Minister for Health is also responsible for health related standards.
• Environmental	The Environment Protection Authority is responsible for setting environmental standards. The Authority sets standards within a policy framework endorsed by Government, and reports to the Minister for Conservation and Environment.
Regulatory	
• Price	The Treasurer was responsible for submitting to Cabinet the pricing reform package introduced in Melbourne in January 1998. Prices are regulated through a pricing order made by the Governor in Council.
• Customer Service and Performance Standards	The Office of the Regulator-General is responsible for monitoring compliance with customer obligations contained in the customer contract and with obligations imposed by Government in the retail water and sewerage licences.
• Business performance	The Treasurer is responsible for monitoring the financial performance of the four metropolitan businesses.
• Asset management	The Resources Minister is responsible for establishing guidelines and monitoring compliance.
• Drinking Water Quality	Enforcement of standards set in the retail licences lies with the Office of the Regulator General. Regulation of public health issues lies with the Minister for Health.
• Environmental	Enforcement of environmental standards lies with the Environment Protection Authority.

In summary:

- Service provision in the metropolitan area is the responsibility of the major urban retail water businesses. The retail businesses are State owned *Corporations Law* companies with an explicit commercial focus.
- The bulk water and bulk sewerage functions are provided by Melbourne Water Corporation (a State owned business created under the *Melbourne Water Corporation Act* 1992), in accordance with a bulk service agreement negotiated between Melbourne Water Corporation and the retailers.
- The service providers are not responsible for setting standards in the key areas of customer service, drinking water quality and the environment.
- Responsibility for water resource management issues essentially rests with the Minister for Agriculture and Resources. In terms of departmental arrangements, resource allocation and catchment management functions are separated from service delivery monitoring arrangements.
- In the key area of environmental regulation, there is an independent regulator, the Environment Protection Authority.
- Victoria has an independent economic regulator, the Office of the Regulator-General, but the role of the Office in relation to the water industry is confined to specific areas - importantly customer service and monitoring and reporting on non-financial performance.

The Treasurer is responsible for regulating metropolitan prices. While under current arrangements the Treasurer is responsible for both metropolitan pricing and the oversight of the financial performance of the businesses, these activities are separated in terms of departmental arrangements.

10.4.1.2 Non-Major Urban Authorities

Table 2 outlines the Ministerial responsibilities for the NMU water industry.

Table 2: NMU Industry: Current Ministerial Responsibilities

Function	
Service Provision	Retail water supply and sewerage services are supplied by fifteen statutory authorities in accordance with the *Water Act* 1989. The Minister for Agriculture and Resources (*Resources Minister*) is the relevant portfolio Minister for these businesses.
Water Resource Management	Responsibility for water resource management issues throughout the State lies with the Resources Minister.
Standard Setting	
• Customer Service	Responsibility for setting minimum standards for customer service also lies with the Resources Minister.
• Drinking Water Quality	The Minister for Health is responsible for setting Drinking Water Quality monitoring standards.

• Environmental	The Environment Protection Authority (EPA) is responsible for setting environmental standards. The EPA monitors effluent standards and reports to the Minister for Conservation and Environment.
Regulatory	
• Price	Under the *Water Act* 1989 tariffs must be set in accordance with the authority's Corporate Plan. The Resources Minister has the power to veto NMU pricing decisions.
• Customer Service and Performance Standards	The Resources Minister is responsible for customer service. Authorities also develop Customer Participation Strategies which customer input into developing service levels.
• Business performance	The Resources Minister is responsible for monitoring the financial performance of the NMUs. The Department of Treasury and Finance is also involved with the monitoring of financial performance to assist with the dividend and revenue determinations.
• Asset management	The Resources Minister is responsible for establishing guidelines and monitoring compliance.
• Drinking Water Quality	Regulation of public health issues lies with the Minister for Health. The Department of Health monitors Drinking Water Standards.
• Environmental	Enforcement of environmental standards lies with the Environment Protection Authority.

In summary:

- Service provision in the regional urban areas is provided by 15 non-major urban retail water businesses who have skills-based boards and a commercial focus.
- Bulk water is either provided by rural water authorities and/or a financially ringfenced separate business units.
- The service providers are not responsible for setting standards in the key areas of customer service, drinking water quality and the environment.
- Responsibility for water resource management issues essentially rests with the Minister for Agriculture and Resources. In terms of departmental arrangements, resource allocation and catchment management functions are separated from service delivery monitoring arrangements.
- In the key area of environmental regulation, there is an independent regulator, the Environment Protection Authority.

While the Resources Minister is responsible for both service delivery and water resource management, these activities are separated in terms of departmental arrangements, and there is significant involvement from the Department of Treasury and Finance. The Department of Human Services and the EPA are responsible for quality regulation. These arrangements ensure no conflicts of interest exist.

10.4.1.3 Rural Water Services

The institutional arrangements for rural water services are based on an integrated management approach. Attachment 2 outlines the institutional arrangements for rural water services.

Attachment 2 illustrates the relationship between the various regulatory bodies and service providers. The responsibilities can be summarised as follows:

- Service provision is the responsibility of the five rural water authorities. These statutory authorities deliver rural services in accordance with the *Water Act* 1989.
- The Minister for Agriculture and Resources and the Minister for Conservation and Land Management are responsible setting standards in the key areas of resource management, corporate planning and the environment.
- The Water Services Committees have effectively assumed the responsibility for determining rural water prices. These committees negotiate the prices with the authorities and no price will be set without their agreement. When agreement cannot be reached the issue is referred to the Minister for Agriculture and Resources.
- The recently formed Catchment Management Authorities (CMAs), discussed in section 4.1, are responsible for performing resource management duties. These authorities are working closely with rural water authorities to develop an agreement on the management of the catchment (eg. Goulburn Broken CMA's tripartite agreement with Goulburn-Murray Water and Goulburn-Valley Water). The CMAs report to the Minister for Conservation and Land Management.

10.4.2 Commercial Focus for Metropolitan Service Providers

(b) Metropolitan service providers must have a commercial focus, whether achieved by contracting out, corporatisation etc, to maximise efficiency of service delivery.

Victoria's metropolitan service providers are State owned *Corporations Law* companies. They have skills-based boards, pay dividends and tax equivalents, and compete by comparison with each other over customer service and performance standards.

The three metropolitan retailers are State owned *Corporations Law* companies, subject to the same legislative requirements as private companies.

Melbourne Water Corporation is a statutory business corporation under *the Melbourne Water Corporation Act* 1992. Melbourne Water Corporation has a statutory charter to act in a commercial manner.

All four entities have skills-based boards appointed by the Treasurer, pay dividends to the shareholder based on their profitability, and pay tax equivalents under the State Tax Equivalent Regime system. The Business Enterprises Branch of the Department of Treasury and Finance monitors the financial performance of these businesses.

The Office of the Regulator-General (ORG) monitors the retail businesses for comparative performance. The retail businesses use the ORG's annual performance report to compete by comparison with each other over the quality of service they provide to their customers.

10.4.3 Performance Monitoring and Best Practice

(a) ARMCANZ is to develop further comparisons of interagency performance with service providers seeking best practice.

Victoria's major and non-major urban authorities participate in a number of performance monitoring and benchmarking programs, including those carried out by the Water Services Association of Australia (WSAA) and the Victorian Water Industry Association (VWIA). The rural authorities are currently participating in the irrigation benchmarking project being carried out by the consultants, Barraclough and Co, for the High Level Steering Group on Water.

The WSAA performance monitoring and benchmarking program includes the major urban businesses and the large non-major urban authorities. WSAA also provides contracted services to the Victorian Water Industry Association for benchmarking the Urban Water Sector in Victoria.[11]

The ORG collects comprehensive data on service delivery performance of the major urban retailers and publishes a comparative report annually. An independent auditor verifies the collection processes for data provided by the companies to ORG.

Independent audits of the asset management practices of the major urban retail companies have commenced for the first time. This will give confidence that service standards can be maintained in the future.

There are also routine monitoring and performance comparisons of the industry through the corporate plans and annual reports submitted to Government. Part of this involves electronic data transfer.

