National Competition Policy

Volume 1: Main Report - March 2002

Report for the Third Tranche Assessment on Victoria's Implementation of the National Competition Policy

Victoria
The Place To Be

National Competition Policy

Third Tranche Assessment on Victoria's Implementation of the National Competition Policy

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1. Executive summary

Since coming to Office, the Government has proceeded to implement commitments under the National Competition Policy, while ensuring that prominence is given to the interests of the whole State. It has rigorously applied the public interest test by consulting the community on significant issues and developed measures to address the concerns of those sections of the community most affected by change.

The principal purpose of this report is to facilitate assessment by the National Competition Council (NCC) of Victoria's implementation of the NCP. The report demonstrates that Victoria has fully complied with its commitments. As a consequence the NCC should be able to recommend payment of the full entitlement of the competition payments for 2002-03.

The report provides a discussion of key aspects of implementation necessary for the completion of the assessment. The report structure reflects the commitments contained in the Agreements and variations made to the Agreements by Council of Australian Governments (COAG) on 3 November 2000. Where necessary the report makes reference to issues raised in the *NCC's Third Tranche Assessment Report June 2001*.

Volume one contains a discussion of developments in a range of industries such as agriculture, manufacturing and service sectors of the economy. It outlines key developments such as the establishment of the Essential Services Commission (ESC) to undertake economic regulation of key infrastructure, competition between electricity retailers for household customers, progress in developing the Victorian River Health Strategy (VRHS) that will provide a framework for addressing environmental issues in river systems and deregulation of the barley export market.

Volume two reports on legislation reviews and the application of competitive neutrality to over 100 public trading enterprises and business units.

The report makes reference to reforms undertaken before the Government came to office, where such references are relevant to the assessment.

Part A: Overview

2. Progress in key sectors

Victoria has made considerable progress in implementing National Competition Policy. The discussion throughout the report will demonstrate that Victoria's policy approaches across a wide range of Government activity are consistent with the requirements of National Competition Policy.

Recent and prospective developments

Sector	*Timing*	*Development*
Dairy	July 2000	Deregulation of dairy marketing
Electricity	December 2000	Increased competition after vesting contracts expired
Barley	July 2001	Deregulation of barley export marketing
Rail	July 2001	Access regulation for intrastate freight
Independent economic regulation	January 2002	Essential Services Commission established
Electricity	January 2002	Full retail competition
Water	February 2002	Release of draft Victorian River Health Strategy
Gas	October 2002	Full retail competition
Water	January 2003	ESC established as the independent regulator of the water industry
Retail	End 2003	Phase-out of the 8 per cent cap on packaged liquor licences

General National Competition Policy commitments

Victoria continues to meet its competition policy commitments.

The current Competitive Neutrality policy, launched in October 2000, applies to all significant public sector business activities, as well as local government, and has an emphasis on public interest. Moreover, Victoria continues to maintain an independent Competitive Neutrality Complaints Unit.

Victoria has also completed the majority of legislation reviews listed on the timetable published in 1996. New legislative proposals continue to be assessed under the public interest test.

An important development in the past year was the establishment of the Essential Services Commission (ESC).

Essential Services Commission

On 1 January 2002, the Office of the Regulator-General (ORG) was subsumed by the ESC, which became the economic regulator of Victoria's utility services, including the water industry from 1 January 2003. Establishment of the ESC is consistent with the NCP commitment to independent economic regulation.

The establishment of the ESC represents an important evolution in the regulatory framework for utility industries in Victoria. It builds on the strengths of the ORG's independent regulatory framework to ensure that Victoria benefits from an essential services regulatory system that is truly world class. The ESC focuses on achieving triple-bottom line outcomes through more effective integration of economic regulation with broader environmental and social objectives. The ESC will adopt a regulatory approach that provides strong incentives for optimal long-term investment in infrastructure. There is a requirement for Memoranda of Understanding to be developed and published between the ESC and other specialist regulators. There will be more effective regulatory oversight over reliability of supply of essential services as they affect Victoria. Enhanced accountability and transparency of regulatory decision-making are key features of the ESC.

Competitive neutrality – local government

A revised clause 7(2) policy statement on NCP and local government has been released confirming the basis for local government NCP compliance and providing the basis for future local government NCP payments.

Natural resource management

Water - river health

The government has endorsed the release in February 2002 of the draft Victorian River Health Strategy – Healthy Rivers, Healthy Communities and Regional Development (VRHS) for public comment.

The draft VRHS establishes the framework for the integrated management and restoration of Victoria's rivers and their associated floodplains and wetlands. It also outlines the Victorian policy approach on a number of specific management issues including over-allocated or flow stressed rivers, water quality and river frontages. The draft VRHS was developed with the assistance of a Reference Group comprising representatives from state–wide stakeholder groups and a Scientific Group composed of eminent river scientists.

The draft VRHS, to be finalised in June 2002, will ensure that Victoria's environmental commitments to COAG are met within a framework that provides for sensible investment aimed at achieving maximum river health outcomes.

Water - pricing

The major achievement with respect to urban pricing and cost recovery has been the successful completion of the 2001 Price Review of Water, Drainage and Sewerage in Victoria. The outcome of the review is a three year framework for pricing in Victoria. Extensive stakeholder consultation was an important feature of the review process. The framework, which commenced on 1 July 2001, is consistent with the government's commitment to introduce independent economic regulation and with COAG pricing principles.

Victoria has continued to implement full cost recovery principles in the rural water sector.

Water - institutional reform

The major developments in the area of institutional reform are the development of new arrangements to establish the ESC as the independent regulator of the water industry from 1 January 2003 and proposals to establish a comprehensive state-wide framework for drinking water quality. The introduction of the ESC as economic regulator of the water industry will be a major reform achievement that will ensure institutional separation with respect to pricing.

In keeping with Victoria's commitment to the provision of safe and reliable drinking water supplies, draft proposals for a comprehensive state-wide regulatory framework for drinking water quality have been developed. The new framework is designed to give greater confidence in the supply of good quality water by providing clarity of roles and responsibilities among stakeholders and enable consistent quality standards and locally appropriate management requirements to be put in place.

Water - allocation and trading

The major development in respect of water allocation is the introduction of the Water (Irrigation Farm Dams) Bill in September 2001. The Bill was developed following Government's consideration of the recommendations of the Victorian Farm Dams (Irrigation) Review Committee regarding a better water management regime for Victoria. A key feature of the Bill is the extension of existing licensing requirements for dams on waterways to cover all new irrigation and commercial use in the catchment. This will enable all significant water use to be accounted for in whole-of-catchment management of the resource. Licensing guidelines are being developed to address environmental, siting, safety and construction matters.

Forestry - establishment of forestry Victoria

Forestry Victoria was established in August 2000 as a departmental business unit with a clear commercial focus and separate and transparent financial and reporting arrangements.

A Timber Pricing Review, to be completed in May 2002, will address some of the conclusions and recommendations of the review report of the *Forests Act 1958*. The Government response to the review of the *Forests Act 1958* will be completed following finalisation of the Licence Renewal Project.

Fisheries

The Government has announced its response to the review of the *Fisheries Act 1995*. The Government has accepted (or accepted in principle) all the recommendations contained in the review except for the recommendation calling for a longer licence length. A number of recommendations that do not require legislative change are currently being implemented. It is planned to progressively review and amend legislation as required following consultation and negotiation with stakeholder groups.

Network infrastructure industries

Consumer interests and utilities

On 23 April 2001, Cabinet agreed-in-principle to establish the Consumer Utilities Advocacy Centre (CUAC), as part of the reforms associated with the ESC, with a Board comprising a Chairperson and four Directors. The CUAC is a key part of the Government's pre-election commitment to protect the interests of utility consumers in ensuring high quality, equitable

and reliable supplies of utility services. Having better-informed and effective consumer advocates is consistent with the Government's objective of protecting the interests of consumers in utility markets. CUAC will have the objective of facilitating an independent, well-informed, visible and influential consumer advocacy to promote fair, equitable and balanced regulatory outcomes in Victoria's electricity, gas and water industries.

The CUAC is expected to be established in the first half of 2002 following the appointment of the Board.

Electricity

Victoria has met the objectives guiding the establishment of the National Electricity Market (NEM). Victoria and other NEM jurisdictions have established the NEM Ministers Forum to resolve matters of policy affecting the NEM.

Victoria has continued its review of legislative and regulatory barriers to free and fair trade in electricity.

Retail contestability was introduced on 13 January 2002.

The provisions of the *Electricity Industry Act 2000* are consistent with NCP principles. That is, they do not restrict competition, but rather underpin existing competition and facilitate its introduction for domestic and small business customers.

Along with many other transitional derogations, Victoria's vesting contracts expired on 31 December 2000. Victoria still has some derogations from the National Electricity Code (NEC). Transitional full retail competition derogations were granted in August 2001, in order to implement retail contestability in a timely and effective manner.

Gas retail competition

Victoria is continuing the program for the introduction of Full Retail Contestability (FRC) for gas consumers.

In September 2001 Victoria introduced contestability for around 600 industrial and commercial gas users consuming between 5 and 10 terajoules (TJ) per annum.

The implementation of gas FRC for some 1.4 million domestic and small business customers was scheduled for 1 September 2001. However, delays in the development of systems and processes necessary to manage customer transfers and metering data has necessitated a further transitional period to allow for the orderly introduction of FRC. Industry has developed a comprehensive project timetable that allows for FRC to be introduced by 1 October 2002.

Consistent with the objectives of NCP, Victoria has continued its review of legislative and regulatory barriers to the free and fair trade in gas. The *Gas Industry Act 1994* has now been replaced by the *Gas Industry Act 2001*, which substantially reformed various provisions of the 1994 Act relevant to the regulation of the gas industry. In particular, a customer protection framework has been provided for the benefit of small business and domestic customers.

Further amendments to the *Gas Industry Act 2001* have been made to facilitate the orderly introduction of FRC in the Victorian gas market. These include the introduction of a regulatory framework for the development and approval of 'retail gas market rules' and finetuning of the safety net provisions. In so far as possible, amendments to the *Gas Industry Act 2001* are based on equivalent amendments to the electricity legislation, so there are no regulatory barriers to convergence.

Road transport-national standards

Victoria has implemented all road transport reforms in both the first and second heavy vehicle reform packages.

Since the 2001 assessment, Victoria has implemented the chain of responsibility provisions that are an element of the Combined Bus and Truck Driving Hours reform. Therefore, Victoria has met its NCP commitments for road transport.

Rail-access regulation

On 1 July 2001, the Freight Network together with the strategically located Dynon and South Dynon Terminals and the Bayside Network were declared for freight purposes. This means that the access regime now applies to all the intrastate tracks in Victoria used for the carriage of freight.

With the implementation of the third party freight rail access regime for Victoria's intrastate network on 1 July 2001, Victoria has met fully its NCP commitments.

Agriculture, manufacturing and services sectors

Barley

Barley export arrangements were deregulated from 1 July 2001. Deregulation followed significant consultation and careful consideration of the interests of the industry and community. With the sunsetting of the single export desk, Victoria has met its NCP commitment in relation to barley review and reform.

As a result, Victorian barley growers are able to shop for the best deal when selling barley grain harvested after 30 June 2001. They are no longer required to sell their export grain to ABB Grain Export Ltd. Grain traders are now able to compete for Victorian growers' business. This policy change allows growers choice, as growers still have the option of trading grain through ABB Grain Export Ltd.

In January 2002, the first private barley shipments were exported from Victoria following Victoria's export market deregulation. The higher prices that were paid to growers on these shipments reflect benefits to growers from the competition between traders and ABB Grain Export Ltd for grain supplies.

Dairy

Victoria deregulated dairy marketing in July 2000. There is strong evidence to indicate that consumers are benefiting from deregulation through lower retail prices of fresh milk. Surveys undertaken by the Australian Competition and Consumer Commission suggest that the Victorian retail price of milk has fallen by as much as 4.7 per cent.

Taxi services

The review of legislation relating to taxi-cabs and other small passenger vehicles commenced in June 1999 under the previous Government.

The present Government publicly released the review report in October 2000, and has completed consultation on the report. The Government is currently considering the recommendations raised during consultation.

Tow truck services

Following the release of the review report of the tow truck legislation and consultation, the Government has announced support for a number of recommendations.

A Working Party consisting of the Department of Infrastructure, industry and insurance representatives is currently implementing the recommendations. The necessary legislative changes have been listed for the Autumn Session of Parliament 2002.

Health professions

Victoria has made considerable progress in conducting reviews of health practitioner legislation, in responding to the reviews and implementing necessary reforms. Reviews of the all of the eight core Acts have been completed, including legislative amendments.

Progress with implementation of NCP reforms to the *Pharmacists Act 1974* in Victoria has been slowed by delays arising from the national review process, with a formal COAG response to the National Pharmacy Review yet to be released.

Victoria has previously raised its concerns with the Commonwealth regarding the delay in releasing the response to the National review and the potential implications in implementing reform.

Legal services

The main legislation regulating legal services in Victoria is the *Legal Practice Act 1996*. The Act was assessed against the public interest test by the previous Government and considered in the National Competition Council second tranche assessment.

Further consideration of legal profession indemnity insurance has taken place with a response to the 1998 Legal Practice Board Report that recommends the current monopoly scheme be retained as there is a net benefit to the community as a whole. The main benefits of the current arrangements lie in the prevention of an inappropriate contraction in the competitive market for legal services in Victoria, the provision of proper compensation to all consumers suffering a detriment as a result of negligent or otherwise deficient legal services, and a reduction of the number and amount of losses suffered by consumers in Victoria as a result of such deficient services due to systematic risk management.

Two further reviews of legal profession regulation commenced in mid-2000 that, although not required under NCP, were to consider issues that may influence the level of competition in legal services. The Standing Committee of Attorney Generals is now considering the question of multi-disciplinary practices. A report providing a general review of legal profession regulation was released in November 2001 and the Government is awaiting community input before it acts on the report.

Fair trading and consumer legislation

Victoria has met its commitments in relation to fair trading. The *Fair Trading Act 1999* has repealed the *Fair Trading Act 1985*. The *Fair Trading Act 1999* was assessed against the NCP guiding legislative principle at the time it was introduced.

A report on the national review of Consumer Credit Code legislation has been finalised. It is anticipated that the Ministerial Council on Consumer Affairs will release the report for consultation before responding.

The review of the scheme for uniform trade measurement legislation is unlikely to be completed by June 2002. Victoria has been meeting its requirements for the review and is currently awaiting the national response before it can implement any reforms.

Finance, insurance and superannuation services

Reviews of workers' compensation arrangements and transport accident compensation arrangements were released in February 2001 together with draft Government responses. The reviews found that the WorkCover and transport accident compensation schemes have features of a welfare scheme that are uncommon in insurance products, including the competitive products offered in other States. These features entail a significant public interest.

The Government's draft responses accepted the recommendations to retain the single manager for each scheme and to establish independent price reviews of premiums set for the schemes and other measures to enhance competition and efficiency.

Retail – liquor licensing

Victoria completed its review of liquor licensing in 1998 and implemented a series of pro-competitive reforms in 1998 and 1999. However, as part of the liquor licensing reform, the '8 per cent rule' was retained for holders of packaged liquor licences in Victoria.

Following a March 2000 review and extensive consultations with the industry, the Government announced a phase-out of the 8 per cent limit from the end of 2003. This decision built in flexibility for an earlier commencement of the phase-out, subject to agreement with the industry.

The Government's decision to remove the 8 per cent limit from the end of 2003 has enabled Victoria to meet its NCP commitments with minimal disruption to the liquor industry.

Education

The *Tertiary Education Act 1993* was amended in 2001 to provide for full implementation of the National Protocols for Higher Education Approval Processes. The legislation, as amended, fully satisfies the CPA test.

Gaming

The Victorian Government has made considerable progress in reforming gambling legislation and regulations to ensure they are consistent with the public interest.

The Government has introduced reforms, especially of public lotteries legislation, which allows for competition following the expiry of the current monopoly arrangements in 2004.

As part of the Government's NCP commitments, an independent consultant completed the review of the *Gaming Machine Control Act 1991* and other relevant legislation in late 2000. The Government announced its response on 18 July 2001 following careful consideration of the review and the submissions received.

The Government accepted, in principle, the review's recommendations to increase competition in the gaming industry. The Government will consider profit-sharing arrangements, ownership structure and the number of gaming operator licences closer to the expiry of existing licences in 2012.

The Government supported the review's finding that the restriction on 24-hour gaming should be retained. This new restriction was introduced as part of the *Gambling Legislation (Responsible Gambling) Act 2000* and was found by the review to be in the public interest.

The review recommended a removal of the restriction requiring 20% of gaming machines be located in non-metropolitan Victoria. The Government noted the recommendation but

stated that the current restriction will be retained until the impact of regional caps and the social and economic benefit tests are known.

The Government accepted the review's recommendation that the ability to set bet limits under Ministerial Direction should be retained.

Rural and regional communities and Competition Policy

In implementing NCP, an important consideration has been the impact on rural and regional Victoria. Consistent with Victoria's approach, last year the Prime Minister proposed changes to the NCP public interest test to specifically mention rural and regional impacts.

An example of taking into account the impact on rural and regional Victoria was the response to the review of the *Legal Practice Act 1996* which considered the feasibility of moving to a competitive scheme for public indemnity insurance. Access to legal services by the community, including those living in country Victoria, is an objective of Government policy. The response noted that moving to a competitive scheme for public indemnity insurance could lead to a reduction in the number of solicitors. Moreover, the impact would be more severe on smaller-sized legal practices, which predominate in country areas. The response concluded that the current monopoly scheme be retained as there is a net benefit to the community as a whole from the current arrangements.

This is not to say that introduction of NCP principles will always have adverse impacts for rural and regional areas. Removing restrictions on the price and supply of products, marketing and purchasing arrangements can lead to more efficient production processes, stimulate product and market development and lower costs to consumers and other users of produce.

For example, since 30 June 2001 Victorian barley growers have been able to shop for the best deal when selling barley grain. They are no longer required to sell their export grain to ABB Grain Export Ltd. Instead, grain traders are now able to compete for Victorian growers' business. In January 2002, the first private barley shipments were exported from Victoria following Victoria's export market deregulation. The higher prices that were paid to growers on these shipments reflect benefits to growers from the competition between traders and ABB Grain Export Ltd for grain supplies.

Reforms in a number of sectors – such as electricity and dairy marketing – have also been accompanied by assistance packages intended both to ensure that rural and regional Victoria is not adversely affected by reforms and to ensure a smooth transition to the new, post-reform, environments. The electricity and dairy assistance packages are outlined below.

Electricity

The Government has allocated $118 million in 2001-02 to provide assistance to householders, small businesses, and farmers in outer suburban and regional and rural areas. These Special Power Payments will mitigate the short-term impact on the electricity bills of non-metropolitan customers. The rebate means the increase in the average power bill paid by these customers will generally be no greater than the increase in the highest average bill in the city for customers on equivalent tariffs.

The $118 million rebate package includes additional assistance for small business and farm customers on higher consumption tariffs who have an unusually high level of off-peak use. The size of the rebates for different customer classes will be finalised once the 2002 prices have been finalised by each retailer, consistent with the Government's pricing guidelines.

Dairy deregulation

Victoria deregulated dairy marketing in July 2000. Deregulation was accompanied by an adjustment package funded by a milk levy and administered by the Commonwealth. Victoria provided direct assistance through stamp duty exemptions for the adjustment package, assistance with electricity connection and cattle over and under passes.

3. Assessment issues from 2001

This chapter provides a listing of assessment issues that have been raised by the NCC either in the June 2001 *Assessment of Governments' Progress in Implementing the National Competition Policy and Related Reforms*, or raised in other NCC documents or correspondence. A summary of action taken to address each issue, as well as the chapter(s) in this report where the issue is addressed in more detail, are provided.

Natural resource management

Water

Assessment issue	*Action*
Approach to tax equivalent regimes	Victoria's metropolitan urban water businesses have been subject to a State-based tax equivalent regime since 1995, which was extended to all regional urban and rural water businesses for 2001-02. These businesses will be brought under the national tax equivalent regime from 1 July 2002.
Consideration of externalities arising from urban water use	Victoria's approach has been to incorporate obligations into water businesses to conduct programs to reduce the impact of negative externalities. Where externalities are directly attributable to urban water users and the urban water businesses have incurred costs to deal with these externalities, the costs should be fully recovered from urban water customers.
Returns generated by metropolitan urban retail water businesses	Victoria will continue to monitor the levels of returns on assets earned by the retail water businesses following the application of prices determined under the new pricing framework.
Asset valuation arrangements	An Asset Valuation Practice Statement applicable to Victoria's water businesses is being developed.
Commercially based dividend arrangements	A commercial dividend arrangement, based on profitability and the Government's dividend benchmarks for Government Business Enterprises, applies to both metropolitan and regional urban water businesses. Work is proceeding to develop and introduce a commercially based financial and performance management framework across the Victorian water industry.
Full cost recovery	Victoria has continued to implement full cost recovery for the rural sector. Most of the State's rural water services recover operational, maintenance and administration costs, finance charges and a renewals annuity. Where externalities are directly attributable to water users and rural water authorities have incurred costs to undertake remedial works to address them, these costs are also fully recovered from rural water customers.
Guidelines for renewals annuities	An initial draft of guidelines for renewals annuities was developed late in 2001. Further work is required before consultation with the rural water businesses can commence.

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Assessment issue	*Action*
Differential rates of return generated on bulk water supplies	Consultation will be necessary to clarify the future policy position on bulk water pricing. As an initial step, a Working Group is to be formed to develop, and report to the Minister for Environment and Conservation in the first instance on, bulk water pricing options.
Community service obligations	Victoria will arrange for its water businesses to report on the CSOs identified, commencing with their 2001-02 annual reports.
Cross-subsidies	Victoria considers that cross-subsidies in the rural sector have been removed.
Economic regulation of the water industry	The Government established the Essential Services Commission (ESC) on 1 January 2002. It is the Government's intention that all water businesses will be brought under the jurisdiction of the ESC from 1 January 2003.
2001 Price Review – consistency with COAG obligations	Victoria is confident that the approach taken to conduct the 2001 price review is consistent with obligations specified in the COAG pricing principles.
Drinking water quality	Victoria has developed draft proposals for a comprehensive state–wide regulatory framework for drinking water quality.
Water Services Agreements	Water Services Agreements have been signed for each of Victoria's fifteen regional urban water businesses. Work is progressing on the water services agreements of the five rural water businesses. It is expected that the agreements will be signed off by June 2002.
Institutional reform issues arising from NCP review of Victoria's water legislation (including regulatory arrangements for septic tank systems)	Work is proceeding on the development of the Government's response to the NCP review of Victoria's water legislation, and is expected to be completed by June 2002.

Note: refer to Chapter 7 for further details.

Forestry

Assessment issue	*Action*
Competitive neutrality for State forests	Forestry Victoria was established in August 2000 as a separate departmental business unit with a clear commercial focus, and separate and transparent financial and reporting arrangements.
Response to review of the Forests Act	The review of the *Forests Act 1958* concluded that the Act and its regulations contain few restrictions, but that the administration of the Act and regulations could give rise to restrictions. The review was completed in 1998, and a revised response to the review is currently being developed to reflect the Government's policy directions. However, some of the recommendations have been acted on (for example, the establishment of Forestry Victoria in August 2000 as a departmental business unit). A Timber Pricing Review, to be completed in May 2002, will address some of the conclusions and recommendations of the review report of the *Forests Act 1958*. The Government response to the review of the *Forests Act 1958* will be completed following finalisation of the Licence Renewal Project.

Note: refer to Chapter 8 for further details.

Fisheries

Assessment issue	*Action*
Progress with Implementation of the Government's response to the review of the *Fisheries Act 1995*	The Government has announced its response to the review of the *Fisheries Act 1995.* The Government has accepted (or accepted in principle) all the recommendations contained in the review except for the recommendation calling for a longer licence length.

Note: refer to Chapter 8 for further details.

Mining

Assessment issue	*Action*
Progress with meeting commitments with reviews of the *Mines Act 1958*, the *Extractive Industries Development Act 1995*, *Petroleum (Submerged Lands) Act 1982* and the *Pipelines Act 1997*	The *Mines Act 1958* has largely been repealed, with the few remaining provisions relating to occupational health and safety. As reported in Victoria's Third Tranche Report 2001, the Act has been removed from the review timetable. The remaining provisions are being reviewed in consultation with the WorkCover Authority with a view to consolidating them with occupational health and safety legislation. The review of the *Extractive Industries Development Act 1995* is being finalised. A national review of the *Petroleum (Submerged Lands) Act 1982* operating in Australia has been conducted. The review report and response were released in 2001. The Ministerial Council concluded that the mirror Commonwealth, State and Northern Territory legislation that governs exploration and development of the nation's offshore petroleum resources is essentially pro-competitive. Where there are restrictions on competition these are necessary to protect the interests of the community as a whole, and the benefits of the restrictions outweigh the costs. The Commonwealth has commenced its implementation process for those recommendations that have been accepted. Once adopted by the Commonwealth, Victorian legislation will be amended to reflect the Commonwealth Act. The review of the *Pipelines Act 1967* has been completed and the Government response is planned for completion in 2002. The review did not identify any major restrictions on competition.

Note: refer to Chapter 9 for further details.

Network infrastructure industries

Electricity

Assessment issue	*Action*
All Victorian customers to be contestable	In January 2001, choice of retailer was introduced to electricity customers consuming between 40 and 160 MWh/yr. On 1 August 2001, public lighting customers became contestable. Choice of retailer for small business and residential customers (using less than 40MWh/yr) was introduced on 13 January 2002. It is anticipated that unmetered supplies (with the exception of public lighting, which is already contestable) will be opened up to competition in 2002.

Note: refer to Chapter 10 for further details.

Gas

Assessment issue	*Action*
Continued effective observance of reforms in gas.	Progress and outcomes of jurisdictional legislative reviews and reforms include: the effective implementation of the 1997 Natural Gas Pipelines Access Agreement; the introduction of full retail contestability which could be introduced by October 2002 for consumers consuming less than 5TJ per annum; and further review of legislative and regulatory barriers to the free and fair trade in gas in Victoria.

Note: refer to Chapter 11 for further details.

Dangerous goods

Assessment issue	*Action*
Dangerous Good Act 1985: new regulations relating to explosives, storage and handling, and occupational safety measures at major hazard facilities	The Victorian Government completed a competition review of the *Dangerous Goods Act 1985* in 1998-99. The review found that regulations in the Act with licensing provisions (relating to explosives and storage and handling) should be retained due to the potential harmful impact on the public if removed. Following the Esso incident at Longford, new regulations were introduced in 2000 regarding major hazard facilities, incorporating a licensing regime for major hazard sites. These regulations are to be implemented by the end of this year.

Note: refer to Chapter 12 for further details.

Agriculture, manufacturing and services

Agriculture and related industries

Assessment issue	*Action*
Poultry: repeal the *Broiler Chicken Act 1994* or provide evidence that restrictions in the Act are in the public interest	The Victorian Government considers that continuation of the Act is necessary to support the transition to negotiation of both prices and contract terms and conditions through processor negotiation groups as authorised by the ACCC. The transition involves the setting of a price path by the Victorian Broiler Chicken Negotiation Committee for the regulated contracts that are still in force until June 2002. The price path was supported by the ACCC in its authorisation decision, which is subject to a public benefit assessment, and therefore is consistent with the public interest test.
Dairy: developments with their institutional and residual health and safety arrangements, where these functions are governed by legislation containing restrictions on competition	Victoria introduced new legislation in 2000 that established a new authority (Dairy Food Safety Victoria) to protect public health and safety in dairy production. The review of the *Dairy Industry Act 1992* recommended that these functions should continue. The requirements are consistent with Victoria's *Food Act 1984* and the *Meat Industry Act 1993*.
Barley: to allow the sunsetting of legislation establishing the single export desk	Barley export arrangements were deregulated from 1 July 2001. With the sunsetting of the single export desk, Victoria has met its NCP commitment in relation to barley review and reform.
Wheat: review or repeal wheat marketing legislation	The legislation is redundant and is inconsistent with the Commonwealth legislation, which was reviewed in 2000. Victoria intends to repeal the Act at the first available opportunity.

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Assessment issue	*Action*
Veterinary surgeons: (1) Provide evidence that process for determining veterinary practice reservations is open and independent and in the public interest. (2) Provide evidence that advertising restrictions are in the public interest.	The *Veterinary Practice Act 1997* does not contain any reservations on practice. The Act only prohibits advertising that is misleading, uses testimonials, or makes unfavourable comparisons of one practice with another. Victorian has assessed the 1997 Act and found it to comply with NCP principles.
Agricultural and veterinary chemicals: public interest for not limiting efficacy review to whether labelling is true	The Government believes that there are strong public interest reasons for the decision not to limit the efficacy review to whether labelling is true. Limiting the National Registration Authority's (NRA's) consideration to 'truth' would mean that there was no direct assessment by the NRA of any flow-on or induced effects resulting from the use of a chemical with an efficacy level as determined only by the registrant.
Model Food Bill: public interest of registration provisions and of any provisions retained (not in the Bill) that restrict competition.	Victoria's *Food Act 1984* has been amended to provide for the adoption of the new National Food Safety Standards of the Food Standards Code and to incorporate changes required as a result of COAG's decision on 3 November 2000 to adopt the National Model Food Bill. The *Meat Industry Act 1993* was reviewed in 2000 with the review finding that the legislation achieved its objectives in a manner that resulted in a net benefit to the community, particularly in relation to food safety. The Government has responded to the review with minor legislative amendments made to the *Meat Industry Act 1993* in 2001, as recommended by the NCP Review.

Note: refer to Chapter 15 for further details.

Taxi services

Assessment issue	*Action*
Government response to review	The Government publicly released a review report in October 2000, and has completed consultation on the report. The Government is currently considering the recommendations raised during consultation.

Note: refer to Chapter 16 for further details.

Tow truck services

Assessment issue	*Action*
Provision of final response to review including justification for restrictions on competition	Following the release of the review report of the tow truck legislation and consultation, the Government has announced support for a number of recommendations. A Working Party consisting of the Department of Infrastructure, industry and insurance representatives is currently implementing the recommendations. The necessary legislative changes have been listed for the Autumn Session of Parliament 2002.

Note: refer to Chapter 16 for further details.

Health and pharmaceutical services

Assessment issue	*Action*
Dentists, medical practitioners, nursing and psychologists, Chinese medicines: Capacity for boards to issue guidelines on advertising.	Amendments to be introduced during the Autumn 2002 sittings include changes to the advertising guideline provisions in five Acts (*Medical Practice Act 1994, Nurses Act 1993, Dental Practice Act 1999, Psychologists Registration Act 2000* and *Chinese Medicine Registration Act 2000*) to require Ministerial approval of advertising guidelines.
Progress in reviewing *Pharmacists Act 1974*	The final Report on the National Pharmacy Review was tabled in February 2000. A formal COAG response to the National Review is yet to be released, delaying the implementation of reform.

Note: refer to Chapter 17 for further details.

Legal services-professional indemnity insurance

Assessment issue	*Action*
Public interest justification for monopoly provision of professional indemnity insurance	Consideration of legal profession indemnity insurance has taken place with a response to the 1998 Legal Practice Board Report that recommends the current natural monopoly scheme be retained, as there is a net benefit to the community as a whole from the current arrangement.

Note: refer to Chapter 18 for further details.

Other professional and occupational licensing

Assessment issue	*Action*
Auctioneers: passage of the Auction Sales (Repeal) Bill	The *Auction Sales Act 1958* has been repealed by the *Auction Sales (Repeal) Act 2001* with effect no later than 1 January 2003.
Private agents, Estate agents acts – progress	A review of the *Private Agents Act 1966* was conducted with a public discussion paper released in July 2000. Further targeted consultation is necessary before approval for any legislative change may be sought. The review of the *Estate Agents Act 1980* has been released for consultation and the Government is considering its response. Amending legislation is likely to be introduced in the Autumn 2002 Parliamentary session.

Note: refer to Chapter 19 for further details.

Fair trading and consumer legislation

Assessment issue	*Action*
Consumer credit: (1) Progress of national review of the Consumer Credit Code and of reviews of related legislation	(1) State and Territory governments undertook a national review of Consumer Credit Code legislation. A report has been finalised and accepted by the COAG Committee on Regulatory Reform as adequate. It is anticipated that the Ministerial Council on Consumer Affairs will release the report for consultation before responding.
(2) Public interest reasons for the hire purchase legislation	(2) It was considered that the public interest in providing rural producers with some basic safeguards against insolvency through aggressive enforcement of hire purchase contracts for farm machinery outweighed the likely costs of preserving the minimal level of market intervention for a limited time.
National review of trade measurement legislation – progress	The review of the scheme for uniform trade measurement legislation is being considered in a national context. A scoping paper, which found the legislation to be consistent with NCP principles, was completed in August 2001. Victoria has been meeting its requirements for the review and is currently awaiting the national response before it can implement any reforms.

Note: refer to Chapter 20 for further details.

Workers compensation and transport accident compensation schemes

Assessment issue	*Action*
Public interest in having a single manager arrangement	Reviews of workers' compensation arrangements and transport accident compensation arrangements found that the WorkCover and transport accident compensation schemes have features of a welfare scheme that are uncommon in insurance products, including the competitive products offered in other States. These features entail a significant public interest. The Government's draft responses accepted the recommendations to retain the single manager for each scheme and to establish independent price reviews of premiums and other measures to enhance competition and efficiency.

Note: refer to Chapter 21 for further details.

Education services

Assessment issue	*Action*
Tertiary Education Act 1993 and consistency of legislation with National Protocols for Higher Education Approval Processes	The *Tertiary Education Act 1993* was amended in 2001 to provide for full implementation of the National Protocols for Higher Education Approval Processes. The legislation, as amended, fully satisfies the CPA test.

Note: refer to Chapter 23 for further details.

