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A Critique of Australia's National Competition Policy: Assessing its outcomes in a range of major sectors

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Abstract

This thesis analyses the policy assertions of National Competition Policy (NCP) in relation to the actual outcomes in the following key sectors of the Australian economy: Dairy, retail and water. Reference is also made to the relationship between NCP and outsourcing. The research was driven by an awareness of a gap between policy claims and the actual transformations, which have never been assessed by government, despite the substantial nature of the changes ushered in by NCP. In this respect, the thesis reflects a characteristic of Australian political processes since the mid -1980s where neoliberal policy change is also not assessed in terms of outcomes. The thesis contends that in this regard the public interest reflecting the needs of society (families/communities) has not been properly applied. This analysis is theoretically informed by a political economy approach, which gives due weight to the relationship between the economic sphere and society.

The Dairy Case Study examines the impacts of the forced removal of the Statutory Marketing Authorities due to NCP and the impacts of increased corporate market dominance of the major retailers over dairy producers (family farms), dairy manufacturers and consumers. The Retail Case Study analyses the role of the large retail companies in pressurizing the state to deregulate the retail market and considers the impacts of NCP on retail suppliers, manufacturers, corporate and independent retailers and consumers and critiques the lack of adequate assessment of the impacts of NCP. The Water Case Study shows how and why the NCP Water 'Agreement' was made prior to the main NCP 'Agreement' and investigates the outcomes, the impacts of climate change and inadequate data that was available on Australia's water use and water availability prior during the major push for water privatisation/water trading. This analysis of NCP policy prescriptions and their impacts uncovers the shallowness of claimed social gains. In so doing, the thesis makes a modest contribution to de-legitimating the neoliberal project.

Preface

As an elected member of the Australian Senate at the time that National Competition Policy (NCP) was being debated, I both participated in these debates and critically observed the nature of the political process in advancing competition policy. I came to the realisation that these changes were likely to have a significant impact on the Australian economy and society. Hence, while I was a politician, I attempted to promote public debate on the likely effects of these changes. This thesis is an extension of that journey, for I became convinced that this logic could only be challenged through analysing both the theoretical modelling of competition policy and researching the *actual* empirical outcomes of the restructuring. The political phase of this journey is now briefly recounted, as it formed the foundation of the analysis that follows.

This brief recall of my parliamentary experience reveals how NCP and the ideology of 'contestability'[1] became dominant, both in the minds of key policy makers and in subsequent policy. Prior to my election to the Australian Senate,[2] the Australian Federal Government had already begun deregulating the banking and financial sector in accordance with the Uruguay Round of the General Agreement on Tariffs and Trade (GATT)[3] by responding to the Campbell Committee under Treasurer John Howard in the 1979 Fraser Government (Margetts 2001: 24). Framed by this event, my maiden parliamentary speech heralded an interest in the impacts of government economic policy:

> Many people in Western Australia know me as a lobbyist for peace and disarmament. However, like many people who have been drawn into the Green movement because of their concern about particular issues, I began to see the connections between issues of world peace, social justice, environmental responsibility and grassroots democracy. In my last two years as a research masters' student in economics, I travelled extensively around Western Australia. I opened my eyes to the huge gap between the stated goals of government economic policy and the reality at the community and regional level. I will speak out, wherever possible, about the lunacy of a blind faith in the benefits of financial and economic deregulation (Margetts 1993: 256).[4]

[1] The ideological basis of 'contestability' is explained in the Retail Chapter 6.
[2] I was elected to the Senate in March 1993 and my Senate term was from mid-1993 to mid-1998.
[3] The Uruguay Round of GATT had taken seven and a half years of negotiation and, in the end, 123 countries were 'taking part'. It covered almost all kinds of trade and was considered the largest ever trade negotiation in history (WTO 2012).
[4] In the 1970s, after my first year at UWA, where I commenced a BA degree with majors in English and Anthropology (my double major), including Economics, I began working on land for Qantas. While working for Qantas (which I did for six years), I continued studying part-time and began working as a

In this speech, I also expressed concern about the lack of scrutiny over the ownership and control of Australia's primary resources and of the level of public resources that were being used to subsidise this industry by way of royalty deals, infrastructure, subsidised electricity and access to other resources:[5]

> Some forms of investment wind up costing us more than the benefits they bring to our economy, and yet we are now planning to voluntarily surrender any last threads of economic sovereignty (Margetts 1993: 256).

