

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The overwhelming response to the National Competition Policy is paradoxical - on the one hand, many, but not all, accept the theory that NCP is being beneficial to the community overall, but reject individual changes where the initial costs in terms of employment or social infrastructure are severe. At the individual level, the costs are often immediate and easily identified, while the benefits are long term, less easily defined, and do not always go to the party bearing the costs.

The community is clearly expressing concern at the social consequences of the changes that are resulting from NCP, general micro-economic reform and globalisation. There is a concern that policies labelled as "economic rationalisation policies" are eroding the social cohesion of some communities and devaluing social objectives at the expense of economic objectives such as productivity and efficiency. The nexus extolled by economists between the achievement of economic objectives and the flow-on to the achievement of social benefits is not always evident to the community at large. This scepticism of the nexus arises particularly in the many small communities being disproportionately affected by the impact of economic reform policies, social changes, globalisation and technology.

The pace of change in the economic environment is pressing the community's capacity to adjust and assimilate.

The Senate Committee has found that there are several major concerns:

- the inconsistent application and interpretation of the public interest test with its domination by economic assessment ahead of the harder-to-measure intangible attributes in the social and environmental areas;
- the lack of understanding of the policy overall, which indicates the need for a strong education program, particularly at local government and community levels;
- the way legislation reviews are being undertaken within individual jurisdictions and the lack of a national approach;
- the lack of oversight by CoAG of the NCC and the NCP agenda;
- the impact on employment and the lack of structural adjustment and transitional arrangements; and
- the interface of short term economic development policies and proposals with longer term ecologically sustainable development and environmental issues. The evidence presented to the Committee on water resource policies clearly marks

this issue as an emerging one to which Governments will have to give due attention to resolve potential conflict within the community.¹

The further deliberations by the Committee over subsequent evidence received in hearings and from additional submissions, have confirmed the views which the Committee identified in its Interim Report.²

However, the Committee is in agreement with the view of State/Territory Governments that the policy has not been in operation long enough for the full effect and impact to become apparent. As legislation reviews are completed and changes are made, the impact of the policy will become more evident. The Productivity Commission has attempted to separate out the relative effects of NCP from other micro-economic reform policies in its recent report "Impact of Competition Policy Reforms on Rural and Regional Australia". The Commission commented upon the difficulty of this task and the lack of data.

Public Interest Test

The Committee has found that there is general confusion and misunderstanding over what constitutes the 'public interest'. When combined with the administrative ease of simply seeking to measure outcomes in terms of price changes, there is a risk that the policy will be applied in a narrow, restrictive, 'public interest' test rather than one which takes account of the wider social impacts. The Committee has recommended:

For the purposes of measuring outcomes of the policy, a method of assessment be agreed by CoAG which will provide a numerical weighting that can be attributed to environmental, social, and employment factors, wherever possible. (Chapter 4, Recommendation 1)

That the NCC publish a detailed explanation of the public interest test and how it can be applied and produces a listing of case histories where the public interest test has been applied as a regularly updated service of decisions. This may form part of the information available through the proposed 'one-stop-shop' advisory service. (Chapter 4, Recommendation 2)

That CoAG agree on a standardised public interest test procedure to be used in cases where a review has implications across state or territory borders. (Chapter 4, Recommendation 3)

That a 'hotline' service be set up for organisations seeking information and assistance on how to use the public interest test and review processes. This

1 See Committee Hansards, Perth, 17 May 1999, Melbourne, 1 November 1999 and Perth, 19 November 1999.

2 See Committee Hansards, Sydney, 9 September 1999; Melbourne, 1 November 1999; and Perth, 19 November 1999.

service should be reviewed after twelve months operation. (Chapter 4, Recommendation 5)

Public Education

The lack of public understanding of the policy has been a fundamental problem since the policy's inception. Concerns have been expressed that the public has been required to accept the policy and its consequent changes, on faith. In the Committee's view, there has been a degree of 'blind' or dogmatic application of NCP by officials. The lack of a multi-disciplinary approach to legislative reviews has exacerbated the situation, as has a perceived lack of transparency of many of these reviews. The Committee recommends:

That the NCC and state and territory agencies with responsibility for implementing NCP, undertake expanded public education programs about the policy and how it is to be implemented. (Chapter 4, Recommendation 4)

That the Federal Government in consultation with local government and industry and community bodies and NCC, create a 'one-stop-shop' advisory service to provide local government, industry bodies, individuals, companies, and community groups with advice which will enable them to tackle competition policy issues. (Chapter 5, Recommendation 19)

