



HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND
PUBLIC ADMINISTRATION

Reference: Aspects of the national competition policy reform package

CANBERRA

Thursday, 6 March 1997

OFFICIAL HANSARD REPORT

CANBERRA

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND
PUBLIC ADMINISTRATION

Members:

| | |
|-------------|-------------------|
| | Mr Hawker (Chair) |
| Mr Albanese | Mr McMullan |
| Mr Anthony | Mr Mutch |
| Mrs Bailey | Dr Nelson |
| Mr Causley | Mr Pyne |
| Mrs Gallus | Mr Willis |
| Mr Hockey | Mr Wilton |
| Mr Latham | |

Matter referred to the Committee:

The aspects of the national competition policy reform package. The major issues the Committee has been requested to inquire into are:

(1) the appropriate means, including review processes, for applying the ‘public interest’ tests included in the Competition Principles Agreement:

These tests are a critical feature of this Agreement. They are described in Principle 1(3), which provides that:

without limiting the matters that may be taken into account, where this Agreement calls:

- (a) for the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or
- (b) for the merits or appropriateness of a particular policy or course of action to be determined; or
- (c) for an assessment of the most effective means of achieving a policy objective;

the following matters shall, where relevant, be taken into account:

- (d) government legislation and policies relating to ecologically sustainable development;
- (e) social welfare and equity considerations, including community service obligations;
- (f) government legislation and policies relating to matters such as occupational health and safety,

industrial relations and access and equity;

- (g) economic and regional development, including employment and investment growth;
- (h) the interests of consumers generally or of a class of consumers;
- (i) the competitiveness of Australian businesses; and
- (j) the efficient allocation of resources.

(2) the impact of competition policy reform on the efficient delivery of community service obligations including an assessment of:

- (a) existing government policies relating to community service obligations and
- (b) options for the delivery and funding of these services;

(3) the implications of competition policy reform for the efficient delivery of services by local government, including arrangements that have been developed between State Governments and local government authorities for the implementation of the Competition Principles Agreement.

WITNESSES

**DAVIS, Mr Robert Brent, Director, Trade and Policy Research, Australian Chamber of
Commerce and Industry, PO Box E14, Kingston, Australian Capital Territory 2604 464**

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND
PUBLIC ADMINISTRATION

Aspects of the national competition policy reform package

CANBERRA

Thursday, 6 March 1997

Present

Mr Hawker (Chair)

| | |
|-------------|--------------|
| Mr Anthony | Dr Nelson |
| Mr Causley | Mr Pyne |
| Mrs Gallus | Dr Southcott |
| Mr McMullan | Mr Willis |
| Mr Mutch | Mr Wilton |

The committee met at 10.21 a.m.

Mr Hawker took the chair.

DAVIS, Mr Robert Brent, Director, Trade and Policy Research, Australian Chamber of Commerce and Industry, PO Box E14, Kingston, Australian Capital Territory 2604

CHAIR—I declare open this hearing of the House of Representatives Standing Committee on Financial Institutions and Public Administration's inquiry into aspects of the national competition reform package. This is the seventh hearing this committee has held since it commenced the inquiry late last year. I welcome the representative of the Australian Chamber of Commerce and Industry to today's public hearing. I remind you that the evidence you give at the public hearing today is considered to be part of the proceedings of parliament. Accordingly, I advise you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament.

The committee has received your submission. We have numbered it No. 4, and it has been authorised for publication. Are there any corrections or amendments you would like to make to that submission?

Mr Davis—Nothing in writing, Chair.

CHAIR—Would you like to make a brief opening statement?

Mr Davis—Thank you, Mr Chairman. The Australian Chamber of Commerce and Industry has been actively involved in the whole competition process almost since its inception with the appointment of Professor Hilmer and his colleagues about five or six years ago. We commended the initiative at the time, regarding competition as an area long in need of some detailed attention. We made substantial submissions in that initial process, in the analysis of the Hilmer report and in the various legislative processes. We also worked, we like to believe, with our state chambers of commerce and industry, guiding some of the state governments who were a little slow at the time to embrace some of these reforms.

When the competition principles agreement was signed by the heads of government several years ago and legislation was passed, we were relieved that some far-reaching reforms were put in place. In many respects, where this committee is at is, like the National Competition Council and the ACCC, actually putting some flesh onto the bones, which the parliament and the state and federal leaders at the time agreed. That is not going to be an easy task. We are watching that very closely.

We have identified a number of areas which will be difficult. The most obvious and the most immediate on the agenda of this committee is the issue of public interest. I might come back to that. The other is, of course, access to essential facilities, which the National Competition Council is dealing with now. They have three rather interesting cases which have some far-reaching precedents. As well, a number of the state governments are coming forward with their own access regimes. So it is rather interesting that the state governments are being pro-active rather than reactive, especially the government of Victoria.