Gambling

Assessment issue	*Action*
Demonstrate that casino licensing arrangements meet CPA clause 5 obligations	The *Casino Control Act 1991* was withdrawn from the review schedule due to a lack of scope for amendment without varying contractual arrangements with the existing casino operator and requiring payment of compensation. In particular, preliminary investigations indicated compensation required to remove the exclusive licence outweighed any benefit to be gained from removal.
Consistency of exclusive TAB licenses with Productivity Commission recommendations	The independent review of racing and betting legislation did not recommend any change to the exclusive TAB licensing arrangements in Victoria. The Government supports this outcome as the breaking of the current licensing regime - which prevails until 2012 - would expose the Victorian Governments to major compensation claims. The position will be reviewed prior to the expiry of the current licence agreements. In relation to sports betting licensing, there is a community benefit, in terms of problem gambling and regulatory efficiency, from continuing the current arrangements rather than enabling a proliferation of sports betting licences. In particular, issuance of further sports betting licences could produce a major expansion of the presence of sports betting outlets and opportunities in Victoria and, in turn, significantly stimulate demand. While this would deliver the benefit of expanding consumer choice, the Government considers this quantum liberalisation of sports betting opportunities will exacerbate problem gambling in Victoria.
Public benefit justification for restrictions on gaming machines	The Government imposes various restrictions on gaming machines in order to achieve its policy objectives, particularly harm minimisation. The Government has imposed caps to also address the adverse consequences arising from disproportionate levels of gambling expenditure in disadvantaged regions. The Government believes that, at the current stage of growth in the gambling industry and under current policy settings, a set number of machines assists in tackling problem gambling by reducing accessibility. Given the nature and magnitude of the negative impacts of gambling, the public interest favours a continuing cap in the absence of alternative and proven strategies.
Response to *Club Keno Act 1993* review	The Government is considering its response to the independent review.

Note: refer to Chapter 24 for further details.

Childcare

Assessment issue	*Action*
Public interest case for the *Childrens Services Act 1996*	Public interest is vested in ensuring that services for the youngest members of society are provided in a safe and appropriate environment. Details of the restrictions identified and the cost/benefit case are set out in chapter 25.

Note: refer to Chapter 25 for further details.

Planning, construction and development services

Assessment issue	*Action*
Planning and approval: completion of review and reform activity	The Victorian review of the Planning and Environment Act 1987 and its subordinate legislation was completed in early 2001. The Government's response, with legislative amendment if necessary, is expected to be finalised by 30 June 2002.
Surveyors: demonstrate public interest of any restrictions on competition from reforms	The Government has substantially accepted the recommendations of the review of the *Surveyors Act 1978*. Amending legislation was introduced into Parliament in 2001 but is yet to be passed by Parliament.
Architects Act 1991: progress	Victoria is currently considering its response to the review of Architects legislation focussing on the Victorian review but also taking into account the Inter-Governmental Working Party's response to the PC inquiry. The response is on target to be completed, including legislation, by 30 June 2002.
Building Act 1993: progress	Part of *Architects Act 1991* review – see above

Note: refer to Chapter 26 for further details.

Part B: Report on the Elements of the Policy

4. Essential Services Commission and Infrastructure Reform

- On 1 January 2002, the Office of the Regulator-General (ORG) was subsumed by the Essential Services Commission (ESC), which became the economic regulator of Victoria's utility services.
- Establishment of the ESC is consistent with the National Competition Policy (NCP) commitment to independent economic regulation.
- This chapter provides a summary of key reviews / determinations over the past year followed by discussion of the regulatory culture applying to essential services leading up to the establishment of the ESC. The chapter includes details on the ESC and related reforms and the challenges in the year ahead.

Overview of progress

By 2000-01, the ORG completed the first round of price reviews and determinations for each of the industries subject to its regulatory oversight. The public consultation and decision--making processes associated with those reviews made a substantial contribution to the interpretation and understanding of the Victorian regulatory framework. This was of great benefit to the regulator, regulated businesses, utility customers and their representatives and other stakeholders, including regulators in other jurisdictions.

The establishment of the ESC represents an important evolution in the regulatory framework for utility industries in Victoria. It builds on the strengths of the ORG's independent regulatory framework but proposes substantive improvements to ensure that Victoria benefits from an essential services regulatory system that is truly world class. The ESC focuses on achieving triple-bottom line outcomes through more effective integration of economic regulation with broader environmental and social objectives. The ESC will adopt a regulatory approach that provides strong incentives for optimal long-term investment in infrastructure. There is a requirement for Memoranda of Understanding to be developed and published between the ESC and other specialist regulators. There will be more effective regulatory oversight of reliability of supply of essential services as they affect Victoria. Enhanced accountability and transparency of regulatory decision-making are key features of the ESC.

The ESC has coverage of electricity and gas distribution, certain ports and grain handling services, rail access and, from 1 January 2003, water and sewerage services.

Regulatory highlights in 2000-01

Electricity

2001 Electricity Distribution Price Review

The ORG released its Price Determination in September 2000. This achievement represents the completion of a statutory duty to set the price controls and service standards for the Victorian electricity distributors for the period 2001-2005. In response to an appeal against the Determination by four of the five distributors, the ORG amended its price controls in its Re-Determination issued in December 2000.

The Review's principal benefits to electricity consumers include a reduction of up to 18 per cent in network charges and estimated improvements in supply reliability of between 15 and 37 per cent.

Full retail competition (FRC)

The ORG developed and published licence amendments and regulatory policies essential to support FRC for electricity customers and implemented an information campaign for small business customers who became eligible to change retailers from 1 January 2001. Customer protection measures are substantially in place and draft rules to enable the timely and efficient transfer of smaller customers have been published. All customers became eligible to choose a retailer from 13 January 2002.

The ORG developed and published a guideline to codify 0-160MWh customers' rights to compensation for damage due to voltage variations, in consultations with distributors, customer representatives and the Energy and Water Ombudsman Victoria (EWOV). Provision was made for the additional costs of compensation in the Electricity Distribution Price Review.

Electricity reliability

The ORG published the inquiry into the management by the rural distributors of their low reliability distribution feeders. The ORG concluded that, while reliability to worst served customers in regional and rural Victoria has not deteriorated overall since privatisation, only modest improvements have been made in comparison to the metropolitan distributors. The ORG/ESC is consulting on recommendations arising from the inquiry and will finalise and implement its response in 2001-02.

Gas

Gas distribution access arrangements

The ESC has commenced its review of gas access arrangements to apply from 2003, with a final decision expected in October 2002. The revised access arrangements will establish the terms and conditions for third party users to gain access to the services offered by gas distribution pipelines owners and operators in Victoria for the five-year period commencing 1 January 2003. To this end, the ORG released a Consultation Paper in May 2001, identifying a number of issues that it considered warranted detailed consideration.

Gas reliability

The ORG published an inaugural gas performance report in September 2001 covering quality, reliability and customer service. It increased customers' awareness of the comparative performance of the gas businesses and placed competitive pressure on the gas businesses to improve their performance.

Full retail competition

The ORG has developed the customer protection framework for full retail competition, which included the publication of the Gas Retail Code, replacing the Customer Service Code and including comprehensive minimum retail standards. This ensures that customers receive the benefits of a regulated service 'safety net' in the full retail competition environment.

Water

The ORG published the fifth annual comparative performance of Melbourne's three retail water businesses, covering quality and reliability, affordability and customer service.

Ombudsman Scheme

The Government has extended the Energy Ombudsman scheme to cover the water industry to provide improved access for Victorian water customers to an effective complaints resolution process (see details below).

Export Grain Handling

Industry Review

Every three years the ESC will review whether or not grain terminals at the ports of Portland and Geelong should continue to be designated significant infrastructure facilities. The ORG completed its last review of grain regulation in May 2000 and in the context of developments in grain handling, the grain industry, and in the rail sector, decided to bring forward the next scheduled review of grain handling to June 2002.

Handling Charges

Following the 2000 Review, the ORG issued a set of revised Pricing Principles, and established a set of default charges to apply for 2000-01 in the absence of compliant prices being submitted by GrainCorp.

The ORG also released an Issues Paper in preparation for the 2001-02 approval of grain handling charges, allowing early identification of regulatory issues for public consultation with industry and users.

Ports – port and channel charges

The ORG approved port and channel charges for 2000-01, resulting in a reduction in real terms in the charges imposed on customers for regulated services provided by the Melbourne Port Corporation and the Victorian Channels Authority.

Rail - guidelines

The ORG published the Victorian Rail Access Regime Guidelines, explaining the new arbitration role of the ORG/ESC in relation to the access regime that commenced on 1 July 2001 for the intrastate freight network. The guidelines included draft notices for public consultation about access seeker information and the operator record keeping rules.

Rail - access regime

In May 2001 Freight Australia applied to the NCC to have the main lines in the Freight Network declared under Part IIIA of the Trade Practices Act.

In July 2001 Victoria applied to the NCC to have its access regime certified as effective under that part of the Act. Certification would clarify the Commonwealth position over jurisdiction, and whether the ESC is the exclusive regulator for the Freight Network. While a response from the NCC is pending, Victoria notes the Commonwealth's rejection on 1 February 2002 of Freight Australia's application for declaration of the Freight Network.

The regulatory culture applying to essential services

In the period from 1995 to 2001, the ORG developed a clear regulatory culture involving accessible consultation processes, rigorous and balanced analysis and independent, transparent and accountable decision-making. Through its regulatory work during this period, the ORG also established a clearer and more certain foundation for the continuing development of more effective regulation of essential utility services in Victoria.

During the eight years of its existence, the ORG contributed in various ways to improving the process and practice of essential services regulation in Victoria and to improving the price and service outcomes for Victorian utility consumers. Its work laid a solid foundation on which to build the institutional and regulatory improvements now embodied in the ESC Act. The delivery of those improvements for Victoria's consumers of essential utility services has been the responsibility of the ESC since 1 January 2002.

The learning process from the first round of regulatory reviews provides a number of potential benefits for the future efficiency and effectiveness of regulatory processes and outcomes in Victoria.

From the regulator's perspective, it provides the basis for adopting less intrusive, costly and time-consuming regulatory methodologies and processes in the future. For example, more reliable historical data is now being provided. The regime's incentive mechanisms provide a basis for greater confidence that reported actual expenditure data are accurate and there is less need for future consultation on methodological issues.

The regulated businesses now have a detailed understanding of the regulatory processes, methodologies and incentive mechanisms applied during price reviews. This provides them with a more predictable and certain environment for the operation of and investment in their businesses in the future. They are also now better equipped to participate more efficiently and effectively in future regulatory processes and to bring an understanding of the commercial implications to the regulatory decision-making processes.

As noted below, one of the ESC's priority tasks as Victoria's future economic regulator of essential services will be to seek to provide more meaningful commercial incentives for regulated businesses to undertake efficient new investments and to pursue operating and service efficiencies.

The ESC will also need to consider the extent to which the Victorian regulatory experience to date and the incentive properties incorporated in the existing regulatory arrangements provide the basis for developing less intrusive approaches to regulatory-decision making while continuing to satisfy its statutory objectives (also see sub-section on challenges ahead).

Establishment of the Essential Services Commission

Background

Based on extensive consultations held in 2000, the Government developed detailed plans to implement the ESC and its related initiatives. These plans were outlined in a proposal paper and an exposure draft of the ESC Bill, which were released for community comment on 7 June 2001.

The proposal paper and the exposure draft drew some 54 submissions from a broad cross-section of the community. The submissions provided a strong endorsement of the

Government proposals to establish the ESC and of its approach to maximise the involvement of the community in developing the new regulatory arrangements. These submissions expressed support for the establishment of the Commission with the range of features that are encapsulated in the ESC Act.

Aims

The establishment of the ESC is a critical component of a suite of reforms made by the Victorian Government to the essential services sector, including the establishment of Energy and Water Ombudsman Victoria (EWOV) and a range of reforms arising out of the *Security of Electricity Supply Taskforce Report*. The aim of these reforms is to protect the interests of all consumers in relation to reliable supplies of gas, water and electricity. In protecting the interests of all present and future consumers, the Government recognises that the new regulatory arrangements must ensure optimal investment in essential services infrastructure. A well-planned, competitive, efficiently managed and regulated essential services sector delivers benefits to all Victorians.

Features

- The Commission is independent from Government and subsumes the ORG;
- It is Victoria's economic regulator of electricity and gas distribution, certain ports and grain handling services, rail access and, from 1 January 2003, water and sewerage services;
- It has an enhanced role in reliability of supply, including a capacity to conduct investigations into reliability of supply issues;
- It has an objective to protect the long-term interests of Victorian consumers;
- It comprises a Commission structure consisting of a Chairperson and additional Commissioners;
- It will be required to be transparent in its decision-making and undertake extensive stakeholder consultation;
- It will also be required to formally interface with other regulators in order to achieve integrated decision-making and avoid regulatory duplication;
- It will be more accountable for its decisions, with greater scope for stakeholder involvement in appeals processes and longer timelines for hearing appeals;
- It will be empowered to seek to impose strong penalties on utilities that do not comply with determinations or meet licence requirements; and
- It will conduct independent reviews of regulatory issues.

Related reforms

Customer advocacy

The ESC will be complemented with new and improved arrangements for customer advocacy, involving the establishment of an independent customer advocacy body, the Consumer Utilities Advocacy Centre (CUAC), to deliver effective consumer input to regulatory processes.

This is a response to consumer groups' concerns that they do not have the resources to promote informed and effective representation. The Government believes that well informed and effective consumer advocates are important in ensuring consumers, particularly those who are disadvantaged, get the best deal from their utilities, particularly in the newly competitive retail environment.

CUAC will provide an interface between consumers and the Commission and other regulators and will be encouraged to enter into a Memorandum of Understanding with the ESC. In this way, the CUAC will ensure the voice of consumers and their advocates is heard loudly and clearly. It will also provide a forum where consumers and disadvantaged groups can come together to discuss and exchange grassroots information.

The CUAC commenced operations in February 2002.

Water

A key element of the ESC involves the ESC becoming responsible for economic regulation of the water sector. Previously, the ORG's role in relation to the water sector was limited to monitoring compliance of Melbourne's three water retailers' with their licence conditions. However, regulation of tariffs for these authorities, together with economic regulation of Melbourne Water and Victoria's non-metropolitan and rural water authorities, is the responsibility of the Minister for Environment and Conservation. On its establishment on 1 January 2002, the Commission initially took over the ORG's limited water regulation functions, before assuming full responsibility for economic regulation of the water sector from 1 January 2003. The Government is currently in the process of developing the regulatory arrangements that will apply when the ESC assumes responsibility for the regulation of the water industry.

This shift of water regulation responsibility to the Commission will deliver significant benefits to Victoria. It will result in a separation of institutional functions, greater independence and transparency of decision-making, greater efficiency and focus on long-term customer interests including environmental aspects. The move to independent regulatory oversight for water utilities also ensures that Victoria meets a key water reform commitment agreed by the Council of Australian Governments (COAG).

Funding of the ESC

The Commission will be co-funded by Government and industry on an equitable and transparent basis. The ESC will incur one-off costs of $5.2 million in 2001-02 for communication activities required for assisting consumers during the transition to full retail competition in electricity and gas markets. These costs are to be recovered from the licensed electricity and gas businesses.

Notwithstanding the role of the ESC in regulating water and sewerage from 1 January 2003, the Government expects that the cost of ESC regulatory services, and therefore the budget for the ESC, will decline from 2002-03. This is because of a reduction in the overall cost of regulation and also because of the one-off nature of cost recovery for the implementation of full retail competition for electricity and gas.

Challenges ahead

Timely and effective management of the organisational and regulatory changes called for in the new legislation represents the most important challenge faced by the ESC in 2001-02. This will require the integration of new functions and institutional arrangements into the established regulatory framework and processes applied by the ORG, while continuing to maintain efficient and effective regulatory outcomes during the period of transition.

The change from a single statutory decision-maker to a multi-person commission with expanded responsibilities and the stronger emphasis on cost-recovery and transparency will require the ESC to place greater emphasis on the cost-effectiveness of its regulatory practices and processes. It will also be required to give more consideration to the direct and indirect costs its regulatory processes and decisions impose on the businesses and their customers.

The requirements to establish a Charter of Consultation and Regulatory Practice and to enter formal Memoranda of Understandings with other regulators will require the ESC to document formally its consultation and decision-making principles and processes after consulting with relevant stakeholders.

The regulatory environment in Victoria and Australia is changing and the ESC must respond to those changes in order to ensure that the efficiency and effectiveness of utility regulation continues to improve in the period ahead.

In addition to the demands of the organisational changes required to establish the ESC, the on-going agendas of priority regulatory reviews and decisions before the ESC in 2001-02 includes the following challenges:

- Continuing the consultation process for the review of the Gas Distribution Access Arrangements in preparation for the formal assessment of the distributors' proposed Access Arrangements that are due in March 2002. The ESC's final decision is expected in October 2002;

- Implementing consumer protection and related safety net arrangements for the introduction of full retail competition for the smallest electricity and gas customers during 2002 and continuing to monitor those arrangements and the effectiveness of the competitive process during a transitional period;

- Commencing a review of whether GrainCorp's facilities for the handling and storage of export grain in the ports of Portland and Geelong should continue to be regulated and if so the form of regulation that should apply;

- Continuing to implement the regulatory framework governing each of the industries regulated by the ESC. This includes comparative performance monitoring and reporting, monitoring and approval of compliance with price determinations and related regulatory arrangements and decisions and arbitrations of proposals and disputes by parties seeking to exercise their statutory rights; and

- Assisting the Government in the development of the regulatory arrangements that will apply when the ESC assumes responsibility for the regulation of the water industry from 1 January 2003.

5. Legislation Review and COAG

- Victoria has completed the majority of the legislation reviews listed on the timetable published in 1996.
- Victoria has applied standards requiring independence and transparency to legislation reviews.
- The Government's approach to the public interest test has involved increased consultation, increased transparency in decision-making, and a greater focus on the effects of proposals on rural and regional communities.
- New legislative proposals that contain restrictions on competition continue to be assessed under the public interest test.
- Victoria facilitates compliance with the Council of Australian Governments Principles and Guidelines for National Standard Setting and Regulatory Action through participation in national forums.

Legislation review progress

The program consists of 183 listed reviews. At February 2002, 38 reviews had yet to be completed. Of these, 7 reviews require completion of the review report (see volume 2, Table 6) and 15 reviews have completed the review report and are awaiting the announcement of the government response (see Volume 2, Tables 3 and 5). A further 16 reviews have been completed and are awaiting passage of legislation and/or implementation of regulation reforms (see selected items of volume 2, Table 2).

Compliance of legislation with legislation review commitments

Victoria has met its commitments to undertake legislation reviews in accordance with NCP requirements. Since 1996 over 140 reviews have been undertaken, or have been removed from the process as a review was not required.

The Government's approach to legislation review under NCP is characterised by a commitment to:

- implementing NCP in the public interest;
- independent and transparent review processes; and
- a real commitment to consultation, both during the review process and in considering an appropriate response to the review's recommendations.

The Government is committed to ensuring that NCP is balanced with the Victorian Government's key public policy objectives of responsible financial management, growing the whole State, delivering improved services and restoring democracy. This last objective is demonstrated through the Victorian Government's genuine consultative processes. Consultation takes place during the review and while the Government is developing a response. For instance, a plebiscite of dairy farmers was conducted to assist the Victorian Government formulate its response to dairy deregulation.

It is the practice of the Government to release review reports and findings to enable the Government to have the benefit of stakeholder views when considering the most appropriate response to a review's recommendations.

Compliance with the conduct code obligations

The Conduct Code Agreement (CCA), as one of the three Agreements on NCP, concerns the extension of Part VI of the Commonwealth's Trade Practices Act 1974 (TPA) to the jurisdiction of the States. Part IV of the TPA contains the competition provisions of the Act that relate primarily to market conduct such as misuse of market power, price fixing and other forms of anticompetitive conduct.

Victoria enacted legislation to extend Part IV of the TPA in 1996 in the form of the *Competition Policy Reform (Victoria) Act 1996*, hence fulfilling the main commitment under the Agreement. As a transitional measure, the legislation provides that businesses can be excepted from Part IV of the TPA by a State making a statutory exception. This provision was particularly relevant to government owned businesses because many had not previously been subject to the TPA. Exceptions are subject to review by the Commonwealth Government supported by advice from the NCC. The Commonwealth retains the power to overturn exceptions made by States where it does not consider the exception serves the public interest. States therefore apply public interest criteria when considering the desirability of an exception.

An alternative to an exception is an authorisation by the Australian Competition and Consumer Commission (ACCC). Applications for authorisations are made by the businesses engaged or potentially engaged in conduct that would be in breach of Part IV of the TPA. An authorisation can be granted where the ACCC is satisfied that the authorisation would provide a net benefit. Authorisations are normally granted for five years and can be renewed. The merit of an authorisation is that it can be more specific and offers greater flexibility.

Under clause 2(1) of the CCA:

Where legislation, or a provision in 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 CCA:

> 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 TPA (as in force at the date of commencement of this Agreement); and
>
> (c) will continue to except conduct pursuant to section 51 of the TPA after three years from the date on which the Competition Policy Reform Act 1995 receives the Royal Assent.

The second tranche assessment report provided details of the statutory exemptions that existed at the time. All of these statutory exemptions have expired.

Assessing compliance with the national standard setting obligation

The role of Ministerial Councils and standard setting bodies in establishing consistent national regulation

Ministerial Councils are established by the COAG for the purpose of co-ordination between jurisdictions on matters of national significance. While governed by terms of reference approved by COAG, Ministerial Councils have significant discretion to examine and make decisions on a range of matters. In addition to Ministerial Councils, national standards-setting bodies such as the Australian Building Code Board develop national standards in a range of areas.

Ministerial Councils also address the constitutional limitation on the Commonwealth that can impede the effectiveness of Commonwealth regulation. The Commonwealth Constitution contains a number of heads of power on which the Parliament can rely when making new laws. Powers to regulate corporations and interstate trade and commerce are commonly relied on to regulate businesses. However, unincorporated businesses such as partnerships fall outside these powers unless they are engaged in interstate trade and commerce.

National schemes may involve referral of powers to the Commonwealth, mirror legislation between States and the Commonwealth and template legislation. For example, the TPA, which is based on the Corporations Head of Power, only achieved application to sole traders and partnerships (a common form of business among the professions) with the enactment of the Conduct Code by State Parliaments as part of the NCP Agreements.

Significantly, this form of the legislation can diminish the capacity of States to act unilaterally. For example, the *Wheat Marketing Act 1989* largely refers regulatory powers to the Commonwealth, which in turn has assigned these to the AWB Ltd, the now privatised Australian Wheat Board.

Guidelines and principles for regulatory action

Ministerial Councils often develop regulatory proposals that, because of their broad representation, can result in nationally consistent regulatory arrangements that minimise barriers to interstate trade. Regulatory proposals developed by Ministerial Councils can also impose significant costs on businesses and restrict competition within markets. Further, for Ministerial Councils to be effective, Ministers need to be able to give commitments to implement legislation developed by the council in their jurisdiction.

COAG issued *Principles and Guidelines for Regulatory Action and National Standard Setting by Ministerial Councils and National Standard Setting Bodies* in 1994 and made revisions in 1997.

Role of the Commonwealth Office of Regulation Review

The Commonwealth Office of Regulation Review (ORR) has a key role in advising Ministerial Councils and other National Standards Setting Bodies on the quality of regulatory impact assessments prepared under the principles and guidelines. The ORR has particular expertise in the area that can be of benefit, particularly early in the development of new regulatory proposals.

Accordingly, the principles and guidelines require notice that includes a requirement to notify the ORR when a decision is taken to develop a regulatory proposal. The ORR can then liaise with officials supporting a Ministerial Council and provide formal advice to the

Ministerial Council on the draft regulatory impact assessment. However the guidelines do not require the Ministerial Council to comply with the advice from the ORR. Adverse advice may be an indication that the regulatory impact assessment may not be adequate to meet State and Territory requirements.

On 31 May 2001 the ORR provided a report to the NCC in which it identified six areas on which it had concerns about the extent of NCP compliance by jurisdictions between July 2000 and May 2001.

These six issues were:

- the new joint foods standards code for Australia and New Zealand;
- the labelling of genetically modified food;
- a national response to passive smoking;
- the national road safety plan;
- the extension of the Consumer Credit Code to pay day (very short term) lending; and
- changes to vocational and educational training arrangements.

On 25 June 2001 Victoria provided additional information the NCC on these matters. On some issues extensive research and consultation with affected stakeholders and appropriate cost benefit analysis had taken place. On other issues, (eg the national road safety plan) the relevant Ministerial Council had prepared a range of options from which individual States and Territories could select their preferred course of action. Victoria can still consult with affected parties and undertake a cost benefit analysis once it has decided which of the various options it intends to implement.

Victoria understands that the ORR will report to the NCC in April 2002 on developments in these areas.

COAG Committee for Regulatory Reform

The COAG Committee for Regulatory Reform has a brief to advise COAG Senior Officials on matters relating to regulatory reform, National Competition Policy Legislation Review, Mutual Recognition and other matters referred to it by COAG Senior Officials.

The Committee provides specific advice on matters such as the principles and guidelines and receives reports from the ORR on compliance with the principles and guidelines.

Passive smoking

Victoria participates in Ministerial Councils and working parties across a range of portfolio interests. One recent initiative coming from the Australian Health Minister's Advisory council related to passive smoking.

In November 1999 the Minister for Health announced the Government's intention to introduce smoke free dining legislation. In the first half of the year 2000, the Department undertook consultations on proposed legislation with a number of key stakeholders including industry groups, local government, peak organisations and health promotion organisations. Consultations included a half-day workshop to discuss aspects of the proposed policy and timelines as well as face-to-face consultations with individual stakeholders. The Government's desire to introduce smoke free dining legislation recognised that over the past 30 years research has increasingly revealed the harms

caused by passive smoking, to both patrons and those working within the restaurant industry.

The legislation to give effect to smoke free dining was endorsed by Parliament in May 2000 and the laws were effective from 1 July 2001. Industry are required to clearly display no smoking signs within their venue, and a Regulatory Impact Statement was undertaken regarding the no smoking signage regulations. To assist with the implementation of the reforms the Department convened an advisory committee of stakeholders referred to above.

The Victorian Government managed the state–wide information campaign regarding the introduction of smoke free dining which included:

- A direct mailout to industry in May and June 2001;
- An information hotline to provide information and advice to industry about the laws;
- Print media and radio advertising in May and June 2001; and
- Seminars for restaurateurs and those enforcing the legislation in Melbourne and rural and regional Victoria.

6. Competitive neutrality

- The Treasurer launched Competitive Neutrality (CN) Policy Victoria 2000 on 23 October 2000.
- The current Victorian policy has an increased emphasis on public interest.
- CN Policy has applied to all significant public sector business activities since 1996.
- The Competitive Neutrality Policy applies to local government and will assist local government in developing Best Value service standards for their significant business activities.
- A revised Competition Principles Agreement (CPA) clause 7(2) policy statement on NCP and local government has been released confirming the basis for local government NCP compliance and providing the basis for future local government NCP payments.

Background

As outlined in the CPA, clause 3(4), Victoria has the following commitment to implement CN with respect to significant Public Trading and Financial Enterprises:

> 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;
>
> (i) full Commonwealth, State and Territory taxes or tax equivalent systems;
>
> (ii) debt guarantee fees directed towards offsetting the competitive advantages provided by Government guarantees; and
>
> (iii) 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 CPA, clause 3(5), Victoria has the following commitment to implement competitive neutrality with respect to other significant business activities:

> 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:
>
> (a) ensure the prices charged for goods and services will take account, where appropriate, of:
>
> - ll 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.

(b) reflect full cost attribution for these activities.

CN Policy has applied to all significant public sector business activities since 1996. Many of the commercial government business enterprises (GBEs) have been corporatised or commercialised and others have been sold. All significant GBEs are subject to income tax equivalents and the Goods and Services Tax. The introduction and implementation of CN has seen a levelling of the playing field between government organisations and private businesses.

The Government launched Victoria's current approach to CN on 23 October 2000. Since the launch of the policy and guidelines for its implementation, significant effort has been applied to improving the understanding of CN Policy within government departments and agencies and local governments.

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. Partnerships Victoria also includes CN adjustments in its public sector comparator model. The reforms are designed to ensure that the most efficient business (be it government or private) provides the service or good.

Competitive Neutrality Policy: Victoria 2002

The current Victorian CN Policy has an increased emphasis on public interest. It requires that all public sector business activities be assessed to determine their significance in the market with business significance being determined on the basis of impact in the market. For businesses considered to be significant, if the benefits of introducing a CN measure exceed the costs and the measure does not jeopardise other public policy objectives, then CN measures should be in place.

The new policy emphasises that, if there is a potential conflict between policy objectives, then a public interest test process should be undertaken, involving public consultation, to consider the options (costed alternatives) to best meet all policies. Ultimately this may involve full or partial implementation of a CN measure, identification of subsidies or justified non-introduction of the CN measure. However, the onus is on public sector agencies to apply CN Policy and to adequately document compliance including any decision not to implement a CN measure for any reason. This process should also result in a clarification of "community service obligations" (CSOs) or public good expenditures/subsidies associated with business activities. The policy requires that these CSOs be transparently accounted for, and justified by, the public sector agency.

Considerable effort is being devoted to refreshing public sector knowledge of CN through mail-outs, website information, seminars and small group discussions. Summary investigation reports are also being used as a means of educating agencies on what is required to satisfy the policy.

A number of departments including the Departments of Education, Employment and Training (DEET); Human Services (DHS) and Infrastructure (DoI) (Local Government Division) are providing guidance information for portfolio agencies or using newsletters to alert agencies to their changed obligations under the new CN Policy.

Local government and Best Value Victoria

Best Value Principles

The CN Policy has also been promoted in the context of Best Value implementation for local government. A revised policy statement, in compliance with CPA, clause 7(2) has been developed to reflect the Best Value framework within which local governments now operate. In December 1999, the *Local Government Act 1989* was amended to repeal compulsory competitive tendering provisions and incorporate Best Value Principles.

Compulsory Competitive Tendering (CCT) required councils to expose services to competition to improve cost efficiency and accountability. By the time it had been in operation for four years, councils had publicly tendered 50 per cent or more of their expenditure to meet the Act's requirements. However, there was increasing community concern that CCT was too inflexible and that councils had too little discretion to moderate its application in local circumstances. Adverse impacts were perceived most strongly in rural areas.

The Best Value Principles apply to all council services requiring councils to determine quality and cost standards in consultation with their communities. Best Value Victoria provides a framework for councils to develop and deliver improvements to services, ensuring that they are relevant and responsive to community needs.

Best Value Victoria is based on six principles:

- quality and cost standards for all services;
- responsiveness to community needs;
- accessible services;
- continuous improvement;
- regular community consultation; and
- frequent reporting to the community.

The CN process will be a valuable tool for local government in developing Best Value service standards for services provided by significant businesses. Local government may also elect to apply CN measures (especially full cost reflective pricing) to other services where it enhances comparative assessment for Best Value review and consultation purposes and resource allocation decisions.

Local Government Competition Principles Agreements

The former State Government decided late in 1998 that, in recognition of Victorian local government's efforts in implementing competition policy and as an incentive for future compliance, the Government would share with local governments the competition payments it received from the Commonwealth.

The decision to share competition payments with local government was documented in agreements between the State and each council in early 1999. The local government pool is nine per cent of what the State actually receives from the Commonwealth in any year. Competition payments are made only to NCP compliant councils, and a non-compliant council forfeits its share of the pool to the State.

These agreements have been rendered obsolete with the repeal of compulsory competitive tendering, the introduction of Best Value Principles in December 1999 and the revision of the Victorian CN Policy in 2000. The revised clause 7(2) policy statement on NCP and local government confirms the basis for local government NCP compliance and provides the basis for future payments. This statement, circulated by DoI to local governments in January 2002, has provided local councils with further guidance on the application of CN Policy Victoria 2000 in a Best Value context.

Consistent with the provisions of the Conduct Code Agreement, anti-competitive conduct contained in Part IV of the Commonwealth TPA applies in Victorian local governments, which all maintain trade practice compliance programs.

Councils' NCP compliance is assessed from their annual NCP statements, certified in each case by the council's Chief Executive Officer, and prepared in accordance with guidelines updated by DoI each year.

For 1998–99 the four elements for councils' NCP compliance were those identified in *National Competition Policy and Local Government - A Statement of Victorian Government Policy* (June 1996). Those elements were TPA, CCT, CN, and Local Laws. For 2000-01 reporting, the three elements of local government NCP compliance were TPA, CN and Local Laws. DoI is currently assessing council's NCP statements for 2000–01.

The first part of a local government NCP payment for compliance is a lump sum base related to the tranche year amount. First tranche payments for 1997-98 and 1998-99 had a $50,000 base. Payments for second tranche years (1999-2000 and 2000-01) have a $100,000 base; third tranche payments will have a $150,000 base. The second part of a payment is a council's per capita share of the balance of the local government pool.

Legislation Review (Local Laws)

In conducting NCP reviews of existing local law, councils were assisted by guidelines issued by the DoI in May 1998. The Department subsequently advised councils that, where they had not been able to complete amendments to, or repeal of, restrictive local laws in accordance with review recommendations and *Local Government Act 1989* processes, they had until January 2000 to do so. Departmental monitoring indicated that the councils concerned completed the necessary actions by January 2000.

In relation to the making of new local laws, the *Local Government Act 1989* was amended in 1998 (Schedule 8(2)(j)) to require that a local law does not restrict competition unless it complies with a "competition test". As a result, the competition test is incorporated in the legislative process for all new local laws.

Local government compliance 1999–2000

In making recommendations to the Minister on councils' NCP compliance, the DoI's Local Government Division is assisted by an advisory panel that comprises representatives from the Department of Treasury and Finance and Municipal Association of Victoria. The panel assesses councils' NCP statements individually, and may seek clarification from any council whose statement is not sufficiently self-explanatory, before settling upon recommendations on eligibility for payments.