Victoria is also involved in the performance monitoring and benchmarking pilot study for rural water authorities, now in its second year, which is being undertaken by consultants, Barraclough and Co, for the High Level Steering Group on Water.

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[11] See "The VWIA Urban Water Review", submitted to the NCC in December 1998.

10.5 Allocation and Trading

10.5.1 Comprehensive System of Water Entitlements

(a) There must be comprehensive systems of water entitlements backed by separation of water property rights from land title and clear specification of entitlements in terms of ownership, volume, reliability, transferability and, if appropriate, quality.

Under the legislative framework of the *Water Act* 1989, Victoria's bulk entitlement program directly deals with the allocation of water to authorities and the environment and provides a comprehensive framework for the trading of surface water entitlements. This program has reached the stage where flow sharing arrangements at approximately 70% of the diversion sites across the State have been negotiated and agreed with stakeholders.

The Victorian *Water Act* 1989 is the legislative framework which enables water entitlements to be clearly defined and provides the statutory basis for environmental allocations.

Water may be allocated through the bulk entitlement provisions of the *Water Act* 1989 or via the licensing provisions. In each case clear tradeable volumetric entitlements to water are established.

Victoria's comprehensive system of water entitlements is based on the establishment of bulk entitlements. Bulk entitlements replace the previous ill-defined bulk rights to water and define the relationship between the Crown, bulk entitlement holders, users, and the environment.

The process by which bulk entitlements are established is complex, with some systems requiring up to three years of public consultation with stakeholders before the entitlement is finalised.[12] Once established, bulk entitlements are explicitly available from a specified location and source; have an exclusive share granted to the authority and no other authority; are tradeable; and are enforceable at law through proper monitoring and policing arrangements.

There are three types of bulk entitlements: source; delivery; and hybrid source/delivery.

Source entitlements provide the right to harvest direct from a waterway (weir or storage). Source entitlements specify the rights to all or some of the following:

- the amount of water that can be drawn from a water way;
- share of storage capacity;
- share of inflows;
- share of carrier capacity;
- share of losses; and
- passing flow regime.

[12] For more detail see "The Bulk Entitlement Conversion Process (Report No. 2)", submitted to the NCC in February 1999.

Delivery entitlements provide the right to divert from a regulated waterway operated by another authority. Delivery entitlements specify the rights to:

- the maximum and annual volume that can be diverted at a specified point;
- the security of the entitlement;
- a restriction policy;
- headworks and delivery financial obligations;
- measurement and reporting obligations; and
- water accounting requirements.

Hybrid entitlements include aspects of both source and delivery entitlements which have been adapted for special circumstances.

Bulk entitlements may be issued to authorities (any person empowered to carry out a function under the *Water Act* 1989) and for the environment. A register of entitlements lists the entitlement holders and records the nature of the entitlement. Where appropriate the register also details the appointment of a storage operator and resource managers for each entitlement. Advanced hydrological models are used to quantify sharing arrangements, document benchmark water flows in each system, and review exchange rates as required. Basin water accounts are being developed and will be published annually for each system.

There are differences between the entitlements held by urban water authorities and those held by rural water authorities.

Urban entitlements have no subsidiary retail entitlements. Rather than breaking bulk entitlements held by urban authorities into subsidiary retail entitlements, statutory obligations require urban authorities to deliver water from their bulk entitlements to urban customers on demand. The bulk entitlement can be traded but there is no trading at the retail (urban customer) level.

Rural bulk entitlements establish the primary property right at the retail level to maximise water trading. They are an aggregation of retail entitlements and distribution system losses. When trades occur at the retail level the bulk entitlements are adjusted to reflect the transfer between retail entitlement holders. Retail entitlement trading is discussed below in section 3.2.

Rural water authorities own their entitlements' distribution losses. This provides an incentive for rural authorities to minimise system losses in order to benefit from the use of any saved water. Savings of losses may be traded.

The bulk entitlement program ensures secure water property rights, separate from land title, are in place. The program also enables the provision of water for the environment, either by establishing bulk entitlements for the environment or by imposing conditions which specify an environmental flow regime on entitlements held by other authorities. This program has reached the stage where flow sharing arrangements at approximately 70% of the diversion sites across the State have been negotiated and agreed with stakeholders[13]. At the vast majority of sites this has

[13] For more detail on progress see "Bulk Entitlement Conversions – Progress Report as at February 1999", submitted to the NCC in February 1999.

resulted in improved environmental outcomes. Formal bulk entitlements are being progressively granted and regulatory systems, to monitor and manage the entitlement system including water trading, are being implemented. A forward implementation program outlining Victoria's work program for the next three years is discussed below in section 3.5.

Licensed diversions from unregulated waterways are not included within the bulk entitlement regime. Instead the Minister has the power to issue licences. This power has been delegated to the rural water authorities. The licences provide a tradeable entitlement to water. Licensed diversions on unregulated waterways account for approximately 5 percent of water diverted.

When considering an application for a new licence, Section 40 of the Water Act 1989 ensures that the environment and existing water users are protected. These provisions are identical to those that apply to bulk entitlements.

Streamflow Management Plans are prepared in catchments where there is a significant demand for water. The objective of these plans is to ensure that the water resources are managed on a sustainable basis. The plans put in place sharing arrangements between the environment and other users and trading rules appropriate to the local conditions. These plans are discussed in section 3.3.

10.5.2 Water Trading

(b) Arrangements for trading in water entitlements must be in place by 1998. Water should be used to maximise its contribution to national income and welfare.

Where cross border trade is possible, trading arrangements must be consistent between jurisdictions and facilitate trade. Where trading across State borders could occur, relevant jurisdictions must jointly review pricing and asset valuation policies to determine whether there is any substantial distortion to interstate trade.

The Victorian *Water Act* 1989 enables both temporary and permanent transfers of water entitlements. With the *Act's* sound property rights system in place, water trading is already starting to play an ever-increasing role in agricultural production. In 1997/98 many irrigators only coped with the low allocations of water by turning to the water market. This prompted record levels of water trading with permanent transfers up to 20,000ML and temporary transfers of up to 250,000ML. While temporary interstate trade has been possible since 1995, Victoria is an active participant in the MDBC's pilot project, confined to high-security licences between Nyah and the Barrages, which has now processed 9 permanent interstate trades. Victoria is keen for the project to be expanded and is currently working with its interstate trading partners to facilitate the extension of the project.

Prior to the implementation of the bulk entitlement program, irrigators' rights (water rights, licences and attached 'sales' allocations) existed for 80 years. However, these rights had no defined level of security and, in an environment of increasing competition for water, the security of these rights would have been eroded. Under the bulk entitlement program these irrigators' rights are being better defined, and when aggregated with the other primary entitlements in a system, constitute the bulk

entitlement for that system. The better-defined water rights are essentially the same as the previous irrigators' rights but have the added security of being part of a bulk entitlement rather than being attached to the previous ill-defined bulk allocations.

Both licences and water rights have been temporarily transferable since 1989.

Victoria introduced permanent transfers of water rights in 1991/92 and now has an active water market which enables water to move to its highest value use. Since 1991/92 Victoria has experienced a rapid growth in both temporary and permanent transfers since that date. Permanent transfers are up to 20,000ML per season and temporary transfers of up to 250,000ML per season, depending on seasonal conditions.

Victoria's trading rules do not create significant impediments to trade. The rules have been developed to ensure that trades do not adversely affect third parties (ie. channel capacity constraints and security of supply) or the environment (ie. salinity). The rules include:

- exchange rates, which provides the buyer with the same security of supply as the seller;
- 2% per annum limit on permanent transfers out of one system to slow the rate of structural adjustment in order to manage community concerns;
- compliance with Murray-Darling Salinity and Drainage Strategy;
- channel capacity constraints must be considered before a trade is approved; and
- certain statutory requirements (e.g. the seller must advertise 28 days in advance) must be met for the less frequent and more expensive permanent trades.

The only rule which might be considered to be restricting trade is the 2% per annum limit on permanent transfers out of a system. The other rules which may appear restrictive, like the "no increase in saline" drainage rule, exist to minimise any harmful environmental impacts of water trading.