CHAIR—Which three?

Mr Davis—Victoria has something out already, we believe Queensland is coming through, and we believe Western Australia is coming through soon also, although possibly from slightly different angles. In relation to access to essential facilities, there are a number of interesting cases in air transport and in rail

transport. As I say, when the legislation and the principles agreements were developed those doing it thought about how that might be used—I know we consulted closely with the federal Treasury at the time—but the case studies coming through at the moment are not what were expected. But, again, they do have some credibility to them.

Those that are more likely to come on in the medium term are things like the structural reform of public monopolies—again, predominantly in the state area. Successive federal governments have moved a fair degree down the track there, and there is not a great amount we can see as a general rule in reform. Again, most of it will probably be in the state government area. Competitive neutrality is an issue that will have to be looked at, but that is probably longer term.

This committee has looked at community service obligations, and we have put in our views on that. Our view is that we have little problem with governments asking government business enterprises or anybody to deliver a community service obligation. Where we tend to part company with governments is how that should be done and how it should be funded. As we say in our submissions, we are not in favour of implicit or concealed cross-subsidies. As a general principle we believe government business enterprises should operate as business enterprises and, if governments wish to have a community service style of obligation delivered, it should be done in a transparent way on a contract basis.

In terms of the other matters before this committee, the public interest and public benefit, we think that is going to be terribly important from a business point of view because at the moment it is a rather intangible concept for them. We are aware the competition principles agreement sets down about six or seven possible criteria but then they say that that is not exhaustive. The old Trade Practices Tribunal, now the Australian Competition Tribunal, has a list of about 15, and that is not exhaustive either. One of the problems for business, of course, is that, until we can get some feel on the relative priority—whether there is going to be a consistent application or a case by case approach—it makes it rather difficult to know how the playing field will operate and, again, to some extent what game we will be playing.

The other big issue that we will be watching—we are looking to have some dialogue with the National Competition Council on this one—is the competition dividends issue, which I am sure will be a matter of great import in about three weeks time, when the federal government sits down with the states in the Council of Australian Governments process. At \$1.6 billion per year, it is not a small amount of money. In these straitened fiscal times I think all Treasurers, state and federal, will have a very keen interest in seeing how that is shared.

Our view is that the payment and its allocation should be performance based. We recognise that the National Competition Council and the federal Treasurer will have to balance some very delicate political commitment issues against questions of merit. We wish them well in their deliberations on that, but at this stage we will be watching very carefully to ensure that it is in fact a performance based system. But, again, we do recognise there will be some political considerations behind that. I think that is probably sufficient at this time, Mr Chairman.

CHAIR—Thanks very much. In your opening remarks you mentioned the case studies are not what you expected. Could you elaborate on that?

Mr Davis—When we sat down and originally asked about what an essential facility was some of the early drafts of the works and the texts that were then written said that an essential facility could be as much as a football field. At the time, taken literally, that was correct. The nature of an essential facility now is something that is essential, cannot be reasonably reproduced but has a national significance for international trade and commerce.

The three that are currently active on the table include one about access to Sydney and Melbourne airports to provide ground handling services for international freight. We did not foresee that. It is probably significant for international trade and commerce in that it is effectively a duopoly at the moment and some greater competition in there probably could benefit our international trade through the airfreight system.

The other two pertain to rail. A subsidiary of BHP Transport called Carpentaria is initiating an access application against the government of Queensland and its rail arm, their argument being that Queensland Rail and the Queensland government unnecessarily restrict that. That is not as directly related to international trade and commerce as the airfreight example. However, having said that, if you want to export coal, say, out of Queensland you have to go by rail. One could open the rail carriage to road, but it is probably not viable to move that mass volume.

The other is a very interesting one: Specialised Container Transport are taking a comparable style of action with the government of New South Wales. They want to get better access to the interstate rail network by getting better access to the intrastate rail network in New South Wales.

When we did our original work in this area we really thought that essential facilities would have come down to things like gas pipelines, high voltage powerlines and possibly a few other things but primarily those two examples. They are reasonable cases to argue. One of the issues I think the National Competition Council will have to look at when it does deal with access matters is that it is not becoming a mechanism for settling other grievances that have not been resolvable in other fora. We suspected that might happen. We are not alleging it in any of these cases, but it is something the NCC will have to watch carefully.

CHAIR—One of the other areas that we have been very interested in in relation to competition policy to date is that there seems to be a lot of focus on the procedures and so on but not on outcomes. Do you share that view?

Mr Davis—In many respects the parliament has sort of delegated to the National Competition Council a process or processes, if you will. The open transparent public inquiry process, we think, is sound. It puts it all out in the public domain for everyone to see. It is probably a little early at this stage to get outcomes. There is, I think, activity that is taking us forward. The National Competition Council has these access regimes. The governments are obviously considering the competition dividends. That is a very powerful inducement. This committee is obviously looking at some of the more difficult issues like CSOs and public interest. So I think that, given the legislation and the agreement have been in place for only 18-odd months, I do not think there is great cause for concern. I think there is sufficient activity that gives us hope that we will go forward.