Previously the panel proposed, and the Minister agreed, that if a council failed to comply with one of the identified NCP elements, it should lose part of its entitlement, not 100 per cent. In fact, most councils were assessed as compliant with the elements of NCP for 1999–2000 and the part-compliance guideline was not invoked. That is, they had:

- demonstrated a culture of trade practices awareness and compliance;

- applied CN principles to significant council businesses and tenders for contracts with external parties so that any net competitive advantage due to being council-owned was properly considered and accounted; and

- ensured that local laws do not restrict competition or where they do, have justified the restrictions as providing a net benefit to the community and being necessary to the achievement of the local law's objective.

A total of $9,855,000 was distributed to councils for compliance in 1999-2000. Payments ranged from $182,235 (Greater City of Geelong, population 185,000), to $101,499 (Borough of Queenscliffe, population 3,400). A small number of councils were given provisional compliance assessments pending investigation of outstanding complaints lodged against them with the Competitive Neutrality Complaints Unit (CNCU).

Competitive neutrality complaints

Suspension of Complaint Investigation

In late September 1999, shortly after taking office, the government commenced a review of the Victorian CN Policy and all complaint investigations were suspended. In February 2000 the NCC agreed to the temporary suspension of investigations by the Victorian CNCU, pending release of a new CN Policy.

At the start of October 1999, the CNCU had on hand eight complaints; by October 2000 when the new CN Policy was released there were 18 complaints that had been suspended. In addition, a number of complaints required follow-up to confirm compliance post reporting.

Table 6.1: Summary of CN complaints

Date of receipt *Area of Government*	*Nature of business*	*No. of Complaints*	*Outcome*
Pre October 1999			
Local government	Gym & fitness programs	2*	1 not reinstated 1 under investigation
Local government	Child care services	4**	3 not reinstated 1 participating in public interest test process
Local government	Waste collection	1	Investigated-compliant
DHS— Public hospitals	Hospital laundry services	1	Not reinstated
October 1999 to end October 2000			
Local government	Gym & fitness programs	4*	2 not reinstated 2 under investigation
Local government	Child care services	1#	Not reinstated
DEET	Training services	2	1 resolved through consultation 1 investigated-compliant
DHS— cemetery trusts	Cemetery memorials	1	Not reinstated
Department of Justice — CFA	Fire extinguisher servicing	1	Not reinstated
Department of Natural Resources and Environment	Native forest hardwood timber	1	Participating in major review being undertaken by Department

Notes: ** one of these complaints related to two facilities of the one council*
*** one complaint related to three councils and is included as three.*
 # multiple complainants against various centres run by one council also included in pre October 1999.

Following the launch of the new CN Policy, the CNCU wrote to all complainants and subjects of complaints transmitting the new CN Policy (and guide). The letters asked the parties to consult and endeavour to work out their complaints in the context of the public sector agency's implementation of the new policy. If the matter was not resolved, the complainant was asked to complete a proforma to formally reinstate the complaint under the new policy. Table 6.1 sets out the results to date of this reinstatement process.

This process was adopted as the complaints on hand had been made in the context of the old CN Policy, which no longer applied, and further, during the period of suspension the issues may have been resolved between agencies. A starting point for Victorian complaint investigations is to strongly encourage parties to attempt to resolve the issues directly before undertaking an investigation. This approach to complaints on hand also provided a short implementation phase to allow compliance under the new policy.

Recommencement of CN complaint investigations

Since the launch of the current CN Policy in October 2000, the CNCU has received 19 complaints under the Policy. (Two complaints related to matters that were not considered to be CN issues, these complainants were referred to the ACCC. Two complaints are pending registration as the complainants are participating in public interest processes and one complaint was withdrawn. These matters are not further detailed below.) As at 31 December 2001, seven complaints have been investigated (results set out below), follow-up reports are required on three of these investigations. Eight investigations are in progress including one follow-up.

A small number of councils appear to be in breach of CN Policy, the extent of this breach and future actions on the part of the respective councils will be taken in account in assessing entitlements to local government's share of Victoria's NCP payments.

Complaints received and investigation completed by December 2001

Indigo Shire Council – Indigo Way

Complaint reinstated 20 November 2000. Investigation finalised 11 April 2001.

The complainant alleged that Indigo Way did not apply CN Policy in their bid for a tender to undertake waste and recycling collection services.

The CNCU concluded that the tender costing for waste and recycling collection services provided by Indigo Way did not materially breach CN Policy.

Indigo Way technically breached CN Policy in relation to the treatment of wholesale sales tax, but complied with CN Policy in relation to all other aspects of tender costings as submitted for the provision of waste and recycling collection services at the Falls Creek Alpine Resort. The sales tax breach was not material and would not have impacted upon the final outcome of the tender process. Consequently no further action was required.

The non-material breach appears to have been the result of a genuine misunderstanding on the part of Indigo Way rather than an attempt to avoid compliance with the CN Policy. On the contrary, Indigo Shire Council is to be commended for their definitive efforts to comply with the CN Policy by establishing a separate business unit - Indigo Way.

Response

No further action required.

City of Whittlesea-Thomastown & Mill Park Leisure Centres

Complaint reinstated 28 December 2000. Investigation finalised 5 June 2001.

The complainant alleged that the Council's two fitness and recreational facilities have unfair cost and regulatory advantages as a result of government ownership and did not comply with CN Policy.

The CNCU concluded that prior to the end of 1999-2000 the Council failed to cost the Mill Park and Thomastown Centres on a full cost-reflective basis as required under both the current and previous Victorian CN Policy.

Prior to making any adjustments to prices to reflect public policy objectives, it is necessary for both transparency and accountability purposes to identify the real cost of the activity.

While the Council had made some calculations of explicit CN adjustments for 2000-01, in prior years it:

- failed to include appropriate cost adjustments for rate of return on assets, land tax and council rates, FID and debits tax, sales tax, and intermittent direct payment by Council of various expenses.

- failed to provide private sector operators with equal access/or to charge Council centres for access to Council general notices, newsletters and promotions; and

- used roadside signage to provide advantages to both centres.

In addition, given the considerable size of the estimated subsidies for the two centres (25 – 55 per cent of cost) and the absence of a documented public interest test to justify these subsidies, the Council was found in breach of the CN Policy's public interest test requirements.

Response

The Council has undertaken to conduct a public interest test to explore options and test that any subsidies are in the public interest. A follow-up report will be prepared by the CNCU following completion of this process.

Warrnambool City Council-Warrnambool Aquatic and Leisure Centre

Complaint registered 2 February 2001. Investigation finalised 18 May 2001.

The complainant alleged that the proposed extension of the Warrnambool Olympic Pool and the sale of subsidised gym memberships and other fitness programs to the general public breached the principles of the CPA.

The CNCU concluded that the proposed Aquatic Centre had not reached a stage of development where an assessment in relation to CN compliance in pricing access to the facility could be determined. Any finding in relation to compliance (or otherwise) with CN Policy in pricing of the Centre's activities would have been premature at the time of the investigation.

CN Policy is not intended to prevent a council from providing services and facilities to its community. It is however intended to eliminate resource allocation distortions arising solely out of public ownership associated with significant business activities. The Council had determined the need for the Centre on the basis of consultation and needs assessment. The validity of this needs assessment was recognised by the awarding of a Better Pools grant.

The Council will need to determine a full cost reflective price and ensure compliance with CN Policy prior to the Centre becoming operational.

Any subsidies required to achieve public policy objectives and the targeted recipients of such subsidies, should be established clearly at the outset. This is a vital issue for determining how to deliver the subsidy.

Council has considered its public policy objectives in relation to the new facility but the cost of these objectives and options for meeting these and CN Policy must be quantified and subject to a public interest test process.

Response

The Council has undertaken to conduct a public interest test in the lead-up to opening the centre to explore options and test that any future subsidies are in the public interest. A follow-up report will be prepared following completion of this process.

Warrnambool Secondary College – swimming pool

Complaint registered 2 February 2001. Investigation finalised 18 May 2001.

The complainant alleged that in constructing a 25 metre indoor heated pool and conducting business in the health and fitness industry, Warrnambool College had not applied the principles and practices of the CPA.

The CNCU investigated whether the College was offering out of school hours access to their facility at a price not reflecting the full commercial cost of operations. It concluded that the proposed pricing regime for the Warrnambool Secondary College out-of-school hours access was competitively neutral.

The College did not adopt a procedure consistent with the CN Policy Guide for Implementation, which, had it been documented, would have more expediently resolved the complaint.

Response

No further action required.

Central Health Interpreting Service (CHIS)

Complaint registered 10 January 2001. Investigation finalised 19 June 2001.

The complainant alleged that a government subsidy made available to CHIS has enabled CHIS to compete for translation services in the private sector at a rate well below the general market rate.

CHIS were not initially aware of the CN Policy and pricing principles, on being informed of the policy, CHIS resubmitted its quote with "CN adjustments". However, CHIS did not adequately address CN Policy in its resubmitted quote. In particular CHIS needs to develop a better approach to allocating its overheads. The CHIS quote while not successful was in breach of CN Policy and any future commercial activities should be subject to CN pricing.

It was recommended that DHS review whether business enterprises and statutory bodies within the Human Services portfolio are aware of, and are applying, CN Policy.

It is important that subsidies are treated carefully in making pricing decisions. Subsidies should be linked to an explicit public policy objective and its related services, but should not be used to cross-subsidise commercial activities. Where government businesses enter

into a commercial tendering process CN Policy must be rigorously applied in arriving at the price tendered.

Response

DHS has given a commitment to enhance awareness of CN Policy within its portfolio.

Bairnsdale Regional Livestock Exchange (BRLE)

Complaint registered 2 February 2001. Investigation finalised 31 August 2001.

The complainant alleged that the BRLE was benefiting from government ownership. In particular: that a grant under the Regional Infrastructure Development Fund (RIDF) resulted in a competitive advantage for a government run business; and this funding would allow the BRLE to set yard fees which would not reflect full commercial costs of operations.

The CNCU found that the BRLE was in breach of the CN Policy – primarily due to necessary adjustments not being made to pricing for capital financing and the required rate of return on capital.

There are privately operated saleyards throughout Victoria that are able to conduct their facilities in a commercially viable manner. Notwithstanding the significant role that the Bairnsdale saleyard plays in the Gippsland regional economy, it is not unreasonable to consider that the BRLE could increase fees (even if incrementally) to achieve competitive neutrality in the medium term.

The BRLE itself acknowledges that the complex has both strong loyalty from buyers and sellers, as well as significant "brand power" in the market. This is likely to become more significant with the stage two capital works, as the higher standard of the complex will be a valuable marketing tool. In addition, although the desire to comply with EPA requirements was a motivating factor for the stage two developments, these are not requirements unique to the BRLE, as private sector operators are also required to comply with such standards.

The CNCU recommended that the BRLE move toward a competitively neutral price over an agreed period. This would give the users of the facility the time to adjust their own financial arrangements. This has the benefit of compliance with CN in the medium term, as well as limiting the transitional impacts on farmers. In addition, to the extent that public policy objectives exist that would be jeopardised by full cost reflective pricing, the BRLE could keep the prices for the saleyard complex at below the competitively neutral level, but undertake a public interest test to justify the subsidy. Such a test would be required even if a decision were taken to lift prices partway (either now or with time for transition) to a level above current prices but below full cost-reflective pricing.

Response

The Council has undertaken to explicitly classify costs in the determination of a competitively neutral price for the facility and to adjust future business plans accordingly. The Council has also indicated that it proposes to undertake a public interest test to facilitate CN compliance.

The CNCU will undertake a follow-up investigation to assess whether CN issues and processes have been appropriately dealt with in the determination of future pricing strategies.

The Department of State and Regional Development has indicated that future RIDF funding agreements will include a clause committing recipients to compliance with CN Policy.

Collingwood College

Complaint reinstated 9 March 2001. Investigation finalised 14 September 2001.

The complainant alleged that the introduction of an education program based on the philosophy of Rudolf Steiner at the College has not taken into account the CPA principles. The complainant claimed that the program had been subsidised by the Victorian Government and, given its proximity to the complainant, had the potential to reduce its enrolments and undermine its viability.

The CNCU found that there was no CN costing or pricing issue to be addressed in relation to the Steiner-based program offered by Collingwood College while it falls within the Curriculum Standards Framework. That is, the core educational program, including the Steiner-based program, constitutes non-business, non-profit activities under the CN Policy. However, the College should take care that its promotional material does not give the erroneous impression that it is offering a "pure Steiner" program. Such an impression, to the extent that it exists, potentially signifies the creation of a market with public and private providers of a "pure Steiner" education – and could potentially trigger the applicability of the CN Policy.

Response

DEET has undertaken to follow-up with Collingwood College regarding application of the Executive Memorandum No: 2000/002 to emphasise the issue of advertising and promotion of specialised pedagogical and methodological approaches to education in both traditional and new electronic formats.

The Principal of Collingwood College has advised the CNCU that the College has commenced a review of its promotional material.

The CNCU notes that compliance by all Victorian government schools with this Memorandum is needed.

Complaints received-investigation reports not completed as at December 2001

Department of Human Services (DHS)

Complaint registered 1 June 2001. Investigation still in progress at 31 December 2001.

The complainant alleged that the DHS provision of supportive residential services is not compliant with CN Policy.

City of Whitehorse-child care centres (two complaints)

Complaints received March and October 2001.

Complainants both encouraged to participate in public interest process. One complainant declined to wait (registered 28 November 2001) and consequently the investigation of both is in progress at 31 December 2001 contemporaneous with public interest process.

The complainants allege that the council had not applied CN Policy to their childcare centres.

Mildura City Council-Mildura Waves

Complaint reinstated 15 May 2001. Investigation still in progress at 31 December 2001.

The complainant alleges that the Council has not applied CN Policy to the expansion and operation of the leisure centre.

Moreland City Council-Coburg and Fawkner Leisure Centres

Complaint reinstated 21 June 2001. Investigation still in progress at 31 December 2001.

The complainant alleges that the Council has not applied CN Policy to the expansion and operation of its two leisure centres.

City of Casey-Casey Leisure Centre

Complaint reinstated 21 September 2001. Investigation still in progress at 31 December 2001.

The complainant alleges that the Council has not applied CN Policy to the expansion and operation of its leisure centre.

Department of Higher Education

Complaint registered 19 October 2001. Investigation still in progress at 31 December 2001.

The complainant alleges that the Department has not complied with the CPA in relation to its accreditation processes required under the *Tertiary Education Act 1993*.

City of Whittlesea-Thomastown & Mill Park Leisure Centres

Initial investigation finalised 5 June 2001. Follow-up in progress at 31 December 2001.

Part C:
Natural Resource Management

7. Water

- The Government recently endorsed the Draft Victorian River Health Strategy for public release.
- The 2001 Price Review of Water, Drainage and Sewerage services in Victoria was successfully completed and the resulting pricing framework implemented from 1 July 2001.
- Work is progressing to introduce independent economic regulation of the Victorian water industry by bringing it under the jurisdiction of the Essential Services Commission.
- The *Water (Irrigation Farm Dams) Bill* has been introduced to better manage Victoria's water resources.
- Proposals have been developed to establish a comprehensive state–wide regulatory framework for drinking water quality.

Summary of progress

The major development with respect to river health has been the recent endorsement by Government of the Draft *Victorian River Health Strategy – Healthy Rivers, Healthy Communities and Regional Development* (VRHS) for release in February 2002 for public comment.

The draft VRHS establishes the framework for the integrated management and restoration of Victoria's rivers and their associated floodplains and wetlands. It also outlines the Victorian policy approach on a number of specific management issues including over-allocated or flow stressed rivers, water quality and river frontages. The draft VRHS was developed with the assistance of a Reference Group comprised of representatives from state–wide stakeholder groups and a Scientific Group composed of eminent river scientists.

The draft VRHS, to be finalised in June 2002, will ensure that Victoria's environmental commitments to the Council of Australian Governments (COAG) are met within a framework that provides for sensible investment aimed at achieving maximum river health outcomes.

The major achievement with respect to urban pricing and cost recovery has been the successful completion of the *2001 Price Review of Water, Drainage and Sewerage Services in Victoria*. The outcome of the review is a three year framework for pricing in Victoria. Extensive stakeholder consultation was an important feature of the review process. The framework, which commenced on 1 July 2001, is consistent with the Government's commitment to introduce independent economic regulation and with COAG pricing principles.

Victoria has continued to implement full cost recovery principles in the rural water sector.

The major developments in the area of institutional reform are the development of new arrangements to establish the Essential Services Commission[1] (ESC) as the independent regulator of the water industry from 1 January 2003 and proposals to establish a comprehensive state–wide framework for drinking water quality.

The introduction of the ESC as economic regulator of the water industry will be a major reform achievement that will ensure institutional separation with respect to pricing. Consultation is a key element of the process to develop new arrangements. A Proposals Paper is being developed to ensure effective consultation and transparency in Government decision making on this major policy initiative.

In keeping with Victoria's commitment to the provision of safe and reliable drinking water supplies, draft proposals for a comprehensive state–wide regulatory framework for drinking water quality have been developed. The proposed framework is designed to:

- give greater confidence in the supply of good quality water by providing clarity of roles and responsibilities among stakeholders; and

- enable consistent quality standards and locally appropriate management requirements to be put in place.

The framework proposals are contained in a Proposals Paper that has been developed and released for targeted consultation with the water industry. The Proposals Paper outlines the proposed new framework in considerable detail and lays the basis for the development of new legislation.

The major development in respect of water allocation is the introduction of the *Water (Irrigation Farm Dams) Bill* in September 2001. The Bill was developed following the Government's consideration of the recommendations of the Victorian Farm Dams (Irrigation) Review Committee regarding a better water management regime for Victoria. A key feature of the Bill is the extension of existing licensing requirements for dams on waterways to cover all new irrigation and commercial use in the catchment. This will enable all significant water use to be accounted for in whole-of-catchment management of the resource. Licensing guidelines are being developed to address environmental, siting, safety and construction matters.

River health and allocations

Water allocations, property rights and provision for the environment

> 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. Governments must have determined and specified property rights, including the review of dormant rights. (clause 4a)
>
> Jurisdictions must establish a sustainable balance between the environment and other uses, including formal provisions for the environment for surface water and groundwater consistent with the (ARMCANZ/ANZECC)[2] national principles.

[1] Formerly the Office of the Regulator-General.

[2] Agriculture and Resource Management Council of Australia and New Zealand / Australian and New Zealand Environment and Conservation Council

> Best available scientific information should be used and regard should be had to the intertemporal and interspatial water needs of river systems and groundwater systems.
>
> For 2001, States and Territories had to demonstrate substantial progress in implementing their agreed and endorsed implementation programs. Progress must include at least allocation to the environment in all river systems that have been overallocated, or that are deemed to be stressed. By 2005, allocations and trading must be substantially complete for all river systems and groundwater resources must be identified in implementation programs.
>
> Jurisdictions are to consider environmental contingency allocations, with a review of allocations five years after they have been initially determined. (clauses 4b to 4f)

River Health Strategy

The Government recently endorsed the VRHS for release in February 2002 for public comment.

The draft VRHS establishes the framework for the integrated management and restoration of Victoria's rivers and their associated floodplains and wetlands. It also outlines the Victorian policy approach on a number of specific management issues including over-allocated or flow stressed rivers, water quality and river frontages.

The integrated management framework is based on the development of Regional River Health Strategies, which set priorities for river protection, and restoration based on protection of areas of high environmental and community value, maximising environmental gain from available investment, and the commitment of local communities. Within the framework, the provision of environmental flows is handled as one key component in a suite of river restoration activities, which also include improvement of water quality, frontage and instream habitat, and fish passage.

Within this context, the draft VRHS outlines the Victorian approach to the provision of water for the environment within the broader water allocation framework. It also describes the approach to the management of flow-stressed rivers. This is based on:

- finalisation of the existing water allocation processes (for example, bulk entitlements and streamflow management plans which define agreed environmental flow provisions and in doing so, generally provide improvements in environmental flows); and

- building on these improvements in rivers identified to be of high value and priority in Regional River Health Strategies with investment in further mechanisms (for example, water efficiency savings) identified by the community within these planning processes.

The draft VRHS was developed with the assistance of a Reference Group comprised of representatives from state–wide stakeholder groups and a Scientific Group composed of eminent river scientists. Exposure drafts were circulated to all major stakeholders, including the National Competition Council (NCC) in November 2001.

The draft VRHS is a detailed document aimed primarily at providing clear direction for groups involved in the management and restoration of Victoria's rivers and for major river users. The draft will be available for public comment for a period of two months and will be finalised in June 2002.

Victoria is confident that the approach outlined in the draft Strategy will ensure that our environmental commitments to COAG are met within a framework, which provides for sensible investment aimed at achieving maximum river health outcomes. We consider that the approach outlined should answer concerns raised by the NCC on the two aspects of the implementation of the National Principles for the Provision of Water for Ecosystems. In 2001, Victoria provided a three year work program for stressed rivers to the NCC which was reproduced in Volume II of the NCC's Third Tranche Assessment June 2001. Section A.1.3.1 in Appendix A of this report lists those specific measures contained in the work

program that fall due over 2001-02. This work program described specific flow plans, habitat measures such as wetland and fish management plans, and water quality measures such as nutrient plans that all address stressed rivers.

Stressed rivers consisted of eight stressed rivers identified in the NCC's 1999 Second Tranche Assessment plus and additional three stressed rivers. The initial stressed rivers are the Thompson, Avoca, Loddon, Glenelg, Broken, Lerderderg, Maribyrnong, and Badger (Correnderrk Creek). The three additional stressed rivers are the Macalister, Wimmera, and Snowy. Specific expectations of progress were attached to the eight stressed rivers through the Second Tranche Assessment. Progress in developing plans to address stressed rivers was reported as generally on track in 2001, however, the NCC sought an indication of when the final plans would produce an impact on the ground. The 2001 work program for stressed rivers contains a more comprehensive approach to the issue of stressed rivers. The 2001 work program is on track. There are some minor delays. The reasons for these delays and the revised timelines are outlined in Section A.1.3.1 in Appendix A. The work program will need to be reviewed after the VRHS is finalised and the regional River Health Strategies developed to ensure that it is consistent with the new approach.

Bulk entitlements

Under the legislative framework of the *Water Act 1989*, Victoria's Bulk Entitlement program directly deals with the allocation of water to water businesses 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 per cent of the diversion sites across the State have been negotiated and agreed with stakeholders.

While 15 bulk entitlements have been granted and a further five finalised since the second tranche assessment, progress on the major systems still to be converted has been slower than expected. This is principally due to the time taken to review the approach to the conversion of the Melbourne system and the need to reach stakeholder consensus on conversion of the Barwon, Ovens and Broken River systems. Both the review of the approach to the Melbourne system conversion and the extended stakeholder consultation have been vital to ensure that entitlements are environmentally sustainable and in line with community needs. The conversion process for these major systems is now well advanced and is expected to be completed by the end of 2003.

Water for the environment

Victoria is committed to providing water for the environment through the water allocation framework. This is described in detail in Chapter 6 of the draft VRHS.

Provision of water for the environment through the program continues to be successful because the negotiation between stakeholders, undertaken as part of the BE conversion process, ensures that environmental managers, irrigators, water businesses and other groups have been consulted and accept the outcomes before the entitlement is finalised. There is recognition by the irrigators of their dependence on healthy rivers to sustain their businesses and therefore, of the need to provide water for the environment. So far, improved environmental flow regimes have been negotiated in 82 per cent of BE conversions.

Streamflow management plans

On unregulated rivers, not covered under the bulk entitlement program, the management of diversions is being undertaken through the development and implementation of Streamflow Management Plans (SFMPs). SFMPs establish environmental objectives, immediate and, where necessary, long-term environmental flow provisions, mechanisms to

achieve long-term environmental flow provisions, rostering rules, trading rules, and rules covering the granting of any new licences.

Thirty SFMPs are in progress, three of which are commercially endorsed and in operation. An additional eight are targeted for completion by mid-2002. Progress in the development of SFMPs has been slower than expected. This is primarily due to the negotiation of consensus outcomes being more difficult than anticipated. However, this is not surprising given that the initial SFMPs, rated as high priority, contain many stream reaches, which are over-allocated, and where the provision of acceptable environmental flows can impact on security of supply of existing licences. Victoria has developed a standard procedure for undertaking SFMPs to improve the rate of progress. This procedure will provide clear guidelines to assist Consultative Committees in more efficient delivery of SFMPs. Agreement to initial flow and target periods to reach the full environmental flows are key required outcomes.

Groundwater Management Plans

Victoria has continued to implement Groundwater Management Plans (GMPs). To date, 10 Groundwater Supply Protection Areas have been established and GMPs for these areas are currently being developed and implemented. Six GMPs have been completed and four plans have been submitted for approval. Four plans are under preparation and four consultative committees have yet to be established.

Over the next three years, 12 Groundwater Supply Protection Areas will be established and the development of management plans for these areas will commence.

Progress against the agreed second tranche implementation program for BEs, SFMPs and GMPs is set out in Appendix A.

2001 Farm Dams Review

In April 2000, the Victorian Minister for Environment and Conservation released a discussion paper, *Sustainable Water Resources and Farm Dams*. The aims of the discussion paper are to encourage community debate on sustainable water resource management and in particular the management of farm dams outside waterways.

Following the release of the discussion paper, the Minister appointed the Victorian Farm Dams (Irrigation) Review Committee chaired by Mr Don Blackmore, Chief Executive of the Murray Darling Basin Commission, to propose a better water management regime for Victoria.

An extensive community participation process was then undertaken. Over 40 public meetings were held around the State. The Committee held five public hearings where members of the public made over 80 verbal presentations. The Committee considered 370 written submissions prior to releasing its draft report via the Sofnet interactive satellite television network to over 45 locations around the State. A further 475 written submissions were considered by the Committee prior to the release of the final report. It also consulted with peak stakeholder groups throughout the process.

The Government accepted all of the Committee's recommendations, with some refinements.

To implement the proposed changes the Victorian *Water (Irrigation Farm Dams) Bill* was introduced into Parliament in September 2001. The key feature of the Bill as introduced by the Government is the extension of existing licensing requirements for dams on waterways to cover all new irrigation and commercial use in the catchment. This will enable all significant water use to be accounted for in whole-of-catchment management of the resource. Licensing guidelines are being developed which address environmental, siting, safety and construction matters.

The Bill also establishes planning processes for the management of unregulated catchments (through the specification of Permissible Annual Volumes and Sustainable Diversion Limits and the development of water supply protection plans) and gives statutory recognition to SFMPs for stressed catchments.

The Bill is currently in the Legislative Council. The Legislative Assembly has rejected substantive amendments to the Bill by the Council and further discussions on the Bill are expected in the Autumn 2002 Parliamentary Sittings.

Further details of the Bill are contained in Appendix B.

Reduction in duration of private diverters' licences

In 2001 Sunraysia Rural Water introduced changes to the terms of private diverter licences. Those licences that had previously had terms of 15 years (about 80 per cent of the total number involved) were to have a reduced term of five years. The remaining 20 per cent of licences already had terms of less than five years. The changes have only applied to licences renewed from 1 July 2001 (which have been renewed for periods of between five to nine years).

While the Authority adopted the change for both operational and administrative reasons, the most significant reason was the need for greater flexibility in relation to environmental management issues, particularly in the areas of drainage and salinity mitigation. With the focus on a more dynamic view of environmental sustainability, and based on legal advice obtained at the time, shorter terms were seen as necessary to give the Authority the flexibility to change licence conditions more frequently than every fifteen years.

The Authority is currently investigating other options for giving growers long-term certainty of water availability while at the same time ensuring it can manage its operational, administrative and environmental responsibilities. One option under consideration is to extend the term of the licence to beyond 15 years but ensure that site use conditions can be renewed every five years. This would also enable the Authority in a timely manner to reflect in individual licences more rigorous salinity and drainage management conditions developed as part of Government endorsed community based salinity management plans.

It is intended that any further changes will be in place for licences due for renewal on 1 July 2002.

Water trading

Governments have agreed that water trading arrangements should be in place to maximise the contribution made by water resources to national income and welfare, within the social, physical and ecological constraints of catchments. (clause 5)

The '2 per cent rule'

The '2 per cent rule' provides a useful mechanism to manage community concern resulting from water trading out of districts and the rate of subsequent structural adjustment.

The rule has only been invoked on two occasions. The first time was during 1998-99 when net trade out of the Torrumbarry system (around Kerang, Swan Hill and Cohuna) reached about 7,500 ml or 2 per cent on 15 February 1999. The second occasion was during 2000-01 when trade out of the small district of Nyah reached 2 per cent on 28 February. In both cases, the 2 per cent rule, at most, delayed trade for a few months.

Victoria believes that the rule does not suppress trade. Nevertheless it is investigating other options, such as exit fees. However, Victoria is mindful that if such options are not carefully approached, they could hinder trade and structural adjustments.

Impact of bulk water pricing arrangements on trade

Victoria does not believe that the current bulk water pricing arrangements (whereby rural water businesses charge a 4 per cent rate of return on sales of bulk water to regional urban water businesses) suppresses trade in water. Evidence of trading practice in Victoria suggests that most of the trade that occurs is between farmers as they hold most of the water entitlements. Some of the regional urban water businesses have been buying water to cater for expansion in their regions. In those instances, the price of the water is determined by the price at which water trades between farmers.

Pricing and cost recovery - urban

Full cost recovery

Governments agreed to set prices so water and wastewater businesses earn sufficient revenue to ensure their ongoing commercial viability but to avoid monopoly returns. To this end, governments agreed that prices should be set by a jurisdictional regulator (or its equivalent) to recover:

- at most the operational, maintenance and administrative costs, externalities, taxes or tax equivalent regimes, provision for the cost of asset consumption and cost of capital, the latter being calculated using a weighted average cost of capital; and

- at least, the operational, maintenance and administrative costs, externalities, taxes or tax equivalents (not including income tax), the interest cost on debt, dividends (if any) and provision for future asset refurbishment/replacement. Dividends should be set at a level that reflects commercial realities and stimulates a competitive market outcome.

Asset values should be based on deprival methodology unless an alternative approach can be justified, and an annuity approach should be used to determine medium to long-term cash requirements for asset replacement/refurbishment. Governments can still provide assistance to special needs groups through community service obligations (CSOs) but this should be done in a transparent way. (clauses 3a and 3 b)

2001 Price Review

The major achievement with respect to urban pricing and cost recovery has been the successful completion of the 2001 Price Review of Water, Drainage and Sewerage in Victoria. The outcome of the price review was a robust three-year framework for pricing in Victoria. The framework is consistent with the Government's commitment to establish the ESC, which will have responsibility for long-term pricing and regulation of the Victorian water industry. Under the pricing framework, the prices urban water customers will pay for water are capped at:

- CPI plus 2 per cent for 2001-02;

- CPI plus 1 per cent for 2002-03; and

- CPI only for 2003-04.

The new pricing framework was developed through an extensive consultation process with the industry and the community. A communication strategy was put in place in the lead up to, and following, the announcement of the pricing framework by the Minister for Environment and Conservation in June 2001. The review was conducted using the building block approach used by economic regulators in most regulated industries in Australia, such as the ESC, the Independent Pricing and Regulatory Tribunal of New South Wales and the Australian Competition and Consumer Commission. This approach involves reviewing the

obligations on each business, determining the set of costs to efficiently deliver these obligations and computing a set of prices to recover those costs.

The review process involved:

- releasing an issues paper;
- undertaking extensive stakeholder consultation on the issues paper;
- reviewing stakeholder submissions on the issues paper;
- adopting the building block approach for determining prices;
- calling for submissions from urban water businesses on activity costs and appropriate price paths/revenue levels; and
- preparing recommendations to Government on three-year price paths to apply from 1 July 2001.

Key considerations in undertaking the price review were the need:

- for consistency with COAG pricing principles of establishing prices that lie within the band of a floor price that ensures commercial viability and a ceiling price that avoids monopoly rents;
- to maintain financially viable water businesses;
- to meet Government policy commitments, particularly in respect of improved service delivery, protection of customer interests, increased customer satisfaction and fair pricing;
- to facilitate the Government's commitment to transfer economic regulation of the water industry to the ESC.

Consistent with the COAG pricing requirements, the principle applied to urban water services is that of pricing at full cost recovery within the upper and lower bounds described above, and comprises:

- operations, maintenance and administration costs;
- cost of externalities;
- interest cost on debt;
- cost of asset consumption (depreciation); and
- cost of capital (rate of return).

A revenue requirement for each business was determined from these costs, which is recovered from customers through a set of tariffs, consisting of a service fee component and a usage component.

A more detailed discussion of the methodology for the 2001 price review is provided in Appendix C.

As the water businesses were under a three and a half year price freeze, it was important to establish a price path that would maintain their financial viability to ensure the long term sustainability of the water industry, the reliability of services to customers and the quality of

the State's water resources. In moving out of the price freeze the affordability of prices was also important in view of the socio-economic variations that exist in the wider community.

Victoria is confident that the resulting pricing framework provides an appropriate balance between the need to meet the economic imperative of responsible financial management and the social imperative of protecting customer interests by minimising pricing impacts.

Level of cost recovery in regional urban water businesses[3]

The price caps set under the new pricing framework reflect the need for consistency with the COAG commitment to ensure that prices set by the regional urban water businesses would lie within the upper and lower bands. Regional water businesses set their prices for 2001-02 in accordance with the new pricing framework. As shown in Appendix C, their business costs include:

- operations, maintenance and administration;
- costs of asset consumption (depreciation);
- finance charges/borrowing expenses; and
- cost of capital (rate of return).

As a result of the development of this pricing framework, Victoria is confident that full cost recovery will be achieved. While final arrangements for the transition to price regulation by the ESC are still to be determined, Victoria will continue to closely monitor the progress of these businesses as regards the level of full cost recovery during that time.

Consumption based pricing

> Governments endorsed the principle that prices should reflect the volume of water supplied so prices encourage more efficient water use and to give customers more control over the size of their water bill. For urban water providers using surface or groundwater, two-part tariffs (comprising a fixed access component and a volumetric cost component) are to be introduced where cost effective. (clauses 3a and 3b)

The new pricing framework developed under the 2001 Price Review confirms Victoria's commitment to the continued application of the two part tariff arrangements, consistent with COAG's consumption based pricing commitments.