The 2% per annum limit rule was introduced to allay fears that increased permanent trade could cause rapid structural adjustment which may have undesirable social impacts on a particular region. At this stage, trades out of any of the systems have not reached the 2% per annum limit. However, the Victorian Government will consider removing the rule as it develops more sophisticated trading rules.

Water trades may occur through direct farmer to farmer transactions, through a water broker or via a water exchange. In response to requests from its customers, Goulburn-Murray Water established a water exchange dealing in temporary transfers in September 1998. The Goulburn-Murray Water region is where there is the biggest need for an exchange - most of the water is there, and it has the dairy farmers who are keen to make up for their reliance on "sales" water. The new exchange handles temporary transfers across all northern Victoria, including Sunraysia, and aims to make price information more readily available with a view to facilitate and encourage temporary water trading, particularly amongst irrigators who have not previously traded water. The pool price has reached $200/ML on the Goulburn, and $80/ML on the Murray. The volume traded at each weekly exchange has ranged between approximately 400ML to 1,400ML, mainly on the Goulburn System.

The water exchange accounts for about 10 percent of the water traded but plays a very important role in providing price information to the market. To complement the introduction of the water exchange, Victoria's rural water authorities have agreed to include a box on their transfer application forms for voluntary disclosure by each buyer of price paid for the water. This will be used to publish regular pricing information in the local press, which should prove a neat and economical way of overcoming the major irrigator concern with the market.

As water markets are already operating successfully for a large part of the State, the main issue that needs to be considered is whether the metropolitan industry's structural arrangements would enable gains from water trading. The Water Reform Unit, together with the Department of Natural Resources and Environment, has established a Tradeable Water and Entitlements Project to carry out this study.

While temporary interstate trade has been possible since 1995, Victoria has been participating in the MDBC's pilot project for permanent interstate trade. The pilot project, confined to high-security licences between Nyah and the Barrages, aims to assist the irrigation industry become more environmentally and economically sustainable by facilitating the movement of water from current irrigation activities to higher value irrigation developments that are subject to rigorous environmental clearance processes.

Since commencement of the project, nine trades have taken place with water permanently moving from NSW to Victoria; Victoria to South Australia; and NSW to South Australia. The trades have resulted in the movement of 1.77 gigalitres of water into high value viticulture enterprises.

Victoria is keen for the project to be expanded and is currently working with its interstate trading partners, through a MDBC working group, in an effort to resolve cost recovery and security of supply issues which need to be addressed before the project can be extended.

10.5.3 Water for the Environment

(b) Jurisdictions must develop allocations for the environment in determining allocations of water and should have regard to the relevant work of ARMCANZ and ANZECC.

Best available scientific information should be used and regard had to the inter-temporal and inter-spatial water needs of river systems and groundwater systems. Where river systems are overallocated or deemed stressed, there must be substantial progress by 1998 towards the development of arrangements to provide a better balance in usage and allocations for the environment.

Jurisdictions are to consider environmental contingency allocations, with a review of allocations five years after they have been initially determined.

Water allocations for the environment are being addressed in two phases: firstly through the process of conversion to bulk entitlements where there is the opportunity for environmental managers to negotiate improved environmental flows or secure bulk entitlements for the environment; in this phase, provisions for environmental water will

also be made in Streamflow Management Plans for unregulated rivers. In the second phase, stressed basins will be identified and addressed through the implementation of Streamflow Management Plans and River Restoration Plans.

The Victorian *Water Act* 1989 requires the Minister to consider the environment when making water allocation decisions.

As discussed in section 3.1, the bulk entitlement program enables the provision of water for the environment in regulated systems either by establishing bulk entitlements for the environment or by imposing conditions which specify an environmental flow regime on entitlements held by other authorities.

This method of providing water for the environment has been successful to date because the negotiation between stakeholders, undertaken as part of the bulk entitlement conversion process, ensures that environmental managers, irrigators, water authorities and other groups have been consulted and agree before the entitlement is finalised. There is recognition by the irrigators of their dependence on healthy rivers to sustain their business and therefore, of the need to provide water for the environment. It should be noted that in 90% of these negotiations, some improvements to environmental flow regimes were achieved. For example, the environmental flow regime specified in conditions on the bulk entitlement held by Goulburn-Murray Water for Lake Eildon provided an increase in minimum daily flows from 120ML/day to 250ML/day and a flushing flow of 80 000ML in November for wetland watering.

On unregulated rivers, not covered under the bulk entitlement program, the management of diversions will be undertaken through the development and implementation of streamflow management plans (SMPs)[14]. SMPs will establish environmental objectives, immediate and, where necessary, long term environmental flow provisions, mechanisms to achieve long term environmental flows provisions, rostering rules, trading rules, and rules covering the granting of any new licences. In addition, they will include provisions for monitoring and compliance and plan review. SMPs are developed in consultation with the relevant group of stakeholders with a general public consultation phase. Victoria will have a long-term program of SMP development undertaken by the Rural Water Authorities. The criteria for setting priorities for SMPs and the work program for the next three years are discussed in section 3.5.

River Restoration Plans (RRPs) will be developed for rivers where the environmental provisions made through the Bulk Entitlement process are considered to be insufficient to meet environment objectives[15]. RRPs will build on the current environmental provisions. They will set clear environmental objectives, set priorities for any additional water, identify mechanisms to provide additional water, identify complementary instream and riparian habitat works that will maximise environmental gains and establish agreed cost sharing for implementation. The criteria for setting priorities and the work program for the next three years is discussed in section 3.5 below.

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[14] For more detail see “Streamflow Management Plans” folder, submitted to the NCC in February 1999.

[15] For more detail see “River Restoration Plans” folder, submitted to the NCC in February 1999.

In addition to the bulk entitlement conversion process, SMPs and RRPs, there is the opportunity for any further water rights that are required for environmental purposes to be acquired through market mechanisms with cost sharing to be determined by government. Conversely, where there is an entitlement for the environment it can be, and in some cases has been, traded temporarily.

10.5.4 Groundwater

(1.1) Clause 4(a) of the COAG water resource framework has been interpreted as requiring a working "comprehensive system" of establishing water allocations to be in place which recognises both consumptive and environmental needs. This system is to be applicable to both surface and ground water. However, applications to individual water sources will be determined on a priority needs basis.

In relation groundwater pricing, private withdrawals of groundwater are not subject to the pricing clauses of the 1994 Framework Agreement.

A rigorous statutory licensing process monitors Victoria's groundwater allocation system. These groundwater licenses are linked to community driven Groundwater Management Plans, which are being implemented on a priority needs basis. A few of Victoria's non-metropolitan urban water authorities make a small number of non-private withdrawals. These authorities meet the full cost recovery pricing requirements, discussed in section 1.2.2, when they on-sell groundwater withdrawals.

Victoria controls the extraction of all groundwater through a rigorous statutory volumetric licensing process. The construction of all groundwater bores including production and investigation bores is also subject to a licensing process. Licensed drillers must construct all groundwater bores.

Victoria reviewed its groundwater management structure in 1997. The State Groundwater Council appointed by the Minister responsible for water resources undertook this work. The Council proposed a management regime based on sustainable development and a cost sharing arrangement between Government and groundwater users.

Victoria has identified over 50 groundwater management areas in the State where there is a potential for groundwater development or where groundwater development has already occurred.

The sustainable yield of the aquifers in these areas has been quantified, as has the volume of groundwater allocated to users. Within these areas a Permissible Annual Volume (PAV), which is the optimum level of allocation, has been set to reflect the sustainable yield of the aquifer.

Victoria's groundwater management regime is based on sustainable development through the establishment of community driven Groundwater Management Plans. The need to develop Groundwater Management Plans is determined by demand on the resource. When resource commitments reach 70 per cent of the PAV, groundwater community management groups are established and more intensive management is

triggered. The work program priorities for implementing Groundwater Management Plans are discussed in section 3.5.

In relation to the framework's pricing requirements, Victoria's non-private withdrawals are carried out by only a few non-metropolitan urban water authorities and most of the rural authorities. There are no large cooperatives that act as wholesalers in Victoria and when selling groundwater withdrawals to their customers, Victoria's water authorities ensure the full cost recovery pricing requirements are met. Victoria's full cost recovery achievements are discussed in section 1.1, which establishes that non-metropolitan urbans authorities are meeting the requirements and the rural authorities well placed to meet the requirements by 2001.