Mr CAUSLEY—With respect, Mr Davis, that is a very poor answer because the fact is that we are

making some very big steps in this competition policy. We are making decisions that are probably irreversible and you are saying wait and suck it and see. Many of your members are putting the money in their pockets; they are not passing it on to consumers.

Mr Davis—I think Mr Causley's view is in fact a good argument for taking a very cautious approach and, if it is as profound and far-reaching as he suggests, then I think we would rather proceed cautiously and get it right. There are many complex issues in a lot of this. In terms of how we have seen a distribution of the dividends of these things in competition policy, I think it is early days yet. We have not had enough meaningful decisions, let alone enough outcomes, of where the ramifications flow out to know how those benefits are being distributed.

If one wants to take a wider view of this in the whole micro-reform debate initiated under the previous government and carried forward under this one, there is a very good case to have a look at how the dividends are being distributed. I have no question about that. It is something we have been saying, for example, in the waterfront area for quite some time—who has captured the benefit of these? At this stage we are not aware of any robust work that helps us. But I think Mr Causley is right: in the long run, maybe in three or four years time, we will have to examine very carefully who has captured the benefit and where.

CHAIR—Is there any reason why this competition dividend should be paid out now?

Mr Davis—I think the arrangement between the governments is that it will be paid out over a 10-year cycle. The figure that we understand is up for distribution is about \$16 billion. The National Competition Council may reflect on the situation and say to governments, 'It is too early. You have not done enough. We have not seen enough decisions or enough outcomes. We will carry over this year's potential dividend to next year.'

CHAIR—That was my question about outcomes.

Mr Davis—In which case the National Competition Council could readily say that—that they will carry that over to next year until we have seen outcomes. It would be very interesting to see how the NCC handles the matter.

Mr ANTHONY—Which states are at the forefront at the moment of competition policy?

Mr Davis—We think Victoria has probably gone further than most. In terms of electricity they went ahead and did it, and it broke up their system. Other states like Queensland, say, in relation to electricity have looked further behind. Victoria has gone forward and has two quite substantial papers on the table that we are aware of in the public domain. One is a long document on competitive neutrality, and the other document is how they handle their port shipping channels. So Victoria appears, on the access issue certainly, to be proactive—that is, saying that they will put in place an access regime which is acceptable rather than being reactive or defensive through a whole lot of applications before the National Competition Council. To the best of our knowledge, the other states are working away at it assiduously at officials level, but are not aware that much has appeared in the public domain.

Mr WILLIS—Mr Davis, are you aware of any work done on quality of performance with the competition changes? The electricity industry in Victoria is perhaps a good example. It is my recollection that, prior to the competition changes, there was never any power failures in Victoria. Now power failures seem to happen quite regularly, even to the point they black out one-day cricket matches at night, the tennis and so on. That gets plenty of coverage, but on a smaller scale they happen in the area where I live and where my office is in Melbourne. It is uncommon. I am sure it is not isolated to us. This seems to be something that has come along with the whole privatisation of the electricity supply industry anyway. I was just wondering whether you have any views on whether that is so, whether any work is being done on this aspect.

Mr Davis—We are not aware that competition has brought a decline in reliability. Of course, it is always a case of working whether there are other factors in there in terms of load. So I would have to take that one on notice and examine that.

Mr WILLIS—I do not see any reason why it should be a consequence, but it seems to be a consequence.

Mr Davis—One of the problems we have observed in some of the work we have done on electricity—we were intimately involved in that reform process—is that it is often difficult to distinguish other factors and how you benchmark yourself. It is easy to benchmark, say, Hong Kong or British Columbia, who are there as exemplars but they are tight, very small geographic areas, they do not suffer bushfires and animals getting caught up in powerlines and the like. So blackouts and brownouts are very complex issues, and I think you have to track them back. We are not aware of any studies per se. All the benchmarking work we have ever been involved in tended to be more on international comparisons rather than comparisons within Australia over time.

Mr WILLIS—But in terms of the benefit to the community, reliability of the service is important as well as the price.

Mr Davis—Our whole engineering of our electricity system is based on one principle, which is reliability first and foremost and then everything else follows after that. The debate was what sequence you put the issues into, but reliability of supply was something the engineers took as being non-negotiable.

CHAIR—I think that, in fairness, the quality of supply has improved in Victoria, particularly out in the country because the variation in voltage used to be quite significant.

Mr PYNE—I would like to ask a question about community service obligations. You have said in your submission that commerce and industry are the main losers from what you regard as cross-subsidies in CSOs and that the winners are marginal seat voters and lower income earners. Could you explain what you mean by that?

