Productivity Commission

Submission by Pauline Hanson's One Nation (Western Australia).

FAIR GO FOR WA: TIME TO INVITE THE HFE SACRED COW TO A BARBECUE

Introduction

Horizontal Fiscal Equalisation is a bad habit. It is unsupported by any binding legislation and should be abandoned and abolished forthwith.

Introduced in 1933, **Horizontal Fiscal Equalisation (HFE)** distributes more funds to States and Territories which have a lower capacity to raise revenue or have a greater cost burden. The aim is *"to enable each State and territory to have the capacity to provide services and the associated infrastructure at the same standard, if each made the same effort to raise revenue from its own sources and operated at the same level of efficiency*[1]*."*

The scope for harmful subjective judgement is immediately apparent.

The Legal Position[2]

The Commonwealth or the States have never agreed on a definition of horizontal fiscal equalization. Instead the Commonwealth Grants Commission applies a definition that is has developed itself over time. The Commonwealth would appear to be lawfully able to abolish horizontal fiscal equalisation. Three approaches are available, none of which would appear to require legislative change. The simplest approach is for the Treasurer to direct the Commonwealth Grants Commission to abandon horizontal fiscal equalisation and recommend that it distribute the GST revenue on another basis (such as on an equal per capita basis).

The Constitutional Position

Section 51 (ii) empowers the Commonwealth Parliament to make laws with respect to taxation, *"but so as not to discriminate between States or parts of States"*. There is a strong prima facie case that the blatant discrimination against Western Australia renders HFE unconstitutional.

Distribution of the GST among the States[3]

The Commonwealth distributes GST among the States in accordance with the principle of horizontal fiscal equalisation and having regard to the recommendations of the Commonwealth Grants Commission (the Commission).

The Commission uses the principle of horizontal fiscal equalisation to calculate its recommended GST revenue sharing relativities. In broad terms, the relativities are determined such that, if each State made the same effort to raise revenue from its own sources and operated at the same level of efficiency, each State would have the capacity to provide services and the associated infrastructure at the same standard.

In calculating GST relativities, the Commission takes into account differences in the States' capacities to raise revenues and differences in the costs the States would incur in providing the same standard of government services. A fiscally stronger State will require less GST revenue to have the capacity to provide services and infrastructure at an average standard. For example, a State that was assessed as requiring 90 per cent of the GST on a per capita basis to be able to provide services and

[1] Commonwealth Grants Commission

[2] Advice received from the Commonwealth Parliamentary Library, 27 April 2017.

[3] Quoting verbatim from Budget 2016-17, Part 3: General Revenue Assistance SOURCE

infrastructure at an average standard would have a relativity of 0.9. A fiscally weaker State that was assessed as requiring 110 per cent of the GST on a per capita basis to be able to provide services and infrastructure at an average standard would have a relativity of 1.1. Importantly, a GST relativity does not reflect the amount of GST revenue returned to the State where the revenue was raised. This would only be true if the GST collected per person were the same in every State, which is unlikely given differences among the States.

Distributing the GST based on the principle of horizontal fiscal equalisation does not necessarily result in the same standard of government services being delivered by all States. It simply aims to equalise each State's capacity to provide the same standard of services.

The detailed calculation for the distribution of the GST entitlement in 2015-16 and 2016-17 is shown in Table 3.6 (Attachment 1). [Quotation ends]

Population Changes

In the final decades of the nineteenth century the protectionism of Victoria caused people to vote with their feet in favour of job and business opportunities north of the border, so Victoria lost its population pre-eminence to free-trade New South Wales. The effect may be seen in Attachment 3, "Population of the States and Territories", together with the population impact of other significant events. Attachment 2 provides the figures from which the graphs of Attachment 3 are generated.

We should not be frightened of voluntary population movement, a far more efficient way of maximising prosperity than by arbitrarily redistributing the spending power of governments. There is a strong case to reject the whole concept of HFE, an outdated socialist construct which dangerously impedes market signals, effectively delivering bad advice to State Governments. HFE encourages State Governments to fail in their task of maximising opportunities for employment, for entrepreneurs and for economic progress. We acknowledge that in former times Western Australia has benefited from HSE, especially during a period (1938-1960) when the Commonwealth banned the export of iron ore. Those days are long gone, and today WA is severely disadvantaged, the more so because HFE calculations on the value to WA of iron ore royalties are based upon three-year averages. A Private Member's Bill in the Senate has unsuccessfully sought to limit HFE calculations on the value to WA of iron ore royalties to consideration only of the most recent single year.