That this service should also be a mechanism by which concerns or complaints can be channelled to the appropriate authority for resolution. (Chapter 5, Recommendation 20)

Community-based welfare

The application of NCP to this sector was not fully foreseen by the architects of the policy. Evidence provided to the Committee suggests that in some cases, the application of NCP principles in the health, community and aged-care industries would appear to be in conflict with other service provision goals. This is apparent in the competitive tendering and contracting-out processes in community and social welfare service delivery. The Committee recommends:

That, where appropriate, the Commonwealth Departments of Health and Aged Care and Community Services, examine competitive tendering programs and determine which services are properly and efficiently competitively tendered and which may be contracted out on a benchmark of service basis. Particular attention should be paid to rural and remote communities where locally provided co-operative services may be integral to the success of service delivery. (Chapter 5, Recommendation 16)

Review Process

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 recommends:

That the NCC no longer be required to carry out legislative reviews; and that Governments, through CoAG, undertake to agree broad systems and processes for reviews, including mechanisms for proper consideration of the submissions and views of any interested parties, in the formulation of the initial recommendations. (Chapter 4, Recommendation 10)

That all reviews be undertaken in a fully transparent way with opportunity for contribution from the public at all stages. (Chapter 4, Recommendation 6)

That review panels be required to actively seek out contributions from all interested groups and represent the range of views in the report to government. (Chapter 4, Recommendation 7)

That all reports of reviews be made public at least thirty days before the government is to consider the review. (Chapter 4, Recommendation 8)

That CSO commitments be publicly acknowledged, monitored, and regularly reported on. (Chapter 4, Recommendation 9)

That other governments be provided the opportunity for input to each other's reviews as a way to contribute to impartial outcomes based on a national rather than state or regional perspective. (Chapter 4, Recommendation 11)

That reviews and public interest tests must include Employment and Community Impact Statements. (Chapter 5, Recommendation 12)

That, where a case can be made for assistance in meeting the costs of reviews that community and industry groups are required to meet due to their involvement in prolonged or complicated industry reviews, such organisations should be able to apply to State and Federal NCP Units for financial assistance paid from the tranche funds on a discretionary basis (as determined by the State/Federal NCP Units). (Chapter 6, Recommendation 28)

That all reviews of legislation and changes to competitive arrangements in the social welfare sector adhere to the broad principles of the public interest and take account of the difficult-to-measure social factors rather than relying solely on narrow, more easily measurable, economic factors. That all contracting out arrangements and competitive tendering processes and documentation in the social welfare sector be public and transparent. There should be a presumption that all documents will be public and any claims of commercial confidentiality should be kept to a minimum and where essential. (Chapter 5, Recommendation 14)

That Governments critically examine competitive tendering processes for social welfare services with a view to ensuring that a sophisticated and flexible approach is taken to the provision of service. The process should consider as part of the public interest test: quality, consistency and continuity of service; the value of local co-operative arrangements and the personal nature of such service. (Chapter 5, Recommendation 15)

CoAG Oversight

The Committee is concerned at evidence³ received which indicates that the present uncoordinated arrangements may result in a less than optimal outcome for Australia and Australians. The NCC has prosecuted its 1996 agenda largely without multi-government supervision and while the reform agenda has both moved on and exposed some significant adjustment issues that Governments need to address by reviewing and altering the NCC's work program, no such review or adjustment has occurred. The Committee also endorses the Productivity Commission's recommendation that the NCC no longer carry out legislative reviews to ensure that there is no conflict of interest. The Committee recommends:

That as a matter of urgency, CoAG should determine and implement the post 2000 agenda for NCP. (Chapter 6, Recommendation 26)

That there be a review of NCP by CoAG to ensure that its economic and social objectives are being met, and that the policy be subject to ongoing monitoring by CoAG. (Chapter 6, Recommendation 34)

That the issue of the distribution of tranche funds should be a matter addressed by CoAG in the review of NCP. (Chapter 5, Recommendation 17)

Infrastructure

The Committee received evidence on a variety of infrastructure-related issues. Witnesses were concerned that there is not neutrality in the treatment of intermodal competition, particularly road and rail, and that this causes disproportionate expenditure of public funds and increased indirect costs. The need for the continued development of infrastructure in rural and regional areas is seen as necessary for them to remain both competitive and an integrated part of the rest of Australia. Other witnesses raised concerns over access to established infrastructure, both public and private. Another issue raised with the Committee was the regulatory practices for utilities, particularly following privatisation. The Committee considers that the issues related to infrastructure are central to the future equitable development of the Australian economy and society and as such warrant specific attention by CoAG. The Committee recommends:

3 See Committee Hansards, 8 April 1999, Brisbane; 17 May 1999, Perth; 9 September 1999, Sydney; 1 November 1999, Melbourne.