This position diverged significantly from the mainstream political thinking of the two major Federal parties because, by the mid-1990s, the 'economic rationalist'[6] policy change was a 'done deal'.

At the time of my formally entering the Australian Senate, the Hon Paul Keating had become the Australian Prime Minister (1991-1996). While an acute thinker, Keating had, in my view, become vulnerable to the lobbying by Treasury officials regarding the free trade ideological agenda, which promotes economic deregulation. Keating had developed such enthusiasm for Australia's commitment to the Uruguay Round of GATT that he considered Australia should make unilateral domestic free-market globalisation changes prior to the signing of GATT to encourage other countries to follow (IAC 1989, Vol 1: 102). For example, in announcing an inquiry by the Industry Assistance Commission (IAC) to investigate the impacts of significant government charges other than taxation, Keating stated that the inquiry would assist the Australian Government's GATT negotiations (Margetts 2001: 29). The subsequent report, *Government (Non-Tax) Charges* (IAC 1989), focussed on how to reduce the regularity and other (non-tax) government costs for big business, to assist corporations to become internationally competitive and to open up more of the Australian economy to overseas

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volunteer anthropology library assistant. Facilitated by this latter role, I became very interested in Development Studies through my reading, including of the Australian media articles by JK Galbraith. In 1979, I left Australia to enrol in the School of Development Studies at the University of East Anglia, one of the few universities in the world that taught Development Studies in an undergraduate Honours degree. Economics and Anthropology were my majors in my Honours Degree, and the School's methods in teaching economics helped me to investigate and assess the impacts of economic policy directions.

[5] Some years later, a report commissioned in 1994 by the Federal Environment Ministry from the National Institute of Economic and Industry Research (1996) was released, entitled *Subsidies to the Use of Natural Resources*. This provided data on a significant range of resource subsidies.

[6] The basis of Australia's term 'economic rationalism' is explained on page 9 of Chapter 1.

investment (Margetts 2001: 10),[7] thus indicating the 'thinking' within the Hawke/Keating Government.[8] The Hilmer NCP Inquiry was subsequently established in 1992, following what Keating described as an agreement, reached through the Coalition of Australian Governments (COAG), 'on the need for such a policy' (Hilmer *et al.* 1993: iii).

The Hilmer Report was published in 1993, which was my first parliamentary year. Neither of the two major parties opposed this general COAG proposal for the *Competition Principles Agreement* (COAG 1995a), and it was completed on 11 April 1995. Given the complementarities in the policy directions of the two major parties, there was little parliamentary debate on NCP, except by the Greens (WA), the Australian Democrats and some independents. As a result of this co-operative approach between the major parties, the general community remained largely uninformed about the significance of the policy, leading to limited public discourse. It was also apparent that, since both major parties appeared to agree, the media tended not to question this major policy position.[9]

However, it should not be assumed that the 'agreements' reached by the Australian States and Territories with the Federal Government on NCP indicate their full understanding of the implications of these 'agreements'. Susan Churchman (1996: 97), former Senior Executive of the Competition Policy, Policy and Cabinet Division of the South Australian Department of Premier and Cabinet, in her article 'National Competition Policy—Its Evolution and Implementation: A Study in Intergovernmental Relations', published in the *Australian Journal of Public Administration*, clearly shows that during the NCP negotiations, the States and Territories were not easily able to appoint representatives 'with all the necessary skills and the time' to fully and effectively focus on the task of understanding the impacts of the 'intergovernmental agreements' based on the Hilmer Report and 'draft legislation'.

[7] The IAC Inquiry's submissions were strongly representative of the corporate sector, particularly mining (Margetts 2001: 10, quoting from IAC 1998 Vol 1: 106–144).

[8] In Chapter 3, it is explained that Michael Pusey investigated how an increased number of senior Australian bureaucrats in Federal departments such as Treasury became so supportive of 'economic rationalism' and pushed for this policy change (Pusey 1992).