Community service obligations

> Where service deliverers are required to provide water services to classes of customers at less than full cost this cost be fully disclosed and ideally be paid to the service deliverer as a community service obligation (CSO). Governments have agreed that the Council would not make its own assessment of the appropriateness of any individual CSO, but would review information provided by governments in totality to ensure these CSOs do not undermine the objectives of the agreed water reform framework. (clause 3a)

In Victoria's water industry, CSOs are limited to the provision of concessions to pensioners, rebates to certain not-for-profit organisations and payments under the rates and charges relief grant scheme. These CSOs are provided for urban water and wastewater services, and are funded by Government in a transparent manner.

[3] Previously referred to as non-metropolitan urban water authorities.

Information on the value of CSOs delivered by individual water businesses is readily available from both the Department of Human Services and each business. The Department prepares annual summary reports on the level of pensioner concessions delivered by each business.

Victoria will institute arrangements to require the regional and metropolitan urban water businesses and the rural water businesses to report these CSOs, as applicable, in their annual reports, commencing with the 2001-02 report.

Section 51 of the *Financial Management Act 1994* empowers the relevant Minister, in this case the Minister for Environment and Conservation, to direct the inclusion in the annual report of such additional information as is necessary or appropriate in the public interest. This section has been used to require regional urban and rural water businesses to report a range of additional information on water industry performance and operations and it is proposed that a direction on reporting of CSOs will be issued by the Minister for the 2001-02 annual report. Victoria will examine how best to specify a similar requirement for the metropolitan retail urban businesses whose annual reports are prepared in accordance with the *Corporations Act 2001*, not the Financial Management Act.

Cross subsidies

> Cross subsidies should be transparently reported and ideally removed where they are not consistent with efficient service provision and use. (clauses 3a, 3b and 3c)

The removal of distortionary cross-subsidies has been achieved with the abolition of rates based charging and the adoption of two-part pricing arrangements. An independent review undertaken by consultants Marsden Jacob Associates to develop a methodology for identifying and measuring cross-subsidies and apply it to three representative regional urban water businesses concluded that it was unlikely that any significant distortionary cross-subsidies remain in that industry sector.

However, Victoria notes the Council's reservations about whether the findings of these case studies can be used to conclude that there are no cross-subsidies within the pricing arrangements set by the regional urban water businesses.

While transitional arrangements concerning price regulation by the ESC are yet to be finalised, the ESC's pricing decisions will be required to have regard to the Government's obligations under the COAG Agreement. In addition, subject to the finalisation of the new regulatory arrangements, the Government may develop guidelines for Victoria's water businesses on the identification, measurement and reporting of cross-subsidies.

However, a thorough assessment of the costs and benefits of introducing such guidelines would be necessary, including consultation with the industry and other interested stakeholders, before any developmental work could commence.

Progress report on matters identified in 2001 NCP Assessment

Approach to tax equivalent regimes

Victoria's metropolitan urban water businesses have been subject to a State based tax equivalent regime since 1995. This State based income tax equivalent regime was extended to all regional urban and rural water businesses for 2001-02. These businesses, together with the metropolitan urban water businesses, will be brought under the national tax equivalent regime from 1 July 2002. This will ensure consistency in the coverage of tax discipline within and between jurisdictions.

Consideration of externalities arising from urban water use

Victoria's approach has been to incorporate obligations into water businesses to conduct programs to reduce the impact of negative externalities. Where externalities are directly attributable to urban water users and the urban water businesses have incurred costs to deal with these externalities, the costs should be fully recovered from urban water customers.

Returns generated by metropolitan urban retail water businesses

The retail urban water businesses reported the following returns on assets in their 2000-01 annual reports:

Table 7. Returns on assets (2000-2001)

Water Business	*Return on Assets (%)*
City West Water	14.8
South East Water	11.8
Yarra Valley Water	9.6

Source: 2000-01 Annual Reports of City West Water, South East Water and Yarra Valley Water

These exceed the hurdle Weighted Average Cost of Capital of 8 per cent used by Victoria to determine appropriate levels of investment. This is largely a consequence of higher demand for water as result of ongoing drought conditions, and efficiencies achieved in the costs of service provision. These returns reflect prices prior to the outcomes of the 2001 Price Review.

Victoria will continue to monitor the levels of returns on assets earned by the retail water businesses following the application of prices determined under the new pricing framework.

As part of the process of bringing the water industry under the ESC, the Government will establish regulatory asset values and it is anticipated that the ESC will set a rate of return on those assets equal to the weighted average cost of capital in its first price determination.

Independent audit of regional urban water businesses' compliance with asset valuation

Considerable work has been undertaken in Victoria to develop an Asset Valuation Practice Statement applicable to Victoria's water businesses. However, the release of the Statement has been delayed, pending the finalisation of a proposed public sector accounting policy titled *Valuation of Non-current Physical Assets*. The proposed policy is expected to provide guidance on issues concerning the measurement and reporting of non-current physical assets and will ensure a consistent approach to valuation and associated issues relating to these assets across public sector entities to which the *Financial Management Act 1994* applies. It is anticipated that the proposed policy will be released by the end of the 2001-02 financial year.

Commercially based dividend arrangements

A commercial dividend arrangement, based on profitability and the Government's dividend benchmarks for government business enterprises, applies to both metropolitan and regional urban water businesses.

Victoria recognises the need for a consistent approach to dividends across the urban water businesses. Work is proceeding to develop and introduce a commercially based financial and performance management framework across the Victorian water industry. This work will involve close consultation with the water industry and will complement the development of arrangements to bring the water industry under the jurisdiction of the ESC.

One aspect of the framework project will be the development and application of consistent dividend principles for the metropolitan and regional urban water sectors.

Rural water services

Full cost-recovery, consumption based pricing, CSOs and cross subsidies

Full cost recovery

Victoria has continued to implement full cost-recovery for the rural sector. Most of the State's rural water services recover operational, maintenance and administration costs, finance charges and a renewals annuity. Where externalities are directly attributable to water users, and rural water authorities have incurred costs to undertake remedial works to address them, these costs are also fully recovered from rural water customers.[4] As noted above, Victoria has introduced a State-based tax equivalent regime for rural water authorities for 2001-2002.

At this stage, not all of Goulburn-Murray Water's districts recover full business costs. While Goulburn-Murray sets its prices for each financial year on the basis of recovering the full costs of service provision, actual cost recovery results have been adversely affected by seasonal variations to revenue from sales allocations due to the current drought sequence. For the fourth consecutive year, sales revenue was well below normal due to the low water resource position in the Goulburn system.

Victoria's rural water businesses use normalised revenues based on ten-year rolling averages of sales to ensure financial self-sufficiency. While there will always be minor fluctuations between under recovery and over recovery from year to year due to unforeseen and seasonal variations in expenses and/or revenues, this approach ensures full cost recovery over time. With this in mind, Appendix D reports the actual levels of cost recovery for rural services provided by Victoria's five rural water businesses. These figures show cost recovery at a specific point in time and do not account for the ten-year rolling average of sales.

Improved asset valuation arrangements

As discussed above, an Asset Valuation Practice Statement applicable to Victoria's water businesses has been developed. Its release and implementation by these businesses, including the rural water businesses, is subject to the finalisation of a proposed accounting policy titled *Valuation of Non-current Physical Assets*.

Guidelines for renewals annuities

An initial draft of guidelines for renewals annuities was developed late in 2001. Further work is required to progress these before consultation with the rural water businesses can commence. The proposed role and responsibilities of the ESC in relation to the rural water

[4] For example, the operating expenses component of rural water prices includes a charge for the operation of salinity mitigation schemes in northern Victoria.

sector are yet to be determined. The future oversight of the guidelines needs to be considered in this context.

Commercial dividend arrangements

As discussed above, work is proceeding on the development and implementation of a commercially based financial and performance management framework across the Victorian water industry.

A key aspect of this project will be the development and application of a rural dividend framework based on commercial principles. The rural water businesses will be closely consulted in developing this framework.

Differential rates of return generated on bulk water supplies

Victoria has noted the three approaches put forward by Marsden Jacob Associates in its report *National Competition Policy – Review of Water Legislation* to remove differential rates of return on bulk supplies to urban water businesses. However, in view of the range and interests of the stakeholders involved and the complexity of this issue in terms of its potential impacts on future pricing, water market efficiency and funding of non-commercial recreational activities at rural water storages, extensive consultation will be necessary to clarify the future policy position on bulk water pricing.

As an initial step in this process, a Working Group consisting of several regional urban and rural water businesses is to be formed to develop, and report to the Minister for Environment and Conservation (in the first instance on) bulk water pricing options.

Community service obligations

As noted above, Victoria will arrange for its water businesses to report on the CSOs identified, commencing with their 2001-02 annual reports.

Cross subsidies

Victoria considers that cross-subsidies in the rural sector have been removed. This is a function of the transitioning of rural water services to a position of full cost recovery and price setting in consultation with water services committees, which limits the potential for cross subsidies between services to exist. Water services committees are fully aware of the operational, maintenance, administrative and renewal costs recovered in their prices and would not agree to higher prices that generated cross subsidies for other customers.

Institutional reform

Structural separation

Economic regulation of the water industry

It is the Government's intention that all water businesses will be brought under the jurisdiction of the ESC from 1 January 2003. This will allow time for the development of tailored regulatory arrangements for the water industry that reflect its particular characteristics, and for consultation with the community and other stakeholders.

The Government's overarching objective for the water industry is to ensure that it delivers water services that meet the social, economic and environmental needs of current and future generations. In the light of this objective and the Government's broad objectives for

establishing the ESC, the Government's key objectives in bringing the water industry under the ESC are to:

- protect the long-term interests of all customers in terms of the price and quality of water services;
- facilitate a financially viable water industry;
- ensure environmental, public health and safety and social obligations in water are fully considered;
- ensure transparent and accountable processes for regulatory decision making; and
- provide incentives for optimal long-term investment.[5]

In November 2001, the Department of Natural Resources and Environment released an Issues Paper, *Establishing the Essential Services Commission as the Economic Regulator of the Water Industry*, which outlined the key issues associated with developing new arrangements to establish the ESC as the independent economic regulator of the water industry. The Issues Paper formed the basis for preliminary targeted consultation with stakeholders that will assist in the development of specific proposals for broad community and stakeholder consultation.

The closing date for comments on the Issues Paper was 18 January 2002. A Proposals Paper is being developed and is scheduled for release in April 2002. A full public consultation process around the Proposals Paper is being developed, which will fulfil Government policy commitments of ensuring transparency in Government decision making and effective consultation on major policy issues.

Consultation on the Proposals Paper will inform the development of new legislation to give effect to the regulation of the water industry by the ESC. The new legislation is scheduled for introduction in the 2002 Spring Parliamentary session.

2001 Price Review – consistency with COAG obligations

As discussed above (refer to the Price and Cost Recovery – Urban section), one of the key considerations in developing the new pricing framework as part of the 2001 Price Review was the need to ensure consistency with the pricing principles established under the COAG strategic framework for water. These principles require that:

- pricing regimes be based on the principles of consumption based pricing, full-cost recovery and desirably the removal of cross subsidies which are not consistent with efficient and effective service – use and provision;
- where cross-subsidies continue to exist, they are to be made transparent;
- where water services are provided to classes of customers at less than full cost, the cost of this is to be fully and ideally paid to the service provider as a CSO;
- charging arrangements should comprise an access or connection component with a usage component where this is cost effective; and

[5] Department of Natural Resources and Environment November 2001, Issues Paper – Establishing the Essential Services Commission as the Economic Regulator of the Victorian Water Industry, p11

- publicly owned provider organisations should aim to earn a real rate of return on the written down replacement cost of their assets.[6]

The principle of consumption based pricing, and the use of fixed (access) and variable (usage) charging components, continued to be observed in the new pricing framework. This is evident in the prices specified in the Pricing Order for the metropolitan water businesses and in the charges set by the regional urban water business in their 2001-02 Corporate Plans.

In accordance with the full cost recovery principle, the price caps determined for each year of the price review were established to ensure that prices would recover the business costs of providing water, sewerage and drainage services as a minimum. The price caps were determined following rigorous analysis of submissions received from each of the urban water businesses, which were based on the service performance obligations specified in the operating licences (for the metropolitan urban retail businesses), Melbourne Water operating charter (for Melbourne metropolitan drainage services), water services agreements (for regional urban water businesses) and Environment Protection Authority (EPA) licences and State Environmental Protection Policy (SEPP) requirements (for environmental obligations). The business costs submitted by the water businesses consisted of:

- operations, maintenance and administration costs;
- cost of asset consumption (depreciation);
- finance charges/borrowing expenses; and
- cost of capital (rate of return).

The cost of capital recognised that both debt and equity sources of funding have a cost to the business, and was set at 6 per cent after tax.

Victoria is confident that the approach taken to conduct the 2001 Price Review is consistent with commitments specified in the COAG pricing principles.

Drinking water quality

Victoria is committed to the provision of safe and reliable supplies of drinking water and has developed draft proposals for a comprehensive state–wide regulatory framework for drinking water quality. The new framework is designed to give greater confidence in the supply of good quality water by providing clarity of roles and responsibilities amongst stakeholders and enable consistent quality standards and locally appropriate management requirements to be put in place.

The proposed approach is consistent with the national Framework for the Management of Drinking Water Quality developed by Coordinating Group of the National Health and Medical Research Council/Natural Resource Management Ministerial Council. This emphasises the importance of achieving the required standard of drinking water quality at the customer tap through understanding the whole delivery system and managing the associated risks.

In August 2000, the Minister for Health and the Minister for Environment and Conservation jointly released a Consultation Paper setting out their proposals for a new regulatory

[6] National Competition Council, Compendium of National Competition Policy Agreements, Second Edition 1998, pp104-105

framework for drinking water quality in Victoria. Eight public workshops were held and some 44 submissions were received from a range of water-related authorities, regulatory agencies, local government representative groups and members of the public.

These submissions were considered in the development of a Proposals Paper, *Safe Drinking Water A New Regulatory Framework for Drinking Water Quality in Victoria*, released for targeted consultation with the water industry in November 2001. The Paper outlines the proposed new framework in considerable detail and lays the basis for the development of new legislation. The key features of the proposed framework are:

- enforceable and achievable health and non-health related state-wide standards for drinking water, set after a public process which examines the costs and benefits of the proposed standards;
- flexibility for local community-based variations to non-health related standards;
- public disclosure or water quality information; and
- obligations tailored to ensure that authorities understand and manage risks to drinking water quality.

A further report, *Proposed Standards for Drinking Water Quality in Victoria, Discussion Paper,* was released at the same time as the framework proposals. It is proposed that drinking water quality parameters be established by regulation and the report represents an initial step in this process. Regulations can only be made after the passage of enabling legislation but the release of draft standards ensures that authorities are kept fully informed and have the opportunity to participate in the development process. To assist authorities in assessing the impacts of the proposals, a further document was circulated requiring information on the expected impact of the proposals on their businesses. Detailed information on the costs of the proposals is being sought to evaluate their impacts, address areas of concern and develop appropriate transitional arrangements.

Water Services Agreements

Water Services Agreements have been signed for each of Victoria's 15 regional urban water businesses. Work is progressing on the water services agreements of the five rural water businesses, which are customising the rural water services agreement template to reflect their specific business situations. It is expected that the agreements will be signed off by June 2002.

Institutional reform issues arising from NCP review of Victoria's water legislation

Work is proceeding on the development of the Government's response to the NCP review of Victoria's water legislation. Victoria will provide a further supplementary response to the NCC on this matter once the Government's response to the NCP review has been released.

Regulatory arrangements for septic tank systems

In so far as Victoria's response to the EPA's review of regulatory arrangements for septic tank systems in Victoria relates to the separation of regulatory and service provider roles, this is one of the matters considered in the NCP review of water legislation. As stated above, the Government's response to the NCP review of water legislation, including future regulatory arrangements for septic tank systems, has not been publicly released. Victoria will provide a supplementary response on this matter following the release of the Government's response to the NCP review.

8. Forestry and fisheries

- Forestry Victoria was established in August 2000 as a departmental business unit with a clear commercial focus and separate and transparent financial and reporting arrangements.
- A Timber Pricing Review, to be completed in May 2002, will address some of the conclusions and recommendations of the review report of the *Forests Act 1958*.
- The Government response to the review of the *Forests Act 1958* will be completed following finalisation of the Licence Renewal Project.
- The Government response to the review of the *Fisheries Act 1995* was released in December 2001. The Government considers that, through its acceptance of the main recommendations contained in the review report, and through the commencement of implementation through regulation and legislation, it has met its commitments in this area.

Overview of progress

The review of the *Forests Act 1958* found that the Act and its regulations contain few restrictions, but that the administration of the Act and the regulations could give rise to restrictions.

A revised response to the review is currently being developed to reflect the Government's policy directions.

Some of the recommendations of the review have already been implemented. Forestry Victoria has been established as a departmental business unit with a clear commercial focus and separate and transparent financial and reporting arrangements.

The Licence Renewal Project and the Timber Pricing Review are addressing further review recommendations. The aims of the Licence Renewal Project, currently underway, include the development of a strategy for the reissue of licences as well as the identification of appropriate sawlog volumes to ensure resource sustainability. The Project also aims to address further issues involved with implementation of the Government response to the review of the Act. A Timber Pricing Review, to be completed in May 2002 will also address some of the conclusions and recommendations of the review report.

The Government response to the review of the *Fisheries Act 1995* was released in December 2001. The Government has accepted all of the recommendations of the review report, with one exception. The recommendation that annual Access Licences should be granted for longer periods was not accepted. The Government considers that the current issuance of annual licences is an automatic renewal subject to conditions and that the fee and levy structures are more efficiently managed under an annual issuance regime.

All the remaining recommendations of the review have been accepted. These relate to fisheries in general (for example, transferability of licences, allocation of new licences and quota by mechanisms such as auctions, tender or ballot) and to specific fisheries.

The Government considers that, through its acceptance of the main recommendations contained in the review report, and through the commencement of implementation through regulation and legislation, it has met its commitments in this area.

Forestry

A review of the *Forests Act 1958* was completed in April 1998. This review covered the Act, certain regulations made under the Act and the Code of Forest Practices for Timber Production. While the Act, regulations and Code are major components of the framework of legislation relevant to State forests and the timber industry, there is a broader legislative context. Other Acts and regulations impinge on State forest products and related markets. The Act is administered within a broader context of Victorian Government policies on industry development, resource management and environment protection.

The conclusions of the review of the *Forests Act 1958* was that the Act and its regulations contain few restrictions, but that the administration of the Act and regulations could give rise to restrictions. A revised response to the review is currently being developed to reflect the Government's policy directions. However, some of the recommendations have been acted on, with the establishment of Forestry Victoria in August 2000 as a departmental business unit with a clear commercial focus, and separate and transparent financial and reporting arrangements. A Timber Pricing Review, to be completed in May 2002, will address some of the conclusions and recommendations of the review report of the Act. The Government response to the review of the Act will be completed following finalisation of the Licence Renewal Project.

The Licence Renewal Project is currently underway. The aims of the project include the:

- development of a strategy for the reissue of licences;
- establishment of appropriate saw log volumes to ensure resource sustainability;
- response to other reform projects where appropriate; and
- implementation of the Government's response to the national competition policy review of the *Forests Act 1958*.

The project will also address transitional issues.

Fisheries

The management of Victorian fisheries is conducted through the *Fisheries Act 1995*, *Fisheries Regulations 1998*, various Orders in Council, Fisheries Notices, Ministerial Guidelines and management plans. Supporting regulations specify management controls such as closed seasons, minimum sizes and gear restrictions. Aquaculture is also regulated under this legislative framework, as is recreational fishing, through, for example, mechanisms such as bag limits, minimum sizes and gear restrictions.

Recommendations of the review of the Fisheries Act 1995

The regulatory regime applying to the Victorian fishing industry is complex, with fisheries managers having a "tool box" of management tools. The review found a number of restrictions in the Act that fall into the categories of resource definition, access controls, input controls, output controls and security of access rights. Restrictions were also identified for specific fisheries including the abalone, rock lobster, scallop, ocean finfish, bay and inlet, inland freshwater and recreational fisheries.

The review found that these restrictions could reduce the efficiency of the industry but that generally the Victorian fishing industry is relatively efficient.

The Government's response

The Government has now responded to the review's recommendations. For those restrictions that impact on fisheries in general, the Government has accepted the following recommendations:

- that the current conditions associated with Access Licences (for example, transferability) be retained;
- those fisheries that currently do not have transferable licences will cease to exist (as licence holders exit, or the fishery converts to a transferable licence);
- that allocation of new licences and quota by mechanisms such as auctions, tender or ballot should be considered for efficient allocation;
- that where there are limits on the number of persons employed, these should be reviewed;
- that full-cost recovery should be introduced in the future, subject to formal policy development; and
- that royalties or rent taxes should be considered in the future, subject to government policy.

The Government did not accept the review recommendation that annual Access Licences should be granted for longer periods (for example, up to five years). Even though the expectation is that licences will be renewed, the review argued that annual renewal involves additional transaction costs and increases uncertainty. However, the Government considers that the current issuance of annual Access Licences is an automatic renewal (subject to certain conditions) and that the fee and levy structures are more efficiently managed under an annual issuance regime.

The Government supports the review recommendations that pertain to specific fisheries. Specifically, the Government has accepted the following recommendations.

Rock lobster and abalone fisheries

In relation to these high value fisheries, the Government considers that moving from a system of input controls (pots) to output controls (quota) is the best way forward for the rock lobster industry. An individual transferable quota system for rock lobster was introduced in November 2001. For abalone, the Government accepts that the Individual Transferable Quota system should be retained, as there is no less restrictive alternative. The minimum quota holding is to be reduced (to one unit of quota) and the maximum limit of a quota holding is to be abolished. The removal/lessening of these restrictions will enable licence holders to grow and to obtain scale and other economies.

Scallop fishery

The Government supports the recommendation that current management arrangements should be retained, as there is no feasible alternative that is less restrictive.

Bays and Inlets and Other fisheries

The Government accepts the recommendation that current control mechanisms should be retained; however, for some species there should be an evaluation of alternative output control mechanisms.

For those reforms that require changes to the legislation, the Government plans to progressively review and amend legislation as required following consultation and negotiation with stakeholder groups.

9. Mining and petroleum

- The review of the *Extractive Industries Development Act 1995* and the Government response will be completed in 2002.
- A national response to the review of the *Petroleum (Submerged Lands) Act 1982* has been made.
- Victoria was assessed as meeting its commitments for CPA in the June 2001 assessment report for the *Petroleum Act 1958* and the *Mineral Resources Development Act 1990.*

Overview of progress

The two key pieces of legislation in the Victorian mining sector are:

- the *Mineral Resources Development Act 1990*; and
- the *Extractive Industries Development Act 1995*.

The Mineral Resources Development Act has been reviewed and the Government has responded to the review's recommendations. Victoria was assessed as meeting its commitments for CPA in the June 2001 assessment report for this legislation (in June 2001).

The review of the Extractive Industries Development Act 1995 will be completed in 2002.

Three additional mining and resources Acts are:

- the *Mines Act 1958*;
- the *Petroleum Act 1998*[7]; and
- the *Pipelines Act 1967*.

The June 2001 assessment report assessed Victoria as meeting its commitments for CPA for the Petroleum Act 1998 (in June 1999).

Mining Licences

The Mineral Resources Development Act 1990

The Mineral Resources Development Act vests ownership of minerals in the Crown. This allows the State to establish a uniform system for access to land for mineral search and development, management of the environmental consequences of these operations and compensation to owners and occupiers of land on which mining industry activities are conducted. The major restrictions on competition identified by the review relate to exclusive rights to explore and mine, the granting of licences and permits to facilitate exploration of minerals and the establishment and continuation of mining operations.

[7] The *Petroleum Act 1958* was reviewed and has been replaced by the 1998 Act.

The review concluded that the majority of restrictions on competition contained in the legislation were necessary to achieve the objectives of the legislation and are justified in the public interest. The Government has accepted most recommendations of the review, which have been implemented by amendments to the Act in Spring 2000 or will be implemented through amendments to policy and procedures that support the administration of the Act. The amendments to policy and procedures will include the development of Ministerial Guidelines for the application of fit and proper person provisions.

Occupational health and safety

The *Mines Act 1958* has largely been repealed, with the few remaining provisions relating to occupational health and safety. As reported in Victoria's Third Tranche Report 2001, this Act has been removed from the review timetable. The remaining provisions are being reviewed in consultation with the WorkCover Authority with a view to consolidating them with occupational health and safety legislation. Once these provisions are put into legislation administered by the WorkCover Authority, it is intended that the Mines Act will be repealed.

Petroleum

The Petroleum (Submerged Lands) Act 1982

A national review of the *Petroleum (Submerged Lands) Act 1982* operating in Australia has been conducted. A Ministerial Council comprising relevant State and Territory Ministers considered the report of this review on 25 August 2000. The Ministerial Council concluded that the mirror Commonwealth, State and Northern Territory legislation that governs exploration and development of the nation's offshore petroleum resources is essentially pro-competitive. Where there are restrictions on competition these are necessary to protect the interests of the community as a whole, and the benefits of the restrictions outweigh the costs (for example, to reduce negative externalities).

The review report and response were released in 2001. A number of the recommendations that are accepted by the Government will require no legislative change. In other cases, recommendations that have been accepted entail further review by Governments to ensure appropriate implementation.

The Commonwealth has commenced its implementation process for those recommendations that have been accepted. Once adopted by the Commonwealth, Victorian legislation will be amended to reflect the Commonwealth Act.

Pipelines Act 1967

The review of the *Pipelines Act 1967* has been completed and the Government response is planned for completion in 2002. The review did not identify any major restrictions on competition.

Part D: Network Infrastructure Industries

10. Electricity

- Victoria has met the objectives guiding the establishment of the National Electricity Market (NEM). Victoria and other NEM jurisdictions have established the NEM Ministers Forum to resolve matters of policy affecting the NEM.
- Victoria has continued its review of legislative and regulatory barriers to free and fair trade in electricity. Retail contestability was introduced on 13 January 2002.
- The provisions of the *Electricity Industry Act 2000* are consistent with National Competition Policy (NCP) principles. They do not restrict competition, but rather underpin existing competition and facilitate its introduction for domestic and small business customers.

Overview of progress

The National Competition Council (NCC) identified the following key areas against which to review Victoria's performance in electricity reform:

- experience to date, for evidence that customers opened up to competition have been able to change supplier and have realised benefits;
- a timetable which sets out the project plan for full retail competition (FRC), with major milestones;
- evidence that implementation of FRC is based on an approach that assesses costs and benefits and an environment that encourages innovation; and
- evidence that barriers to entry have been minimised through national consistency.

Victoria has met the structural reform objectives guiding the establishment of the National Electricity Market (NEM).

The NEM jurisdictions established the NEM Ministers Forum in June 2001 to settle a framework for resolving issues affecting the NEM.

Victoria has continued its review of legislative and regulatory barriers to free and fair trade in electricity.

The provisions of the *Electricity Industry Act 2000* are consistent with NCP principles. That is, they do not restrict competition, but rather underpin existing competition and facilitate its introduction for domestic and small business customers.

Victoria is leading the reform process for the introduction of contestability for electricity consumers. Victoria supports the NCC's recognition that certain issues associated with implementing FRC are jurisdictional, and that jurisdictions should decide how best to deal with them, e.g. metering solutions for smaller customers for settlement of the wholesale market. For customers with basic meters (the majority of smaller customers), load profiling has been selected as a cost-effective mechanism for measurement of market loads for smaller customers.

Along with many other transitional derogations, Victoria's vesting contracts expired on 31 December 2000. Victoria still has some derogations from the National Electricity Code (NEC). Transitional full retail competition derogations were granted in August 2001 in order to implement retail contestability in a timely and effective manner. In general, derogations will only be used as a last resort where other mechanisms to deliver effective full retail competition have failed. Table 10.1 demonstrates Victoria's progress against these performance measures. The following sections discuss in more detail the progress and outcomes of jurisdictional legislative reviews and reforms.

Implementation of National Electricity Market arrangements

Victoria has met the structural reform objectives guiding the establishment of the NEM. The NCC has noted in their broad examination of the roles and responsibilities in the areas of NEM operations and development, that NEC change and regulation is needed.

The NEM jurisdictions established the NEM Ministers Forum in June 2001 to settle a framework for resolving issues affecting the NEM. The role of the Forum is to provide a basis for efficiently resolving matters of policy affecting the NEM and not to become involved in the day-to-day operation of the market. The Forum has developed a work program to address a range of priority issues in the NEM. The issues include the framework for connecting transmission networks between regions in the NEM and the delineation of policy and operational functions in the NEM.

The Forum of Ministers held its third meeting in December 2001. The main outcomes of the meeting included:

- Ministers noted progress on a consultancy assessing the costs and benefits of further interconnection in the NEM, which is to be finalised for consideration by the Forum in early 2002;

- Ministers agreed that the role of the forum is to make policy in the NEM, that there must be delineation between policy and operations functions in the NEM, the NEM is dynamic and that the policy role of the Forum is an ongoing one;

- The Forum has established a stakeholder Working Group on Demand Side Participation in the NEM, which is to develop a cost-benefit analysis of the potential for improved demand side participation in the NEM; and

- NEM Ministers noted that changes are proposed to the National Electricity Code by the National Electricity Code Administrator (NECA) to the Australian Competition and Consumer Commission (ACCC) that will have the effect of banning inappropriate bidding and rebidding practices that have been used by participants to artificially raise wholesale pool prices in the National Electricity Market.

In addition, Victoria is fully participating in the Council of Australian Government's (COAG) Energy Review. The Review will identify strategic issues for Australian energy markets and Government policies required to allow further development to focus on areas likely to generate the most significant benefits, including the wider penetration and uptake of natural gas.

Table 10.1: Victoria's Progress

Key Areas Identified by the NCC	*Victoria's Progress*
Experience to date, for evidence that customers in tranches opened up to competition have been able to change supplier and have realised benefits	During 2000, more than 13 per cent of contestable electricity customers transferred retailers in Victoria based on competitive packages of service and price. Despite a spike in average Victorian wholesale electricity prices in January and February 2001 (due to unusually high temperatures), 2001 prices were close to and moved in a similar fashion to average prices in 1999.
A timetable which sets out the project plan for FRC, with major milestones	In January 2001, choice of retailer was introduced to electricity customers consuming between 40 and 160 MWh/yr. On 1 August 2001, public lighting customers became contestable. Choice of retailer for small business and residential customers (using less than 40MWh/yr) was introduced on 13 January 2002. It is anticipated that unmetered supplies (with the exception of public lighting, which is already contestable) will be opened up to competition in 2002.
Evidence that the approach taken within the jurisdiction to implementing FRC is based on a comparison of costs and benefits and leaves room for innovation	Victoria's implementation of FRC through net system load profiling is based on independent analysis of the relatively low cost of profiling, which supports innovation and allows customers to readily switch retailers. Profiling will not create a barrier to the efficient entry of full interval metering for smaller customers in the medium to longer term. The Victorian regulatory framework allows for the Essential Services Commission (ESC) to approve a targeted and phased roll-out of interval metering. This can be used to produce net benefits and manage the logistics of metering roll-out.
Evidence that barriers to entry have been minimised through national consistency	National Electricity Market Management Company (NEMMCO) operates national systems for customer transfer and settlement processes under FRC, which ensures national consistency. In addition, Victoria and New South Wales have adopted similar Metrology Procedures to ensure that barriers to entry are minimised through a high degree of consistency in arrangements between jurisdictions.

Review of electricity related legislation to ensure consistency with National Competition Policy objectives

Victoria has continued its review of legislative and regulatory barriers to free and fair trade in electricity. Since the Competition Principles Agreement (CPA), the *Electricity Industry Act 1993* was substantially amended to facilitate electricity market reform. Those amendments were consistent with NCP. The *Electricity Industry Act 1993* has now been replaced by the *Electricity Industry Act 2000*, which substantially re-enacted various provisions of the 1993 Act relevant to the regulation of the electricity industry. The *Electricity Industry (Residual Provisions) Act 1993* now contains remaining provisions from the former 1993 Act that are relevant for historical purposes, including privatisation provisions.

The provisions of the *Electricity Industry Act 2000* are consistent with NCP principles. That is, they do not restrict competition, but rather underpin existing competition and facilitate its introduction for domestic and small business customers. Key provisions of the 2000 Act include:

- provisions to facilitate further steps in the transition to full retail competition in the Victorian electricity market, including provisions to support the use of cost-effective mechanisms for measurement of market loads for smaller customers (as a result of full retail competition-related changes to the National Electricity Code, it has not been necessary to have recourse to these provisions in the *Electricity Industry Act 2000*);

- a safety net for domestic and small business customers to ensure that no customer is disadvantaged during the transition to effective full retail competition. Customers are protected during this transition period, as local retailers are required to publish their price and service offers to all domestic and small business customers. The published terms and conditions are subject to oversight by the ESC, and the Government may refer published tariffs to the Commission for investigation. The safety net provisions are transitional provisions and will be subject to review before their scheduled expiry on 31 December 2003. The safety net provisions will ensure that consumer interests are protected while competition is becoming effective;

- a requirement for retailers to enter into community service agreements;

- a licensing regime administered by the independent economic regulator, the ESC;

- cross-ownership restrictions covering participants in the Victorian electricity industry; and

- provisions relating to the management of electricity supply emergencies.

Participation in the National Electricity Market review of National Electricity Code provisions

Victoria supports further review of the NEM. However, it is important to recognise that NEM jurisdictions are ultimately responsible for the National Electricity Code Administrator (NECA) and NEMMCO and that the policy framework for further development of the NEM also lies with those jurisdictions. For that reason, Victoria was instrumental in establishing the NEM Ministers Forum in June 2001 - to settle a framework for resolving issues affecting the NEM.