Mr Davis—We did some research with one of our member organisations and we looked at a number of examples. We looked at water, electricity and sewerage. The distribution of the subsidy tended to flow much as you described. Business tended to be a net payer and consumers and householders tended to be the

net recipient against an average cost basis.

We would have to now observe that that research was done in 1991-92 and the attitude of state governments to CSOs has been to move towards this transparency and they have largely held steady costs to business. The New South Wales government under Mr Carr, and I think under Mr Fahey before him, adopted almost a stable business price and allowed household prices to rise, so they have dealt with the cross-subsidy in that respect. In terms of the distribution across electorates, it was an observation based on statistics.

Mr PYNE—What does an observation based on statistics mean? What exact statistics do you have that show that marginal seat voters are better off than anybody who is not in a marginal seat? I would have thought that it would not matter where you live, if you are a low income earner, if you are in my electorate, which is a safer seat, you would get the same benefit as if you were in a marginal seat like perhaps Ian Causley.

Mr Davis—We just observed that that tended to be a structure of the distribution.

Mr PYNE—I do not know what Ian Causley's margin is, but I know he won it off Labor, so I am assuming.

Mr Davis—In the transport area one tends to see a lot of those inter-regional distributions being stronger than elsewhere. Transport subsidies tended to favour outer suburban areas which tended to be more marginal and in some cases the provincial towns. Again, thinking back to the example of New South Wales, that has been wound back at the moment, as we understand it, under government policy.

Mr CAUSLEY—This whole debate about cross-subsidisation is quite interesting. I have no argument about transparency when you are dealing with taxpayers' money—no problem at all. But of course it is a bit righteous for business to stand up and talk about transparency because they have cross-subsidisation all the time. Big business tries to drive small business out and they are subsidising their operations from monopoly policy, not competition policy.

Mr Davis—The obvious answer to that one is that I have colleagues who look after small business issues. This is outside my domain, so I am treading on their patch. I would have to take that one on notice and consult my colleagues. As I say, I do not deal with small business.

CHAIR—To be fair to Mr Causley, I think all of us suspect examples of that on many occasions.

Mr Davis—As much as I know it, there are matters my colleagues are dealing with in areas like fair trading between owners, say, of large commercial shopping complexes and some of the tenants.

CHAIR—Or concrete suppliers?

Mr Davis—I know my colleagues are looking at this quite intensely. As I say, I am not sufficiently across the issues to give Mr Causley a quality response.

Mr WILTON—Overall, how do you go about measuring the effectiveness of competition policy? Has ACCI put down any criteria it tends to measure whether or not it is having the benefits that you hope it will have?

Mr Davis—Indeed those are the sorts of issues we want to take up with the National Competition Council when they start to do their work on competition dividends. As I guess Mr Wilton implies, it is not quantitative and you can stand there with a measure and just observe that there is more competition. It tends to be largely qualitative. The obvious test is how many players there are in a market, the ease of entry into or exit from a market, what sorts of barriers there are to that market, what the conduct is in a market and those sorts of issue. In terms of competitive neutrality, the same sort of thing applies—whether there is still a net advantage by the government enterprise from its government ownership or whether it is the same.

Again, that would be difficult to measure, especially at the local government area, where we tend to see that is where problems are. Our observations in, say, competitive neutrality will not be so much at the federal level. The number of areas where a business enterprise would want to compete directly against a federal government GBE is probably quite small, and I think where it is plausible they are already out there. There is plenty of competition to Comcar, and there is sufficient competition to the government printer. But we are currently looking at where that sort of pressure point will come out with local government, especially for small companies.

Mr WILTON—Which areas of the Australian economy would you suggest should not be impacted upon by competition policy? Which areas should not have it thrust upon them?

Mr Davis—We know that the issue of exemptions was one of the most heatedly debated in the whole process—whether anybody should automatically get an exemption. We are aware that some areas of agriculture put their hand up and said they should be automatically exempt. The newsagent ones are regularly reported in the press. It is still unclear whether or not the Howard government has made a commitment to newsagents. We pursued the matter and we cannot find an absolute answer one way or the other. We do not believe anybody should get an automatic exemption. Indeed, that was written—

Mr CAUSLEY—That was clear in our election policy.

CHAIR—Yes, I was going to say that.

Mr Davis—We believe that everybody should go through the rigorous open public transparent inquiry process. It is there. If someone wants an exemption or other form of special treatment, we believe they should argue their case in that public fora with those who support them and those who take the contrary view. If they can make a good case for special treatment and carry the day intellectually, that is fine.

Dr NELSON—Mr Davis, firstly—this might seem like a trivial point—on page 22 you describe the former Greiner government as a conservative government and then you go on to talk about the introduction of a series of far-reaching reforms. I would prefer to see it described as a Liberal coalition government. Coming back to what Mr Willis was alluding to, what do you think are the potential problems with private sector provision of community service obligations? I think Ralph has picked up on at least one. What

mechanisms could we put in place to try to prevent them?