That the Commonwealth Treasurer have the power to impose a time limit or direct the NCC to complete an access evaluation recommendation within a certain time frame. The Committee believes that to be any more prescriptive would have the potential to hasten what may be a very complicated and delicate investigation. (Chapter 6, Recommendation 29)

That a public consultation process be mandatory in relation to applications for access to major public infrastructure facilities. (Chapter 6, Recommendation 30)

Given the significance of road and rail infrastructure, that transport reform be a matter for priority consideration by CoAG. (Chapter 6, Recommendation 31)

That the NCC address the issue of road-rail competition for freight as a matter of urgency. (Chapter 6, Recommendation 32)

That issues relating to the regulation of infrastructure services are of serious concern and should be a matter for priority discussion by CoAG. (Chapter 6, Recommendation 33)

Employment and transitional arrangements

The Committee heard evidence⁴ that whilst the reforms in areas such as gas and electricity have delivered some benefits, the overall benefits have not been as large as was anticipated. The costs in terms of fewer employment opportunities have been considerable and the social and welfare consequences have not been adequately addressed. The Committee found a clear need for a proper quantification of the benefits and costs of the policy - social, environmental and economic. The lack of data for benchmarks or performance criteria for evaluation of the policy is one of the greatest shortcomings of the implementation of the NCP. The lack of hard evidence as to the benefits of the policy may be to blame for the suspicion about the policy. The Committee recommends:

That the issue of the lack of data and information on the impacts of NCP be addressed in two ways:

- *governments should ensure information is gathered about structural adjustment needs in various sectors. Governments could commission specific studies or obtain this information from the NCC's tranche payment assessment process from the states/territories and on advice from the states/territories. Local government should be encouraged to feed into this*

⁴ See Committee Hansards, Perth, 17 May 1999; Sydney, 9 September 1999; Melbourne, 1 November 1999; and Perth, 19 November 1999.

process with its own statistical information. Governments should commission studies where appropriate; and

- *where necessary, the Productivity Commission, under reference from the Commonwealth Treasurer should be directed to undertake specific studies where major impacts are envisaged and transitional arrangements/structural adjustment may be desirable: eg, a major agricultural industry. (Chapter 6, Recommendation 27)*

That reviews of legislation to consider and report on transitional arrangements, including compensation or retraining. The costs of such and how these arrangements will be implemented should also be outlined. (Chapter 5, Recommendation 13)

That all reviews of regulations recommend action in regard to transitional arrangements, development programs, and compensation when proposing change which will negatively impact on communities. (Chapter 5, Recommendation 18)

Environment

The Committee considers that this is a very important emerging issue in relation to NCP and its ongoing implementation. As the water industry gears up to the proposed changes, gas and electricity utilities are 'unbundled', corporatised and privatised, the energy supply and water services industries and government regulators face new challenges in balancing profit and efficiency goals with social and environmental ones. Superimposed upon this scenario are the goals of the agricultural and mining sectors so important to the economic fabric of the country. The Committee recommends:

That in reviewing legislation and arrangements which involve environmental impacts, Governments should ensure that a broad interpretation of the public interest test is undertaken, including an “account” of environmental effects of changes to regulations or failures to change. (Chapter 5, Recommendation 21)

That greater rigour be applied to ensuring that the processes of reviewing legislation and assessing the public interest in areas involving impacts on the environment are as open and transparent as possible. (Chapter 5, Recommendation 22)

That the NCC work with Commonwealth and State environmental agencies to ensure that reviews of related legislation are co-ordinated. The aim of this is to eliminate anomalies in legislation and regulation that may lead to environmental degradation. (Chapter 5, Recommendation 23)

That the government commission a review of subsidies and other incentives to use publicly owned natural resources which are inhibiting private investment

in competing products, to the detriment of the environment. (Chapter 5, Recommendation 24)

That jurisdictions ensure, that in implementing the public benefit test, environmental 'externalities', including greenhouse gas emissions, are appropriately considered. (Chapter 5, Recommendation 25)

Conclusion

The Committee has concluded that the community is demanding greater government attention to the finer application of the policy and its impact on the social fabric of communities.

The community wants greater attention given to the intangible costs of policy changes, and the methods by which such costs can be alleviated such as transitional arrangements, employment programs, and community service obligations.