Charges are already recovered from licensed groundwater users. The charge comprises a service fee and a volumetric component.

10.5.5 Victoria's Implementation Program

(1.2) For the second tranche, jurisdictions should submit individual implementation programs, outlining a priority list of river systems and groundwater resources, including all river systems which have been over-allocated, or are deemed to be stressed and detailed implementation actions and dates for allocations and trading to the NCC for agreement, and to Senior Officials for endorsement.

Victoria's Implementation Program, detailing the priority work programs for bulk entitlement conversions, Streamflow Management Plans, River Restoration and Groundwater Management is provided in Attachment 1.

10.6 Environment and Water Quality

10.6.1 Integrated Resource Management

(a) Jurisdictions must have in place integrated resource management practices, including:

- *demonstrated administrative arrangements and decision making processes to ensure an integrated approach to natural resource management and integrated catchment management;*
- *an integrated catchment management approach to water resource management including consultation with local government and the wider community in individual catchments; and*
- *consideration of landcare practices to protect rivers with high environmental values.*

Progress on integrated resource management has been made through the establishment of 9 Catchment Management Authorities (CMAs) in non-metropolitan Victoria. The CMAs are responsible for strategic planning for land and water resources management in their region and the provision of integrated waterway and floodplain management. In addition, they provide advice to Government on priorities for action and investment.

Victoria revised its catchment management arrangements in March 1997 to establish nine Catchment Management Authorities (CMAs). The CMAs are governed by boards reporting to the Minister. They are responsible for the development of integrated regional management plans to guide future investment of Government funding and local rates in the catchment. Once Government agrees to the regional management plans and the annual CMA levies on property owners in the catchment, the CMAs are accountable for catchment management outcomes.

CMAs are responsible for:

- the development and coordination of implementation of the Regional Catchment Strategies (RCSs);
- the provision of advice on both federal and State resourcing priorities at a regional level;
- the provision of integrated waterway and floodplain-related service delivery; and
- the negotiation with the Department of Natural Resources and Environment of an annual project-based works program for its regional staff which is in line with the implementation of the RCS.

The majority of a CMA's work lies in the implementation of the RCS. A typical RCS's objectives would include:

- developing an integrated vision for natural resource management in the region
- establishing key natural resource management priorities for the region on the basis of economic, social and environmental benefits
- consolidating the natural resource management strategies already in place;
- identifying gaps and putting in place actions to rectify these
- accelerating implementation through other funding sources;
- improving the delivery of on-ground works through strategic planning, improved efficiency and ongoing landholder involvement; and
- improving the viability of catchment landholders by acknowledging and addressing social economic and environmental constraint.

CMAs work closely with rural water authorities, landowners, local government, landcare groups, environmental groups and the community to ensure effective implementation of their RCSs. Each CMAs develop detailed action plans and work programs for the priority issues or areas within their region in consultation with stakeholders and the general community. These action plans include river management and water quality strategies, floodplain strategies, biodiversity strategies, vegetation management strategies, communication strategies, nutrient management strategies and land and water salinity management plans[16]. CMAs recognise the importance of local government in achieving the objectives of their RCSs and are developing partnerships with local government and water authorities in their region. CMAs and rural water authorities are also responsible for the coordination of Landcare groups within the regions and therefore provide support to Landcare and ensure that activities undertaken by these groups are coordinated to achieve regional natural resource management objectives.

CMAs provide increased community input to, ownership of and commitment to decisions on catchment management. They are also improving the integration and

[16] See "Land and Water Salinity Management Plans" folder, submitted to the NCC in February 1999

coordination of all relevant service delivery programs in a region by either significantly influencing or being directly responsible for all relevant service delivery. By integrating the planning and service delivery for catchment management, CMAs also ensure that all government funding, including both State and Commonwealth, together with local funding through rates are directed towards the key land and water management priorities within the region.

10.6.2 National Water Quality Management Strategy (NWQMS)

(b) Support ANZECC and ARMCANZ in developing the National Water Quality Management Strategy (NWQMS), through the adoption of market-based and regulatory measures, water quality monitoring, catchment management policies, town wastewater and sewerage disposal and community consultation and awareness.

The NWQMS is implemented in Victoria through a range of mechanisms. The strategic directions of the NWQMS are implemented through the catchment management arrangements in the development of Regional Catchment Strategies, their component action plans and in the regional schedules of State Environmental Protection Policies (SEPPs). Guidelines produced as part of the Strategy are being considered for use as the basis for revising related state guidelines.

The strategic directions of the NWQMS as outlined in the *Policies and Principles* document are implemented through the institutional framework for catchment management. The process of identifying environmental values and setting water quality objectives at the regional scale is undertaken by regional communities under the auspices of a CMA through the development of their Regional Catchment Strategy (RCS) and through the development of water quality and nutrient management action plans. In some areas where it is considered to be a priority, regional schedules to the State Environment Protection Policy – *Waters of Victoria,* may also be developed. All of these regional water quality objective setting processes use the *ANZECC Australian Water Quality Guidelines for Fresh and Marine Waters* as the minimum standards to be adopted and in many cases, set regional water quality objectives that are more stringent that those recommended.

The technical guidelines for specific activities and industries which are regarded as nonpoint source activities, are adopted in implementation of these action plans and SEPP schedules. Work programs are developed which utilise the information available in these documents.

The technical guidelines for specific industries which are managed as point source discharges are used in the development of environmental performance benchmarks for use in the development of licence conditions.

10.7 Public Consultation and Education

(a) Jurisdictions must have consulted on the significant COAG reforms (especially water pricing and cost recovery for urban and rural services, water allocations and trade in water entitlements). Education programs related to the benefits of reform should be developed.

Victoria has widespread public consultation and education throughout its water industry. Customer consultative committees in the urban sector and water services committees in the rural sector ensure adequate consultation takes place. Substantial stakeholder involvement is also a key part of the process to develop bulk water entitlements and environmental flows.

Formal mechanisms for public consultation used by the authorities include:

- each major urban company has a customer consultative committee as required by its operating licence;
- all NMUs have or are developing a customer consultative committee as part of an overall Customer Participation Strategy; and
- all rural water authorities have water service committees for major services.

Customer contracts in the major urban sector set out customers' basic rights and obligations in dealing with their retail service provider. As discussed in section 10.4.1.1, the Office of the Regulator-General (ORG) is responsible for determining the benchmark terms of the customer contract between customers and the relevant major urban retail service provider, in consultation with its customer consultative committee. This benchmark customer contract ensures retailers have adequate consultation mechanisms in place, with each retail business is consulting with its own customer consultative committee on customer matters and setting the terms of the customer contract within the framework established by the ORG.

Although not governed by licensing arrangements, the NMUs also have customer consultative arrangements in place. Each NMU authority develops its own Customer Participation Strategy outlining the relationship between the authority and its customers. These Strategies include mechanisms for public consultation and education.

During the implementation of the October 1997 price reforms, where rates based on property values were replaced with more cost reflective service and usage charges, only minimal consultation took place. Once the reforms were announced, the Government, with assistance from the retail water authorities, undertook an extensive media campaign to ensure customers understood the implications of the reforms.

As discussed in section 10.3.6.3, Water Services Committees (WSCs) play an important role in the implementation of full cost recovery for rural and irrigation services. The rural water authorities use their WSCs to communicate the objectives of the reform. Experience has shown WSCs to be receptive to the implementation of full cost recovery. WSCs assist the rural authorities by negotiating the necessary pricing and service arrangements to meet the 2001 deadline.

Section 10.5.1 outlines Victoria's bulk entitlements program. This program ensures adequate consultation and stakeholder involvement occurs before bulk entitlements are finalised. Experience to date has shown that successful public consultation is time consuming, with some systems requiring up to three years of public consultation with stakeholders before the entitlement is finalised.