As a direct result of ill-advised energy policies, South Australia in coming years is certain to ***have a lower capacity to raise revenue*** and to ***have a greater cost burden***, thereby qualifying South Australia to have its self-inflicted harm rewarded by even more draconian plunder of Western Australia (and perhaps also of Queensland) through Horizontal Fiscal Equalisation. Far better to allow the inevitable voluntary exodus from South Australia to provide real hope for the economic emigrants, by eschewing any further HFE harm to their intending destination or destinations.

Who is to blame?

It is an indictment upon the inertia of successive governments that HFE has been unchallenged for so long. Western Australia Members and Senators of the Federal Coalition must shoulder blame for failing to admit that there are neither legislative nor legal problems associated with the abolition of Horizontal Fiscal Equalisation. If those Coalition WA politicians do not wake up to their responsibility to the people of Western Australia, they should be severely punished at the next Federal Election.

What should be done?

We propose that the Federal Government immediately terminate Horizontal Fiscal Equalisation.

The Commonwealth Grants Commission

Termination of HFE need not impede the operation of the Commonwealth Grants Commission, which presently makes recommendations to the Government. The relevant Act is the Commonwealth Grants Commission Act 1973, *an Act to establish a Commonwealth Grants Commission to make Recommendations concerning the Granting of Financial Assistance to the States*

and autonomous Territories, the financing of works and services in respect of the other Territories and the financing of works and services in respect of indigenous persons. This Act does not oblige the Commonwealth Grants Commission to apply Horizontal Fiscal Equalisation in making its recommendations, and indeed does not even mention HFE.

Expert Advice[4]

We have established that HFE persists, not as the result of binding legislation, but rather as the result of habit. The Parliamentary Library on 27 April 2017 provided (Attachment 4) answers as shown to two questions:

1. What Commonwealth Legislation, if any, requires repeal in order to abolish Horizontal Fiscal Equalisation?
2. What Agreement, if any, must be rescinded or revoked for Western Australia to be freed from Horizontal Fiscal Equalisation?

Conclusion and Recommendation

The last paragraph of the received advice is very clear:
Given that the GST Agreement is not likely to be binding on the Commonwealth, the Treasurer could instead simply direct the Commonwealth Grants Commission to, for example, 'prepare its assessment on the basis that every State should receive an equal per capita share of the GST revenue.' This would in effect abolish horizontal fiscal equalization altogether.

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ATTACHMENT 1 TABLE 3.6: CALCULATION OF GST ENTITLEMENTS
ATTACHMENT 2 POPULATIONS OF THE AUSTRALIAN COLONIES, STATES AND TERRITORIES
ATTACHMENT 3 GRAPHICAL REPRESENTATION OF ATTACHMENT 2
ATTACHMENT 4 ADVICE FROM THE PARLAMENTARY LIBRARY
SEE ALSO COMMONWEALTH GRANTS COMMISSION ACT 1973 [LINK]

[4] Parliamentary Library response, 27 April 2017

ATTACHMENT 1 TABLE 3.6: CALCULATION OF GST ENTITLEMENTS[(a)]

SOURCE

		A) Est 31 December population	B) GST relativities	A) x B) Adjusted population	C) Share of adjusted population	D) Share of GST pool $m
2015-16	NSW	7,673,875	0.94737	7,269,999	30.50%	17,496.70
	VIC	5,992,339	0.89254	5,348,402	22.40%	12,872.00
	QLD	4,806,849	1.12753	5,419,866	22.70%	13,044.00
	WA	2,607,541	0.29999	782,236	3.30%	1,882.60
	SA	1,704,186	1.35883	2,315,699	9.70%	5,573.20
	TAS	517,536	1.81906	941,429	3.90%	2,265.70
	ACT	393,480	1.10012	432,875	1.80%	1,041.80
	NT	244,205	5.57053	1,360,351	5.70%	3,274.00
	Total	23,940,011	na	23,870,858	100.00%	57,450.00
2016-17	NSW	7,785,528	0.90464	7,043,100	29.10%	17,634.40
	VIC	6,096,490	0.90967	5,545,794	22.90%	13,885.50
	QLD	4,876,082	1.17109	5,710,331	23.60%	14,297.40
	WA	2,658,858	0.3033	806,432	3.30%	2,019.10
	SA	1,719,548	1.41695	2,436,514	10.10%	6,100.50
	TAS	518,510	1.77693	921,356	3.80%	2,306.90
	ACT	398,676	1.15648	461,061	1.90%	1,154.40
	NT	246,519	5.2845	1,302,730	5.40%	3,261.80
	Total	24,300,211	na	24,227,317	100.00%	60,660.00

