

APPENDIX 4

WESTERN AUSTRALIA, STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTER-GOVERNMENTAL AGREEMENTS

Competition Policy, Consideration of the Implementation of a National Competition Policy

RECOMMENDATIONS

During the Standing Committee's considerations of issues relating to competition policy, concerns were raised relating to the fulfilment of community service obligations by, and the accountability of, utilities which have been corporatised or privatised.

Ministers responsible for the operation of utilities have in the past been able to intervene to ensure the maintenance of quality and service. Corporatisation and privatisation distance utility authorities from government. Such accountability mechanisms will disappear. It is considered essential that to determine the performance of such utilities the public requires access to information and a process of monitoring the performance of utilities.

The Standing Committee also notes that Parliament should have some input into the regulatory reform process to ensure that the benefits of public utility reforms are ultimately passed on to the public.

The services provided by utilities, for example, water, electricity and gas, are fundamental to the maintenance of basic standards of living. Corporatisation and privatisation of public utilities may need to include arrangements to encourage socially responsible decision-making by utility providers. This could include providing access to advisory services in cases of financial hardship and ensuring that connection, billing and repayment arrangements are socially sensitive.

The Standing Committee is of the view that these issues require further public debate and inquiry by the government when it prepares public utilities for restructure and corporatisation or privatisation.

Against this background, the Standing Committee recommends the following –

Costing Community Service Obligations

Recommendation One

1. (a) That the Parliament be informed of all community service obligations delivered by government business enterprises; and
(b) the associated costs of these community service obligations.
2. That government business enterprises identify and cost community service obligations delivered by them and report those findings in their Annual Reports in cases where this is currently not done.

Ombudsman

Recommendation Two

That industry-specific Ombudsmen be established to investigate and resolve complaints involving a range of issues including quality of services, billing, disconnection of services provided by the specific utility.

Licensing Regime/Code of Conduct

Recommendation Three

That participants in a public utility industry be required to be licensed or approved by an appropriate overseeing authority.

Quality standards should be part of the licence conditions. A breach of the licence conditions would occur through failure to comply with the standards.

Recommendation Four

That a Code of Conduct incorporating quality standards be developed by the relevant industry.

Adherence to the code would be a licence condition.

In the case of Recommendations Three and Four, breaches of licence conditions may require sanctions, such as penalties including monetary fines, rather than revocation of a licence as that may not be practical.

Legislation

Recommendation Five

That where minimum standards are necessary, legislation should specifically set out appropriate benchmarks for electricity voltage, water quality, safety and other related matters. Such standards should be consistent across the industry

Contract

Recommendation Six

That a supply contract between the supplier and the consumer contain standards relating to quality.

A breach of the standards would entitle the consumer to claim damages for any loss caused by the breach. However, in such a case contract negotiations can be very one-sided when consumers deal with large monopolistic utility businesses; safeguards, therefore need to be established.

Consumer Charter

Recommendation Seven

That a consumer charter be developed between the regulator, the utility and

consumer representatives and incorporated into standard form contracts to ensure that unreasonable terms and conditions are not imposed.

Consumer charters may be an appropriate way to ensure service and conduct quality, particularly in relation to less technical aspects of quality.

They can be flexible and specifically tailored to a particular agency or industry, including specific quantifiable targets which can be monitored to assess performance of the organisation.

Implied Regulation Threat

Recommendation Eight

That as a last resort an implied threat of regulation should exist to ensure all businesses provide quality services to consumers.

Regulation Review

The Standing Committee agrees with the need for regulation review in line with the microeconomic reform agenda and notes that most other jurisdictions have in place a formalised and systematic process for that review. The Committee therefore recommends

Recommendation Nine

That a formalised system of regulatory review be established in Western Australia, which should report to the Parliament through the responsible Ministers and be referred to the appropriate Standing Committee for its response. (Refer to paragraphs 9.17 and 11.9).

Statutory Marketing Authorities

After considering the submissions received, the Standing Committee concluded it was necessary to bring to the Legislative Assembly of Western Australia's attention the concerns raised by a number of those submissions. In the agricultural sector submissions, serious doubts were raised about statutory marketing authorities. Statutory marketing arrangements were said to depend on anti-competitive practices and such practices would not conform to the wider public interest. Such arrangements, it was claimed, lead to unnecessary market inefficiency and costs and therefore limit economic growth in Western Australia and deter investment.

Some submissions claimed that statutory marketing authority mechanisms have tended to distort the market and market signals. Social objectives could be delivered more efficiently through alternative programs. The system of compulsory acquisition or vesting of crops, it was submitted, removed individuals' freedom of marketing choice and caused significant logistical inefficiency. Such authorities have limited accountability.'

As a result of such evidence the Standing Committee recommends -

Recommendation Ten

That, as a matter of priority, the Government continues its review of any anti-competitive effects of statutory marketing authorities.

Parliamentary Direction

That in accordance with Standing Order 378(c) of the Legislative Assembly of Western Australia, this Standing Committee directs that the responsible Ministers be required within not more than three months, or at the earliest opportunity after that time if Parliament is in adjournment or recess, to report to the House as to the action, if any, proposed to be taken by the Government with respect to the recommendations of this report.