Public education is also addressed through variety of public education programs. These programs include:

- National Water Week: all Victorian water authorities participate in National Water Week;
- Waterwise Program: which covers 75% of water customers in Victoria;
- Waterwatch: where the Department Natural Resources and Environment distributes material and encourages community monitoring of water quality;
- major urban water retailers have education and schools programs as part of their water conservation plans, which they must submit as a condition of their operating licences. Each major retailer has an Internet site for education purposes and produces educational brochures for distribution;
- NMUs also have education programs in place and distribute educational materials to the community;
- rural water authorities have regular radio spots and media releases to announce water allocations and trading news. They also distribute educational videos on the dangers of swimming in open channels; and
- both the major urbans and NMUs produce television commercials to educate the public about the importance of Victoria's water resources.

10.8 Attachment on Victorian Programs for Implementation of COAG Water Resource Reforms

10.8.1 Water Allocation Framework

The Victorian 1989 Water Act established the legislative framework to enable water entitlements to be clearly defined and provided the statutory basis for environmental allocations.

The bulk entitlement program directly deals with the allocation of water to authorities and the environment and provides a comprehensive framework for the trading of surface water entitlements. This program has reached the stage where flow sharing arrangements at approximately 70% of the diversion sites across the State have been negotiated and agreed with stakeholders. At the vast majority of sites this has resulted in improved environmental outcomes. Formal bulk entitlements are being progressively granted and regulatory systems, to monitor and manage the entitlement system including water trading, are being implemented.

WATER ALLOCATION AND TRADING FRAMEWORK
Bulk Entitlement Program

1999

Bulk Entitlements finalised and granted
- All Murray Bulk Entitlements to Urban and Rural Water Authorities
- Campaspe System Bulk Entitlements
- Maribyrnong
- Central Highland urbans

Conversion process actively progressed
- Thomson/Macalister Bulk Entitlements
- Melbourne
- Tarago System
- Barwon River
- Ovens River
- Broken River

Management of Entitlements
- New data base completed and populated
- Basin accounts published (for completed systems)
- Progress documentation of model runs

2000

Bulk Entitlements finalised and granted
- Thomson/Macalister Bulk Entitlements
- Melbourne
- Tarago System
- Barwon River
- Ovens River
- Broken River

Conversion process actively progressed
- Loddon River
- Birch Creek
- Wimmera-Mallee D&S System
- Grampians urbans

Management of Entitlements
- Basin accounts published (for completed systems)
- Resource Management arrangements reviewed
- Progress documentation of model runs

2001

Bulk Entitlements finalised and granted
- All remaining major systems
- Progress documentation of model runs

10.8.2 Streamflow Management Plans

On unregulated rivers, not covered under the bulk entitlement program, the management of diversions will be undertaken through the development and implementation of streamflow management plans (SMPs). SMPs will establish environmental objectives, immediate and, where necessary, long term environmental flow provisions, mechanisms to achieve long term environmental flows provisions, rostering rules, trading rules, and rules covering the granting of any new licences. In addition, they will include provisions for monitoring and compliance and plan review. SMPs are developed in consultation with the relevant group of stakeholders with a general public consultation phase. Victoria will have a long-term program of SMP development undertaken by the Rural Water Authorities.

Criteria for Setting Priorities for SMPs

In developing the work program for the development of SMPs, the following criteria were used to set priorities.

- level of consumptive use (ie. ecological impact due to changed flow regimes)
- conservation value
- demand for new licences
- frequency of rosters/restrictions
- history of management problems
- recreational value
- community expectations of the need for a SMP

Table One. Three Work Program for Streamflow Management Plans

Timing	River	Responsible Water Authority
In preparation *Completion date:*		
Dec 1999	• Merri River (draft report prepared)	Southern Rural Water
Dec 1999	• Gellibrand River (draft report prepared)	Southern Rural Water
Jun 2000	• Moorabool River	Southern Rural Water
Jun 2000	• Upper Maribyrnong River	Southern Rural Water
Dec 1999	• Upper Latrobe River	Southern Rural Water
Mar 2001	• Kiewa River	Goulburn Murray Water
Mar 2001	• Hoddles Creek	Melbourne Water
To commence in 1999	• Avon/Valencia/Freestone Creeks	Southern Rural Water
	• Barwon/Leigh Rivers	Southern Rural Water
	• Hopkins River	Southern Rural Water
	• Mitchell River	Southern Rural Water
To commence in 2000	• Morwell River	Southern Rural Water
	• Tarra River	Southern Rural Water
	• Narracan Creek	Southern Rural Water
	• Snowy River	Southern Rural Water
	• Tambo River	Southern Rural Water
To commence in 2001	• Bunyip/Tarago River	Southern Rural Water
	• Moe River	Southern Rural Water
	• Albert River	Southern Rural Water
	• Dandenong Creek	Southern Rural Water
	• Fitzroy River	Southern Rural Water
To be commenced by 2001 *Note: These SMPs will all be commenced by 2001. A number will be completed. Priorities within this group have still to be determined*	• Ovens River above Myrtleford	Goulburn Murray Water
	• Yea River	Goulburn Murray Water
	• King Parrot Creek	Goulburn Murray Water
	• Seven Creeks	Goulburn Murray Water
	• Delatite River	Goulburn Murray Water
	• Nariel Creek	Goulburn Murray Water
	• Loddon above Cairn Curran	Goulburn Murray Water
	• Woori Yallock Creek	Melbourne Water
	• Badgers Creek	Melbourne Water
	• Watts River	Melbourne Water
	• Stringy Bark Creek	Melbourne Water
	• Wandon Yallock Creek	Melbourne Water
	• Little Yarra	Melbourne Water
	• Steels Creek	Melbourne Water
	• Diamond Creek	Melbourne Water
	• Plenty River	Melbourne Water
	• Merri Creek	Melbourne Water

10.8.3 Stressed Rivers

River Restoration Plans (RRPs) will be developed for rivers where the environmental provisions made through the Bulk Entitlement process are considered to be insufficient to meet environment objectives. RRPs will build on the current environmental provisions. They will set clear environmental objectives, set priorities for any additional water, identify mechanisms to provide additional water, identify complementary instream and riparian habitat works that will maximise environmental gains and establish agreed cost-sharing for implementation.

Criteria for Setting Priorities for River Restoration Plans

The development of a work program for undertaking river restoration plans for 'flow stressed' rivers involved two components

1. The identification of the range of 'flow-stressed' rivers. These were identified as rivers where there were significant changes in
   - Total annual flow
   - Seasonality of flow
   - Variability of flow
   - Flooding regimes
   - Duration and frequency of low flow periods
   - Duration and frequency of zero flow periods

2. Establishment of priorities for action. These priorities were established using the following criteria
   - Primary factors
     Environmental significance
     Potential for restoration including
     Degree of flow stress and capacity to overcome this
     Other limiting factors eg water quality, fish passage, riparian condition
     Potential for habitat improvement
     Environmental gain
     Feasibility

   - Secondary factors
     Existing knowledge of system
     Public interest
     Capacity to assess response
     Scale
     Appropriateness as a case study

Three Year Work Program

Table 2. Three Work Program for Stressed Rivers Program

River	Responsible Authority	Timing
Thomson River d/s Cowwarr Weir	West Gippsland CMA	Case study: Commence July 1999 Draft - Sept 2000
Avoca River	North Central CMA	Case study: Commence July 1999 Draft - Sept 2000
Loddon River	North Central CMA	Commence Jan 2001 Draft Sept 2001
Glenelg River	Glenelg-Hopkins CMA	Commence Jan 2001 Draft Sept 2001
Broken River	Goulburn-Broken CMA	Commence Jan 2001 Draft Sept 2001
Lerderderg River	Melbourne Water	Commence Jan 2001 Draft Sept 2001
Badger Creek	Melbourne Water	Commence Oct 2001 Draft June 2002
Maribyrnong River	Melbourne Water	Commence Oct 2001 Draft June 2002

10.8.4 Integrated Resource Management

Progress on integrated resource management has been made through the establishment of 9 Catchment Management Authorities (CMAs) in non-metropolitan Victoria. The CMAs are responsible for strategic planning for land and water resources management in their region and the provision of integrated waterway and floodplain management. In addition, they provide advice to Government on priorities for action and investment. This ensures that all government funding including both State and Commonwealth, together with local funding through rates are directed towards the key land and water management priorities within the region.