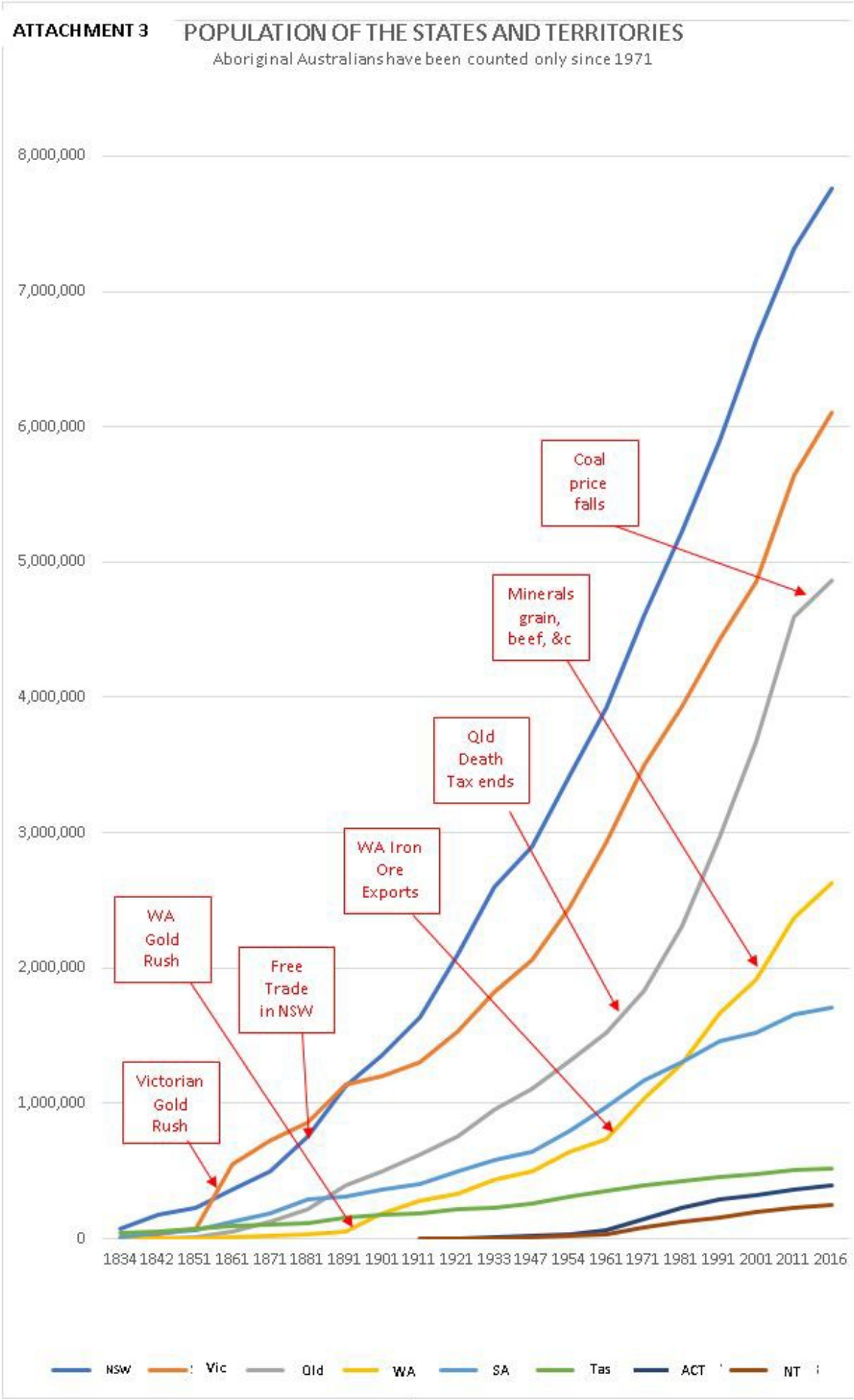
(a) Amounts shown are estimates of each State's GST entitlement based on the estimated total GST pool. For 2015-16, these amounts do not take into account the 2014-15 balancing adjustment of $342.0m on which was paid in 2015-16.