Victoria notes the NCC's comments on the Inter-Regional Planning Committee and supports a review of the institutional arrangements concerning interconnects. A Ministerial Taskforce, established to examine security of supply issues in Victoria, reported that the arrangements for interconnects are less than optimal. As a result Victoria has put in place

arrangements to identify possible short-term solutions pending a longer-term response in the market. These arrangements include establishing a project to encourage demand side participation within the market and to identify the barriers to further demand side activity. In addition, Victorian Energy Network Corporation (VENCorp) has been asked to analyse the costs and benefits of augmenting the interconnection to Snowy and New South Wales by increments up to 1000MW and to make this information publicly available.

Removal of impediments to competition in the National Electricity Market

Victoria has introduced contestability for all metered electricity consumers.

The most recent independent survey of Victorian industrial and commercial businesses reported that customers consuming more than 160 MWh/yr achieved an average reduction in electricity costs of 23 per cent over the period 1994 to 1998[8]. In addition, over the same period around one third of the firms surveyed stated that they had changed retailers. Despite recent rises, real prices are still well below pre-competition days and contestable customers continue to change retailers based on competitive packages of service and price. A report by the Office of the Regulator-General (functions now performed by the ESC) shows that while unusually high temperatures in January and February 2001 translated into a spike in the pool price in these months, the average wholesale electricity price in Victoria trended upwards and then moved in a similar fashion to 1999 prices (with contestability in December 1998)[9]. During 2000, more than 13 per cent of contestable electricity customers transferred retailers in Victoria.[10]

In January 2001, choice of retailer was introduced to electricity customers consuming between 40 and 160 megawatt hours per annum (MWh/yr), using remotely read interval meters. From 1 August 2001, public lighting customers (who account for approximately 65 per cent of unmetered supply) such as municipal councils, VicRoads and Docklands Authority were made contestable.

Victorian ratepayers and the environment have been the main beneficiaries from the introduction of retail competition for public lighting customers. In excess of 90 per cent of municipal councils in Victoria have negotiated a contract with a retailer of their choice to purchase electricity based on the retail price/service mix that best suits their needs. Municipal councils have achieved price reductions of between 18 and 30 per cent. In addition, a number of councils have negotiated to purchase part of their power from green sources, and some councils have retained an option to purchase at a later date. Across the state, on average around 10 per cent of the power purchased for public lighting will be sourced from environmentally sustainable power sources generated from either hydroelectric, landfill gas, solar or wind sources.

From 1 September 2001, customers consuming above 40 MWh/year were provided with a further metering option, the use of manually read interval meters. Smaller metered customers, those using less than 40MWh/yr, who generally have a basic meter, were able to choose their retailer from 13 January 2002. It is anticipated that the most significant

[8] Australian Chamber of Manufactures, Outcomes of the Contestable Electricity Market of New South Wales and Victoria, June 1998.

[9] ORG, Final Report: Investigation into proposed increase in electricity retail tariffs for domestic and small business customers by Citipower Pty (www.reggen.vic.gov.au).

[10] NEMMCO, Retailer Transfer Statistical Data. Disaggregated data is not available at this time due to NEMMCO data confidentiality.

remaining categories of unmetered supply (traffic lights, cable amplifiers, mobile phone boosters, etc) will be opened up to competition during 2002.

Two key milestones for the roll-out of electricity FRC have been:

- completion of the metrology procedure consultation and development process during 2001; and

- successful completion of the national transfer and wholesale settlement system market trials in December 2001.

Victoria and New South Wales have lead the reform process to ensure retail contestability is introduced in a timely and effective manner.

Use of load profiling for wholesale market settlement

Victoria's approach to implementing FRC through net system load profiling is based on independent analysis of the relatively low cost of profiling, which supports innovation and allows customers to readily switch retailers. Profiling does not create a barrier to the efficient entry of full interval metering for smaller customers in the medium to longer term. The Victorian regulatory framework allows for the ESC to approve a phased roll-out of interval metering where it can be demonstrated that interval metering will be economic for customers. A targeted roll-out can be used to ensure there are net benefits from metering and to manage the logistics of a roll-out. In addition, amendments to the NEC, granted final authorisation in August 2001, provide that jurisdictional regulators must jointly assess whether any barriers exist to consumers adopting economically efficient metering solutions, and make recommendations in relation to reducing those barriers.

Victorian metrology procedures

Under the NEC, a metrology procedure allocates roles, responsibilities and procedures for the collection and processing of electricity consumption data for purposes of wholesale market settlement. Following an extensive consultation process, metrology procedures for manually read interval meters and for public lighting were published in April 2001. A consolidated version of Metrology Procedures for manually read interval meters, public lighting customers and basic meters, was published on the NEMMCO website on 20 August 2001. The Victorian Metrology Coordinator brought the procedures for basic meters into effect on 13 January 2002.

Establishment of a low-cost and effective customer transfer system

In late 2000, NEMMCO procured a comprehensive Market Settlement and Transfer Solution (MSATS). The MSATS was subject to market trials between October and December 2001, prior to the commencement of competition in January 2002. Victoria participated in, and assisted, the procurement and testing process.

Victoria supports the NCC's recognition that certain issues associated with implementing FRC are jurisdictional, and that jurisdictions should decide how best to deal with them, e.g. settlement of the wholesale market.

Removal of transitional arrangements

Along with many other transitional derogations, Victoria's vesting contracts expired on 31 December 2000. Victoria still has some derogations from the NEC. In general, derogations will only be used as a last resort.

The current regulatory framework provided by the Code, which has applied to transfers by large customers, allows the flexibility for either the retailer or the distributor (as default provider) to provide metering and data services to such customers. However, this flexibility could create significant complexities in the mass market in terms of establishing systems and processes to enable the transfer of small customers. Accordingly, derogations were sought to enable a simplified regime to apply in respect of the mass market for a transitional period to facilitate the orderly introduction of FRC.

Transitional Victorian full retail competition derogations were granted in relation to the implementation of retail contestability, to allow implementation to occur in a timely and effective manner. The derogations provide that distribution businesses are exclusively responsible for the provision, maintenance and installation of all manually read interval meters, basic meters and unmetered supply points until 1 July 2004. During the transitional period, jurisdictional regulators are required by the Code to review and make recommendations on issues including meter ownership.

11. Gas

- Victoria is continuing a program for the introduction of contestability for gas customers. Subject to transitional arrangements necessary to support the orderly introduction of full retail competition for small customers, Victoria has otherwise implemented the 1997 Natural Gas Pipelines Access Agreement.
- Consistent with the objectives of National Competition Policy (NCP), Victoria has continued its review of legislative and regulatory barriers to free and fair trade in gas. The *Gas Industry Act 1994* and subsequently, the *Gas Industry Act 2001*, has been amended to facilitate gas market developments.

Overview of progress

The National Competition Council (NCC) has indicated that continued effective observance of reforms in gas will form the criteria for the third tranche assessment.

This chapter focuses on an assessment of progress and outcomes of jurisdictional legislative reviews and reforms, including:

- the effective implementation of the 1997 Natural Gas Pipelines Access Agreement;
- the introduction of full retail contestability (FRC); and
- further review of legislative and regulatory barriers to free and fair trade in gas in Victoria.

Victoria is continuing the program for the introduction of contestability for gas consumers, facilitated through an industry-based project involving representatives of industry, customers, the Victorian Energy Networks Corporation (VENCorp), Government, and the Essential Services Commission (ESC).

The first three stages of contestability have been completed with over 1 200 of Victoria's largest commercial and industrial gas users able to choose their retailer. Already around 15 per cent of these customers have changed retailers based on competitive packages of service and price.

In September 2001 Victoria introduced contestability for around 600 industrial and commercial gas users consuming between 5 and 10 terajoules (TJ) per annum.

The implementation of gas FRC for some 1.4 million domestic and small business customers was scheduled for 1 September 2001. However, delays in the development of systems and processes necessary to manage customer transfers and metering data has necessitated a further transitional period to allow for the orderly introduction of FRC. Industry has developed a comprehensive project timetable that indicates FRC could be introduced by 1 October 2002.

In 1998, Victoria passed legislation to apply the Gas Pipelines Access Law and the National Third Party Access Code for Natural Gas Pipeline Systems. The Victorian Gas Access Regime has been certified as effective from March 2001 for a period of 15 years.

Consistent with the objectives of NCP, Victoria has continued its review of legislative and regulatory barriers to free and fair trade in gas. The *Gas Industry Act 1994* has now been replaced by the *Gas Industry Act 2001*, which substantially re-enacted various provisions of the 1994 Act relevant to the regulation of the gas industry. In particular, a customer protection framework has been provided for the benefit of small business and domestic customers. Provisions were introduced that enable the deferral of FRC to ensure it is introduced in an orderly and effective manner.

These amendments are consistent with NCP principles and are essentially similar to those operating in the electricity context. The 'safety net' provisions will be reviewed prior to their scheduled expiry on 31 August 2004.

From 1 September 2001, the 1994 Act was repealed by the Gas Industry Act 2001 as the Act containing all the on-going regulatory provisions of relevance to the gas industry. In contrast, the *Gas Industry (Residual Provisions) Act 1994* contains provisions of historical importance, particularly the restructure and privatisation of the gas industry.

Further amendments to the Gas Industry Act have been made to facilitate the orderly introduction of FRC in the Victorian gas market. These include the introduction of a regulatory framework for the development and approval of 'retail gas market rules' and finetuning of the safety net provisions. In so far as possible, amendments to the Gas Industry Act are based on equivalent amendments to the electricity legislation, so there are no regulatory barriers to convergence.

Effective implementation of the 1997 Natural Gas Pipelines Access Agreement

A central feature of the 1997 Natural Gas Pipelines Access Agreement is a commitment to implement a national regime for third party access to the services of natural gas transmission and distribution pipelines, including satisfactory progress in phasing out transitional arrangements and meeting the timetable for the introduction of competition (including retail competition).

The 1997 National Gas Pipelines Access Agreement requires each jurisdiction to:

- give legal effect to a uniform Gas Pipelines Access Law to implement the National Third Party Access code for Natural Gas Pipeline Systems;
- submit the access regime embodied in its Access Legislation to the NCC for certification as an effective access regime under Part IIIA of the *Trade Practices Act 1974* (TPA); and
- comply with the transitional arrangements for phasing in of access for customer classes.

Victoria has complied with these requirements as follows:

- the *Gas Pipelines Access (Victoria) Act 1998* applies the Gas Pipelines Access Law comprising the National Code and the legal framework for its operation;
- an application was lodged with the NCC on 30 July 1999 to certify the effectiveness of the Victorian Gas Access Regime under Part III A of the TPA. The Commonwealth Minister certified the Victorian Gas Access Regime as effective from March 2001 for 15 years; and
- transitional regulatory arrangements to establish a competitive natural gas market for gas customers consuming more than 5TJ per annum were removed from 1 September 2001. There may be a further transitional period to allow for the development of

systems and processes necessary to support the orderly introduction of FRC for smaller customers.

In 1998, Victoria passed legislation to apply the Gas Pipelines Access Law and the National Third Party Access Code for Natural Gas Pipeline Systems. The Victorian Gas Access Regime has been certified as effective from March 2001 for a period of 15 years.

In addition, Victoria has introduced a provision in the Gas Industry Act that gives effect to clause 13 and Annex E of the Agreement. Section 27 of the Act provides for the grant of an exclusive retail or distribution franchise in accordance with any criteria set out in an Order in Council published in the Government Gazette. Section 27(9) makes it clear that the criteria specified in an Order must not be inconsistent with any relevant criteria contained in the Natural Gas Pipelines Access Agreement. The provision was introduced to enhance the potential for new extensions to the natural gas network to areas that might not otherwise be supplied with natural gas.

Introduction of full retail contestability

The Gas Industry Act provided for the staged introduction of retail contestability in the Victorian gas industry. The first three stages of contestability have been completed with over 1 200 of Victoria's largest gas customers, consuming greater than 5 TJ per annum, able to choose their retailer. Victoria introduced contestability for around 600 industrial and commercial gas users consuming between 5 and 10 TJ per annum on 1 September 2001. Around 15 per cent of contestable customers have changed retailers based on competitive packages of service and price.

Victoria is continuing the program for the introduction of FRC for gas consumers, facilitated through an industry-based project involving representatives of industry, customers, VENCorp, Government and the ESC.

Two key consultation forums have been established to oversee the industry-wide activities and issues associated with implementing FRC, including:

- the Victorian Gas Retail Rules Committee (VGRRC) has been established under the auspices of VENCorp to develop and maintain the 'retail gas market rules' for the Principal Transmission System, and to facilitate the development and implementation of the common industry FRC tasks, such as market readiness and the development and management of a B2B system solution; and

- the Victorian Gas Contestability Forum (VGCF) has been established by Government to provide a broad and direct consultation forum for stakeholder consultation in respect of system wide Gas FRC project activities, such as Gas FRC structures and processes and the overall project timeline.

Victoria notes the NCC's comments on convergence and has been participating fully in the development of common implementation mechanisms with other jurisdictions to ensure that practical harmonisation of FRC arrangements can proceed. A key objective of both the VGRRC and the VGCF is, where possible and appropriate, to deliver processes that harmonise with existing and evolving processes in gas and electricity markets in Australia.

The final stage of contestability, which involves some 1.4 million domestic and small business customers, was scheduled to occur on 1 September 2001. However, delays in the development of systems and processes necessary to manage customer transfers and metering data has necessitated a further transitional period to allow for the orderly introduction of FRC. Industry, in conjunction with government, has developed a project timetable that indicates that with best endeavours FRC could be achieved on 1 October 2002.

Victoria has been working closely with key stakeholders to ensure that gas FRC is introduced as soon as possible, and in a manner where the interests of consumers are protected and there is sufficient incentive for the provision of sustainable infrastructure. Victoria has also attempted to coordinate the implementation of FRC for gas with electricity FRC, and, to the furthest practicable extent, with FRC in other jurisdictions.

The potential for a staged introduction of FRC has been provided for through recent legislation (see discussion above). This legislation establishes a consumer protection 'safety net' for domestic and small business customers during the transition to effective competition and provides a clear regulatory framework for the development and approval of 'retail gas market rules' that are critical to the effective implementation of FRC.

Further progress is detailed below.

Profiling and trading arrangements finalised

Following widespread consultation, Victoria has elected to implement FRC through net system load profiling. Similar to electricity, this approach is based on independent analysis of the relatively low cost of profiling, which supports innovation and allows customers to readily switch retailers. Profiling will not create a barrier to the efficient entry of full interval metering for smaller customers in the medium to longer term. In addition, independent analysis concluded that, in the short-term, limited benefits are likely to arise from greater competition in gas metering and settlement services. Accordingly the Victorian position is that, for the first three years following the start of FRC, gas Distribution Businesses (DB) will be responsible for the provision and reading of basic gas meters, while VENCorp will be responsible for interval metering services, as well as profiling arrangements.

Legal and regulatory framework to support FRC completed

Victoria has established the regulatory regime for FRC to support trading arrangements, settlement and transfer systems, and transitional customer protection mechanisms.

Retail gas market rules approved

The ESC has authorised retail gas market rules for the Principal Transmission System. The retail gas market rules define the set of processes, responsibilities and obligations that are specific to a core group of industry arrangements that are necessary to support retail competition. These industry arrangements require cooperation between market participants, and define the basis for considerable investment in systems and cooperative processes to effect competition at the retail level.

FRC cost recovery mechanism established for Distribution Business

Victoria has established a cost recovery mechanism for the distributors to recover the efficient costs and expenditure they incur in implementing the retail gas market rules. The cost recovery mechanism provides DBs with an appropriate level of return to enable them to make investments in connection with FRC and thereby deliver FRC systems on time and to specification.

There are a number of key outstanding tasks for industry in preparing for FRC, including the following areas:

Deliver FRC business functions

This requires VENCorp to develop and test Customer Administration and Transfer Systems (CATS), Meter Identification Registration Number (MIRN) processes, Basic Meter Profiling (BMP) and Profile Preparation Services (PPS). In addition, DBs are required to implement

metering systems. Furthermore, Retail Businesses are required to develop and test modifications to Customer Information Systems (CIS).

Define and manage Business to Business (B2B) system solution

This requires the specification of industry B2B activity streams. In addition, industry is required to define and approve the communications structure used in managing transactions.

Develop and implement market readiness strategy

There is a requirement to develop, approve and monitor industry readiness including test plans, test procedures and test scripts for the overall FRC effort.

Develop and implement customer communication

Communication and education programs for customers are required to ensure they are properly informed and understand their rights and obligations.

Further review of legislative and regulatory barriers to free and fair trade in gas in Victoria

Historical legislative and regulatory barriers to free trade in gas were removed as part of the settlement in November 1996 of the dispute between the Commonwealth Government, the Victorian Government and the Bass Strait producers (Esso and BHP) regarding the liability for the incidence of 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. The Victorian Government also initiated a sale of release gas in March 1999 to further competition in the retail and wholesale market.

In addition, the market arrangements established in Victoria, including the Market and System Operations Rules enacted under the *Gas Industry Act 1994* and continued under the *Gas Industry Act 2001*, facilitate trade in gas and provide for its more efficient use. VENCorp has undertaken a review of the current market arrangements. Recommendations from the review were presented to the VENCorp Board in late 2001.

Consistent with the objectives of NCP, Victoria has continued its review of legislative and regulatory barriers to free and fair trade in gas. As noted above, gas industry legislation has been substantially amended over recent years to facilitate gas market reform. The *Gas Industry Act 2001* currently provides for:

- a licensing regime administered by the independent economic regulator, the ESC;
- market and system operation rules for the Victorian gas market;
- cross-ownership restrictions to prevent the re-aggregation of the Victorian gas industry; and
- prohibitions on significant producers (the Bass Strait producers) engaging in anti-competitive conduct.

In 2000, amendments to the gas industry legislation further facilitated the transition to full retail competition in gas, by providing for:

- a safety net for domestic and small business customers, including an interim reserve price regulation power. The safety net provisions are transitional provisions and will be

subject to review before 31 August 2004, (scheduled expiry). The safety net provisions will ensure that consumer interests are protected while competition is becoming effective; and

- a requirement for retailers to enter into community service agreements.

Further substantive amendments were also made in 2001. These amendments were primarily designed to facilitate the orderly introduction of FRC in the Victorian gas market by providing for:

- the adoption of load estimation or profiling as an alternative to new interval meters being installed for all domestic and small business customers;

- heads of power, pursuant to which an Order in Council can be made to establish the principles pursuant to which the rules, systems and processes required for implementation of FRC can be developed by VENCorp and industry and approved by the ESC, to support the orderly and effective introduction of FRC in Victoria;

- rationalisation of the scheme of the Acts applying to the Victorian gas industry so that regulatory provisions required for the ongoing regulation of the gas industry are separated from the provisions used by the previous Government for privatisation of the industry; and

- miscellaneous amendments to various acts governing the gas and electricity industries including amendments to the *Electricity Industry Act 2000* to conform that act where appropriate to the *Gas Industry Act 2001* and to the *Gas Pipelines Access (Victoria) Act 1998* to improve consistency between Victoria and other states in access regulation.

These amendments are consistent with NCP principles and, wherever possible, are essentially similar to those governing the electricity market. The transitional safety net provisions will be reviewed prior to their scheduled expiry on 31 August 2004. In so far as possible, amendments are based on equivalent amendments to the electricity legislation, so there are no regulatory barriers to convergence.

In addition, further amendments to the *Gas Industry Act 2001*, contained in the Energy Legislation (Miscellaneous Amendments) Bill, occurred in 2001. Among other things, these amendments provide complementary amendments to the *Gas Industry Act 2001* in relation to specific 'safety net' provisions; clarify supplier of last resort arrangements; clarify the powers of the ESC when approving retail gas market rules; and provide that VENCorp may undertake activities relating to FRC outside of Victoria.

12. Road transport

- Victoria has implemented all road transport reforms in both the first and second heavy vehicle reform packages.
- Since the previous assessment, Victoria has implemented the chain of responsibility provisions that are an element of the Combined Bus and Truck Driving Hours reform. Therefore, Victoria has met its NCP commitments for Road Transport.

Overview of progress

The 1995 Agreement to implement the NCP and related reforms included road transport reform. The third tranche requires jurisdictions to have fully implemented, and to continue to fully observe, all Council of Australian Governments (COAG) agreements with respect to road transport.

Victoria has been very successful in the implementation of reforms under the road transport reform agenda. Victoria has now implemented all of the reforms in the first and second heavy vehicle reform packages.

Implementation of road transport reform

The Australian Transport Council (ATC) has developed a list of agreed road transport reforms to be used in the assessment of the third tranche of competition payments. The ATC considered six reforms assessable under the third tranche:

- Combined Vehicle Standards;
- Australian Road Rules;
- Combined Bus and Truck Driving Hours;
- Consistent On-Road Enforcement for Roadworthiness;
- the Second Heavy Vehicle Charges Determination; and
- Ultra-low Floor Bus Axle Mass Increase.

At the time of last year's assessment, Victoria had completed all of the reforms except for the chain of responsibility provisions that are an element of the Combined Bus and Truck Driving Hours reform. These provisions have now been addressed by the Road Safety (Drivers) (Driving Hours) Regulations, which were made on 30 January 2001 and came into force on 1 March 2001. Therefore, Victoria has fully implemented all of the reforms listed in the assessment framework. Additional information on Victoria's implementation of the six reforms can be found in last year's report.

Review of Dangerous Goods Act 1985

The Victorian Government completed a competition review of the *Dangerous Goods Act 1985* in 1998-99. The review found that regulations in the Act with respect to licensing provisions (relating to explosives and storage and handling) should be retained due to the potential harmful impact on the public if removed. Because of their properties, such as flammability and toxicity, dangerous goods present very significant risks to the community and the environment.

Following the Esso incident at Longford, new regulations were introduced in 2000 regarding major hazard facilities, incorporating a licensing regime for major hazard sites. These regulations are to be implemented by the end of this year.

13: Rail transport

- On 1 July 2001, the Freight Network, the strategically located Dynon and South Dynon Terminals and the Bayside Network were declared for freight purposes. This means that the access regime now applies to all the intrastate tracks in Victoria used for the carriage of freight.
- With the implementation of the third party freight rail access regime for Victoria's intrastate network on 1 July 2001, Victoria has met fully its National Competition Policy (NCP) commitments.

Overview of progress

In its 2001 assessment, the National Competition Council (NCC) concluded that with the scheduled introduction of an appropriate access regime over intrastate rail freight services, Victoria would meet its structural reform commitments.

As scheduled, the Minister for Transport has declared the Freight Network together with the strategically located Dynon and South Dynon Terminals and the Bayside Network for freight purposes from 1 July 2001. With the access regime applying to all the intrastate tracks in Victoria used for the carriage of freight, Victoria has met in full its NCP commitments for rail transport.

The following sections examine:

- structural reform of the Victorian Rail Industry;
- the access regime;
- certification of the access regime; and
- community service obligations (CSOs).

Structural reform of the Victorian rail industry

Victoria's rail reform NCP commitments were completed on 1 July 2001 with the implementation of the third party freight rail access regime for Victoria's intrastate network.

Train and tram services

The V/Line Freight Corporation business and a 15-year renewable lease (two 15-year options after the original term) of the Victorian non-electrified intrastate rail network were sold to Freight Australia on the understanding that a third party access regime would be implemented.

The metropolitan train operations, Bayside (now M>Train) and Hillside (now Connex) were franchised for 15 years, while the tram operations, Yarra and Swanston (now M>Train) were franchised for 12 years. The major country passenger rail operator, V/Line Passenger, was franchised for 10 years. These franchises commenced on 29 August 1999.

Seven-year contracts for the operation of two of the State's country passenger services, namely the Warrnambool and Cobram services, expired on 30 June 2001, but have been extended while the Government re-tenders both services under contracts aligned with the expiry date for the V/Line Passenger franchise on 28 August 2009. The Government has also committed to the re-establishment of passenger rail services to Mildura and South Gippsland, and contracts for these services are being tendered.

The access regime

In order to address certain conflicts of interest for infrastructure lessees in providing access to third parties, the Victorian Government introduced Part 2A of the *Rail Corporations Act 1996*. Part 2A provides a regime whereby rail operators, other than the relevant lessees, may obtain access to certain leased rail infrastructure, which has been 'declared' by the Governor-in-Council on the recommendation of the Minister for Transport.

The Minister for Transport may make a recommendation that rail infrastructure be declared only if he or she is satisfied that doing so is necessary to promote competition or to increase efficiency or the level of service to the public.

The Minister declared the Freight Network, together with the strategically located Dynon and South Dynon Terminals, and the Bayside Network for freight purposes, from 1 July 2001. This means that the access regime applies to the intrastate track in Victoria used for the carriage of freight[11]. With the implementation of the third party freight rail access regime for Victoria's intrastate network, Victoria has met fully its NCP commitments.

The regime is a negotiate-arbitrate regime under which, if the parties cannot agree on the terms of access, either party may seek a determination from the Essential Services Commission (ESC), formerly the Office of the Regulator-General. A determination may deal with any matter relating to access.

The legislation requires the ESC to take into account parts of the Competition Policy Agreement (CPA) and any Orders made under Part 2A of the Rail Corporations Act 1996. Pricing Orders have been issued for the freight network, the Bayside (now M>Train) Network and the Dynon Terminals. The Declarations and Pricing Orders were published on 15 May 2001 and came into effect on 1 July 2001.

The orders provide a degree of certainty to access seekers and providers about the likely outcome if a dispute about price is referred to the ESC for determination, and so provide a framework within which commercial arrangements can be made.

The parties are not bound by the rules in the pricing orders and are free to agree on any terms they wish. However, the ESC will apply the relevant pricing order in determining any access dispute about price that is referred to it.

The ESC has powers to require access providers to supply approved information to access seekers to facilitate negotiation of access. Access providers must maintain separate financial information for the declared infrastructure. In the event of a dispute, the ESC has wide powers to seek information in order to make a determination.

There are also appeal provisions relating to ESC determinations and appeal procedures to handle the disclosure of confidential information. The Government is currently considering declaration of the freight network for passenger purposes. The Government has

[11] There are some tracks in terminals, including at Dynon and other areas, which have been retained by VicTrack and not leased to a particular operator. Access to these tracks can be arranged through VicTrack.

committed to a number of projects to improve passenger services, and declaration for passenger purposes would provide a dispute resolution process in the event that agreement on access arrangements could not be achieved.

Certification

In May 2001 Freight Australia applied to the NCC to have the main lines in the Freight Network declared under Part IIIA of the Trade Practices Act.

In July 2001 Victoria applied to the NCC to have its access regime certified as effective under that Part of the Act. Certification would clarify the position with regard to jurisdiction, and in particular, whether the ESC is the exclusive regulator for the Freight Network. While a response from the NCC is pending, Victoria notes the Commonwealth's rejection on 1 February 2002 of Freight Australia's application for declaration of the Freight Network.

Community service obligations

When in the public sector, V/Line Freight provided a light general freight service to rural Victoria that extended to remote areas and also provided some free services to charitable organisations. This part of the business was uneconomic and resulted in losses over a number of years. However, the service was considered to have a significant CSO element. Prior to the sale of V/Line Freight in 1999, a service agreement was put in place under which V/Line Freight was paid an average of $5.6 million for three years from 1 July 1997. The business was sold with the requirement that the service agreement be honoured.

Independent consultants, Booz Allen and Hamilton were jointly appointed by the Government and Freight Australia to review this service agreement. A revised agreement has been entered into with Freight Australia for a four-year period commencing 1 July 2000, with a declining CSO payment averaging $5.8 million per annum (excluding GST).

14. Other transport (shipping and ports)

- The *Marine Act 1988* was reviewed in 1998 and the recommendations of the review accepted by the Government. As part of the implementation of the recommendations, structural changes were enacted in 2001. Occupational licensing standards have been amended in accordance with National Competition Policy (NCP) principles to ensure that only those requirements necessary for meeting the objectives of the Act are retained.
- The section of the *Transport Act 1983* dealing with passenger ferry provisions, which was identified for review, was repealed in 1999.
- With the implementation of these reforms, the National Competition Council (NCC) concluded in its June 2001 assessment that Victoria had met its NCP commitments.

Overview of progress

In its June 2001 assessment on the *Marine Act 1988* and the *Transport Act 1983* (Passenger Ferry Services), the NCC concluded that Victoria had met its NCP commitments.

In 1998, Victoria completed a review of the Marine Act. The review, aimed at clarifying the responsibilities of harbour masters, recommended:

- retaining licensing of ship ports;
- consideration of legislation aimed at increasing the competition for ship pilotage services;
- establishing performance based standards for ship crewing; and
- no change to the provisions for recreational vessels.

The NCC had requested that Victoria provide a progress report on the review of the Marine Act. Specifically, information was to be provided on the review, completed reforms, and the timetable for implementing any outstanding reforms. These matters were discussed in last year's report. Structural changes, which effectively clarify responsibility for the safe management of local ports for local authorities, have been implemented through the *Marine (Further Amendment) Act 2001*.

Further reviews

The Minister for Ports commissioned an independent inquiry into the port reforms initiated by the previous Coalition Government. This review, aimed at improving the effectiveness and efficiency of ports featured very extensive public consultation, and was completed in December 2001. The final report has been presented to the Minister for Ports, but has not been publicly released.

Part E: Agriculture, Manufacturing and Services

15. Agriculture and related industries

- Barley export arrangements were deregulated from 1 July 2001. Deregulation followed significant consultation and careful consideration of the interests of the industry and community. With the sunsetting of the single export desk, Victoria has met its NCP commitment in relation to barley review and reform.
- Victoria deregulated dairy marketing in July 2000. Deregulation was accompanied by an adjustment package funded by a milk levy and administered by the Commonwealth. Victoria provided direct assistance through stamp duty exemptions for the adjustment package, assistance with electricity connection and transport facilitation.

Overview of progress

Australian agriculture has traditionally been characterised by a regulatory environment, which restricts price and supply of products, marketing and purchasing arrangements to varying degrees. These restrictions can inhibit efficiencies in production processes, restrict product and market development and impose costs on consumers and other users of produce.

Through implementation of reform across the agricultural industries, Victoria has met its commitments in this area. Reform measures include the deregulation of barley export arrangements from July 2001, deregulation of dairy marketing, the move towards flexible contractual arrangements for broiler production, and the introduction of national standards in food regulation. These developments are outlined in this Chapter.

Coarse grains

Domestic market reform in Victoria for feed and malting barley commenced in mid-1999, and the Australian Barley Board (ABB) was transferred to grower ownership of the Corporations Law companies, ABB Grain Ltd and ABB Grain Export Ltd. Victoria has passed legislation which sunsetted the ABB Grain Export Ltd's export monopoly over barley on 30 June 2001.

As a result, Victorian barley growers are able to shop for the best deal when they sell barley grain harvested after 30 June 2001. They are no longer required to sell their export grain to ABB Grain Export Ltd. Instead, grain traders are now able to compete for Victorian growers' business. This policy change allows growers choice, as growers still have the option of trading grain through ABB Grain Export Ltd.

In January 2002, the first private barley shipments were exported from Victoria following Victoria's export market deregulation. The higher prices that were paid to growers on these shipments reflect benefits to growers from the competition between traders and ABB Grain Export Ltd for grain supplies.

Wheat

The *Wheat Marketing Act 1989* is redundant and is inconsistent with the Commonwealth legislation, which was reviewed in 2000. Victoria intends to repeal the Act at the first available opportunity.

Dairy

On 1 July 2000, the Australian dairy industry was deregulated. Victoria's legislation giving effect to deregulation was introduced and passed in the Autumn Parliamentary sittings of 2000.

Deregulation, which saw the removal of State Government controls over the farm gate supply and pricing of milk, has introduced contestable trading for market milk in Australia.

There is strong evidence to indicate that consumers are benefiting from deregulation in the form of lower retail prices of fresh milk. Surveys undertaken by the Australian Competition and Consumer Commission (ACCC) suggest that the Victorian retail price of milk has fallen by as much as 4.7 per cent.

Dairy deregulation has continued to result in benefits to Victoria for both producers and consumers and could be expected to facilitate further structural efficiencies in the processing sector as well as production improvements.

As part of the deregulation legislation, the *Dairy Act 2000*, Victoria established Dairy Food Safety Victoria to protect public health and safety. Details of the dairy food safety measures are outlined in the section on food regulation below.

Deregulation was accompanied by an adjustment package funded by a milk levy and administered by the Commonwealth. Victoria provided direct assistance through stamp duty exemptions for the adjustment package, assistance with electricity connection and cattle over and under passes.

Poultry meat

Victoria has completed its review of the *Broiler Chicken Industry Act 1978* and released its response in 2002.

The independent review found that the legislated price determining arrangements imposed a net cost on the community as a whole. The Act imposes restrictions on competition through two mechanisms, the use of a prescribed contract, and the determination of a standard growing fee. It also found that there is a strong argument to suggest that the provisions of the Act are administrated in a way that exposes industry participants to penalties for breaches of the *Trade Practices Act 1974*. It recommended that an authorisation from the ACCC be sought to allow growers to collectively negotiate with processors without the risk of prosecution.

Subsequently, the Victorian processors have obtained an Authorisation from the ACCC on 24 July 2001 to allow collective negotiation between individual processors and grower groups in relation to chicken growing contracts and an associated Code of Conduct from 24 July 2001.

The Government notes the review's findings and that the Authorisation signals a move towards flexible contractual arrangements for broiler production.

The continuation of the Act is necessary to support the transition to negotiation of both prices and contract terms and conditions through processor negotiation groups as

authorised by the ACCC. The transition involves the setting of a price path by the Victorian Broiler Chicken Negotiation Committee (VBINC) for the regulated contracts that are still in force until June 2002. The price path was supported by the ACCC in its authorisation, which is subject to a public benefit assessment, and therefore is consistent with the public interest test.

Beyond June 2002, the Minister has sought to retain the VBINC as a body that can advise on developments within the industry. The Government has decided not to grant a Section 51 exemption under the TPA and as a consequence the activities of participants in the VBINC are subject to Part IV of the TPA.