Mr Davis—There is probably no automatic problem with the private sector delivering a community service obligation for a government, I think it is a matter of government having clearly in its mind what it wants done. We are aware in much of the work done on CSOs by Telecom and others in the late 1980s it was not clear from their governmental masters what they were actually asked to do. They were often told the sort of expectation and were left to their own devices to interpret or to deliver an outcome. I think if the business community were to deliver a CSO, it would want a very high degree of precision from government about the outcome they wanted to achieve, whether they were to deliver the outcome in the way they saw fit or whether the government wanted to define the outcome and the means of getting there.

Of course, it would not be the case of almost a ministerial instruction. It would have to be an expressed contract with the private sector. But there is very little they could not do. They could deliver medical services. They could deliver education services. If governments decided they wanted to run a bus service in an area that was not otherwise profitable, the business community could do that for them. It would just be a case of transparency and clarity. Any other form of contracting out that government undertakes would be in the same model.

Dr NELSON—Whilst I can assure you that I am a very strong advocate of the private sector, I must say that in relation to some of the observations you would make, the inherent nature of the business sector is such that the social obligations that governments are required to meet which might be provided by the private sector are not always profitable—in fact, frequently they are not. So, clearly, as you say, the government could in fine detail outline what it expects, but surely you reach a point where a private sector operator says that, whilst this might be a CSO, they are not prepared to deliver because it is not going to help their bottom line. How do we stop that?

Mr Davis—A private sector operator, as you rightly point out, would not undertake something which was not profitable. A government, however, may say, ‘We want this service delivered. Can you tender to do it for us?’ A simple example that probably illustrates this best is that a bus operator may say that he does not want to run a bus that carries only six people over 60 kilometres and that it is not worth it for them unless they charge them a fee that they are never going to pay. The government may say, for whatever reason, that it wants them do it. The operator would then say, ‘If I’m to do it, here’s a contract. These are the details. How frequent do you want the bus service. Do you want it on rainy days, in fine weather? Do you want it four seasons of the year? Do you want a big bus or a little bus, with airconditioning or not?’ It would be just a straight commercial contract with government. So government would have a choice then. It could engage a government business enterprise to do the activity. It could order the local government owned bus line to do it, or it could say to the private sector player, ‘Tender for me and tell me what you would charge us to do this.’

Mr ANTHONY—I suppose the whole thrust of national competition policy is that the ultimate benefits will be lower consumer prices. That is the guts of it. I do not disagree that in relation to electricity and gas, where there is major—it looks like we have a division coming up.

CHAIR—We will have to adjourn the hearing because we have to go to a division. We will be back in about 10 minutes.

Short adjournment

Mr WILLIS—I want to ask about CSOs. Are you aware of the report by another committee of this parliament on Australia Post which recommended unanimously that the CSOs for Australia Post be provided not by way of a budget supplement but by a continuance of the cross-subsidy? The reason for that was, largely, that they believe the CSO would be imperilled if it were placed on the budget and that loss of the CSO would be the deprivation of a very important service to the beneficiaries of the CSO. What is your view about that? I know it is a common business approach to say, 'Let's put it on the budget,' when governments normally are not anxious to see additions to the budget anyway—they can push them up somewhere else. But, even more importantly, in terms of the continuance of the community service obligation, don't you think it is somewhat imperilled by that sort of process?

Mr Davis—I guess it is only in peril if governments change policy and priorities. If governments wish to provide mail services to those, I guess in this case, in isolated areas, then obviously they will fund it accordingly. Ultimately in any global system of public finance it has to be paid for somewhere at the end of the day. It is paid for by cross-subsidy between the different users of the different mail classifications—those in different regions. If postal cross-subsidy were imperilled, the obvious implication would be that a government could say that they did not want to pay that. That is an electoral risk the government would have to take. The obvious inference in this case study of the post in Australia would be that a government would say, 'Basically, we're prepared to take the risk on votes in country Australia for what we perceives might be some benefits in a capital city or provincial Australia.' That is a political risk the government would take in making that decision.

In terms of delivering a CSO in the postal system, it is not that difficult. The obvious issue is that in some parts of Australia, in country and rural Australia, 45c does not cover the cost of delivering an envelope. In some cases in isolated western Queensland it can cost, we believe, up to \$3. The mechanism of actually doing it is quite straightforward. The person would tender for a contract to deliver postal items in an area, and they would be remunerated on the difference between what Australia Post charged for that and what it cost them to deliver it. So it would be a straightforward contract.

But, again, to answer Mr Willis's question, the risk factor is not an inherent problem in the CSO mechanism. It is a political question for government, and that is something governments would have to take an electoral risk over. If they disregard country Australia for whatever reason, that is their political judgment and the electorate will tell them what they think. It is not an inherent structural problem in CSOs.