ATTACHMENT 2 POPULATIONS[1] OF THE AUSTRALIAN COLONIES, STATES AND TERRITORIES

Year	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
1834[2]	77,900	200	0	0	7,600	41,500		
1842[2]	181,600	32,900	2,300	3,500	38,700	50,200		
1851[2]	231,100	77,300	7,000	4,500	67,400	70,100		
1861[2]	365,600	548,900	56,000	15,700	126,800	90,200		
1871[2]	501,600	729,900	120,100	24,800	185,600	99,300		
1881[3]	751,468	862,346	213,525	29,708	286,211	115,704	see NSW	see SA
1891[4]	1,123,954	1,139,840	393,718	49,782	313,533	151,565	see NSW	see SA
1901[5]	1,354,846	1,201,070	498,129	184,124	363,157	172,475	see NSW	see SA
1911[6]	1,640,580	1,306,990	624,586	282,114	408,558	191,211	1,714	3,310
1921[6]	2,100,371	1,531,280	755,972	332,732	495,160	213,780	2,572	3,867
1933[6]	2,600,847	1,820,261	947,534	438,852	580,949	227,599	8,947	4,850
1947[6]	2,894,838	2,054,701	1,106,415	502,480	646,073	257,078	16,905	10,868
1954[6]	3,423,529	2,452,341	1,318,259	639,771	797,094	308,752	30,315	16,469
1961[6]	3,917,013	2,930,113	1,518,828	736,629	969,340	350,340	58,828	27,095
1971[7]	4,601,180	3,502,351	1,827,065	1,030,469	1,173,787	390,415	144,063	86,390
1981[8]	5,221,600	3,932,100	2,311,900	1,292,300	1,308,100	426,900	233,500	129,800
1991[9]	5,901,100	4,427,400	2,972,000	1,665,900	1,456,700	460,500	293,500	158,800
2001[0]	6,642,879	4,854,133	3,670,459	1,918,805	1,518,874	473,252	322,638	199,868
2011[0]	7,317,500	5,640,900	4,599,400	2,366,900	1,659,800	511,000	366,900	231,200
2016[0]	7,757,800	6,100,900	4,860,400	2,632,200	1,710,800	519,800	398,300	245,700

Notes: 1. Prior to 1971, Indigenous Australians were not counted; 2. Populstat;. 3. Wikipedia Australia in 1881; 4. Wikipedia Australia in 1891; 5. ABS 1901 Australian Snapshot; 6. Census of the Commonwealth of Australia 1961; 7. Census of Population and Housing, 30 June 1971; 8. Australian Demographic Statistics Quarterly June 1981; 9. Census of Population and Housing, 1991; 0. Australian Demographic Statistics, Sep 2017

ATTACHMENT 3



ATTACHMENT 4

RESPONSE FROM THE PARLIAMENTARY LIBRARY

27 April 2017

The Commonwealth would appear to be lawfully able to abolish horizontal fiscal equalisation by either:

1. with the unanimous support of all the States, amending the GST Agreement to remove or alter the requirement that the GST revenue be distributed according to the principle of horizontal fiscal equalisation; or

2. unilaterally deviating from the terms of the GST Agreement, for which there are likely to be no legal consequences, and:

    a. under the *Federal Financial relations Act 2009,* determining that the GST revenue be distributed on another basis (such as on an equal per capita basis), irrespective of any recommendation by the Commonwealth Grants Commission; or

    b. under *Commonwealth Grants Commission Act 1973* and via the terms of reference issued by the Commonwealth Treasurer under that Act, directing the Commonwealth Grants Commission to apply a new definition of horizontal fiscal equalisation defined by the Commonwealth, rather than the one that the Commonwealth Grants Commission has developed over time, when formulating its recommendations on how the GST revenue should be distributed; or

    c. under *Commonwealth Grants Commission Act 1973* and via the terms of reference issued by the Commonwealth Treasurer under that Act, directing the Commonwealth Grants Commission to abandon horizontal fiscal equalisation and recommend that it distribute the GST revenue on another basis (such as on an equal per capita basis).