Accordingly, at this stage, the Government has not moved to repeal the Broiler Chicken Industry Act.

Citrus

The Victorian Government proposes to implement the joint response to the review of the *Murray Valley Citrus Marketing Act 1989* by reconstituting the Board under the *Agricultural Industry Development Act 1990* with extraterritorial operation in the New South Wales production area, subject to the final approval of the Government of New South Wales.

It is proposed that the provisions for the extraterritorial arrangement and eventual repeal of the legislation will be introduced in the Autumn 2002 parliamentary sittings through the amendments to the *Agricultural Industry Development Act 1990 of Victoria* and *Agricultural Industry Services Act 1998* of New South Wales. Following passage of the amending legislation the Board will be reconstituted, subject to a poll of producers in both States, under the *A*gricultural Industry Development Act to allow for polls of producers.

Agriculture and veterinary chemicals

The review of Australia's agricultural and veterinary (AgVet) chemicals legislation adopted a nationally co-ordinated review process. Victoria played a key role in facilitating, co-ordinating and responding to the national review. Governments have responded to the report and are examining implementation options.

The Standing Committee on Agriculture and Resource Management/Agriculture (SCARM) and Resource Management Council of Australia and New Zealand (ARMCANZ) Signatories Working Group developed an intergovernmental response to most of the review's recommendations that was supported by the COAG Committee for Regulation Reform. An inter-jurisdictional Low Regulatory Activity Task Force has been established by SCARM to examine how best to regulate low risk chemicals. The Low Regulatory Activity Task Force has prepared a draft Bill to amend the Agvet Code. The draft Bill is currently being considered by all States and Territories and it is anticipated that it will be finalised in March 2002.

The recommendation of the Signatories Working Group (established under the auspices of SCARM/ARMCANZ) has agreed to the retention of the veterinary surgeon exemption in the AgVet Code. No legislative amendments are necessary to implement this recommendation.

The National response, which Victoria has accepted, does not adopt two recommendations, which require further analysis of the cost and benefits of the regulation. The first of these recommendations that is not supported is the recommendation that the AgVet Code be amended to remove the present requirement for licensing of agricultural chemical manufacturers until the case for such a provision is made. It is intended that the

provision should be retained in its 'exempted state'[12] until the Commonwealth completes a review of the need for the provision. Any activation would be conditional on satisfaction of requirements of a thorough Regulatory Impact Assessment.

The second recommendation that is not accepted relates to efficacy in labelling. The Government believes that there are strong public interest reasons for the decision not to limit the efficacy review to whether labelling is true. Limiting the National Registration Authority's (NRA's) consideration to 'truth' would mean that there was no direct assessment by the NRA of any flow-on or induced effects resulting from the use of a chemical with an efficacy level as determined only by the registrant. For this reason, the current wider efficacy standard of truth and appropriateness is needed.

Limiting efficacy to truthfulness would negate the wider community considerations regarding a product's efficacy through induced risks to public health, risks to occupational health and safety, and the adverse impact on the environment as explained below. In assessing these risks, the NRA does so against standards it has established, many of which are recognised internationally and practiced by several other nations, including member countries of the Organisation for Economic Cooperation and Development.

Contributions to the public interest are made in the existing approach through:

- minimising the chemical residue risk to public health through providing scientific data as the basis for establishing Australian maximum residue limits;

- one objective of the Agvet scheme is to protect occupational health and safety. A chemical with adequate efficacy (i.e. as determined by the NRA) has the effect of minimising the quantity of chemical required to be used in a particular situation, thus minimising worker exposure to that chemical;

- the assessment of a chemical for its risks to human health and the environment is necessarily incomplete. The use of chemicals with inadequate efficacy implies higher application rates, or the unnecessary use of chemicals (because of the chemical's failure to control the pest or disease). Hence, there could be greater impacts on non-target organisms and ecosystems, and unnecessary contamination of the environment. This is a strong argument in favour of assessing efficacy in terms of appropriateness;

- the registration of non-efficacious agricultural and veterinary chemical products is inconsistent with Australia's commitment to international pesticide risk reduction; and

- truth in labelling of a chemical product, under the Commonwealth Trade Practice Act, is intended to provide an assurance to the community that a chemical will be effective (i.e. efficacious) for the intended use of the chemical.

To help reduce the potential costs of the "appropriateness" requirement, the Signatories Working Group considers that the NRA should make as much information available up front to chemical manufacturers regarding the levels of efficacy likely to be required for a particular product or product type. This would allow chemical manufacturers to establish in advance the level of efficacy they will need to demonstrate.

[12] The legislation requires the licensing of all agricultural chemical manufacturers unless they are exempted. Currently, all are exempted therefore they do not have to be licensed.

Food regulation

Victoria's Meat Industry Act seeks to ensure the protection of public health by imposing appropriate standards on the handling of meat at all stages of the process from slaughter up to the point of sale for human consumption. The Act also covers pet food processing facilities and retail outlets.

The Meat Industry Act was reviewed in 2000 with the review finding that the legislation achieved its objectives in a manner that resulted in a net benefit to the community, particularly in relation to food safety.

The review also provided six recommendations on amendments to the Act to allow greater accountability of the decisions of the Authority established under the Act, and to clarify the power of the Minister in directing the Authority. The Government has responded to the review with minor legislative amendments made to the Meat Industry Act in 2001, as recommended by the NCP Review.

As part of the process to deregulate the sale of market milk, which has previously been reported, Victoria introduced new legislation in 2000 that established a new authority (Dairy Food Safety Victoria) to protect public health and safety. The legislation allows for the establishment of appropriate standards and food safety management systems for dairy production from the farm up to and including manufacturing. The review of the *Dairy Industry Act 1992* recommended that these functions should continue. The requirements are consistent with Victoria's *Food Act 1984* and the Meat Industry Act. Dairy Food Safety Victoria is funded by industry through licence fees and fee for service where previously these services had been funded from the levy on market milk.

Victoria's *Food Act 1984* has been amended to provide for the adoption of the new National Food Safety Standards of the Food Standards Code and to incorporate changes required as a result of COAG's decision on 3 November 2000 to adopt the National Model Food Bill.

Veterinary services

The *Veterinary Practice Act 1997* replaced the *Veterinary Surgeons Act 1958* (which was repealed). The Act does not contain any reservations on practice. Any reservations on practice are contained in other legislation such as the *Drugs, Poisons and Controlled Substances Act,* or the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*.

The Act only prohibits advertising that is misleading, uses testimonials, or makes unfavourable comparisons of one practice with another. Victoria has assessed the 1997 Act and found it to comply with NCP principles.

16. Taxis

Taxi services

- The review of legislation relating to taxi-cabs and other small passenger vehicles commenced in June 1999 under the previous Government. The present Government publicly released the review report in October 2000, and has completed consultation on the report and the outcome of the consultation process. The Government is considering the recommendations of the report. The Government anticipates meeting its National Competition Policy (NCP) commitments.

Overview of progress

Taxis are regulated by the Department of Infrastructure under the *Transport Act 1983*.

The NCP reviews of legislation relating to taxi-cabs and other small passenger vehicles were commenced in June 1999, prior to the election of the current Victorian Government.

The consultant undertaking the review concluded that there were significant restrictions on competition in the taxi-cab sector relating to entry, price and quality, with consequent economic loss of around $72 million per annum to the Victorian economy. The report canvassed several options including the introduction of an "as of right" licensing system, with the consequent cost of compensation to existing licence holders in the order of $860 million to be recouped through higher licence fees over some 16 years.

The report was released in October 2000. Mr Rob McQuillen, who was also commissioned to assist in developing the NCP response, conducted consultation on the report.

The further round of targeted consultation addressed the quality of services, fare regulation, issue of additional licences, and the establishment of performance standards.

In parallel, changes to the regulatory environment for the hire car and special purpose vehicle sectors were also examined.

The Government is currently considering the recommendations reached during this period of consultation, and anticipates meeting its NCP commitments.

Tow truck services

The tow truck industry in Victoria is regulated by the Transport Act (Division 8 of Part 6 of the Act). Following the release of the review report of the tow truck legislation, Mr Rob McQuillen, who was also commissioned to assist in developing the NCP response, conducted consultation on the report.

The Government has supported the following recommendations, which have been formally announced:

- that the objectives be clearly specified in the legislation;

- that the allocation scheme for tow trucks be maintained;

- clarifying zone boundaries, with a revised zonal structure;

- review of the Melbourne Metropolitan boundaries to examine the appropriateness of the present boundaries;

- continuation of regulation of accident towing fees. However, the Government supports a change to allow greater transparency and independence in the establishment of fees; and

- extension of the cooling off period for repairs. This will extend the period during which an accident victim may change their mind about having crash repairs undertaken by a repairer to which they have had their vehicle towed from an accident site.

A Working Party consisting of representatives of the Department of Infrastructure, industry and insurance representatives is currently implementing the recommendations listed above. The necessary legislative changes have been listed for the Autumn Session of Parliament 2002.

17. Health and pharmaceutical services

- The final Report of the National review of the *Pharmacists Act 1974* was released in February 2000.
- The Report considered legislative restrictions on the ownership and operation of community pharmacies as well as registration of pharmacists across all jurisdictions.
- A formal Council of Australian Governments (COAG) response to the National review is yet to be released.
- Reviews and reforms of the eight core health profession acts have been completed.

Overview of progress

Progress with implementation of NCP reforms to the *Pharmacists Act 1974* in Victoria has been slowed by delays arising from the National review process.

The Pharmacists Act is the only Victorian health practitioner registration act for which NCP reforms have not been implemented. A Victorian NCP review commenced in 1997 and halted in 1998, when all jurisdictions agreed to a National review of pharmacy legislation.

The National review considered legislative restrictions on the ownership and operation of community pharmacies as well as registration of pharmacists across all jurisdictions and the final Report was tabled in February 2000.

COAG established a Senior Official's Working Group to advise on the Report's recommendations. This process has been completed and Victoria has endorsed the Working Group's Report. A formal COAG response to the National review has not yet been released.

The Victorian Legislation Review Timetable (1996) listed eight core health profession acts for which reviews and reforms have been completed. Proposed amendments to be introduced during the Autumn 2002 sittings include amendments to the advertising guideline provision in a number of acts.

Pharmaceutical services

National review of pharmacy

The key recommendations of the National review include:

- legislative restrictions on who may own and operate community pharmacies be retained with existing exceptions, the ownership and control of community pharmacies continue to be confined to registered pharmacists;
- friendly societies may continue to operate pharmacies (subject to certain conditions);

- pharmacy ownership structures permitted by various State and Territory pharmacy acts be retained as being consistent with the defined principle of pharmacist ownership and effective control of pharmacy businesses. However pharmacy acts should, in addition to sole trading pharmacists and pharmacist partnerships, recognise corporations with shareholders who are all registered pharmacists and registered pharmacists and prescribed relatives of those pharmacists;

- State and Territory restrictions on the number of pharmacies that a person may own, or in which they may have an interest, be lifted;

- any statutory prohibition on natural persons or bodies corporate, not being a registered pharmacist, or other permitted entity, having a direct proprietary interest in community pharmacies be retained but in certain instances, non-pharmacists may be permitted to hold a pecuniary interest in the operation of pharmacies; and

- requirements for the registration/approval of pharmacy premises be removed, subject to certain conditions, on the basis that pharmacists are already registered in each State and Territory, and that business registration is not connected to the safe and competent practice of pharmacy.

At this time, it is Victoria's intention to implement the recommendations that are endorsed by COAG.

August 2001 review

In anticipation of the COAG response to the National review, a Victorian Review of the Act commenced in August 2001 for the purposes of:

- implementing those recommendations of the National review endorsed by COAG;

- assessing outstanding restrictions on competition not considered by the National review;

- updating the Act to establish consistency with other Victorian health practitioner registration acts; and

- examining additional issues raised by key stakeholders.

Whilst the National review recommendations provide broad principles, there are a range of options available for their implementation. Given these complexities a discussion paper for public consultation will be released as part of the Victorian review. This will provide an opportunity for:

- review of the few outstanding restrictions on competition contained within the Act, for example, Victoria is the only jurisdiction in which there are statutory provisions around ownership of pharmacy departments in private and privately owned hospital dispensaries;

- updating the Act's structure to bring it into line with other Victorian health practitioner legislation; and

- consideration of any emerging issues impacting the practice of pharmacy.

In Victoria, preliminary interviews have been conducted with key stakeholders, an internal reference group established and a draft public discussion paper has been developed. However, given the importance of the National review recommendations to this process, it has not been possible for Victoria to comment further or proceed with identification/implementation of reforms.

National review response

Victoria has previously raised its concerns with the Commonwealth regarding the delay in releasing the response to the National review and the potential implications in implementing reform.

Pathology

A review of the *Pathology Services Accreditation Act 1984* has been completed and the Government is currently considering its response.

The Pathology Services Accreditation Act and its regulations govern the conduct of pathology testing in Victoria through a state-based accreditation system and establish the Pathology Services Accreditation Board (PSAB) to administer the legislation on behalf of the Minister for Health.

National Competition Policy obligations led to the commissioning of a review of the Act, conducted by an independent panel chaired by Mr Don Nardella MP. The matters considered by the review panel were not strictly limited to the issue of restrictions on competition. This approach reflects the fact that boundaries between competition and other regulatory issues are often indistinct, together with the fact that the legislation was passed 18 years ago, suggesting a substantive review of all of its provisions is warranted.

A discussion paper was published in May 2001 that provided background information about the legislation and identified provisions that may impede competition. The paper also described the roles of the PSAB and that of the Commonwealth government in the regulation of the pathology services industry. Twenty-six submissions were received in response to the paper. The review panel has analysed each of the submissions and, has drafted a final report that, inter alia, summarises respondents' views on each of the five reform options presented in the discussion paper.

The final report has been submitted to the Minister for Health. The Department of Human Services is preparing a government response. It is anticipated that the release of the final report and government response will coincide.

Health Profession Acts

The Victorian Legislation Review Timetable (1996) listed eight core health profession acts for which reviews and reforms have been completed. The nature of these reforms were detailed in Victoria's March 2001 Report to the NCC. Proposed amendments to be introduced during the Autumn 2002 sittings include the following:

Advertising guideline provisions

In response to concerns raised by the NCC, amendments have been proposed to the advertising guideline provisions in five acts (*Medical Practice Act 1994*, *Nurses Act 1993*, *Dental Practice Act 1999*, *Psychologists Registration Act 2000* and *Chinese Medicine Registration Act 2000*) to require Ministerial approval of advertising guidelines.

Medical Practice Act 1994

Amendments to the *Medical Practice Act 1994* to be introduced in the Autumn 2002 session of Parliament include:

- creating a negative licensing scheme for the purposes of regulating corporate owners of medical practice who direct or incite medical practitioners to engage in unprofessional conduct; and

- establishing powers for the Medical Practitioners Board to manage poorly performing medical practitioners.

Reforms to the Nurses Act 1993

Proposed changes to the *Nurses Act 1993* (due to be introduced in the Autumn 2002 session) will establish a form of negative licensing to allow regulation of those nurses agents who pressure nurses to engage in what the Nurses Board of Victoria would regard as 'unprofessional conduct', and thus place the health and safety of the public at risk. This parallels proposed amendments to the Medical Practice Act regarding regulation of corporately owned medical practices.

Drugs, poisons and controlled substances legislation

The Report of the COAG review of national drugs, poisons and controlled substances legislation was submitted to COAG in January 2001. COAG referred the Report through the Australian Health Ministers Conference and the Australian Health Ministers Advisory Council (AHMAC) to an AHMAC Working Party, comprised of representatives from the Commonwealth, NSW and Western Australia. The Working Party sought comments from jurisdictions and stakeholders and was due to report by the end of 2001, however the report has not been provided to date. The Victorian Government awaits the outcome of the COAG process.

18. Legal services

- Legal services are regulated in Victoria by legislation including the *Legal Practice Act 1996*. The Act was assessed against the public interest test by the previous Government and considered in the National Competition Council (NCC) second tranche assessment.
- Further consideration of legal profession indemnity insurance has taken place with a response to the 1998 Legal Practice Board Report that recommends the monopoly scheme be retained as there is a net benefit to the community as a whole from the current arrangements.

Overview of progress

Legal services are regulated in Victoria by the *Legal Practice Act 1996*. The Act followed a review of legal practitioner regulation that commenced before National Competition Policy (NCP). The Act was assessed against the public interest test by the previous government and was considered in the second tranche assessment.

Further consideration of legal profession indemnity insurance has taken place with a response to the Legal Practice Board Report (June 1998) that recommended the current monopoly scheme be retained as there is a net benefit to the community as a whole from the current arrangements.

Two further reviews of legal profession regulation commenced in mid-2000, which although not required under NCP were to consider issues that may influence the level of competition in legal services.

The Standing Committee of Attorney Generals is now considering the question of multi-disciplinary practices.

A report providing a general review of legal profession regulation was released in November 2001 and the Government is awaiting community input before it acts on the report.

Legal professional indemnity insurance

The Legal Practice Act provided for competition in legal profession indemnity insurance from 1999. The Act however provided for a further review before implementation. The review by the Legal Practice Board in June 1998 recommended that the monopoly continue. The Parliament then amended the Legal Practice Act to remove the sunset provision.

In the context of the second tranche assessment, the previous government agreed to review the matter. As a consequence, in November 2000, the Department of Justice (DoJ) released the Legal Practice Board's 1998 review and a draft response. Following public consultations, a Supplementary Report on Professional Indemnity Insurance for Solicitors in Victoria was prepared and provided to the NCC in June 2001.

The response concluded that professional indemnity insurance is compulsory for Victorian solicitors for consumer protection reasons. The response noted that in moving to a competitive scheme there was a risk that solicitors could be denied insurance cover and

would have to cease practice, because the solicitor's risk may be difficult to assess even though the solicitor's professional competence is not in doubt.

The response concluded that a reduction in the number of solicitors in Victoria due to inability to obtain insurance would not be in the public interest, as it would result in:

- an artificial contraction in the supply of legal services within the Victorian market, together with related market distortions;

- reduced access to legal services by the community (particularly affecting country Victoria and those who depend on the smaller sized legal practices to obtain affordable legal services); and

- reduced competition within the profession, leading to greater inefficiencies in the delivery of services and increases in the costs of legal services to the community.

The response concluded that a lack of insurance after ceasing practice (i.e. lack of "run-off" cover) also means that a client who makes a claim against a former solicitor will be uninsured. Therefore the public interest requires that any insurance scheme for Victorian solicitors must:

- deliver affordable insurance to all solicitors licensed to practise;

- ensure that the clients of solicitors and former solicitors, including solicitors who have ceased to practise due to disgrace, insolvency or death, are covered by comprehensive run-off insurance; and

- facilitate risk management to deal with the potential detriment to the community as a whole of deficient legal services.

The response found that the design options for the scheme were, therefore, considerably limited. Specifically, the current scheme provides affordable insurance to all solicitors who are otherwise entitled to practise law. Evidence suggests that a competitive market would not provide cover to all practitioners.

Further, provision of run-off insurance implies the need for a scheme that specifies minimum insurance coverage and has a secure funding base that is not subject to erosion. Minimum insurance coverage should include run-off coverage that would be unlikely to be universally provided under more competitive circumstances.

In this respect regulated run-off insurance would require minimum insurance coverage (particularly in relation to solicitors who practised in small or country firms and those who ceased to practise due to disgrace, insolvency or death) and an ability to levy members of the profession in the event of under-provision.

To achieve these objectives it is necessary to require all solicitors to obtain legal professional indemnity insurance through the Legal Practice Liability Committee (LPLC). However, the LPLC has the scope to and does reinsure through the competitive reinsurance market. In this respect, competitive processes therefore play a real role in determining the LPLC's underwriting cost.

The main benefits of the current arrangements lie in:

- provision through an independent statutory body (the LPLC) that is independent of legal profession associations and subject to reporting arrangements;

- preventing an inappropriate contraction in the competitive market for legal services in Victoria;

- the provision of proper compensation to all consumers suffering a detriment as a result of negligent or otherwise deficient legal services; and

- the reduction, due to systematic risk management, of the number and amount of losses suffered by consumers in Victoria as a result of such deficient services.

The response found a tendency for there to be higher operating costs and operational inefficiency in markets where there is a lack of competition. The evidence of the lower cost of administration and insurance coverage derived from the LPLC's mutual arrangement provides reassurance that any such tendency has been outweighed by the particular circumstances of the mutual fund's methods of operation. The benefits to the community of proper levels of compensation and reduced losses through systematic risk management are further strengthened by the lower cost of insurance provided by the current mutual arrangement. The benefits of cheaper premiums flow through to consumers of legal services through reductions in the costs of legal services in Victoria.

National market

The legal profession has developed around State jurisdictions. Related infrastructure, such as legal profession indemnity insurance, also reflects this heritage. The Mutual Recognition Agreement between States and Territories provided for greater integration of professional service markets in a way that facilitates a national market.

The greater mobility of the legal profession across State borders is evident in the prominence of national law firms. In conjunction with these developments, legal firms have demonstrated sensitivity to premiums by seeking to insure with lower cost insurers. Last year a number of prominent New South Wales firms had insured with the LPLC, on the basis of lower premiums in contrast to commercial insurance offered through the New South Wales Law Society. The NSW scheme, underwritten by HIH, has subsequently run into difficulties.

Given the small premium pool of less than $10 million in Victoria, competition would seem more likely to emerge with a national market rather than within State markets. National law firms are likely to lead this process.

Other reviews of legal practice legislation

There are a number of other reviews of legal profession regulation that, while not required under the NCP, are considering issues that may influence the level of competition in legal services.

The Report of the Review of the Legal Practice Act, Regulation of the Victorian Legal Profession, was released in November 2001. The Government has requested comments from stakeholders (and the community more generally) before it acts on the report. The report includes a number of recommendations relating to the regulatory structure of the profession with an emphasis on the complaint handling mechanism. The main recommendation of the report is that an office headed by a commissioner, reporting to an independent board, conduct the regulation of the profession. The board would include both lawyers and non-lawyers.

While a review of multi-disciplinary practices also commenced in 2000 this issue is now being considered at the national level, through the Standing Committee of Attorney's General.

19. Other professional, occupational and business licensing

- Victoria has implemented recommendations from the Vocational Education, Employment and Training Committee (VEETAC) National Working Party, May 1993, in relation to deregulation of some partially registered occupations. Where recommendations had not been fully addressed, the relevant legislation was included in the National Competition Policy (NCP) legislation review timetable in 1996.

Overview of progress

Under NCP, States and Territories are reviewing a range of professional and occupational licensing instruments. Under the mutual recognition arrangements, each jurisdiction recognises regulations made and administered in other jurisdictions.

The VEETAC Working Party on mutual recognition was established by Governments to examine occupations registered in some, but not all jurisdictions. The task of the Working Party was to determine if each occupation should be deregistered or fully registered in all jurisdictions. The VEETAC Working Party Report in May 1993 recommended the removal of partial registration requirements for a variety of occupations.

States and Territories have identified legislation for licensing or registration of occupations that restricts competition. Progress on a number of reviews was reported to the NCC in previous reports. The NCC reported that Victoria had met its NCP commitment with a number of reviews including, *Road Safety (Driving Instructors) Act 1998*, *Motor Car Traders Act 1986* and *Second-hand Dealers and Pawnbrokers Act 1989*.

The following section provides an update on significant professional and occupational regulation and includes real estate agents, travel agents and private agents.

Estate agents

The review of the *Estate Agents Act 1980* recommended that full licensing be retained for residential property sales, but experience and education requirements be made less restrictive. Further, the review found that a less restrictive form of licensing should apply to agents selling commercial property and business and managing property; and regulation to protect against defalcation should be retained.

The Government has released the report for consultation and is now considering its response. Amending legislation is likely to be introduced in the Autumn 2002 Parliamentary session.

Auctioneers

After review, the *Auction Sales Act 1958* has been repealed by the *Auction Sales (Repeal) Act 2001* with effect no later than 1 January 2003, thus removing the requirement for auctioneers of goods and livestock to be licensed.

Travel agents

A report was submitted to the Ministerial Council on Consumer Affairs (MCCA) in 2000 and subsequently released for stakeholder comment. The Western Australian Department of Consumer and Employment Protection is preparing a proposed response to the national review and liaising with the COAG Committee on Regulatory Reform.

Private agents

A review of the *Private Agents Act 1966* was conducted in Victoria. A public discussion paper was released in July 2000. Further targeted consultation is necessary before approval for any legislative change may be sought.

20. Fair trading and consumer legislation

- Victoria has met its commitments in relation to fair trading.
- A report on the national review of Consumer Credit Code legislation has been finalised. It is anticipated that the Ministerial Council on Consumer Affairs will release the report for consultation before responding.
- The review of the scheme for uniform trade measurement legislation is unlikely to be completed by June 2002. Victoria has been meeting its requirements for the review and is currently awaiting the national response before it can implement any reforms.

Overview of progress

In 1983, Victoria agreed to adopt nationally uniform consumer protection legislation to promote efficiency and reduce compliance costs. The consumer protection provisions of Part V of the Commonwealth TPA were chosen for protection against deceptive conduct in trade and commerce, and prohibited practices.

A number of acts administered by Consumer and Business Affairs Victoria contribute to the overall framework of 'ground rules' for resolving disputes and dealing with non-compliance.

Fair Trading Act

The *Fair Trading Act 1999* has repealed the *Fair Trading Act 1985*. The Fair Trading Act was assessed against the NCP guiding legislative principle at the time it was introduced. The assessment found some restrictions on competition. Details of these restrictions and their justification were provided in the March 2001 Report to the NCC for the Third Tranche assessment. Victoria has met its NCP commitments in relation to its fair trading legislation.

Consumer credit code

State and Territory governments have jointly undertaken a national review of Consumer Credit Code legislation. A report has been finalised and accepted by the COAG Committee on Regulatory Reform as adequate. It is anticipated that the Ministerial Council on Consumer Affairs will release the report for consultation before responding.

Trade measurement legislation

A scoping paper, which essentially found the *Trade Measurement Act 1995* legislation to be consistent with NCP principles, was completed in August 2001. A public benefit test is currently being undertaken in regards to requirements on how meat can be sold, prior to the full report being lodged with the COAG Committee for Regulatory Reform and subsequently the Ministerial Council on Consumer Affairs.

As a result of preparation of the public benefit test, the review of the scheme for uniform trade measurement legislation is unlikely to be completed by June 2002 as it is being

considered in a national context. Queensland is the lead state for the review. Victoria has been meeting its requirements for the review and is currently awaiting the national response before it can implement any reforms.

Hire purchase

Section 24 of the *Hire-Purchase Act 1959* allows courts to vary or cancel hire purchase agreements for farm machinery that are considered to be harsh and unconscionable, and section 25 allows courts to grant a 12-month moratorium on the repossession of farm machinery, to allow farmers extra time to remedy breaches of hire purchase agreements. Most of the Act was repealed by the *Hire Purchase (Further Amendment) Act 1997* but the operation of sections 24 and 25 was extended to 1 April 2000.

In 2000, the operation of those sections was further extended until 30 June 2003. Sections 24 and 25 apply to such agreements entered into between the commencement of the 1997 Act (1 May 1997) and 30 June 2003. The extensions were to allow time to ensure that the unconscionable conduct provisions of the Commonwealth TPA (section 51AC) would prove adequate to protect farmers. It was considered that the public interest in providing rural producers with some basic safeguards against insolvency through aggressive enforcement of hire purchase contracts outweighed the likely costs of preserving this minimal level of market intervention. Extending the application of the Hire Purchase Act provisions again, to post 1 July 2003 contracts, would require further legislation, which would be subject to the NCP test.

21. Finance, insurance and superannuation

- Reviews of workers' compensation arrangements and transport accident compensation arrangements were released in February 2001 together with draft Government responses. The reviews found that the WorkCover and transport accident compensation schemes have features of a welfare scheme that are uncommon in insurance products, including the competitive products offered in other States. These features entail a significant public interest.
- The Government's draft responses accepted the recommendations to retain the single manager for each scheme and to establish independent price reviews of premiums set for the schemes and other measures to enhance competition and efficiency.

Overview of progress

1998 reviews of workers' compensation and third party compulsory insurance arrangements recommended that the Victorian WorkCover Authority (VWA) cease to provide insurance and an end to the Transport Accident Commission's (TAC) statutory monopoly. The former Victorian Government rejected these recommendations. In its second tranche assessment, the National Competition Council (NCC) questioned Victoria's progress in these areas and proposed that jurisdictions consider a national review of existing compensation arrangements. Victoria supported the national reviews, but they did not proceed.

Consequently, new reviews of worker's compensation and transport accident compensation arrangements were undertaken in Victoria. The separate reviews of workers' compensation arrangements and transport accident compensation commenced in September 2000. The Government released the reports, and a draft response to each report, in February 2001.

2000-01 reviews of legislation

The review of workers' compensation arrangements covered the Victorian workplace accident compensation legislation and associated regulations as follows:

- the *Accident Compensation Act 1985*;
- the *Accident Compensation (WorkCover Insurance) Act 1993*; and
- the *Accident Compensation Regulations 1990*.

Together these form Victoria's workplace accident compensation scheme, administered by the VWA (and known in Victoria as WorkCover).

The review of the Victorian transport accident compensation legislation covered the following Acts and associated regulations:

- the *Transport Accident Act 1986*;

- the *Transport Accident (Charges) Regulations 1986*;
- the *Transport Accident Regulations 1996*; and
- the *Transport Accident (Impairment) Regulations 1999*.

Together these form Victoria's transport accident compensation scheme. The scheme is sometimes referred to as third party personal insurance or compulsory third party (CTP)

Both the workplace accident compensation and the transport accident schemes have some features of an insurance product. However the schemes also have 'non-insurance' features, which are deemed to be in the public interest and display properties of a welfare scheme, and hence should not be viewed as simple insurance products.

The reviews identified key restrictions on competition arising from the legislation. A public interest test of each restriction on competition, including an assessment of one or more alternative approaches was conducted as part of the review. The alternatives examined included ways of introducing more competition, either by abolishing or modifying the existing restriction on competition. The final recommendation in each case is the one that provides the greatest potential public benefit.

The restrictions on competition, the review recommendations and the Government's draft response are summarised in Table 21.1 (WorkCover) and Table 21.2 (TAC)

Public interest test

As a consequence of the legislated benefits in Victoria, and common law provisions, both the VWA and TAC schemes are not standard insurance products, with maximum defined benefits. The availability of no fault statutory benefits under the schemes makes it similar to a system of welfare benefits.

One of the main objectives of both schemes is to ensure that injured persons are properly compensated and that the burden of the cost of injury is met by the schemes and reflects the full cost of the injury.

The Victorian schemes offer benefits not available in other jurisdictions with private underwriters, and are therefore not directly comparable with such schemes. In particular, the Victorian schemes are designed to provide no fault benefits to injured persons, which in some cases generates a significantly longer tail.

Jurisdictions with competitive schemes tend to have dollar caps to limit the size of the tail and traditionally, private insurers have managed liabilities by commuting long-term benefits. Schemes that provide options to minimise long-term liabilities exert greater pressure on other sources of assistance (e.g. social security payments and health care benefits), as the benefit may be expended in a short period of time.

Evidence from other jurisdictions suggests that private insurers attempt to undercut competitors, discounting premiums in order to attract business. This fierce price competition usually continues until the point where collected premiums are insufficient to fund scheme liabilities and premiums are then sharply increased. The premium charged under competition tends to fluctuate rather than being smoothed over time, as is the case with a public underwriter.

The current reviews have been thorough in their cost-benefit assessment to retain the single management structure. While the reviews support the retention of the single manager for each scheme, the exercise highlighted certain costs that the Government intends to address, in order to improve the functioning of the schemes. Accordingly, the

Government will review the functions performed by the VWA and TAC to identify if there is scope for greater contestability to be introduced.

Further, the Government's draft responses support the review recommendations for an independent review of VWA's and TAC's proposed premiums, including the consideration of risk reflective pricing, prior to making a premium order or seeking Ministerial approval. However, before implementation, an examination of options for an independent review of proposed premiums will be undertaken.

With respect to workers compensation, the Government will also consider broadening the scope for self-insurance arrangements, with a view to moving towards performance based premiums.

Table 21.1: WorkCover review findings and draft Government response

Restriction on Competition	*Review Recommendation*	*Government Response*
1. A compulsion exists for employers to obtain WorkCover insurance in respect of their liability to pay compensation and common law damages to employees.	The charge should remain compulsory in the interests of achieving the social policy objectives of the Act.	Accepted
2. The VWA is the single manager of workers' compensation insurance.	The single manager arrangement should be maintained at this time, as it provides the greatest net public benefit. However, the Victorian Government may wish to consider the scope for improved market testing of some of the services provided.	Accepted
3. Centralised premium setting (regulated price).	The premium setting responsibility should remain with the VWA. However, an independent third party should review the premiums and associated rationale for setting the premiums. The independent review should be made public prior to the approval of the new premiums. This will provide greater transparency in the review setting process.	Accepted Accept recommendation of a third party review of premium – however further work will be undertaken to determine how the mechanism will work in practice (e.g. the appropriate party, timing of independent advice).
4. Approval of occupational rehabilitation service providers.	The ability to approve occupational rehabilitation service providers should be retained to ensure that service providers are suitably qualified to perform the tasks required of them.	Accepted
5. Eligibility requirements for self-insurers.	Self-insurance requirements should be adjusted to increase flexibility and promote the expansion of self-insurance as it allows greater emphasis to be placed on innovative occupational heath and safety outcomes rather than the insurance product.	Accepted The VWA will be asked to assess the prospect of increasing self-insurance type arrangements.