Mr WILLIS—I think I would agree generally with that point. Nevertheless, there is a risk there that is not a risk at the moment. It can be run down over time, for instance, because it is not adjusted or, due to budget stringency, it becomes open an area for attack and a recommendation by the Department for Finance for reduction, so it becomes part of the array of nasty decisions that governments have to take and maybe that gets taken, and therefore the CSO is cut back and the benefit of that community service obligation is lost. I think the political reality is that what you are recommending makes the continuance of the CSO less likely than it is under current arrangements. That is why I think both sides of parliament on the committee unanimously supported the continuance of the present arrangement.

Mr CAUSLEY—At present there are many examples where country people are not listened to because they do not have the weight of numbers politically.

Mr Davis—For what reason?

Mr CAUSLEY—If you want to start to talk about forestry or something like that.

CHAIR—Let us just keep to competition.

Mr CAUSLEY—There are plenty of examples of where that falls down because, politically, there is not much clout in isolated areas.

Mr Davis—I think that is a separate line of discussion. I am happy to engage in it at another time.

Mr WILLIS—I have just one other point, Mr Davis, on the competition dividends for the states. I think you mentioned a figure of \$16 billion. I am not sure where that comes from. The IC report said that the overall benefits could be in the order of \$23 billion, as I recall it. I think the states calculated, with the assistance of the Industry Commission, that the benefit to the Commonwealth of that would be in the order of \$5 billion. The eventual agreement was to give the states a much smaller proportion of that \$5 billion, presuming that the Commonwealth had achieved it. So we are not looking at \$16 billion in terms of a payment to the states. We are looking at payments to the states of maybe \$1½ billion or something like that, as I recall, over time. It is a much smaller amount of money.

Mr Davis—We worked on the principle that, if the \$23 billion was there, you take out the \$5 billion which the states believe they would hold onto themselves and make a few other adjustments. But we are aware that some of the figuring is towards that higher number. But, again, that would be one of the issues that the NCC will have to look at—the quantum of the cake and then its distribution. That will be a very interesting political issue.

Mr WILLIS—I agree.

Mr ANTHONY—I have a similar point to what Mr Willis made before we were interrupted by the division. National competition policy has been good for major power utilities such as gas. You talked in your earlier address about the next phase of reform, in relation to rail in particular. The premise in your opening statement was that it will theoretically lead to lower consumer prices; yet, picking up this theme about more remote areas, that is not necessarily the case, even if you segment out the CSO and have an arrangement with the provider and the government.

I am concerned by something in your submission. This is not unique to you but relates to other business organisations. Whilst you may start out with the best intent, I would have thought it is prudent for you as well, if you want some of these reforms to get through, to look at some of the political downsides, particularly in remote areas, because those CSOs, even if they are transparent, are absolutely for those regions. With due respect, in many areas we are not seeing lower consumer prices. We are in some of the big capital items, but in a lot of areas we are not.

Something else in your submission that I would like you to comment on is the problem you see in GBEs having a lower rate of return because they are not required to meet whatever the shareholder rate of return is. You are saying that this is an advantage that they have over the private sector and therefore they should be penalised, but in so many areas the only provider of some of these services has to be government.

Mr Davis—It is an interesting question that Mr Anthony has raised.

Mr ANTHONY—Rail is a classic example. We talk about these reforms. I am not quite au fait with some of changes that are happening there. Even with New South Wales, the greatest thing they would like would be for private operators to get onto branch lines, get rid of these assets and have a CSO. But I bet my bottom dollar that in a year or two they will cut the CSO and say that it is the private operator that has terminated that service, not government. It will be an exit route for many governments for getting out of enterprises where it is obviously costing them too much. I question the credibility of some of those motives.

Mr Davis—Mr Chairman, Mr Anthony's latter point is virtually the same point Mr Willis made.

CHAIR—Yes, exactly. It is another version, but it is a very real concern.

Mr Davis—It is a question of governments; and, in a political democracy, they are politically accountable for that decision. In terms of whether some of these competition reforms will lead to a diminution of services to country Australia, we are well aware through our country chambers of commerce network of precisely those points. However, when we did the electricity work we studied this and asked, 'If we have competition in electricity, will country Australia be better or worse off?' We never got an absolutely unequivocal answer.

One view that we did observe, though, is in terms of the augmentation of the extra high voltage lines—basically the power supply to country Australia. We believed that competition would deliver greater benefits to country Australia probably more so than city Australia because, in terms of augmenting a power supply system out in country Australia, the attitude of the government owned monopoly tended to be that you had to have sizeable steps up in demand to justify building these very large EHV systems—the giant star type shapes you see throughout the country.