None of the approaches above would appear to require legislative change.

The specifics of each option above are discussed in Part 3 of this memo.

Part 1: The *Intergovernmental Agreement on the Reform of Commonwealth- State Financial Relations* and amending the distribution of the GST revenue

The general arrangements between the Commonwealth and the States and Territories (the States) in relation to the Goods and Services Tax (GST) and the associated revenues were originally set out in the *1999 Intergovernmental Agreement (IGA) on the Reform of Commonwealth-State Financial Relations*. That Agreement has been superseded by the 2011 *Intergovernmental Agreement on Intergovernmental Agreement on Federal Financial Relations* (GST Agreement), but no changes that are relevant for present purposes were made via the 2011 Agreement.

Part 4 of that Agreement provides as follows:

> **PART 4—Provision of GST revenue to the States**
>
> 25. The Commonwealth will make GST payments to the States and Territories equivalent to the revenue received from the GST, subject to the arrangements in this Agreement. GST payments will be freely available for use by the States and Territories for any purpose.
>
> 26. ***The Commonwealth will distribute GST payments among the States and Territories in accordance with the principle of horizontal fiscal equalisation***. (emphasis added)

Clause 26 of Part 4 is the only clause of the GST Agreement that makes any reference to horizontal fiscal equalisation.

Schedule A to the GST Agreement, entitled 'Institutional Arrangements', includes the following clauses:

> A4 The functions of the Standing Council [for Federal Financial Relations] include:

(a) the general oversight of the operation of this Agreement on behalf of COAG;

(d) discussion of Commonwealth Grants Commission recommendations regarding GST revenue sharing relativities prior to the Commonwealth Treasurer making a determination;

(g) monitoring compliance with the Commonwealth's undertakings with respect to financial support to the States and Territories;

(h) reviewing the operation of the Agreement over time and considering any amendments which may be proposed to COAG as a consequence of such review;

(i) reviewing funding adequacy under this Agreement, not less than every five years, with an on-going role of monitoring the reporting of outcomes to identify issues that might trigger earlier consideration of funding adequacy and related outcomes;

(j) considering on-going reform of federal financial relations;

(k) considering other matters covered in this Agreement; and

(l) such other matters as are referred to the Council by COAG. (emphasis added)

The Standing Council comprises the Treasurer of the Commonwealth and the Treasurers of all the States. In relation to how the Standing Council is to exercise its powers and perform its functions, Schedule A also provides as follows:

A6 All questions arising in the Standing Council will be determined by unanimous agreement unless otherwise specified in this Agreement.

There is no clause that allows for other than unanimous agreement of the Standing Council relevant for present purposes.

Part 2: Legislation affecting the GST distribution, the Commonwealth Grants Commission, and 'horizontal fiscal equalisation'

There are several pieces of Commonwealth legislation that affect how the Commonwealth and the Commonwealth Grants Commission distribute the GST revenues between the States. As it will be seen however, none of those pieces of legislation would necessarily need to be amended or repealed in order to modify or abolish horizontal fiscal equalisation.

Federal Financial Relations Act 2009

Division 1 of Part 2 of the *Federal Financial Relations Act 2009* deals with the grants to the States and Territories of the revenue from the GST.

Section 5 in Division 1 of Part 2 of that Act establishes that each State is 'entitled' to grants of the revenue of the GST worked out according to a formula set out in that section. That formula depends, in part, upon the 'GST revenue sharing relativity' determined by the Minister under section 8. Section 8 provides as follows:

8 GST revenue sharing relativity

(1) The Minister may determine that a factor specified in the determination is the GST revenue sharing relativity for a State for a payment year.

(2) Before making a determination under subsection (1), the Minister must consult each of the States.

(3) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the Legislative Instruments Act 2003 does not apply to the determination.

Relevantly, section 21 in Part 6 of the Act provides as follows:

21 Minister to have regard to Intergovernmental Agreement and other agreements

In making a determination under this Act, the Minister must have regard to:

(a) the Intergovernmental Agreement; …

Section 4 provides the following definition of 'Intergovernmental Agreement:'

> ***Intergovernmental Agreement*** means the *Intergovernmental Agreement on Federal Financial Relations* that took effect on 1 January 2009, as amended from time to time.

