

Appendix 11 Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy – Terms of Reference and Executive Summary from the Interim Report: *Competition Policy: Friend or Foe – Economic Surplus, Social Deficit?*, August 1999

Terms of Reference

To inquire into and report on the National Competition Policy, including:

- (a) its socio-economic consequences, including benefits and costs, on:
 - (i) unemployment,
 - (ii) changed working conditions,
 - (iii) social welfare,
 - (iv) equity,
 - (v) social dislocation, and
 - (vi) environmental impacts;
- (b) the impact on urban and rural and regional communities;
- (c) its relationship with other micro-economic reform policies; and
- (d) clarification of the definition of public interest and its role in the National Competition process.

Executive Summary from the Interim Report

Competition Policy: Friend or Foe

Economic Surplus, Social Deficit

August 1999

The Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy has agreed to issue this Interim Report as a basis for discussion and further deliberation.

The Committee has found an understanding, in the main, that there are benefits flowing from National Competition Policy (NCP). The Committee has further found acceptance, in the main, of the need to review established arrangements in sectors to ensure that arrangements are efficient, equitable and transparent.

However, the Committee has found that the level of acceptance of the benefits that NCP can deliver has varied, as has the level of understanding of the policy.

Furthermore the Committee has found that NCP has become the ‘lightning rod’ for the many negative social and structural changes that are occurring in Australia, particularly in rural and regional areas. Many, but not all, understand NCP is not solely to blame in all cases.

Misconception about the policy

The concerns identified by the Committee about NCP are both related to its implementation and its effect on the ability of Governments to govern. Because the policy has at times been misrepresented and poorly applied its potential to benefit the community is being eroded.

At the higher levels of NCP administration there appears to be a good understanding that the policy is a tool that Governments can use to facilitate the efficient use of resources and to achieve the outcomes – both social and economic – that the community wants. The Committee is aware that NCP has been used as an excuse by some agencies to realise other policy objectives.

The Committee is concerned by the application of NCP as a ‘one model’ approach to all sectors. A flexible outcome ought to be sought by an application of the ‘public interest’ test that allows for changing concepts of what is in the ‘public interest’.

The Committee found that there is a need for a more directed and considered public education and consultation effort in relation to NCP in order to address the misinformation and misconception about the purpose and goals of the policy. In the Committee’s view, if real economic hardship and social dislocation, flowing from NCP reforms deemed desirable, is to be minimised or avoided, then consideration should be given to the Governments and agencies concerned becoming involved in developing adjustment packages and transitional plans consistent with the outcomes sought.

Confusion over ‘Public Interest’

The Committee has found that there is general confusion over what constitutes the ‘public interest’. This confusion then translates into confusion on how to apply the ‘public interest’ test.

The Committee is concerned that this confusion when combined with the administrative ease of simply seeking to measure outcomes in terms of price changes, risks an administrative response of application of a narrow, restrictive, ‘public interest’ test rather than one which takes account of the wider social impacts.

The Committee has found that the limited application and lack of transparency of the ‘public interest’ test is contributing to the view that NCP is a negative policy.

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Responsibility for administration/implementation of the NCP has, in all jurisdictions, been placed in Treasury or Premiers portfolios with other portfolio areas having a greater or lesser input. In the Committee's view this has led to a predominantly economic rather than multi-disciplinary approach involved in the implementation of NCP and in particular the 'public interest' test.

The Committee's concerns are reinforced by the fact that the 'public interest' test would appear to be being applied differently between jurisdictions and in an uncoordinated way across sectors.

Considerable work needs to be undertaken in the application of the 'public interest' test. This work could include improving the educational role of the National Competition Council (NCC) and the State and Territories agencies, the development of appeal processes from bureaucratic decisions, greater community involvement in assessment and increased coordinated involvement of governments.

The expanding application of NCP

The NCC is oversighting a legislative review process that is resulting in NCP being applied to areas within the community that have not been targeted as priority areas by CoAG. This means that NCP is being forcibly applied to areas of potentially low value return in terms of any gain versus costs from further reform and the provision of community welfare services by volunteer groups.

Because of the 'wholesale' or 'one policy solution fits all' application of NCP, the question is raised as to whether the benefits from NCP always outweigh the implementation costs. This approach has:

- created a risk of conflict with other government policies and objectives, for example, in the provision of medical services in rural and regional Australia;
- increased administrative costs for charities, and led to a breakdown in cooperation between welfare services; and
- left questions about the level of benefits to be derived, such as in cases where the rounding up of retail tills to the nearest five or ten cents is of greater value than the arrangements under review.

Other issues raised

The Interim Report lists a number of other key issues.

The Public Understanding of NCP

The public understanding of National Competition Policy has been a fundamental problem since the policy's inception. Concerns have been expressed at the way in which the policy has been presented with the general public being required to accept changes simply on faith. The 'top-down' mandatory approach adopted by the NCC and other Commonwealth and State/Territory CP Units, with hindsight, has not been as successful nor widely accepted as it could have been.

In the Committee's view there has been a degree of 'blind' or dogmatic application of NCP by officials. A lack of a multi-disciplinary approach to legislative reviews has exacerbated the situation, as has the lack of transparency of many of these reviews.