The view we came to was that in fact if we had competition in the electricity industry in the transmission area we would actually get a lot of private sector players moving in earlier, moving in below the level that the government would have. So, instead of putting in a 132,000 volt system, you might find a private sector operator would put in a smaller—a 16,000 or 32,000 volt—system. So our expectation in that area is that country Australia will do better out of competition in electricity because they will get better services sooner. The private sector will add capital in smaller increments than the public sector, which tends to add in bigger increments.

In terms of phone systems, I think country Australia is doing better out of technology. So competition in its wider sense is benefiting country Australia when we basically—

Mr ANTHONY—That will not reflect on price, though. They might have the service there, but they

will pay for it.

Mr Davis—That is always an inherent judgment for everyone—what price you are prepared to pay for having a service.

Mr ANTHONY—Sorry to interrupt, but the premise that user pays concerns me. That is the bottom line. That is the principle. Take a service where there is not as many access users, such as a tollway which has five vehicles travelling along it per day. If you tried to appropriate that cost, it would be a lot more than \$100,000. It just worries me. You can get the service there, but at what price?

Mr Davis—Again, it comes back to the fact that, at the end of the day, someone is paying somewhere. If you have a system of cross-subsidies, then one group is paying for another group. If you have a system of transparent CSOs, then effectively everybody is paying the same price and government is saying, ‘We want to pay this.’ Our preference between the two choices—and effectively it comes down to that—is that, if government wants a policy scenario, then it should pay for it, not one group having no say for another group.

It is not just government. I also point out that there are cross-subsidies in private sector to private sector. The most obvious—the Bureau of Transport Economics will tell you this—is that the driver of a conventional family sedan subsidises the heavy, axle vehicles user in terms of the damage done to roads. In terms of other subsidies, there is road to rail and then rail within rail. So the problem is that it is just such a mess. All we want to see is a little more transparency in the whole thing.

I do not doubt in some places business might end up paying a little more here and there; but, on balance, it is a more efficient and better competitive outcome. If we want to get greater supply of services, business will sit down and work out whether—it will be governed by the price—they will or will not go into a certain business and work out what their competitors are doing. If it is a distorted, corrupted or otherwise sort of mangled market, they do not know whether or not to go into it. They do not know whether to provide more service to country Australia or less. You might find with a more transparent system that business will say, ‘At least we now know what is going on. It is open to competition. Let’s have a look at it.’

One of the great lessons that I think will come out of the whole competition policy process will be that it is not one big player coming in and taking on another player. This is what we saw in relation to Telecom. Everybody wondered who would take on Telecom and thought it would have to be the Americans or the Japanese. It is not. They go after niches and it is those niche players that deliver that competition. That is what you will see in a lot of these areas. You will not see in rail, for example, somebody setting up another state rail authority. No-one has an interest in it. This is the message that is coming through from Carpentaria and TNT. They will go into niches of the market.

You could well see much superior services delivered to country Australia because the train system works on a very simple idea. It is a freight train, a bulk container or a passenger train; but why can’t all three be integrated? You would get a hub and spoke system. You see this in England with the buses. They moved from a system of large buses at lesser frequency to smaller buses over greater frequency. I would think in rail that that is the style of service you will get. You will not get three- or four-carriage trains running every so

often. You might get a little one-carriage motorbus buzzing around the place. What will happen with buses will be the same. You get a different style of competition.

Mr ANTHONY—Just to explore that: with rail it comes down to access fees. There is no change to policy at the moment in a lot of governments. They will give you the right to run on it, but at what price?

CHAIR—A privately operated train now runs out of my electorate to Melbourne. It is subsidised by the state government, but nonetheless working very well.

Mr ANTHONY—That is one of the few exceptions.

CHAIR—It is one of the new ones, but it is the forerunner of many others, I would say.

Mr ANTHONY—There are other issues there. Getting back to the issue of new players: you are right; new players will go into lucrative markets, they will pick the cherry out of them and they will bring prices down, which is good. But your cross-subsidisation will probably be greater to those areas because of those lucrative markets. This is just a function of competition. It is a bit like Telstra. Optus is not going to Wee Waa or the back of Bourke. It is going to the capital cities, to those markets, which it is quite entitled to do. But the initial cross-subsidisation and the CSO will actually be greater because they will not be able to cross-fertilise, particularly Telstra.

Mr Davis—But the issue, I guess, of communications will always be sensitive for country Australia. They have a full entitlement to get a good communications system like any other part of Australia, but it will not be competition policy that determines the supply of communications services to country Australia. It is whether we get a satellite—an extraterrestrial. The future of communications in Australia is not about running cables, lines and power poles, which was always the great problem for servicing country Australia. It cost a lot of money to put up poles, put in the wires and replace them when there were bushfires or other natural disasters.

With communications the future for country Australia is extraterrestrial and microwave. The old idea of running a cable 200 kilometres to service six people is finished. You can give them a mobile, which is \$800. If we can get a satellite up there and keep the thing up there, then country Australia will have fabulous services. It will have everything that is available to the person at Bondi or Toorak. So the future of communications to country Australia is extraterrestrial.