This is the GST Agreement referred to in Part 1 of this advice.

It can be seen that the *Federal Financial Relations Act 2009* makes no direct reference to horizontal fiscal equalisation. The Determination made by the Treasurer about how the GST revenue is to be distributed is only required to have regard to horizontal fiscal equalisation because that concept is incorporated by reference via the GST Agreement.

Commonwealth Grants Commission Act 1973 and the Commonwealth Grants Commission

The Commonwealth Grants Commission is established by the *Commonwealth Grants Commission Act 1973*. Section 16 of the Act is as follows:

> **16 Assistance to States**
>
> The Commission shall inquire into and report to the Minister upon:
>
> (a) any application made by a State for the grant, under section 96 of the Constitution, of special assistance to the State;
>
> (b) any matters, being matters relating to a grant of assistance made under that section to a State either before or after the commencement of this Act, that are referred to the Commission by the Minister; and
>
> (c) any matters, being matters relating to the making of a grant of assistance under that section to a State, that are referred to the Commission by the Minister.

Sections 16A and 16AA deal with the Northern Territory and Australian Capital Territory in identical terms as the States are dealt with in section 16.

Periodically, the Treasurer refers to the CGC a request for an inquiry and report into what financial assistance should be made to each of the States under sections 16, 16A and 16AA of the Act. Such requests take the form of terms of reference.

The terms of reference for the 2017 Update—issued by Treasurer Morrison on 19 November 2016—direct the Commonwealth Grants Commission to:

> Take into account the *Intergovernmental Agreement on Federal Financial Relations* (as amended), which provides that GST revenue will be distributed among the States in accordance with the principle of horizontal fiscal equalisation.

The 'Principle of Horizontal Fiscal Equalisation'

Nothing in the relevant legislation or the GST Agreement sets out what constitutes 'the principle of horizontal fiscal equalisation.' Moreover, nothing in the legislation or GST Agreement explicitly vests in any body or person the power to determine what constitutes that principle. However, under the GST Agreement, the Commonwealth Grants Commission is nonetheless required to advise the Commonwealth Treasurer on the GST revenue sharing relativity with reference to that principle.

The Commonwealth Grants Commission has, however, developed its own conception of the term. The Commonwealth Grants Commission's website contains the following statement:

> **What is horizontal fiscal equalisation in practice?**
>
> The current operational definition of HFE that the commission has adopted is:
>
> > "State governments should receive funding from the pool of GST revenue such that, after allowing for material factors affecting revenues and expenditures, each would have the fiscal capacity to provide

> services and the associated infrastructure at the same standard, if each made the same effort to raise revenue from its own sources and operated at the same level of efficiency."

There is no clear legislative basis in the *Commonwealth Grants Commission Act 1973,* or in any other Act, for the CGC to promulgate or determine the meaning of 'the principle of horizontal fiscal equalisation.'

Part 3: Options for abolishing horizontal fiscal equalisation

From the preceding discussion, the following options would appear to be available to abolish or modify horizontal fiscal equalisation without legislative change.

Option 1: Amendment via the method in the GST Agreement

On the face of it, if the Commonwealth wished to alter or abolish the requirement for the GST revenue to be distributed according to the principle of horizontal fiscal equalisation, it would require the GST Agreement to be amended to remove or alter that requirement as set out in clause 26 of the GST Agreement.

Secondly, because of clause A6, which requires that questions arising in the Standing Council — including the need for any amendments as provided for by clause A4(h) — need to be agreed unanimously by the Standing Council, that would require the unanimous agreement of the Commonwealth and the States.

Option 2: An alternative — changing the GST distribution unilaterally

Despite the arrangements set out in the GST Agreement, the Commonwealth appears legally free to abandon the requirement that the GST revenue be distributed according to the principle of horizontal fiscal equalisation. This is because the GST Agreement is unlikely to be a legally binding agreement between the Commonwealth and the States.