Table 21.2: TAC Review findings and draft Government response

Restriction on Competition	*Review Recommendation*	*Government Response*
1. There is a compulsion for all registered vehicle owners in Victoria to pay a transport accident charge.	The charge should remain compulsory in the interests of achieving the social policy objectives of the Act.	Accepted
2. TAC is the single manager of the transport accident compensation scheme in Victoria. This is, in effect, a legislated monopoly	The single manager arrangement should be maintained for Compulsory Third Party personal insurance in Victoria at this time, as it provides the greatest net public benefit. However, the Victorian Government may wish to consider the scope for improved market testing of some of the services provided.	Accepted
3. Centralised premium setting (regulated price).	The premium setting responsibility should remain with the TAC. However, an independent third party review of the TAC's proposed premiums should occur prior to Ministerial approval. The review should be made public prior to the Minister's decision and it should examine and report on the premium methodology, and the cross subsidies that exist within the premium structure. This would provide greater transparency in the review setting process.	Accepted. Accept recommendation of a third party review of premium – however further work will be undertaken to determine how the mechanism will work in practice (e.g. the appropriate party, timing of independent advice).

Developments in insurance markets

Since the independent report was undertaken in Victoria, there have been a number of developments in the international and Australian insurance markets. The most significant of these have been the losses from the 11 September 2001 terrorism attacks in the United States and the collapse of the HIH Insurance Group.

The collapse of the HIH Insurance Group has resulted in those State Governments with privatised schemes being required to meet liabilities arising from this collapse as follows:

- New South Wales and Queensland in relation to liabilities for compulsory third party motor vehicle accident compensation (approximate estimate is $400 million for each State); and

- Western Australia and Tasmania in relation to workplace accident compensation.

Further, the insurance industry has been withdrawing from the provision of those products it considers to be high risk and those products with long tails. This is evidenced by the difficulty currently being faced in Victoria to attract companies into the builder warranty market, which has a tail of only seven years, and the attempts to introduce tort reform to the public liability segment of the market to curb escalating prices in that segment.

Choice in public sector superannuation

Over the past few years the Government has progressively withdrawn from the direct provision of superannuation for public sector employees. All Victorian public sector employees (apart from a small number of emergency services personnel) who commenced

employment after 1 January 1994 have become members of private sector superannuation funds regulated by the *Superannuation Industry (Supervision) Act 1993*.

Of necessity, the Government is still closely involved with the (now closed) State Superannuation Fund that has a large unfunded liability that directly impacts on the State's finances. The State Superannuation Fund is administered by the Government Superannuation Office (GSO), an independent trustee Board established on 1 July 1999. In accordance with the legislation establishing the GSO, a contestability review of its administrative operations and activities was completed in the first half of 2001. In light of the findings of that review, it is not anticipated that any of the GSO's functions will be outsourced to private sector providers in the short term. However, service delivery alternatives will remain under constant review.

Most departments and agencies now provide employees with at least some degree of choice regarding the fund into which employer contributions are paid. Several Departments offer an unlimited choice of funds. Further policy work on the issue of choice in superannuation in public sector employment has been frustrated by the delays in the passage of the Commonwealth's own choice of fund legislation.

22. Retail

- Following completion of the March 2000 review of liquor licensing and extensive consultation with industry, the Government announced a phase-out of the 8 per cent cap on packaged liquor licences from the end of 2003.
- An earlier phase out would be subject to agreement between the Government and the industry.

Overview of progress

Victoria completed its review of liquor licensing in 1998 and implemented a series of pro-competitive reforms in 1998 and 1999. However, as part of the liquor licensing reform, the '8 per cent rule' was retained for holders of packaged liquor licences in Victoria. In its second tranche assessment, the NCC concluded that for Victoria to be considered as complying with its NCP obligations, it would need to remove the 8 per cent limit from its licensing Act.

In March 2000, the Government commissioned a further review to examine the socio-economic consequences of the 8 per cent rule and to develop a range of feasible reform options. The decision to undertake this review was taken in response to the NCC's second tranche assessment that Victoria had failed to adopt the NCP review recommendation to abolish the 8 per cent limit on packaged liquor licences.

March 2000 review findings

The March 2000 review found that the Victorian market for packaged liquor is intensely competitive and offers consumers a diverse range of shopping experiences. Whilst the 8 per cent rule offered some independent liquor retailers protection from the major supermarket chains, it is unlikely to be effective in promoting diversity in the medium to long term. For example, with a major chain easily able to transfer an existing licence to any of its unlicensed supermarkets, a small business could lose its protection at very short notice.

Small and large business interests within the liquor industry acknowledge that the 8 per cent rule is not an effective way to promote the viability of small business in the long term and have expressed different views on alternative mechanisms that would ensure diversity in the market.

The review report was publicly released in September 2000.

Phase-out of the 8 per cent cap

The Government announced a phase-out of the 8 per cent limit from the end of 2003. This decision was reached following the March 2000 review and extensive consultations with the industry and has built in flexibility to enable the commencement of the phase-out to be earlier subject to agreement with the industry.

The Government's position represents a balanced approach that will lead to the phasing out of the 8 per cent rule, while fostering a transitional environment that will enable small businesses to adapt to the reforms. By providing advance notice of the changes, small businesses will have the opportunity within a stable regulatory environment to properly re-assess their business strategies and consider re-positioning themselves. The

transitional period will also enable the Government to work with the industry to develop long-term strategies that improve the capacity of small businesses to compete in the industry.

The Government's decision to remove the 8 per cent limit from the end of 2003 has enabled Victoria to meet its NCP commitments with minimal disruption to the liquor industry.

As part of its commitment to reform the 8 per cent rule, the Government has already provided support to the Liquor Stores Association of Victoria, which represents independent liquor retailers, to conduct seminars throughout Victoria on how to reposition their businesses under the new liquor licensing arrangements. The Government has also facilitated several meetings with the key parties to assist in developing industry strategies.

23. Education

- In 1999-2000 the Department of Education, Employment and Training (DEET) satisfied its legislative review obligations with completion of the review process relating to the *Education Act 1958* and associated Ministerial Orders.
- The *Tertiary Education Act 1993* was amended in 2001 to provide for full implementation of the National Protocols for Higher Education Approval Processes. The legislation, as amended, fully satisfies the CPA test.

Overview of progress

In 1999–2000 DEET satisfied its legislative review obligations with completion of the review process relating to the *Education Act 1958* and associated Ministerial Orders.

The review process dealt with three items of legislation that had been identified as having the potential to restrict competition. These were:

- registration of teachers in non-government schools;
- registration of non-government schools; and
- the setting of fees for overseas students.

In 2001 the Tertiary Education Act was amended to provide for full implementation of the National Protocols for Higher Education Approval Processes. The legislation, as amended, fully satisfies the CPA test. Victoria's compliance with the protocols and the effectiveness of the processes will be audited in July 2002.

Registration of universities and accreditation of university courses

Since Victoria reviewed the legislation requiring registration of universities and accreditation of university courses the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) endorsed the National Protocols for Higher Education Approval Processes on 31 March 2000. The protocols have been designed to ensure consistent criteria and standards across Australia in matters such as the recognition of new universities, the operation of overseas higher education institutions in Australia, and the accreditation of higher education courses to be offered by non self-accrediting providers.

In 2001 the Victorian Parliament enacted the *Post Compulsory Education Acts (Amendment) Act 2001* for the principal purpose of amending the *Tertiary Education Act 1993* so that it provided for the full implementation of the Protocols.

In July 2002 DEET will be subject to an audit by the Australian Universities Quality Agency that will audit Victoria's compliance with the Protocols and the effectiveness of the processes.

In preparation for that audit, DEET is required to and is undertaking a self assessment of compliance and effectiveness. In this regard an external, independent expert in quality

management has undertaken a review of the amendments contained within the Post Compulsory Education Acts (Amendment) Act and the soon to be Gazetted new Ministerial Guidelines and has assured DEET that the amended Act and the Ministerial Guidelines will provide for full implementation of the Protocols.

The legislation as amended fully satisfies the CPA test. The recognition of 'non Victorian' universities, the approval of institutions to operate as universities and the approval of private higher education providers and their courses is a regulatory/licensing process and as such any barriers relate only to assurances of quality and a provider's capacity to deliver a quality service to Victorian students and in some instances overseas students, over the period of approval. The amended *Tertiary Education Act 1993* protects the public interest in this regard.

The amended Act will mean that in Victoria, universities and private providers will now need to meet equivalent standards in course development, course delivery, student support and public accountability

Registration of teachers in non-government schools

Crucial to the achievement of the Victorian Government's education and goals and targets announced in 2000 is the quality of the non-government school workforce.

Currently in Victoria, approximately 34 per cent of all school students are enrolled in 491 Catholic schools and 201 Independent schools. The level of enrolment is amongst the highest of the Australian States and exceeds the national figure of 31 per cent of the student population.

Teacher registration will ensure that quality is retained and in some cases improved. The Government supported the Review Committee's recommendations that a system of teacher registration for teachers in non-government schools be retained.

Currently, the Registered Schools Board registers teachers in the non-government school sector. Effective January 2003, the teacher registration component will be transferred to the Victorian Institute of Teaching (VIT). For the first time all teachers (government and non-government) will be registered under one body. This will minimise the number of regulatory bodies and their duplicating roles.

Registration of non-government schools

The Review Committee supported the existing legislation whereby schools have to satisfy three criteria relating to suitable curriculum, suitable teachers (i.e. with appropriate registration) and suitable premises — but recommended that a fourth criterion concerning minimum numbers be removed.

The Government's agreed with the Review Committee except on the issue of minimum enrolment numbers as it ensures that a school can offer a sufficient range of subject options.

DEET will review the regulatory and accountability arrangements for non government schools and agreed principles and processes will be completed by mid 2002.

The setting of fees for overseas students

The Review Committee recommended a differential fee structure for overseas students attending government schools.

The Government decided to retain the existing system of setting a uniform fee for overseas students on the basis that the public benefits of the present system substantially outweigh any restrictions that might exist.

The setting of fees for overseas students by the Minister takes into account the overall costs of the school system and of relevant support services. Differential fees as recommended by the Review Committee would need to be set by the Minister at the request of schools, which would imply Ministerial recognition of a difference in quality between school programs.

24. Gaming

- The Victorian Government has made considerable progress in reforming gambling legislation and regulations to ensure they are consistent with the public interest.
- The Government has introduced reforms, especially of public lotteries legislation that allows scope for competition following the expiry of the current sole-licence arrangements in 2004.
- Harm minimisation has also featured prominently in the Government's gambling strategy. These reforms have been based on research, national initiatives agreed to by the Council of Australian Governments on 3 November 2000, and extensive consultation with community, industry and other stakeholders.
- The Government has accepted, in principle, the recommendations of the NCP review of the *Gaming Machine Control Act 1991* to increase competition in the gaming industry.

Overview of progress

The Victorian Government has made considerable progress in reforming gambling legislation and regulations. In particular, it has implemented far-reaching reform, especially of public lotteries legislation and in the implementation of harm minimisation measures for problem gambling. The Government has also met many of its election commitments in gambling and is now examining avenues for further reform.

The Government appreciates that gambling involves both economic and social benefits and costs. The Government also understands that it operates in a complex policy environment. It has been clear, however, on its commitment to reduce the adverse effects of problem gambling while ensuring that those who enjoy gambling are able to do so safely. In trying to achieve these goals, the Government has held that success is dependent upon some key principles in gambling policy. These include:

- efficient regulation of the industry;
- adequate and appropriate probity; and
- better protection of consumer's rights, problem gamblers and the wider community.

In order to ensure the wider public interest is met, the following processes have been followed in reviewing gambling legislation:

- an examination of all economic and social costs;
- extensive consultation with industry, community groups and other stakeholders; and
- an assessment of existing rights.

In order to apply the public interest test, the Government has sought the expert opinions of various groups and individuals.

While implementing its gambling policy agenda the Government has ensured consistency with the NCP framework. That is, regulations and restrictions are implemented only when they are in the public interest. The Government has actively considered the competitive effect of all policy proposals and pro-competitive alternatives.

The public interest test used must take into account the specific circumstances of each jurisdiction and the effect on specific groups such as various cultural, local and regional communities. Regional considerations are particularly relevant in gambling because of the interaction between the socioeconomic characteristics of communities and gambling.

The Government has also introduced reforms to gambling regulation in order to ease the compliance and administrative burden in gaming. For example, citizens in regional Victoria can now apply for work in gaming venues more easily, following removal of a requirement that they travel to Melbourne to seek an employment licence. Fingerprinting can now be taken at the nearest rural division police headquarters rather than at the Victorian Casino and Gaming Authority (VCGA) offices in Melbourne. Further, reforms to the licensing regime mean that applicants no longer need a liquor licence for premises approval.

The Victorian Government sees gambling reform as a continuing process. It is in this context that the Government legislated to ensure that gaming machines have clocks and that venues have adequate lighting. These initiatives will allow patrons to make themselves aware of the passage of time and have a point of reference with the external environment. The proposal is consistent with the COAG strategy of 3 November 2000 and the findings of the Productivity Commission's (PC) 1999 report into *Australia's Gambling Industries*.

Wherever possible the Government focuses on being part of national solutions. An example of this is in the provision of information to players of gaming machines, where Victoria is working with the Federal and other State and Territory Governments through the Ministerial Council on Gambling and similar forums.

The Government has accepted, in principle, the recommendations of the NCP review of the *Gaming Machine Control Act 1991* to increase competition in the gaming industry. The Government has committed to review the duopoly and profit-sharing arrangements prior to the expiration of the contractual agreements between the Government and Tattersall's and Tabcorp in 2012.

The Government will be monitoring reforms and their impact while examining new avenues for action. It is for this reason that the Government established the Gaming Research Panel (GRP). The GRP will help identify research gaps, especially in areas that can assist in improving programs for existing problem gamblers and reducing the adverse social impacts of gaming.

Similarly, the Government has instituted other reforms that, together with the initiatives listed in this paper, will help achieve a balance in gambling. An example of this includes major reforms to the Community Support Fund. Under its revised charter, the fund will promote responsible gambling through provision of funds for research, community education, prevention and problem gambling services.

State-wide cap

The Government has continued the practice of capping the number of gaming machines outside the casino (by Ministerial Direction). The cap was last reviewed in April 1997. In addition the Government has frozen in legislation the number of machines permitted in the casino.

The Government notes the view put forward by the PC in its December 1999 report on gambling that quantity restrictions in general are blunt instruments. However, it also notes the PC's view that some caps may be more effective than others and that various situations exist, such as the combination of a machine number cap and a price cap, which

could make a global cap more effective. This evidence implies that global and other quantity restrictions may have some effect. In addition the PC's observations only concern the effectiveness of caps on minimising the harm caused by problem gambling. The Government has imposed caps to also address the adverse consequences arising from disproportionate levels of gambling expenditure in disadvantaged regions.

Undoubtedly, given the presence of other complex policy instruments, it is difficult to ascertain the effectiveness of a cap. The Government believes however that, at the current stage of growth in the gambling industry and under current policy settings, a set number of machines assists in tackling problem gambling by reducing accessibility.

As a broad principle, the Government believes that the costs of a state-wide cap on recreational gamblers must be assessed against potential positive benefits of restricting access to problem gamblers. Given the nature and magnitude of negative impacts of gambling, the public interest favours a continuing cap in the absence of alternative and proven strategies.

In particular, as the evidence is conflicting and not clear on this policy issue, it is preferable at this time to employ the precautionary principle and retain the cap on gaming machines.

Lotteries legislation

The Victorian Government views the creation of a long-term sustainable national lotteries market as critical to ensure consumers are well served and have access to a high quality lottery product. It is for this reason that the Government introduced the *Public Lotteries Act 2000* following extensive consultation and an independent review. The Act replaces the *Tattersall Consultations Act 1958* and will complete reform in this area.

The new Act conforms to NCP principles, and allows the Government to issue a licence or number of licences. By removing the legislative monopoly and creating the possibility of multiple suppliers, Victorian consumers may have the opportunity to be served by one or more efficient and responsive providers.

As part of these reforms, the Government has decided to retain Tattersall's monopoly until it expires in June 2004. This is because any revocation or material change to the operating conditions of the licence before expiry would risk compensation payments that may negate any potential gains. The Government has not yet decided whether licensing post 2004 will be for an exclusive licence or for multiple licences for different products.

The legislation entitles Tattersall's to a licence until 30 June 2007 subject to meeting certain conditions. However, the legislation does not provide a guarantee of exclusivity. The Government may issue one licence, if it is convinced that is the best option, or additional lottery licences effective from 1 July 2004. The Government will decide the best course of action by 1 July 2002.

The Victorian Government believes that the *Public Lotteries Act 2000* strikes an appropriate balance between the possibility of new entrants in the medium term and, most importantly, a new, competitive and sustainable national market in the long-term.

The Government notes especially that the June 2004 expiry of exclusivity is earlier than the other major States.

Enhancing probity

The Victorian Government believes in the strong probity of the gaming industry. Probity includes increased transparency and accountability of the industry to Parliament and the wider community. It is for this reason that the Government introduced the *Gambling Legislation (Miscellaneous Amendments) Act 2000.*

This legislation ensures mandatory provision of reasons for decisions, probity enhancing measures and the strengthening of enforcement provisions. In addition, the VCGA is required to conduct open hearings and sessions and the community now has access to information about applications and a range of other regulatory information. These reforms were part of the Government's comprehensive approach to increasing transparency in gaming that also included the release of the Second Triennial Review of the Casino and the casino tender documents.

Importantly, the Government also established a more arm's length relationship between the gaming industry and Government by discontinuing the inappropriate government promotion of gaming. The Government amended the objectives of the VCGA to remove the promotion of tourism, employment and economic development generally in the State. This will allow the VCGA to focus on its key objectives.

Gaming machine legislation

Gaming machines play an important part in the Government's gambling policy agenda due to their popularity with consumers, their contribution to State revenue and the higher incidence of problem gamblers who play on machines compared to others forms of gambling.

As part of the Government's NCP commitments, an independent consultant completed the review of the *Gaming Machine Control Act 1991* and other relevant legislation in late 2000. The consultant was charged with considering the social costs and benefits of further liberalisation of the market in the context of better serving the public interest. In particular, the terms of reference included an examination of the impact on competition of:

- licensing two gaming operators, while recognising that the Government will continue to uphold all its contractual agreements;
- gaming machine ownership, including the 50:50 split of gaming machines between hotels and clubs;
- the concentration of gaming venue ownership and the emergence of 'quasi clubs';
- the allocation of at least 20 percent of gaming machines outside the casino to non-metropolitan Victoria;
- the numbers of gaming machines per venue; and
- betting limits on gaming machines.

The review specified that the contractual agreements to 2012 between the Government and Tattersall's and Tabcorp would be honoured.

The NCP review was submitted to the Minister for Gaming for his consideration. The Government announced its response on 18 July 2001 following careful consideration of the review and the submissions received.

The Government accepted, in principle, the review's recommendations to increase competition in the gaming industry. A summary of the major findings of the review and the Government's response is outlined below.

The review found that the duopoly with Tattersall's and Tabcorp is uncompetitive and the Government should undertake a review before the 2012 licence expiry. In response, the Government noted that it has undertaken to honour principles and commitments given to business until 2012 and will review the duopoly closer to the expiry of licences.

In response to the review's recommendation that there be an end to profit-sharing arrangements for the two gaming operators which have led to excessive monopoly rents, the Government noted that the government review will consider profit-sharing arrangements, ownership structure and the number of gaming operator licences beyond 2012. The Government noted that the report erred in recommending that the Government use its discretion under Clause 8 to end the profit-sharing arrangements, as this clause was excised from the licences by the Kennett Government in 1996.

In addressing the issue of monopoly rents, the Government recently announced a $1200 levy per machine to be directed to the public hospital system. This is in addition to the $333 levy per machine introduced in the 1999-00 Budget. In introducing the recent raft of responsible gambling initiatives, the Government recognised it had imposed additional costs on the operators.

In relation to the review's finding that there be an end to "quasi" clubs, which the report found had attempted to circumvent the requirement that poker machines be split 50/50 between hotels and clubs, the Government noted that it would implement initiatives to ensure accountability of club venues. The Government will also continue to examine these recommended options as well as other measures.

The Government supported the review's finding that the restriction on 24-hour gaming should be retained. This new restriction was introduced as part of the *Gambling Legislation (Responsible Gambling) Act 2000* and was found by the review to be in the public interest.

In relation to the review's finding that the Government provide support for the racing industry independent of the existing duopoly, the Government restated its commitment to retaining support of the racing industry as an objective of the legislation.

The review recommended a removal of restrictions requiring 20 per cent of gaming machines be located in non-metropolitan Victoria. The Government noted the recommendation but stated that the current restriction will be retained until the impact of regional caps and the social and economic benefit tests are known.

The Government accepted the review's recommendation that the ability to set bet limits under Ministerial Direction should be retained.

Responsible gaming legislation

Through its Gambling Legislation (Responsible Gambling) Act the Government introduced key reforms to help combat problem gambling. The legislation was the result of a comprehensive public consultation process.

The Act promotes responsible gambling by restricting competition through a freeze on gaming machine numbers, restrictions on 24-hour trading, regional caps on gaming machines and provision for advertising restrictions. These measures are consistent with the COAG strategy adopted on 3 November 2000. No alternative non-competitive restrictive means of meeting the objectives were identified. It is the Government's view that the benefits of these restrictions to the Victorian community in addressing problem gambling outweigh the costs. An examination of individual reforms highlights the net public benefits from the legislation.

Firstly, the Act provides local councils with the opportunity to comment on the impact of applications to the VCGA for new gaming venues and for extra machines at existing venues. This will ensure that a wider range of opinions is sought and that, importantly, potential venue operators and the wider community consider the economic and social implications of additional gaming machines.

The introduction of regional caps on gaming machines was another critical initiative in the Government's fight against problem gambling and protects vulnerable communities from

the adverse economic consequences of oversupply of gaming machines. Regional caps will be put in place in areas where gaming machines are likely to cause harm. Importantly, implementation of the regional caps policy will treat all venue types equally, including the small club sector.

It should be noted that caps were the subject of an independent report that clearly demonstrated the importance of addressing gaming on a regional basis. The Victorian Department of Treasury and Finance (DTF) undertook significant research on this issue.

The Government appreciates that, while there may be adverse side effects of the cap on some venue operators and some recreational gamblers, it believes that its main effect of reducing accessibility in key regional areas will help stem problem gambling and that this benefit outweighs any cost. As the NCC notes in its *NCP-Third Tranche Assessment Framework 2001* paper, the overall impact of gaming machine caps will depend on other aspects of the policy environment.

The Government's responsible gambling legislation also provides for enhanced consumer protection in that players of gaming machines are to be given information relevant to gaming on gaming machines and for the regulation of advertising in relation to gambling in general. In addition to improving market information, and therefore market efficiency, the Government believes that better information will help players' understanding of games being played and, in the process, help tackle problem gambling. Following public consultation, draft advertising guidelines were considered by the Victorian ORR and a Regulatory Impact Statement was released for further consultation. Advertising guidelines were also among the harm minimisation measures that the PC supported in its gambling report.

The Government has also legislated to limit the operation of 24-hour gaming venues in Victoria. In rural areas, new 24-hour gaming venues are banned. In the metropolitan areas, no new 24-hour gaming venues are allowed without a demonstrated net economic and social benefit. The ban will help to ensure that individuals, in particular problem gamblers, do not spend excessively long times playing gaming machines.

The ban on 24-hour gaming venues was not extended to the casino due to contractual arrangements. Furthermore, in the interests of a level playing field in the metropolitan Melbourne area, the ban was not extended to non-casino gaming venues. The Government is monitoring the effectiveness of this reform.

Gaming and minors, gaming venue design

The Government has acted in the public interest to improve safeguards for individuals, especially children.

The *Gaming No.2 (Community Benefit) Act 2000* bans machines that offer cash prizes or cash redeemable prizes in amusement, tourist or recreational centres. These machines are usually found in amusement centres where children attend. It is the Government's view that these machines may act to induce children to gamble. Furthermore, under the *Public Lotteries Act 2000*, minors will now not be able to purchase lottery tickets.

Ministerial Directions also ban electronic gaming machines in unrestricted areas where minors are allowed. This restriction will remove the undesirable situation of exposing children to a poker machine environment. In a similar vein, the Government legislated that patrons should not have to pass through the gaming room in order to access any other part of a venue.

The requirement that physical barriers be used to separate restricted gaming rooms from other parts of the venue will also assist in clearly distinguishing gaming areas from other parts of the venue.

Bingo games are often held by community organisations to raise revenue with a portion going to the organising venue. Through the *Gaming No.2 (Community Benefit) Act 2000*, the Government legislated to guarantee that a portion of bingo revenues go to charity and community groups. This proposal arose as a result of the gradual erosion of proceeds from games due to bingo venues being able to exercise their excessive market power over clubs and charities to siphon off game proceeds. To ensure greater competition and also to provide community groups with another avenue for revenue raising, the Act removes an impediment to community and charitable fundraising by allowing community and charitable bodies to use trade promotion lotteries as an adjunct to their charitable activities.

Planning

In an effort to lessen the impact of gambling on local communities and, in particular, small business, the *Planning and Environment Act 1987* was changed in order to give effect to three initiatives. These include:

- the requirement that a venue operator obtain a planning permit from the municipal council before establishing a gaming venue which occupies more than 25 per cent of the floor area of the licensed premises where liquor is consumed;

- the banning of new gaming venues in specific shopping complexes across Victoria; and

- the banning of new gaming venues in many strip shopping centres (broadly defined as two or more adjoining buildings mainly used for shops located in business zones). In most districts the provision only applies to those centres that have been specified by the council in the scheme.

Complementary to these reforms are the Government's moves to place an increased emphasis on applying social and economic benefit tests in gambling.

Review of the Club Keno legislation

The *Club Keno Act 1993* was reviewed and a report submitted to the Treasurer in September 1997. The current Government is considering its response.

Review of racing and betting legislation

The Government has continued with the reform of racing and betting legislation. The former Government commissioned the independent consulting firm, CIE, to undertake this report during 1998. CIE consulted widely throughout the racing and gaming industry in the course of preparing the report and received over 30 written submissions.

The current Government released the CIE report in January 2000 and released its response to the report in August 2000.

The pieces of legislation reviewed by CIE were:

- *Racing Act 1958*;

- *Gaming and Betting Act 1994* as it relates to betting;

- *Lotteries Gaming and Betting Act 1966* – Part 3, Part 4 (except Division 7) and Part 5 (except Sections 69, 72 and 73); and

- *Casino Control Act 1991* – Part 5A and other provisions as they relate to the conduct of approved betting competitions.

In broad terms, the Government response indicated that:

- it will remove any unnecessary competitive restrictions, except where there is an overriding community benefit;

- it supports in principle the opportunities that alternative codes and proprietary racing may provide and will not maintain legislative obstacles where there are viable alternatives proposed that would contribute to the racing industry; and

- implementation of some proposals is best advanced at a national level. Where appropriate, the Victorian Government will actively promote deregulation at an inter-jurisdictional level.

The Government has begun a process of reform following its review. The Government's response to CIE's recommendations and its actions are set out below.

Other codes of racing

The Government supported CIE's recommendations that other codes:

- be given an opportunity to demonstrate to a Ministerial committee that they have sufficient integrity architecture to offer their sports as potential totalisator betting product; and

- be granted access to racing personnel (such as jockeys) and to established racecourses.

On 1 May 2001, the *Racing and Betting Acts (Amendment) Act 2001* abolished statutory restrictions on other codes' meetings in terms of geographic location and participation by licensed jockeys and drivers. An integrity assurance assessment process has been established to provide other codes with an opportunity to demonstrate their credentials in respect to possible off-course wagering on their racing events. Submissions are pending from various proponents of Arabian and quarter horse racing. Access to racecourse venues is not restricted by legislation and is a matter for individual Crown land management bodies to determine.

Proprietary racing

The Government supported the CIE recommendation that "until such a time as proprietary racing interests can provide detailed, costed recommendations for their independent regulation, it is recommended that the ban on proprietary racing remain". The Government issued a public invitation in April 2000 seeking expressions of interest with only one substantive submission received from Teletrak Australia. The Government has established an assessment process including engaging independent consultants to conduct the assessment. TeleTrak is yet to agree to submit to the process. The assessment process remains open to any proponent of proprietary racing.

Additional sports betting licences

The Government did not support the CIE recommendation that additional sports betting licences be made available. There is an overriding community benefit from continuing the current arrangements rather than legislating to enable a proliferation of sports betting licences.

Off-course sports bookmaking

The Government did not support the CIE recommendation that sports bookmakers be allowed to utilise hotels and clubs as agencies or to field at sporting events. Recent legislation has allowed sports bookmakers to conduct 24-hour trading at approved racecourses. Further broadening the range of venues will not assist in preventing the proliferation of sports betting outlets. Attendant costs for adequate central monitoring and supervision were also a factor in the Government's decision.

Various bookmaking issues

Minimum telephone bet limits

The Government supported CIE's recommendation that these limits be abolished. To minimise any adverse impact on the racing industry, and having regard to responsible wagering issues associated with off-course access to bookmakers, the Government initiated a phased reduction process commencing in July 2001. The limits will be reduced on an annual basis until totally abolished by July 2004.

Dissemination of betting odds during race meetings

CIE recommended a removal of restrictions. The Minister has power to approve dissemination in any circumstances and has exercised this power in a number of specific cases. To date however, the bookmaking profession has reserved its proprietary rights over this information and has not sought approval for any extension of the current authority. Dissemination of odds is managed by the racing industry at a national level and any change may need to be examined in this context.

Interstate advertising restrictions

The Government supported in principle CIE's recommendation to remove interstate advertising restrictions, despite Victorian bookmakers being disadvantaged by allowing interstate operators to advertise in Victoria if reciprocal access is not available to Victorian operators. This highlights the case for a national approach to advertising/access issues. The Government is advancing national reform through the Australian Racing Ministers' Conference. The Conference examined the issue in November 2001 and deferred the matter pending the completion of NCP reviews by all jurisdictions.

Incorporation and partnerships

The Government accepted CIE's recommendation regarding the support of incorporation and partnerships. The Government is prepared to remove legislative impediments to forming partnerships and incorporation of bookmakers, subject to appropriate mechanisms to exclude undesirable persons acting as directors or managers of those corporations. A joint Government-racing industry working party has been convened to examine implementation options and released a public discussion paper in November 2001. The working party has submitted its final report to the Government. The Government is currently considering the report.

24-hour Internet trading for race betting

The Government supported CIE's recommendation that bookmakers be allowed to operate on racing on a 24-hour basis using the Internet. Internet betting can be authorised under existing legislation. The Government is willing to remove restrictions on 24-hour trading on race meetings for appropriately monitored telephone or Internet betting. The issues of Internet betting, trading hours and trading locations are being considered by the abovementioned joint Government-racing industry working party.

Tipping services

The Government supported CIE's recommendation to deregulate tipping and similar betting information services. Deregulation was effected by the *Racing and Betting Acts (Amendment) Act 2001* on 1 May 2001. Such services remain subject to general regulation under consumer protection legislation.

Casino licensing arrangements

In its Second Tranche report, submitted to the NCC, Victoria noted that the *Casino Control Act 1991* was withdrawn due to a lack of scope for amendment without varying contractual arrangements with the existing casino operator and requiring payment of compensation. In particular, investigations indicated compensation required to remove the exclusive licence outweighed any benefit to be gained from removal. The *Casino (Management Agreement) Act*, between the State and Crown Ltd, limits the number of gaming machines to 105 at any one venue within a 100 km radius of the Melbourne Casino, from the licensing date - that is until 19 November 2005. The Casino (Management Agreement) Act also limits, for those parts of the State within a radius of 150 kilometres from the Site, another casino until 19 November 2005.

25. Child care

- Child care issues in Victoria are addressed through a balanced approach to the achievement of economic and social objectives in the public interest.
- Victoria legislation was reviewed as part of the gatekeeper process (Competition Principles Agreement (CPA) clause 5(5)) as the *Children's Services Act 1996* was passed after the commencement of National Competition Policy (NCP). Public interest is vested in ensuring that services for the youngest members of society are provided in a safe and appropriate environment.
- The continued application of Competitive Neutrality (CN) Policy to child care requires councils to examine the full cost of services and related policy objectives to ensure appropriate resource allocation decisions are made.

Overview

Child care in Victoria is an important social policy issue. In developing legislation and delivering services relating to child care, the public interest is a significant factor. However, notwithstanding the overriding importance of the public interest associated with child care, how these objectives are achieved and the economic consequences of service delivery and legislation need to be considered under competition principles including CN.

Child care in Victoria

The Victorian Government is committed to supporting families in caring for their children in their early years by ensuring that all children are given the opportunity to access high quality children's services. The provision of quality local services for young children and families is seen as being fundamental to the wellbeing of the community.

The Department of Human Services (DHS) is responsible for licensing children's services in Victoria. As at December 2001, there were approximately 2,770 licensed centre-based services providing almost 100,000 places for children aged 0–6 years. In addition, Victoria either funds directly or manages the distribution of Commonwealth and State Government funding to approximately 1,600 agencies providing children's services. There are approximately 2,100 service delivery locations across the State.

A range of providers is responsible for the delivery of these services including committees of management, local government, companies, tertiary education institutions, non-government schools, government schools and private individuals.

Victoria is committed to the development of flexible, integrated services, enabling families to access a range of services at the one location. For example, while the role of the preschool program has remained consistent for a number of years, there is now greater variety in how the program is delivered. Preschool can operate as a stand-alone service, or can be delivered as part of, or alongside other forms of part day or long day care in State primary schools. An increasing number of long day care centres are offering a funded preschool service, with 431 long day care centres (approximately 26 per cent) receiving preschool funding in 2001. In addition, the majority of preschool providers offer other programs such as three-year-old groups, school age care and/or occasional care.

The Bracks Government commissioned, a Review on the *Issues that Impact on the Delivery of Preschool Services to Children and Their Families in Victoria*, in 2000-01. The Government response to this review provides a vision for the future directions of the preschool program.

The proposed amendment to the current legislation to include Family Day Care and Outside School Hours Care will take full account of the NCP requirement to meet the public interest test and consultation phase. A Discussion Paper titled, *Early Childhood Services Policy and Quality Discussion Paper, Family Day Care, Out of School Hours Care and United Nations Convention on the Rights of the Child*, was released to the sector in November 2001, with state-wide information sessions provided. Feedback responses to this discussion paper have been sought as part of the consultation strategy and further consideration and consultation is required prior to amendments and future changes to the existing legislation.