[9] Rupert Murdoch, one of Australia's key individuals, used his media dominance to push his own corporate market dominance economic agenda (Kelsey 1999: 64–65). This could explain why so little discussion was made in the Australian media on the real impacts of the NCP. Even though I experienced a number of major media interviews about the impacts of the NCP, newspaper editors largely refused to publish the articles that were written.

Churchman (1996: 98) also drew attention to the fact that: 'Instead, there was a very public disagreement on all but the broad outlines of the package …' (Churchman 1996: 98). In Chapter 3, it will further explain the role played by 'Commonwealth Senior Executives' in their push to achieve 'COAG's NCP Agreement'.

Within Parliament at that time, it became apparent that the State and Territory heads of Government were being pushed to overcome their NCP concerns by the Commonwealth Government negotiators offering more money, supposedly to cover the costs of implementing this major policy change. However, what had not been explained to Parliament was that this funding was for 'tranche payments'. That is, States and Territories were not to be rewarded for doing just what they considered was in their electorates' 'public interest,[10] instead, the 'tranche payments' were to be used to force substantial legislative changes even if States and Territories did not consider that such changes were acceptable (Margetts 2007b: 25).[11]

Little scrutiny followed the introduction of the *Competition Policy Reform Bill 1995* into Parliament. The Senate referred the Bill to their Economics Legislation Committee on 11 May, leaving little time for the preparation and presentation of submissions. On 29 May 1995, the Senate's Economics Legislation Committee held the first of only two hearings on the *Competition Policy Reform Bill 1995*. However, given that they were due to report to the Senate by 7 June 1995, there was little time to scrutinise the Bill (Hansard 1995a: E 1).

The Institute of Engineers were the first witnesses to give evidence before the short inquiry by the Senate Economics Committee on the *Competition Policy Reform Bill 1995*. I was a participating member of that legislative inquiry. Dr John Webster, the Chief Executive of the Institute of Engineers, Australia indicated that, although they had been given short notice of invitation to the hearing, they had been 'interested from the word go in a range of issues raised by competition policy' (Hansard 1995a: E 1). The Institute of Engineers had themselves mounted a private inquiry of their own. The

[10] 'Public interest' is defined by the Business Dictionary as 'Welfare in the general public (in contrast to the selfish interest of a person, group, or firm) in which the whole society has a stake or warrants recognition, promotion or protection from the government and its agencies' (Business Dictionary . **http://www.businessdictionary.com/definition/public-interest.html** - accessed 26/09/2012).

[11] The tranche payments conditions in the 'Competition Policy Agreements' from COAG required annual reports on 'competitive neutrality principles' (which was the basis for corporatising and privatising government services) and reviews and reforms of all existing legislation 'which restrict competition' (NCC 1998: 39–40).

Chief Executive of this organisation affirmed that, notwithstanding the short notice, they had called for submissions and public statements on the 'likely outcomes' of NCP affecting major public utilities and enterprises; that is, 'corporatisation, privatisation and outsourcing' (Hansard 1995a: E 1).

The Institute of Engineers expressed two principle concerns. Firstly, they raised the issue of the breaking up of what they termed the 'corporate memory' of the large organisations, such as those for water supply, electricity distribution and roads. Secondly, they pointed to the potential loss of a training base for young engineers and other members of the engineering team seeking to obtain monitored experience after graduation. Traditionally, it had been 'very common for people to spend three to five years with a major public utility after graduation, working in some sort of structured development program with expert supervision from senior people' (Hansard 1995a: E 2). Dr Webster argued that such opportunities had 'largely disappeared already with the downsizing processes that had been induced, largely by the expectation that competition policy would be implemented' (Hansard 1995a: E 2). Ms Lynne Reeder, an Institute of Engineers Senior Policy Analyst, along with Dr Webster, discussed whether long-term basic research on the impacts of engineering would continue to be commercially viable under corporatisation and privatisation. Dr Webster explained that they were not talking about 'dilettante academics hiding in laboratories with something on the fringes of knowledge' (Hansard 1995a: E 5), but rather about the maintenance of continuity of:

> ... simple records of things that we will absolutely need if we are interested in monitoring the environmental impacts of various activities, monitoring the success or otherwise of various kinds of policies. The basic data has been largely gathered by organizations within the public sector and maintaining the capacity to gather it, maintaining the continuity of records, is not going to be easy. We will have to think about how we are going to do it (Hansard 1995a: E 4).