The High Court has drawn a distinction between legally enforceable agreements between the Commonwealth and the States, and 'political agreements' that lack the character of legally binding agreements. In *PJ Magennis Pty Ltd v Commonwealth* Dixon J described a Commonwealth-New South Wales agreement (approved by both Parliaments) which provided for the settlement of returned soldiers as:

> rather an arrangement between two governments settling the broad outlines of an administrative and financial scheme than a definitive contract enforceable at law.[5]

Similarly, in the *Railway Standardisation Case*, the MacTiernan J held in relation to the agreements in that case that:

> neither of these agreements constitutes an obligatory contract. **It does not produce legal rights or obligations. … The promises on either side are of a political nature**, and both parties would understand at the time the agreements were made, that this was the true nature of the promises. Their performance necessarily requires executive and further parliamentary action. It is a matter for the discretion of the respective governments to take such action if and when they see fit to do so. **It is not contemplated by either agreement that its performance could ever be the subject of a judicial order.** The real nature of the agreements is that they are political arrangements between South Australia and the Commonwealth for co-operation between them on projects of national importance.[6] (emphasis added)

The GST Agreement appears to be in the nature of a political agreement that may only ever by enforced through political means. If the Commonwealth deviated form the terms of the Agreement without the unanimous agreement of all the States, it would appear unlikely that an aggrieved State could actually seek to enforce that agreement in a court.

Overall, it would appear that the Commonwealth is legally free to alter the arrangements for the GST distribution, despite the GST Agreement.

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5. *PJ Magennis Pty Ltd v Commonwealth* (1949) 80 CLR 382, p. 409.
6. *South Australia v Commonwealth* (1962) 108 CLR 130, pp. 149, 153-4.

There are various ways that the existing legislation could be used to achieve the abolition of horizontal fiscal equalisation.

Option 2(a): Disregarding the Commonwealth Grants Commission's recommendation

Section 8 of the *Federal Financial Relation Act 2009* states:

> **GST revenue sharing relativity**
>
> (1) The Minister may determine that a factor specified in the determination is the ***GST revenue sharing relativity*** for a State for a payment year.
>
> (2) Before making a determination under subsection (1), the Minister must consult each of the States.
>
> (3) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

Section 21 of that Act requires that the Treasurer 'have regard to' the GST Agreement. However, 'have regard to' tends to suggest that the Treasurer is not necessarily bound to follow the GST Agreement.

Legally it would appear that the Commonwealth Treasurer could disregard the GST Agreement and distribute the GST revenue in any way the Treasurer believed it should be distributed. Politically, if the Treasurer was able to gain some, but less than unanimous, support amongst the States, the Treasurer could argue that this was within the spirit of the GST Agreement.

Option 2(b): Direct the CGC to adopt a specific definition of horizontal fiscal equalization

Despite the GST Agreement referring to the concept, the Commonwealth or the States have never agreed on a definition of horizontal fiscal equalization. Instead the Commonwealth Grants Commission applies a definition that is has developed itself over time.

It would appear relatively straight forward for the Commonwealth to direct the Commonwealth Grants Commission via the periodic terms of reference to apply a specific definition of horizontal fiscal equalization, such that the amount of monies being redistributed between the States was substantially reduced. If so directed, the Commonwealth Grants Commission would appear to have little choice than to return to the Treasurer a recommendation about the distribution of the GST revenue on accordance with that new definition. The Treasurer would then simply accept that recommendation and determine under section 8 of the *Federal Financial Relations Act 2009* amounts for each State based on that new definition.

Option 2(c): Direction to the Commonwealth Grants Commission to not incorporate, or incorporate a modified version of, horizontal fiscal equalization

The Commonwealth Treasurer may also in its periodic Terms of Reference direct the Commonwealth Grants Commission to adopt a different methodology for distributing the GST. As discussed above, the terms of reference for the 2017 Update—issued by Treasurer Morrison on 19 November 2016—direct the Commonwealth Grants Commission to:

> Take into account the *Intergovernmental Agreement on Federal Financial Relations* (as amended), which provides that GST revenue will be distributed among the States in accordance with the principle of horizontal fiscal equalisation.

Given that the GST Agreement is not likely to be binding on the Commonwealth, the Treasurer could instead simply direct the Commonwealth Grants Commission to, for example, 'prepare its assessment on the basis that every State should receive an equal per capita share of the GST revenue.' This would in effect abolish horizontal fiscal equalization altogether.

(ENDS)