Mr ANTHONY—Is this where competition policy has gone mad? We have Optus and Foxtel running out these cables, which are going to be obsolete within five years time.

Mr Davis—It is obsolete already.

Mr ANTHONY—The free market just ballsed it up.

Mr Davis—They will pay the price in the end.

Dr SOUTHCOTT—In terms of transparency of CSOs, what do you feel about the progress that has been made within the state governments and Commonwealth governments in terms of transparency of CSOs? Would you like see it go a lot further? Which jurisdictions have made more progress in becoming more transparent about the provision of CSOs and purchasing CSOs as well?

Mr Davis—We cannot speak so much about purchasing CSOs, but in relation to supplying CSOs I think all governments are going forward—commendably so. Some are further progressed than others. For example, Victoria has implemented a number of decisions, as has New South Wales, under governments of both political persuasions. We are aware that Queensland is working earnestly on it and wants to get a paper out, which is a particular challenge for them because, as a number of members here have pointed out, the country rural issues are probably more acute there than in other parts of Australia. In terms of getting there, I think most will move in terms of delivering. I think it will be an incremental approach, not a big bang, in any of the jurisdictions. I think a lot of the governments will follow the New South Wales model under Mr Carr, which was hold one group steady and let another group adjust.

Mr CAUSLEY—Greiner government.

Mr Davis—Greiner; sorry. The other side is that in terms of transparency you will see a roll-out type effect. Again, Mr Greiner did the New South Wales transport system and the contract system there, and I think governments will move incrementally on that. I think that is sound. Obviously we would prefer it to be done at a reasonable pace and done successfully than done at a mad pace and unsuccessfully. Equally, we would not like to see them still at it in 10 years time. We think that would be too long as well.

Dr SOUTHCOTT—In terms of contracting out the CSOs, who do you think has made the most progress? To what extent is that going on?

Mr Davis—I would say Victoria has done the best. I think New South Wales has done well. I think there has been some other interesting examples in contracting out the delivery of the service. For example, water would have been one that was regarded as not to be done, yet the South Australian government has done some interesting work there. So, again, I think most jurisdictions are going forward to differing degrees. I think most of them have embraced the principle of doing it. We would hope that, rather than them all having to learn from their own experience, there is a capacity for them to learn from each other. If there is some experience in water, each state does not have to do it once to learn for themselves. They can look at what the South Australians have done. Many lessons are to be learned about what is done right and what is done wrong.

CHAIR—We are nearly out of time, but I would like to ask you one question on the public interest test. Mr Davis, what relative priority would commerce and industry like to see given to the factors of the public interest test in the agreement that—

Mr Davis—The great challenge in the whole public issue is that there is about 20-odd criteria out there, and commerce and industry can confront many different instances of where it is going to be applied. In the competition policy area and in many other areas of government there is all these sets of criteria and then often clause K or whatever also applies. Also, the public interest shall be taken into account. Many matters

are quite defined, quantifiable and measurable, but public interest tends to be an intangible.

Our priorities, you would appreciate, in this sort of matter are in areas like introduction of efficiency and competition because ultimately that is what the competition principles, the competition agreements and the legislation are all about. Having said that, we recognise that in governments it is always a matter of weighing up other considerations. But on balance in most issues we see that competition, efficiency and growth as being the guiding light.

The other issue, I guess, we would put before this committee on public interest and public benefit is those clauses, terms or concepts that are analogous to that and that are spread throughout so many parts of legislation that business often approaches many of these issues without certainty about how that is going to be applied, what tests are relevant and how those tests will be applied. More often than not, it is just entering into a sea of uncertainty until you know. It would be very useful if the parliament or the government could give us some sort of—

CHAIR—A strong recommendation of yours is that we clarify that whole matter—wherever it can be done in individual cases.

Mr Davis—It would be nice to get a sense of weighting about where the parliament sees the priorities of the various criteria in the competition principles agreement and the determinations of the now competition tribunal. But, again, it is not just a vertical question within the competition processes. It is a horizontal question across all forms of legislation that the government has. The way this committee and the parliament or others involved in the competition may determine public interest and benefit may be different in other legislation. Business really likes to know the rules and likes a consistency of application of the rules and some certainty of their stability over time. What we do not like is changeable rules, different interpretations of the rules—an arbitrary application of rules. If we get a framework in competition, we would like to think it applies in a few other areas as well. I think that is a bigger challenge than anyone can confront at the moment.

CHAIR—Unless anyone has any burning questions, I would like to thank Mr Davis very much for his appearance before the committee today. I am sure that, if we have anything further, we can write to you and seek any clarification that we might need. Thank you very much for your attendance.

Mr Davis—Thank you.

Resolved (on motion by Mr Anthony, seconded by Dr Southcott):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 11.22 a.m.