10.8.5 NWQMS

The NWQMS is implemented in Victoria through a range of mechanisms. The strategic directions of the NWQMS are implemented through the catchment management arrangements in the development of regional catchment strategies, their component action plans and in regional State Environmental Protection Policies.

The technical guidelines are adopted-

- For non-point sources - in the development of implementation schedules for catchment action plans
- For point sources – in the development of environmental performance benchmarks for use in the development of licence conditions

10.8.6 Groundwater Management

Victoria controls the extraction of all groundwater through a rigorous statutory licensing process.

The construction of all groundwater bores including production and investigation bores is also subject to a licensing process. Licensed drillers must construct all groundwater bores.

Victoria reviewed its groundwater management structure in 1997. The State Groundwater Council appointed by the Minister responsible for water resources undertook this work. The Council proposed a management regime based on sustainable development and a cost sharing arrangement between Government and groundwater users.

Victoria has identified over 50 groundwater management areas in the State where there is a potential for groundwater development or where partial groundwater development has already occurred. The sustainable yield of the aquifers in these areas has been quantified, as has the volume of groundwater allocated to users. Within these areas a Permissible Annual Volume (PAV), which is the optimum level of allocation, has been set to reflect the sustainable yield of the aquifer.

Victoria's groundwater management regime is based on sustainable development through the establishment of community driven Groundwater Management Plans. The need to develop Groundwater Management Plans is determined by demand on the resource.

Groundwater Management Plans

When allocations reach 70% of the sustainable yield of the aquifer (expressed as the Permissible Annual Volume or PAV), a mechanism to establish a Groundwater Supply Protection Area (GSPA) is triggered and a Groundwater Management Plan developed. A consultative committee, comprising mainly farmers but representing all relevant interests, is responsible for developing the management plan.

The management plan must address issues such as metering and monitoring, allocation arrangements including transferable water entitlements, and costs associated with implementing the plan.

Progress to date

Eleven GSPAs have been established to date. Groundwater Management Plans have been prepared for two of these areas. The remaining nine GSPAs were established in late 1998 early 1999. Target dates for establishment of and Consultative Committees development of Management Plans are shown in Table 3.

Future Targets

Over the next three years it is proposed to establish a further fifteen GSPAs to cover all areas in the State where allocation is greater than the PAV. Five areas are at the initial stage of GSPA set up whereby the first rounds of community consultation takes place, refer Table 4. On current trends it is likely that there will be a demand for the development of groundwater supply protection areas over the next three years for at least some of the aquifer systems listed in Table 5.

Table 3
Declared Groundwater Supply Protection Areas

Groundwater Supply Protection Areas	Declared	Consultative Committee Established (Target)	Management Plan (Target)
Kooweerup Dalmore	Long established	NA	In place
Shepparton Irrigation Area	8 September 1995	NA	In place
Campaspe Deep Lead (incorporates Echuca South, Diggora)	15 December 1998	April 1999	December 2001
Katunga	16 December 1998	April 1999	December 2001
Spring Hill	15 December 1998	April 1999	December 2001
Murrayville	16 December 1998	April 1999	December 2001
Neuarpur	16 December 1998	April 1999	December 2001
Yangery	9 February 1999	April 1999	December 2001
Nullawarre	9 February 1999	April 1999	December 2001
Denison	24 November 1998	April 1999	December 2001

Table 4

Initial Steps taken for Groundwater Supply Protection Areas

Groundwater Supply Protection Areas – Initial Steps	Initial Consultation (Target)	Decision on Declaration
Avenel/Nagambie	June 1999	December 1999
Bungaree	April 1999	December 1999
Sale	April 1999	December 1999
Wy-Yung	April 1999	December 1999
Deutgam	May 1999	December 1999

Table 5

Potential Future Groundwater Supply Protection Areas – (Priorities depend on the future demands to develop the groundwater resources in these aquifers)

Groundwater Management Areas
Warrion
Ascot
Merrimu
Wandin Yallock
Bridgewater
Lancefield
Seacombe
Lang Lang
Balrootan
Gerangamete

Related Reforms:

Road Transport

11 Related Reforms: Road Transport

11.1 Introduction

The Agreement to Implement the National Competition Policy and Related Reforms provides the base framework for assessing road transport performance.

The second tranche assessment requires jurisdictions to demonstrate continued effective observance of the agreed package of road transport reforms. Currently, there is no agreed package of reforms that assessment can be made against. However, Victoria understands that the most likely scenario is that agreement will be made against the 19 reform commitments currently being discussed.

While recognising there is currently no formal agreement yet undertaken, Victoria is prepared to provide information on progress against these proposed 19 reform commitments, in order to assist the NCC in its assessment of performance.

11.2 Summary of Victoria's Progress with Assessable Road Transport Reforms

No.	Reform	Implementation	
		Status	Date
1	Dangerous Goods	Completed	April 1997
2	National Heavy Vehicle Registration Scheme	In Progress	(1 May 1999)
3	National Driver Licensing Scheme	Partial	(1 May 1999)
4	Vehicle Operations	Completed	December 1995
5	Heavy Vehicle Standards	Completed	July 1995
6	Truck Driving Hours	Completed	September 1998
7	Bus Driving Hours	Completed	February 1996
8	Common Mass and Loading Rules	Completed	June 1995
9	One Driver/One Licence	Completed	October 1995
10	Improved Network Access	Completed	December 1995
11	Common Pre-Registration Standards (for Heavy Vehicles)	Completed	July 1995
12	Common Roadworthiness Standards	Completed	July 1995
13	Enhanced Safe Carriage and Restraint of Loads	Completed	August 1995
14	Adoption of National Bus Driving Hours	Completed	February 1996
15	Interstate Conversions of Driver Licence	Completed	October 1995
16	Alternative Compliance	Completed	December 1995
17	Short Term Registration	Completed	January 1998
18	Driver Offences Licence Status	Completed	1997
19	NEVDIS (National Exchange of Vehicle and Driver Information System) – Stage 1	Completed	October 1998

11.3 Details of Road Transport Reforms

Reform 1: ***DANGEROUS GOODS***

Objective: To establish a national regulatory framework for the carriage of dangerous goods by road.

Implementation: COMPLETE April 1997

- The dangerous goods legislation in the Commonwealth Act was adopted in template form by the Victorian Road Transport (Dangerous Goods) Act 1995. The subsequent national Regulations and dangerous goods Codes were consequentially adopted in Victoria when they were made in April 1997.
- Information, which outlines the requirements of the national dangerous goods regulations, has been distributed to the road transport industry by the responsible authority, the Victorian WorkCover Authority.

Outcomes:

- Adopting the Commonwealth legislation in template form has ensured that the national regulatory framework for the carriage of dangerous goods by roads is in place. Further, this approach automatically adopts any subsequent amendments to the Commonwealth legislation and Dangerous Goods Codes.

Reform 2: ***NATIONAL HEAVY VEHICLE REGISTRATION SCHEME***

Objective: To implement the National Heavy Vehicle Registration Scheme, including nationally agreed procedures and requirements for initial registration, transfer of registration and cancellation of registration, to all vehicles registered in Victoria.

Implementation: IN PROGRESS

- New regulations, known as the Road Safety (Vehicles) Regulations 1999, are proposed to be introduced on 1 May 1999. These regulations will implement the National Heavy Vehicle Registration Scheme. The regulations will also apply to all Victorian light vehicles.
- In anticipation of implementation of the scheme, business rules reflecting the new regulations are being prepared and computer systems are being modified. A (draft) comprehensive publicity strategy has been prepared to notify all vehicle operators of the scheme.

Outcomes:

- The National Heavy Vehicle Registration Scheme will be fully implemented in Victoria on 1 May 1999.

Reform 3: ***NATIONAL DRIVER LICENCE SCHEME***

Objective: To introduce uniform requirements for key driver licence transactions including licence issue, renewal, suspension and cancellation.

Implementation: **PARTIALLY COMPLETE**

- The majority of the key elements of the scheme already exist in Victorian Legislation. The remainder will be introduced as part of the implementation of a new set of regulations on 1 May 1999.
- Key elements of the National Driver Licence Scheme that are currently in place are:
  - uniform practices for mutual recognition of licences and offences
  - uniform national driver licence classes
  - nationally agreed medical guidelines for light and heavy vehicle drivers
  - core demerit points
- The remaining elements require only minor adjustments to existing procedures and arrangements have been made to implement these when the new regulations are made.