With respect to the consultation and information flow processes, the administration of the policy is in dire need of a 'healthy dose of sunlight'. The Committee is of the view the NCC should take up the challenge to improve the knowledge of grass roots managers of the policy, political representatives, and the general public rather than simply 'educating from the podium' as a policy advocate.

Lack of transparency of Legislative Reviews

The Committee has received evidence that the legislative reviews undertaken by State Governments are not always being undertaken in an open, transparent manner with the views of all interested parties taken into consideration. The Committee agrees with the NCC's view that there is a requirement under NCP for transparency in the review process.

Contracting Out

The Committee heard evidence of the beneficial aspects of open competition for services and projects – improved efficiency, productivity increases and higher morale, lower costs, etc. But there was also contrary evidence about poor administration of contracting processes, amalgamation of work to the detriment of local suppliers, contract determination on the basis of price alone, acceptance of unsustainably low or aggressive prices. Small towns and companies were particularly affected with the loss of human capital and reduced economic activity.

In the Committee's view, the prospect of real efficiencies and benefits being derived from NCP requires the development of informed markets and consumers. The Committee notes that again, the application of the 'public interest' test in a manner appropriate to the needs of the community goes to the heart of this issue.

Lack of benchmarks or performance criteria

The Committee found the lack of data for benchmarks or performance criteria for the evaluation of the benefits or costs of the policy to be one of the greatest shortcomings of the implementation of the NCP. Without such information, governments cannot make fully informed decisions regarding the 'public interest' of any of the reforms proposed under NCP or implement appropriate transitional and, where justified, compensatory mechanisms.

The lack of hard evidence can be blamed for much of the suspicion of NCP, as the community should not be expected to accept NCP as an article of faith. The Committee is concerned that where estimates of benefits have been provided, these estimates may have failed to identify the social impacts of the reforms or may not accurately measure the economic benefits. There were a number of differing views on the actual outcomes of NCP. The committee heard evidence that whilst the national reform and co-ordination in areas such as gas and electricity have delivered some

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benefits that the overall benefits have not been as large as was anticipated. There is clearly a need for proper quantification of the benefits – both social and economic – of the reforms.

Relative impact on urban, rural and regional communities

The lack of employment in rural centres and further decreasing employment opportunities, with the loss of youth as they move to the larger towns or cities in search of work are recognised as serious issues. In addition to their impact they compound the loss of banking, postal, shopping and other community and health services as the smaller towns gradually close.

The Committee considers that the cumulative effects of changing technology, infrastructure provision, the wide range of micro-reform policies including NCP, and globalisation of the economy, on rural and regional areas warrant greater attention. The cumulative effect of these influences, rather than solely NCP, on rural and regional Australia is creating significant social pressures and it is apparent that the impacts of these policies has been disproportionate between metropolitan and country areas. Technological and other advances are enabling regional Australia to produce more goods and services with fewer people. Because of this, people who form the human capital that supports the social fabric of small regional towns are being lost. Paradoxically, the changes in technology etc are not enabling all of the people to remain gainfully employed in these small regional centres.

Social welfare

The evidence taken to date suggests that in some cases the application of NCP principles in the health, community and aged care industry would appear to be in conflict with other service provision goals. This is apparent in the competitive tendering and contracting out process.

There is some evidence to suggest that some practices within the medical profession, for example, the entry requirements and training of medical specialists, may warrant change and the introduction of NCP principles will be of benefit.

Each jurisdiction should be carefully identifying the potential adjustment problems arising from each and every individual reform proposed and consideration should be given to whether particular transitional or, where appropriate, compensation provisions should be available.

Lack of oversight by CoAG

CoAG has not met since 1996 when the NCC work program was established and the NCC has prosecuted the 1996 agenda largely without multi-government supervision. The Committee notes that the reform agenda has both moved on and exposed some significant adjustment issues that Governments may need to address by reviewing and, where necessary, altering the NCC's work priorities.

If the CoAG process is to only occur intermittently, then the Committee recommends consideration be given to shifting responsibility for oversight of the NCC and NCP process to another, equally representative forum, to ensure more frequent review of the NCC and NCP by Governments. Ideally, CoAG must meet to consider NCP on a much more regular basis.

The dual role for the NCC in overseeing the States reviews and recommending tranche payments

The structure of NCP could benefit from a review to either separate the roles of the NCC as both the driver of reform and the judge of progress by recommendations for tranche payments. It may be sufficient to at least provide a review mechanism to the NCC's determinations that the NCP has been applied in a way consistent with the agreements.

An uncoordinated application of NCP by States and Territories rather than a coordinated national approach

In many cases, a more coordinated approach to NCP may enhance the value of the outcome for all at a national level.

The Committee is concerned that the present uncoordinated arrangements may result in a less than optimal outcome for Australia both for consumers domestically and as an exporter.

Apart from the initial agreement over water, gas electricity and roads, there has been no coordinated work to identify the second level of reform that can be approached at an agreed national level. Such an approach would maximise the benefits to Australia, and, through this, to the States and Territories.

The Committee recommends that as part of the year 2000 review of the NCC, consideration be given to what role the NCC could play in securing such a coordinated outcome.