Legislative review

Victoria has not listed its legislation for review as the *Children's Services Act 1996* was passed after the commencement of NCP. The previous government approved the legislation as being competitively neutral and compliant with public interest test requirements. Therefore, it was unnecessary to review this Act.

The Children's Services Act replaced Part XI of the *Health Services Act 1988* and modified the licensing scheme for children's services in Victoria. One of the major changes involved a change from the registration of premises under the *Health Act 1958* to the licensing of proprietors under the Children's Services Act.

Those children's services that are funded or owned by local government are subject to the same legislative requirements and fees as privately funded centres.

The Children's Services Regulations underwent an exhaustive regulatory impact process prior to their commencement. This process involved comprehensive consultation with the sector and endorsement by the Office of Regulation Review.

The Regulatory Impact Statement at the time identified the market to be affected by the proposal as those providing care and education services for children below school age, ranging from short duration occasional care to regular long day care services, and includes preschool and other programs. The market was identified to be diverse and complex, and encompasses all regulated children's services in the State of Victoria.

Restrictions on competition

The Act required services in the market to be licensed, which is prima facie a restriction on competition. The proposal involved individual regulations that in some cases limit entry to the market and may increase costs to participants. Key examples included:

- more stringent assessment of fitness and propriety of licensees and their nominees;
- payment of licensing fees;
- introduction of pre-employment criminal records checks of staff and others with direct care of children;
- qualified staff to be employed in all services;
- requirement for a minimum two-year early childhood qualification for qualified staff;
- first aid trained staff requirement;

- upgraded premises and facilities in a range of services; and

- indoor and outdoor space requirements for all licensed services.

No deemed restrictions on competition were entailed in the proposal, that is the proposal did not create a statutory monopoly, and did not allow only one purchaser of the product or service (monopsony), did not mandate fewer than four participants in the market, nor provide for quantitative limits on the number of persons authorised to engage in a business or occupation.

Why restriction was necessary

Where the proposed regulations restrict competition, the requirements of the Guiding Legislative Principle were met. Ensuring services for the youngest members of society are provided in a safe and appropriate environment was identified as an issue of overriding concern for the community.

There was clear public benefit in restricting the market through licensing services for preschool age children, without which safeguard the care and protection of children would be at risk.

The benefits of the restriction to the community as a whole outweigh the costs and the restriction is necessary to achieve the objective. The failure of the market to achieve alternative regulatory or non-regulatory solutions was examined in the Regulatory Impact Statement that accompanied the legislation.

Benefits and costs of restrictions

Discussion of individual regulatory proposals highlighted specific benefits and costs to children, the range of industry players, and to the community broadly in achieving the regulatory objective.

While the proposals entailed restrictions, the overall effect of the regulations was expected to stimulate, rather than limit, competition. Standards critical in ensuring the protection and care of children were enhanced. Families will access services that emphasise quality service provision and accountability to service users, thus promoting competition between operators. Thus market diversity is enhanced. Market entry for commercial and not-for-profit operators will occur on the same basis as for public operators.

It was identified that increased commonality of requirements for restricted and standard children's services would reduce artificial barriers, create greater choice for parents, and increase market opportunities for proprietors through incentives to provide a wider range of children's services. In such a context it would be attractive for some current and prospective proprietors to opt for licences to operate standard, rather than restricted, children's services, thus promoting innovation and the development of new products. Inflexible regulatory limits on the number of child places and hours during which children may be in long day care were identified to be replaced by processes that enabled service providers to better meet the needs of families.

The implementation of proposed staffing measures will generate benefits in the employment market and in the training sector. A more broadly based and skilled workforce will be created with increased opportunities for staff to work in a wider range of industry settings.

Implementation of the minimum two-year early childhood qualification for staff brought Victoria into line with other States and Territories, and will promote the development and delivery of training courses by the tertiary sector.

While outdoor space requirements were identified to possibly restrict activity in some cases, (for example, in the inner city), in general proposals for premises and amenities would stimulate activity in property development and related markets.

As the proposed regulations were implemented, appropriate transitional provisions were proposed to enable many smaller, community-based services to continue competitive operation in the market, and sustain the number and diversity of market operators.

The proposal represented significant streamlining of the regulatory regime. Such streamlining, with increased industry responsibility to maintain standards, was to promote an environment in which competition could thrive, while care and developmental needs of children are meet.

Any future legislation will be subject to the public interest test under NCP.

Competitive neutrality and child care

Under the Victorian Government's CN policy, government businesses should undertake a public interest test if the activities of the business have broader social, environmental and public policy objectives, which may be compromised by the implementation of a CN measure. Because of the inherent social policy issues involved, child care is an example of where a public interest test is likely to be required prior to the application of CN pricing.

In undertaking the public interest test, child care providers are required to explore a range of options including CN pricing. The process includes clarifying the public policy objectives, scoping the market, consulting all relevant stakeholders (including competitors), and identifying the costs and benefits of different approaches (including suggestions of stakeholders) to determine which option would most benefit the community. Finally, the CN policy requires the process and any subsidy provided to be transparent and publicly documented.

CN applies to all significant public business activities in Victoria including child care services. However, under the CN policy, any government business — including child care centres owned and operated by local government — can justify not implementing CN measures, if it is shown that implementation of competitive neutrality measures to the business in question, is "not in the public interest".

Child care is something of a special case in the application of CN that, in accordance with the CPA, is to be applied across all significant publicly owned businesses. The Victorian Government recognises that child care is generally provided by local councils in response to specific community needs and public policy objectives. However, it is not always the case that the full cost of the provision of child care is transparent and therefore recognised by councils or their constituents. Consequently the continued application of CN policy to child care requires councils to examine the full cost of services and related policy objectives to ensure appropriate resource allocation decisions are made.

The public interest test in the current CN policy allows for a balancing of CN objectives with other policy objectives, including Best Value and social policy objectives relating to the provision of child care, in an open and transparent manner. Fundamentally, CN is about making appropriate resource allocation decisions and a starting point for this is understanding the full costs associated with running the business, and is a requirement of both the Best Value and CN Policies. (Best Value Principles apply to the Victorian local government sector.)

Publicly owned child care facilities frequently operate in competition with private sector child care providers. It is appropriate that in determining fees, the council considers the specific market or circumstances that the public policy objectives are addressing. This environment may change over time. Best Value Principles will prompt the consideration of options in addressing these changed priorities.

The treatment of child care issues in Victoria involves a balanced approach to the achievement of economic and social objectives in the public interest.

26. Planning construction and development services

- The review of the *Planning and Environment Act 1987* found that the main restrictions in planning legislation were in the public interest.
- The community derived a net benefit from restrictive provisions in the Architects Act.
- The entry barrier to the profession identified in the review of the *Surveyors Act 1978* provided a net benefit to the community.

Overview of progress

The review of the *Planning and Environment Act 1987* found that, in the main, Victoria's planning legislation achieved its objectives in an effective and efficient manner and that the restrictions identified were in the public interest.

The review of the *Architects Act 1991* found that the community derived a net benefit from these restrictive provisions, primarily through consumer protection, and recommended their retention.

The review of the *Surveyors Act 1978* identified that the entry barrier to the profession provided a net benefit to the community and recommended its retention, but recommended the removal of other restrictions.

Planning and building approvals

The Victorian review of the *Planning and Environment Act 1987* and its subordinate legislation was completed in early 2001. Planning Legislation may restrict competition both in the market for the use and development of Victorian land, and the markets for the provision of the range of goods and services, which may be produced or provided using land. This encompasses most businesses.

The review found that, in the main, Victoria's planning legislation achieved its objectives in an effective and efficient manner and that the restrictions identified were in the public interest. The review made a series of recommendations aimed primarily at improving the manner in which the Act is administered to ensure that effectiveness and efficiency is improved and maintained. These recommendations are not just consistent with NCP principles and objectives, but also consistent with principles of good regulatory design.

The Government is currently considering its response to the review's recommendations. It is expected that the Government's response, with legislative amendment if such a response is deemed appropriate, will be finalised by 30 June 2002.

Architects

The PC completed a national review of legislation regulating architects. Victoria did not participate in the PC review, having already subjected the Architects Act and subordinate legislation made under that Act to independent NCP review in 1998–99. The review

undertaken in 1998-99 also addressed Victoria's *Building Act 1993* and its subordinate legislation, in part, to enable consideration of any opportunities to integrate Victoria's building and architectural legislation. When the Government has decided its response, implementation of the joint Architects and Building legislation review will be undertaken concurrently.

The key market restrictions identified in the Victorian review relate to constraints on the use of the title "architect" to registered architects, and controls on the ownership of organisations using the title "architect". The review found that the community derived a net benefit from these restrictive provisions, primarily through consumer protection, and recommended their retention.

The Victorian Government has consulted with the public and stakeholders in developing its response to the review of the *Architects Act 1991*. In its response, the Government will consider, among other issues, opportunities to increase regulatory consistency across the States and Territories. Victoria participated in a States and Territories working group, chaired by New South Wales, that has recommended a response to the PC inquiry.

Victoria is currently considering its response to the review of Architect's legislation focussing on the Victorian review but also taking into account the Inter-Governmental Working Party's response to the PC inquiry. The response is on target to be completed, including legislation, by 30 June 2002.

Surveyors

Victoria has a Torrens system of land title registration whereby the Government keeps a central register of land ownership rights, restrictions, valuations and improvements, and guarantees ownership according to this register. This system significantly lowers transaction costs and reduces uncertainties in the property market. Cadastral surveyors are an essential part of the Torrens system as they define and record the information that allows the land parcels and related interests to be identified and recorded with certainty.

In order to protect the integrity of the land registration system, the Government regulates entry to the market for cadastral surveying. That is, the Government considers that it is not sufficient (or efficient) to allow markets to determine what constitutes a good survey. One poor survey could impact on several title holders and the Government's ability to guarantee title, thus creating a negative externality. Therefore competition in the market for cadastral surveying services is restricted to licensed surveyors.

The Victorian Government has undertaken a review of the *Surveyors Act 1978*. The review identified that the entry barrier to the profession provided a net benefit to the community and recommended its retention, but recommended the removal of a number of restrictions and changed the proposed composition of the Board which now requires only four of the eight members to be licensed surveyors. Previously surveyors outnumbered non-surveyors five to one.

The Victorian Government has substantially accepted the recommendations of the review. Amending legislation was introduced into Parliament in 2001 but is yet to be passed by Parliament.

Appendices to 7. Water

Appendix A

A.1 Progress on Agreed Second Tranche Implementation Program

A.1.1 Water Allocation and Trading Framework

A.1.1.2 Bulk Entitlement Program

Table 7.1 Bulk Entitlements finalised and granted

Supply Systems	*Year Finalised*
Goulburn	1995
Moorabool	1995
Latrobe	1996
Otway rivers – Urban supplies	1997 to 1998
Glenelg region – Urban Supplies	1997
East Gippsland rivers –Urban supplies	1997
South Gippsland rivers – Urban supplies	1997
Central Gippsland rivers – Urban supplies	1997 to 1998
Werribee	1997
Kiewa/Rubicon (Southern Hydro)	1997
North East region – Urban supplies	1995 to 1999
Central Highlands region – Urban supplies (part)	1998
Murray	1999
Campaspe	1999 to 2000
Maribyrnong	2000 to 2001
Thomson/Macalister	2001

Table 7.2 Bulk Entitlements commenced but not finalised

Supply System	*Comment*
Melbourne	Awaiting review of approach to conversion – environmental assessment complete.
Tarago System	Closely tied to Melbourne system and subject to resolution of Melbourne conversion approach – environmental assessment complete.
Barwon	Negotiations finalised late 2001.
Ovens	Final stages of negotiation.
Broken	Final stages of negotiation.
Wimmera-Mallee	Process commenced late 2000 and continuing.
Grampians urbans	Part of Wimmera-Mallee process.
Loddon	Environmental flow studies initiated in early 2002.
Central Highlands – major urbans	Negotiations finalised.

Bulk Entitlement Conversion Process not yet commenced

Birch Creek

A.1.2 Management of Unregulated Rivers

A.1.2.1 Streamflow Management Plans (SFMPs)

1. Criteria for Setting Priorities for SFMPs

In the context of the work program for the development of SFMPs, the following criteria were used to set priorities:

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

2. Three Year Work Program

Progress against the agreed second tranche implementation program is set out in Table 7.3 below (milestone numbers below are used in the table). The current status of each SFMP is presented in terms of the key milestones:

1. development of background report from collation of existing information on environmental values, hydrology and water use;
2. commencement of environmental flow study;
3. establishment of a steering committee from key water use, environmental and recreational stakeholders;
4. development of hydrologic model;
5. development of draft plan;
6. release of draft plan for public comment; and
7. submission of final plan to Government.

Delays experienced in the preparation of SFMPs are mainly due to:

- the environmental flow methodology requires a reasonable range of flows during survey periods. The 1998 to 2000 drought resulted in delays of more than a year in obtaining survey results. A new methodology, currently under development, reduces the dependence on flow surveys. This will benefit SFMPs yet to be initiated; and
- many of these high priority SFMPs are over-allocated. In these cases, more time needs to be devoted to the consultation process. Providing better environmental flows

would have a significant impact on reliability of supply for existing users, and therefore, the consequences in terms of farm viability are likely to be extreme. The approach to dealing with this is to negotiate an interim environmental flow with a timeframe for meeting the target minimum environmental flow. Negotiating the interim environmental flow takes a considerable time.

Table 7.3: Progress on Streamflow Management Plans Program

Second Tranche Estimated Timing Completion Date	*River*	*Current Status (Milestones Achieved)*	*Revised Date of Completion*
SFMPs completed and under operation			
Dec 1999	Merri River (draft plan prepared)	All	June 2001
Dec 1999	Upper Latrobe River	All	Dec 1999
Dec 1999	Gellibrand River (draft plan prepared)	All	June 2001
SFMPs commenced by not finalised			
	Avon/Valencia/ Freestone Creeks	1,2,3,4,5 (restarted)	June 2003
	Barwon/Leigh Rivers	1,2	June 2003
	Hopkins River	1	June 2003
	Mitchell River	1	June 2003
June 2000	Moorabool River	1,2,3,4,5 (recently restarted	June 2003
June 2000	Upper Maribyrnong River	1.2.3.4.5	June 2002
Mar 2001	Kiewa River	1,2,3,4,5,6	June 2002
Mar 2001	Hoddles Creek	1,2,3,4,5,6	June 2002
	Morwell River	1	June 2003
	Tarra River	1	June 2003
	Ovens River above Myrtleford	1,2,3,4	June 2003
	Yea River	1,2,3,4,5,6	June 2002
	King Parrot Creek	1,2,3,4,5,6	June 2002
	Seven Creeks	1,2	June 2003
	Nariel Creek	1,2	June 2003
	Loddon above Cairn Curran	1	June 2003
	Diamond Creek	1,2,3,4,5	June 2002
	Plenty River	1,2,3,4,5	June 2002
	Worri Yallock Creek	1,2	June 2003
	Watts River	1,2	June 2003
	Stringy Bark Creek	1,2	June 2003
	Little Yarra	1,2	June 2003
	Pauls Steel and Dixon Creek	1,2	June 2003
	Olinda	1,2	June 2003
	Upper Wimmera	1,2,3,4,5	June 2002
	Avoca River	1,2	June 2003
	Mt William Creek	1,2	June 2003
	Avon Richardson River	1,2	June 2003
SFMPs not yet commenced			
	Narracan Creek		Rescheduled to commence in 2003

Second Tranche Estimated Timing Completion Date	*River*	*Current Status (Milestones Achieved)*	*Revised Date of Completion*
	Snowy River		
	Tambo River		
	Bunyip/Tarago River	1,2,3	Under review (part of Melbourne Water bulk entitlement – Schedule to be determined.
	Moe River		
	Albert River		
	Dandenong Creek		
	Fitzroy River		
	Delatite River		June 2003
	Badgers Creek		June 2004
	Wandon Yallock Creek		June 2004

Source: Department of Natural Resources and Environment

A.1.3 Management of Stressed Rivers

A.1.3.1 Progress against agreed Milestones for 2001-2002

Table 7.4: Stressed Rivers

Commitments for 2002	*Due date*	*Progress*
Thomson River		
Dam Translucency Study	August 2002	On target
Flow Monitoring Trial	December 2002	On target
Blue Rock Dam review	August 2002	On target
Assessing Thomson Fishway	March 2002	Minor delay until cost share resolved, revised due date August 2002.
Horseshoe Tunnel Fish passage	March 2002	On hold due to heritage and community concerns.
Wetlands -Water requirements	August 2002	On target
Fish-Water requirements	August 2002	On target
Levees impact on flooding	August 2002	On target
Avoca River		
Stream Flow Management Plan	December 2002	Commenced
Environmental Flows Study	September 2001	Minor delay-revised due date June 2002. Comprises a report for main stem, which is due 28 February 2002 and an additional study assessing the environmental flow requirements of important upper tributaries due in June 2002.
TEDI modelling	April 2002	On target
Terminal lakes flow requirements	July 2002	Delay due to administrative arrangements.
Catchment Dam Design to Pass flows	December 2002	On target
Nutrient Management Plan	June 2002	On target
Loddon River		
Loddon BE	Commence December 2001	Commenced
Environmental Flow study	August 2002	On target
Feasibility study of Kerang Lakes prime development zone	December 2002	On target
Loddon River Health Plan	December 2001	Minor delay revised due date August 2002
Glenelg River		
Environmental Flow study	September 2001	Minor delay-revised due date 28 February 2002.

Commitments for 2002	*Due date*	*Progress*
Monitoring & Decision Support System	Under-way	
Flow Releases from Rocklands	December 2002	On target
Extension Pipeline Feasibility Study	August 2001	Completed
SFMP Wannon River	August 2002	Major delay-revised due commencement date December 2003.
Regional Waterway Management Plan	December 2002	On target
Broken River		
Bulk Entitlement conversion	December 2001	Minor delay due to unresolved pricing issues, revised due date is June 2002.
Environmental Flows Study	August 2001	Completed
Releases from Lake Nillahcootie	August 2001	Minor delay-In principle acceptance of the flow recommendations for releases from Lake Nillahcootie but will only be finalised as part of the BE.
Investigate management options for Lake Mokoan	December 2002	On target
Determine a flow regime for the Upper Broken Creek	December 2002	On target
Gowangardie fish passage	December 2002	Expected delay due to the Broken River being used as a control site for the Campaspe flow study.
Lerderderg River		
Review of Environmental Flow provisions	August 2002	On target
Werribee Catchment Nutrient Plan	December 2001	Minor delay-revised due date for Ministerial endorsement March 2002.
Badger (Correnderrk) Creek		
Bulk Entitlement	December 2001	Minor delay-revised due date September 2002
Port Phillip SEPP Environmental Management Plan	December 2001	Minor delay-revised due date for draft March 2002
Maribyrnong River		
Upper Maribyrnong SFMP	December 2002	On target
Port Phillip SEPP Environmental Management Plan	December 2001	Minor delay-revised due date for draft March 2002

Source: Department of Natural Resources and Environment

Table 7.5: Additional Stressed Rivers

Commitments for 2002	*Due date*	*Progress*
Macalister River		
Lake Glenmaggie Flow Dam translucency study	March 2002	Minor delay as cost shares resolved-revised due date September 2002.
Gippsland Lakes rescue package – on farm water savings	Under-way	
Water requirements wetlands and riparian areas	August 2002	On target
Options to manage cold water pollution from Lake Glenmaggie	December 2002	Scope of project has changed after initial study *Status of Cold Water releases from Victorian Dams* (November 2001) identified Lake Glenmaggie as a maximum priority research dam
Wimmera River		
Environmental Flow Study	September 2001	Minor delay-revised due date June 2002. Comprises a report for main stem, which is

Commitments for 2002	*Due date*	*Progress*
		due 28 February 2002 and an additional study assessing the environmental flow requirements of important tributaries due in June 2002.
Upper Wimmera Stream Flow (Water Resource) Management Plan	December 2001	Minor delayed- revised due date is August 2002
Catchment Dam Design	August 2002	On target
Mt William creek SFMP	December 2002	On target
Northern Mallee Pipeline Implementation	Under-way	
Fishway strategy	December 2001	Completed
Nutrient Management Plan	December 2002	On target
Snowy River		
Scoping study review of structural rehab options	August 2001	Completed

Source: Department of Natural Resources and Environment

A.1.4 Groundwater Management

A.1.4.1 Groundwater Management Plans

When allocations reach 70 per cent of Permissible Annual Volume (PAV), a mechanism to establish a Groundwater Supply Protection Area (GSPA) is triggered and a Groundwater Management Plan developed. A consultative committee, comprised mainly of 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.

A.1.4.2 Progress to date

Progress against the agreed second tranche implementation program and revised targets and timetables is set out in Tables 7.6 and 7.7.

Table 7.6: Declared Groundwater Supply Protection Areas

Groundwater Supply Protection Areas	*Declared*	*Consultative Committee*	*Management Plan (Target)*	*Current Status*	*Revised Targets*
Completed					
Koo Wee Rup – Dalmore	Long established	Task completed	In place	Completed	NA
Shepparton Irrigation Area	Sept 1985	Task completed	In place	Completed	NA
Murrayville	Dec 1998	Task completed	In place	Completed	NA
Neuarpur	Feb 1999	Task completed	In place	Completed	NA
Yangery	Feb 1999	Task completed	In place	Completed	NA
Nullawarre	Feb 1999	Task completed	In place	Completed	NA

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Groundwater Supply Protection Areas	*Declared*	*Consultative Committee*	*Management Plan (Target)*	*Current Status*	*Revised Targets*
Underway					
Denison	Nov 1998	Established	Dec 2001	Draft plan submitted to Minister for approval	Mar 2002
Campaspe Deep Lead	Dec 1998	Established	Dec 2001	Final draft plan prepared for committee sign off	May 2002
Katunga	Dec 1998	Established	Dec 2001	Final draft plan prepared for committee sign off	May 2002
Spring Hill	Dec 1998	Established	Dec 2001	Draft plan submitted to Minister for approval	Feb 2002
Sale	Apr 1999	Established	Dec 2001	Draft plan submitted to Minister for approval	Mar 2002
Wy Yung	May 1999	Established	Dec 2001	Draft plan submitted to Minister for approval	Mar 2002
Deutgam	Jan 2000	Established	Dec 2002	Initial meetings of committee held	NA
Warrion	Aug 2000	Established	Dec 2002	Initial draft plan	NA
Telopea Downs	Jan 2001	To be established	Jun 2003	Establish consultative committee by April 2002	NA
Condah	June 2001	To be established	Jun 2003	Establish consultative committee by April 2002	NA
Bungaree	Apr 2001	To be established	Jun 2003	Establish consultative committee by April 2002	NA
Wandin Yallock	Apr 2001	To be established	Jun 2003	Establish consultative committee by April 2002	NA

Source: Department of Natural Resources and Environment

Table 7.7: Three year program for new Groundwater Supply Protection Areas

Groundwater Management Area	*Current Status*
Apsley	New proposal
Gifford	New proposal
Kaniva	New proposal
Kinglake	New proposal
Mid Loddon	Data collection phase
Murmungee	Data collection phase
Nagambie	Data collection phase
Orbost	New proposal
Rosedale	New proposal
Seacombe	New proposal
Upper Loddon	Data collection phase
Wa De Lock	New proposal

Source: Department of Natural Resources and Environment

Appendix B

The Water (Irrigation Farm Dams) Bill

Overview

The primary purpose of the Bill is to better manage Victoria's water resources. The Bill amends the current right to store water off waterways and use it for any purpose. In future, a licence will be required for all irrigation and commercial use in a catchment.

This Bill has been prepared in the following context:

- a strong commitment to regional development;
- avoidance of future fights for water that discourage investment;
- the need for a sound, well-regulated system that provides security for existing users and opportunity for future development; and
- the importance of water trading to enable water to move equitably to enterprises that provide the best economic return.

New licensing arrangements

The Bill extends the existing licensing arrangements that at present only apply to dams constructed on waterways, to cover all new irrigation and commercial use in the catchment. Licensing is not new to Victoria. It is the primary mechanism of managing the catchment's water resources and licences are already required for people who take water from a waterway or groundwater. This Bill extends the licensing regime to people who take water for other than domestic and stock use from a spring, soak or dam. Re-use dams up to a certain size will be excluded.

Existing unlicensed irrigation and commercial water users will be given the choice of applying for either:

- a registration licence, issued for 5 years and renewable on payment of a nominal fee, with the costs of the first 5 years to be met by government, or
- a standard licence, which is tradeable, to which normal annual fees apply.

This will enable all significant water use to be accounted for in whole-of-catchment management of the resource. It will also strengthen Victoria's compliance with the Murray-Darling Basin Cap.

Quantifying the resource

There is a limit to the amount of water that can be used within the catchment and from groundwater resources. These limits need to be defined and water resources allocated within these limits to ensure resource sustainability.

To do this the Bill provides for the specification of PAVs for both surface water and groundwater resources. PAVs have been used for many years to set limits in relation to groundwater resources. The *Groundwater (Border Agreement) Act 1985* provides for the

establishment of Permissible Annual Volumes of groundwater along the Victorian/South Australian border. Under this Act limits are established and water cannot be allocated beyond these limits.

The Bill extends these arrangements to apply to other areas of the State in respect of both groundwater and surface water.

New arrangements for water supply protection areas

Presently, the Water Act 1989 allows for the establishment of Groundwater Supply Protection Areas and enables community involvement in preparing management plans for these areas. The Bill extends these arrangements to surface water and allows for the declaration of Water Supply Protection Areas for groundwater, surface water or both groundwater and surface water together.

The Bill provides for an extensive consultation process for creating a water supply protection area and developing a management plan. Consultative Committees appointed by the Minister will be responsible for developing a draft management plan. Fifty per cent of the members of consultative committees will be farmers appointed after consultation with the Victorian Farmers Federation.

Transition package

To help with the transition to the new arrangements, the Government has developed a financial package for landholders wishing to build catchment dams for irrigation or commercial purposes over the next five years.

Environmental benefits

The Bill and its supporting procedures and guidelines reflect a strong policy commitment to the sustainable use of all water resources and strengthens Victoria's commitment to the Murray-Darling Basin Cap. The proposed arrangements for water resource assessment programs, Stream Flow Management Plans and the construction of future works will deliver significant environmental benefits. A licensing regime that manages the total water resources of a catchment will also result in better environmental outcomes.

Appendix C

C.1 Methodology for 2001 Price Review

C.1.1 Adoption of the 'building block' approach

The 'building block' approach was used to undertake the price review. The key elements of this approach are

- clear specification of service performance levels;
- medium term (up to five years) cost projection (operating and capital) to achieve those performance levels;
- return on capital (depreciation of the assets); and
- return on capital based on regulatory asset values.

The revenue requirement for each business was determined from these costs, which is recovered from customers through a set of tariffs comprising service fee and usage components.

C.2 Specification of service performance levels

The main service performance obligations for the urban water businesses are specified in the following instruments –

- metropolitan water and sewerage services – the operating licences of the three metropolitan retail water companies and associated customer contracts overseen by the ESC;
- metropolitan drainage services – the operating charter developed by Melbourne Water;
- regional urban water and sewerage services – water services agreements;
- environmental obligations – EPA licences and SEPP requirements.

The review was undertaken on the basis that the current service performance obligations as specified would remain for the period of the determination.

C.3 Projections of operating and capital costs

These costs were provided by each urban water business and were compared to relevant industry benchmarks relating to the service standards to assess the efficiency of proposed expenditures.

C.4 Return of capital – regulatory depreciation

Regulatory depreciation was assumed to be the annual average of the level of expenditure required to maintain the service capability of existing assets over time expressed in net present value terms. This approach is broadly equivalent to the annual cost of maintaining the service capability of the existing water and sewerage supply systems.

C.5 Return on capital – return on regulatory assets

The return on capital comprises two elements – the regulatory asset value and a rate of return on those assets.

C.5.1 Regulatory asset value

The Issues Paper released during the Price Review canvassed two methodologies. One is the 'line in the sand' approach, which is consistent with the approach adopted in most other infrastructure businesses in Australia for which formal periodic price reviews are undertaken. This approach involves discounting expected future cash flows required by each urban water business to operate and renew existing supply systems by the cost of capital. The other is the optimised depreciated replacement cost methodology.

Regulatory asset values used in the price review were determined using the 'line in the sand' approach.

C.5.2 Regulatory rate of return

The determination of the rate of return involved estimating the cost of capital for regulated water assets. Generally, as assets are financed in part through debt and in part through equity, a rate of return was set on the basis of the weighted average cost of capital (WACC) applicable to the debt and equity funding sources. A WACC of 6per cent real after tax was applied in developing the initial set of regulatory asset values for the urban water businesses.

Appendix D

Table 7.8 Full Cost Recovery in the rural sector – June 2001

	First Mildura Irrigation Trust	*Gippsland and Southern*	*Goulburn Murray*	*Sunraysia*	*Wimmera Mallee*
			$ million		
Revenue					
Bulk, service and usage	4.146	13.146	54.536	10.891	12.171
Other	0.492	4.060	23.892	2.607	2.513
	4.638	**17.206**	**78.428**	**13.498**	**14.684**
Expenses					
Operations, maintenance and administration	2.725	10.576	68.306	9.200	9.606
Finance charges	0	0	0.209	0	0.034
Other	0.894	0.819	3.999	0.663	4.203
Renewals Annuity	0.937	2.957	14.844	2.081	3.254
	4.556	**14.352**	**87.358**	**11.944**	**17.097**
Surplus	0.082	2.854	(8.930)	1.554	(2.413)[a]

Source: 2000-01 Annual Reports of First Mildura Irrigation Trust, Southern Rural Water, Goulburn-Murray Water, Sunraysia Rural Water and Wimmera Mallee Water

Note: Wimmera Mallee Water's result includes an expense item for the write down of some $2.4 million of channel assets abandoned due to the Northern Mallee Pipeline project. When the effect of this item on the business is removed, Wimmera Mallee Water achieved full cost recovery in 2000-2001.

Abbreviations

ABARE	Australian Bureau of Agricultural and Resource Economics
ABB	Australian Barley Board
ACCC	Australian Competition and Consumer Commission
AFISC	Australian Food Industry Science Centre
AgVet	Agricultural and Veterinary
AHMAC	Australian Health Ministers Advisory Council
AIEF	Australian International Education Foundation
ANZECC	Australian and New Zealand Environment and Conservation Council
ARMCANZ	Agriculture and Resources Management Council of Australia and New Zealand
ARTC	Australian Rail Track Corporation
ATC	Australian Transport Council
B2B	Business to Business
BE	Bulk Entitlements
BMP	Basic Meter Profiling
BSA	Building Services Agency
CATS	Customer Administration and Transfer Systems
CCA	Conduct Code Agreement
CCT	Compulsory Competitive Tendering
CIE	Centre for International Economics
CIS	Customer Information Systems
CMAs	Catchment Management Authorities
CN	Competitive Neutrality
CNCU	Competitive Neutrality Complaints Unit
COAG	Council of Australian Governments
CPA	Competition Principles Agreement
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
CSOs	Community Service Obligations
CUAC	Consumer Utilities Advocacy Centre
DB	Distribution Businesses
DEET	Department of Education, Employment and Training
DHS	Department of Human Services
DNRE	Department of Natural Resources and Environment
DoI	Department of Infrastructure
DoJ	Department of Justice
DPC	Department of Premier and Cabinet
DSRD	Department of State and Regional Development
DTF	Department of Treasury and Finance
EMG	Energy Markets Group
EPA	Environment Protection Authority
ESC	Essential Services Commission
EWOV	Energy and Water Ombudsman Victoria
FDR	Farm Dams Review
FRC	Full Retail Competition
GRP	Gaming Research Panel
GMPs	Groundwater Management Plans
GBEs	Government Business Enterprises
GSO	Government Superannuation Office
ISC	Index of Stream Condition
LPLC	Legal Practice Liability Committee
MCCA	Ministerial Council on Consumer Affairs
MDBC	Murray Darling Basin Commission
MIRN	Meter Identification Registration Number
ML	Mega Litres

MPC	Melbourne Port Corporation
MRA	Mutual Recognition Agreement
MSATS	Market Settlement and Transfer System
MSAC	Melbourne Sports and Aquatic Centre
NCC	National Competition Council
NCP	National Competition Policy
NEC	National Electricity Code
NECA	National Electricity Code Administrator
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NMU	Non-Metropolitan Urban
NRA	National Registration Authority
NWQMS	National Water Quality Management Strategy
NVWE	Northern Victorian Water Exchange
ORG	Office of the Regulator-General
ORR	Office of Regulation Review
PBS	Pharmaceutical Benefits Scheme
PC	Productivity Commission
PPS	Profile Preparation Services
PSAB	Pathology Services Accreditation Board
PTC	Public Transport Corporation
RMPs	Regional Management Plans
RRPs	River Restoration Plans
RWAs	Rural Water Authorities
SEPP	State Environment Protection Policy
SFMPs	Streamflow Management Plans
TERs	Tax Equivalent Regimes
TAC	Transport Accident Commission
TAFE	Technical and Further Education
TJ	Terajoule
TPA	*Trade Practices Act 1974* (Commonwealth)
VBINC	Victorian Broiler Negotiation Committee
VCA	Victorian Channel Authority
VCGA	Victorian Casino and Gaming Authority
VCAT	Victorian Civil and Administrative Tribunal
VEETAC	Vocational Education, Employment and Training Committee
VENCorp	Victorian Energy Network Corporation
VET	Vocational Education and Training
VGRRC	Victorian Gas Retail Rules Committee
VGCF	Victorian Gas Contestability Forum
VRHS	Victorian River Health Strategy
Vic Track	Victorian Rail Track Corporation
VWIA	Victorian Water Industry Association
VWA	Victorian WorkCover Authority
WACC	Weighted Average Cost of Capital
WSAA	Water Services Association of Australia
WSC	Water Services Committees