Outcomes:

- The National Driver Licence Scheme will be fully implemented in Victoria when new regulations are made on 1 May 1999.
- Extensive publicity of the reform will accompany its introduction.

Reform 4: ***VEHICLE OPERATIONS***

Objective: To introduce nationally consistent mass and dimension regulations and associated conditions of operation for heavy vehicles, including oversize and overmass vehicles and restricted access vehicles.

Implementation: **COMPLETE December 1995**

- The national Mass and Loading Regulations were adopted through the following Victoria Government Gazette Notices:
  - Mass Limits: S126, dated 22 December 1995; and
  - Dimension Limits: S66, dated 30 June 1995.
- The national mass and dimension limits and operating conditions for oversize and overmass load carrying vehicles, Special Purpose Vehicles and

agricultural machinery and implements were adopted through Victoria Government Gazette Notice S56, dated 23 June 1995.

- The national vehicle mass and dimension limits for restricted access vehicles were adopted through the following Victoria Government Gazette Notices:
  - B-doubles: S59, dated 26 June 1995;
  - Car carriers: G50, dated 23 December 1993; and
  - Livestock vehicles: G50, dated 23 December 1992.

  Controlled access buses have been operating over a network of routes through a permit system since July 1995.
- Fifteen separate Information Bulletins advising of national mass and dimension standards and new regulations covering requirements for Oversize and Overmass vehicles and new innovative Restricted Access Vehicles, have been widely distributed to the road transport industry. These reforms have also been promoted through industry information sessions and forums.

Outcomes:

- National mass and dimension standards and associated conditions of operation for heavy vehicles, including oversize and overmass vehicles and restricted access vehicles, have been adopted in Victoria.
- Permits are no longer required for vehicle combinations up to 42.5 tonnes and for B-doubles up to 62.5 tonnes. Individual permits for a wide range of operations by oversize and overmass vehicles and restricted access vehicles have been replaced by general permits.
- The following higher productivity vehicles have been approved to operate in Victoria under the Restricted Access Vehicle Regulations, that allow vehicles to exceed the national mass and dimension limits by up to 10 per cent:
  - 45.0 tonne container trucks servicing rural rail terminals on specified permit routes since February 1995;
  - 3 axle truck and 4 axle dog trailer combinations grossing 50.0 tonnes were gazetted in S147 of 23 December 1997;

    container trucks up to 4.6 metres in height were gazetted in S38 of 11 April 1998;
  - 4.6 metre high cubic freight carrying vans were gazetted in S61 of June 1997;
  - 14.6 metre long semi-trailers were gazetted in S66 of 30 June 1995;
  - 45.0 tonne 3 axle dog trailer combinations were gazetted in S137 of 31 October 1997.

Reform 5: ***HEAVY VEHICLE STANDARDS***

Objective: To introduce national vehicle construction and in-service standards for heavy vehicles.

Implementation: COMPLETE July 1995

- The Heavy Vehicle Standards Regulations were adopted in template form through Victoria Government Gazette Notice G27, dated 13 July 1995.

Outcomes:

- All heavy vehicles are now required to be constructed to the national construction and in-service standards.
- Adopting the Heavy Vehicle Standards Regulations in template form ensures that national requirements are in place in Victoria and any subsequent changes to the national regulations will be automatically adopted in Victoria.

Reform 6: ***TRUCK DRIVING HOURS***

Objective: To provide a national legal and administrative framework for managing truck driver fatigue in the road transport industry.

Implementation: COMPLETE September 1998

- Victoria's Driving Hours Regulations have been amended to reflect the intent of the agreed national regulations.
- The national log book has been introduced and is available at all VicRoads' Registration and Licensing offices throughout the State.
- The amended regulations make provision for fatigue management programs including the Transitional Fatigue Management program.
- An information brochure, advising of the reform, has been mailed to the owners of all Victorian registered vehicles greater than 12 tonne gross vehicle mass (gvm). Information material promoting the Transitional Fatigue Management program has also been widely circulated to industry.
- Information sessions outlining changes have been conducted throughout the State for truck drivers and operators, Victoria Police and VicRoads' enforcement operators.
- A three month amnesty period was provided for drivers to change over their old log book to the new national log book. Books less than half used were exchanged at no charge.

Outcomes:

- In Victoria, all drivers of vehicles greater than 12 tonne gvm, are required to comply with the nationally agreed truck driving hours regulations and use the national log book. Drivers and transport operators also have access to the nationally recognised Transitional Fatigue Management Scheme.

- Approximately 35,000 National Log Books have been sold in Victoria.
- Approximately 30,000 Information brochures advising of driving hour changes have been widely distributed to industry.
- Ten companies and over 600 drivers are undertaking training in fatigue management as a requirement of accreditation to the national Transitional Fatigue Management scheme.

Reforms 7 & 14: ***NATIONAL BUS DRIVING HOURS***

Objective: To introduce national bus driving hours as a basis for the management of fatigue amongst drivers of larger commercial buses.

Implementation: **COMPLETE February 1996**

- Victoria's Driving Hours Regulations were amended to reflect the intent of the national regulations in February 1996.
- A revised log book was introduced and the reform extensively advertised to the industry, through information bulletins and industry information sessions.
- These driving hours regulations have now been superseded by the national truck driving hours regulations and national log book (refer reform 6). Victoria has subsequently further amended its Driving Hours Regulations to reflect the national combined truck and bus regulations.

Outcome:

- The national bus driving hours regulations were implemented in Victoria in February 1996. The regulations have since been amended in Victoria to reflect the national truck driving hours regulations and the national combined truck and bus regulations.

Reform 8: ***COMMON MASS AND LOADING RULES***

Objective: To introduce national mass and dimensions limits for heavy vehicles.

Implementation: **COMPLETE June 1995**

- National mass and dimension limits and the Axle Mass Spacing Schedule for vehicles up to 42.5 tonnes set down in the Mass and Loading Regulations, were adopted by the following Notices in the Victoria Government Gazette:

  - Mass limits S126, dated 22 December 1995;
  - Dimension Limits S66, dated 30 June 1995.

- National mass and dimension limits for tri-tri B-doubles were adopted through Victoria Government Gazette Notice S59, dated 26 June 1995.

- Information bulletins describing the new national mass and dimension limits were widely distributed to the road transport industry. These changes were further reinforced at industry information sessions and presentations throughout the State.

Outcomes:

- National mass and dimension limits for heavy vehicles now apply in Victoria.
- Tri-tri B-doubles complying with national mass and dimension limits are approved to operate in Victoria. There are currently about 1,100 B-doubles registered in Victoria, approximately 80 per cent of which are tri-tri B-doubles.

Reform 9: ***ONE DRIVER/ONE LICENCE***

Objective: To introduce common and simplified national licence categories and improved processes to eliminate multiple licences.

Implementation: **COMPLETE October 1995**

- The national driver licence classes were introduced, through legislative change, in September 1995.
- Victoria agreed to the exchange of demerit points with other State licensing agencies in July 1989 and the Demerit Points Exchange (DPX) scheme was introduced shortly afterwards.
- The National Driver Licence Checking System (NDLCS) and the Multiple Licence Advice Tracking System (MLATS) were introduced in October 1995, following the development and implementation of appropriate changes to VicRoads' computer systems.

Outcomes:

- There has been a reduction in the number of licence categories in Victoria from nine to six by combining the separate bus and truck classes under the national driver licence classification system. Existing licences were converted to the closest, higher category of licence so that no licence holder was disadvantaged by the scheme.
- The introduction of licence graduation now requires a driver to gain experience in a vehicle in a lower class before progressing to a licence to drive a larger class of vehicle.
- The NDLCS checks the licence status of people who have converted an interstate licence to a Victorian one. Action is taken against licence holders who are found to have outstanding periods of licence disqualification in their original State.
- MLATS now runs national snapshots of State's licence databases to identify people with more than one licence. They are then required to surrender all but one of their licences.

Reform 10: ***IMPROVED NETWORK ACCESS***

Objective: To expand (as of right) access to the road network for B-doubles and other approved large vehicles.

Implementation: **COMPLETE December 1995**

- The B-double network has been enlarged to allow B-doubles to operate on all suitable Freeways, Highways and Main Roads within Victoria.
- General access has now been provided for the following larger vehicles:
  - car carriers;
  - 4.6 metre high livestock vehicles;
  - 3 axle truck & 4 axle dog trailers;
  - trucks carrying 2.9 m (9'6") high containers;
  - 4.6 m high vans & curtain-sided trailers;
  - 48 foot (14.6 m) trailers; and
  - 45 tonne truck & 3 axle dog trailers.
- Excluding defined mountainous areas, general access is also now provided for:
  - oversize, overmass load carrying vehicles;
  - oversize, overmass special purpose vehicles; and
  - oversize agricultural machinery.

Outcomes:

- B-doubles are now approved to operate on all Freeways, Highways and Main Roads except for a small number of road lengths, predominantly around mountainous areas.
- Significantly improved access has also been achieved for other large, high productive vehicles.

Reform 11: ***COMMON PRE-REGISTRATION STANDARDS***

Objective: To introduce national heavy vehicle construction standards.

Implementation: **COMPLETE July 1995**

- The Heavy Vehicle Standards Regulations were adopted in template form through Victoria Government Gazette Notice G27, dated 13 July 1995.

Outcomes:

- Vehicles complying with the national construction standards are able to be registered in Victoria without any additional construction requirements.
- Adopting the Heavy Vehicle Standards Regulations in template form ensures that national requirements are in place in Victoria and any subsequent changes to the national regulations will be automatically adopted in Victoria.

Reform 12: ***COMMON ROADWORTHINESS STANDARDS***

Objective: To introduce national roadworthiness standards and to mutually recognise defect notice clearances issued in other States and Territories.

Implementation: **COMPLETE July 1995**

- The national roadworthiness standards were introduced in Victoria in July 1995, as a requirement to be met when examining and testing vehicles for the purpose of issuing certificates of roadworthiness.
- Business rules and administrative procedures used by VicRoads and Victoria Police were amended to provide for the mutual recognition of defect notices and their clearance in other States and Territories.
- Two information brochures providing advice on the management of defective vehicles and roadworthiness requirements were widely distributed to industry. The new reform was also promoted through industry information sessions and forums.

Outcomes:

- Victoria has adopted the national roadworthiness standards and mutual recognition of defect notices and their clearance in other jurisdictions.

Reform 13: ***ENHANCED SAFE CARRIAGE AND RESTRAINT OF LOADS***

Objective: To introduce national regulations and a practical guide for the securing of loads on heavy vehicles.

Implementation: **COMPLETE August 1995**

- Victoria's regulations were amended to reflect the intent of the national load restraint regulations including calling up the national performance standards for load restraint as set down in the 'Load Restraint Guide' (Joint National Road Transport Commission and Federal Office of Road Safety publication).
- The Load Restraint Guide, which also outlines the general principles of restraining and positioning loads is available from all VicRoads' Registration and Licensing offices throughout the State, VicRoads' Bookshop, the Victorian Road Transport Association and the Transport Workers Union (Victoria).
- The Guide and the amended regulations have been extensively publicised to the road transport industry through information sessions, seminars for enforcement personnel, advertisements in newspapers and various industry publications and VicRoads' Information bulletins.

Outcomes:

- National performance standards for load restraint have been incorporated in amended Victorian regulations, which now also reflect the national regulations.
- Extensive publicity of the Load Restraint Guide and the amended regulations has increased awareness within the industry of the need to safely and securely restrain loads.
- Over 5,000 copies of the Load Restraint Guide have been sold in Victoria and continue to be sold at an average of 100 copies per month.
- The Guide is being used by various industry training bodies in their conduct of courses on load restraint.

Reform 15: ***INTERSTATE CONVERSION OF DRIVER LICENCE***

Objective: To introduce simplified no cost conversions of interstate licences.

Implementation: **COMPLETE October 1995**

- Victoria has amended regulations and VicRoads has changed its business rules and modified its computer systems to allow interstate licence holders to convert their licence to a Victorian one when moving from interstate.

Outcomes:

- Interstate licence holders can now convert their licence at no cost and without any testing.
- The licence period is set at the expiry date of the converted licence.
- Information on the application form regarding previous convictions and licence status is checked after the licence is issued through the National Driver Licence Checking System and appropriate action taken.

Reform 16: ***ALTERNATIVE COMPLIANCE***

Objective: To support development of alternative compliance regimes.

Implementation: **COMPLETE December 1995**

- Victoria has strongly supported the development and implementation of national alternative compliance pilot programs covering mass, maintenance and fatigue management.
- VicRoads developed the national Mass Management Accreditation Scheme, conducted a pilot test, and carried out an evaluation of the scheme.
- VicRoads has assisted in the development of other alternative compliance schemes for maintenance and fatigue management, through its representation on the National Alternative Compliance Co-ordinating Committee and the Queensland Transport Fatigue Management Project Team.

- VicRoads has also played a leading role in the development of the audit module and national business rules to support the National Alternative Compliance Scheme.

Outcomes:

The Ministerial Council for Road Transport has approved the National Alternative Compliance Scheme comprising mass management and maintenance management.

VicRoads has now accredited over 90 companies including over 1,000 heavy vehicles in the mass management scheme.

Approval has been given to participants in both the fatigue management and maintenance management schemes to operate in Victoria.

Reform 17: ***SHORT TERM REGISTRATION***

Objective: To introduce options for 3 and 6 month registration for heavy vehicles.

Implementation: **COMPLETE January 1998**

- Victoria's Road Safety (Vehicles) Regulations 1988 were amended to allow for 3 and 6 month registration periods in 1996 and 1998.
- A further option of part year or seasonal registration has also been introduced in 1998.
- Computer system changes to accommodate the shorter periods of registration were made in 1995 and 1998.
- Heavy vehicle operators were made aware of the optional shorter periods of registration by means of publicity material inserted with vehicle registration renewal papers. The reform has been further publicised through distribution of information bulletins and through industry information sessions and forums.

Outcomes:

- Options for 3 and 6 month heavy vehicle registrations are available in Victoria.
- The shorter registration periods now allow operators to spread registration payments over a full year.
- Approximately 8 per cent of the Victorian heavy vehicle fleet has taken up the option of either a 3 or 6 month registration period.

Reform 18: ***DRIVER OFFENCE/LICENCE STATUS***

Objective: To provide employers with information about an employee's driver licence status, with their consent.

Implementation: COMPLETE 1997

- Victorian legislation was clarified in 1997 to ensure that it allowed the release of information from a licence holder's record to their employer (or prospective employer) provided that their consent is given. VicRoads has established a system to facilitate requests for such information.

Outcomes:

- Employers can now obtain information on their employee's (or prospective employee's) licence record, including licence class, current status (ie whether it is valid, suspended or cancelled) and the number of demerit points recorded. The availability of such information is subject to the informed consent of the licence holder, consistent with privacy principles.
- VicRoads is also currently developing an on-line computerised system that will improve access to licence status information, again subject to informed consent of the licence holder.

Reform 19: ***NEVDIS (National Exchange of Vehicle and Driver Information System)***

Objective: To complete Stage 1 of the project requiring the development of the NEVDIS computer system specification.

Implementation: COMPLETE October 1998

- The NEVDIS national system, developed by IBM, was completed in August 1998.
- Victoria's vehicle registration information was loaded into NEVDIS in September 1998.
- Necessary agreements and inter-jurisdictional memoranda of understanding were finalised in September 1998.
- Victoria commenced exchange of vehicle registration information on 5 October 1998 with NSW, the only other currently participating jurisdiction.

Outcomes:

- Stage 1 of NEVDIS is complete and Victoria is exchanging vehicle registration information with NSW.
- For transactions with NSW, NEVDIS is providing:
  - confirmation of registered operators and addresses;
  - ease of registration transfer;
  - improvements in the functionality and accuracy of the Vehicle Identification Number System (VINS); and

  generally streamlining registration operations.