In a response to a question from Democrats Senator Sid Spindler regarding the possible impact in relation to community service obligations, Dr Webster stated:

> I believe, in the United Kingdom experience in the water industry where, in fact, the privatisation process was so far reaching that the government was left at quite an early stage without its in-house expertise even to advise it on whether the water companies were doing things that were sensible for the good of the country (Hansard 1995a: E 5).

To which I added:

> To follow on from that question, we have had varying information about what is happening in the UK and some people say that it is only in isolated pockets that there are problems. If the Institute of Engineers has specific data or feedback from an engineering point of view, it would be extremely helpful if you could feed that through to this inquiry (Hansard 1995a: E 5).

Dr Webster responded by stating that their fellow institutions in the United Kingdom (UK) had conducted this work and, as he would be visiting the Institution of Civil Engineers in the UK, he would endeavour to locate any material specific to engineering and bring it to the committee (Hansard 1995a: E 5–6). However, given the fixed date for the Committee's report, there was no time to receive this evidence prior to the committee's report being tabled, notwithstanding its significance.

The level of community debate about NCP was hampered by the lack of available evidence about the proposed NCP and its impacts. It was stated during the parliamentary debate on the *Competition Policy Reform Bill 1995* that the Australian Competition and Consumer Commission (ACCC) was to be given the powers of the Trade Practise Commission and the Prices Surveillance Authority. The ACCC was also to have the ability to review virtually all present and future federal, state and local legislation to ensure it was consistent with NCP. On 26 June 1995, a major concern that I expressed was that Parliament would not have input into the direction of this policy, nor would it have the opportunity to review the work in progress. In summation, an extraordinary amount of power was being given to a small section of the Federal bureaucracy:

> What is competition policy? This is one of the details that has not been worked out yet. The parliament is not asked to set the policy, to review it or to pass it. It is asked to set up another body, The National Competition Council, to suggest its policy. It will also set up the Australian Competition Tribunal, to judge and enforce its decisions. So we are being asked to set up an organization which will have sweeping powers through regulation, will take advice from its sister organization, which we will also set up, and will effectively be independent of federal parliament except in its responsibility to the Minister, who will have the power—in fact the duty—under this legislation to examine recent and new state and territory laws to ensure that it 'meets the requirements' of competition policy, although some pre-1994 legislation will be grandfathered and allowed to continue.
>
> So we have an organization at federal level, relatively independent of parliament but under the executive power of the minister, which can effectively interfere in state activities at a level far beyond anything the federal government has been

> able to so in the past. It can dictate to the states on anything it feels has anti-competitive implications. Since it brings much of the arena of public service into the potentially competitive area, it will look at all regulation affecting any commercial activities for interference and competition. It means that it can interfere with almost anything (Hansard 1995b: 1757–8).

Senators from the Australian Labor Party accused me of taking time during the NCP legislative debate to ask questions and seek to include amendments to make the processes more accountable. They claimed the Greens should just 'shut up' and agree.

In summary, it was clear that the Prime Minister, Treasury and Senior Bureaucrats were articulating the needs of the corporate sector (as they were to be the main beneficiaries). The Parliament was not properly informed of the details of NCP, and the community remained uninformed due to the minimal media coverage. This was a result of the co-operative position adopted by both major parties to the policy. Further, it was clear that individual parliamentarians in both the mainstream political parties knew very little about NCP. There had been little assessment of the likely impacts of NCP prior to the Bill being passed by the major parties. As parliamentarians were required to vote for or against the NCP legislative changes, the government did not admit and we were not advised that NCP was based on free-market theory, extended to include 'contestability' to further reinforce corporate market dominance.[12]

It was my view that there should have been a detailed parliamentary inquiry following the introduction of NCP, to assess its impacts, particularly as they applied to regional Australia.[13] The Senate motions calling for a Senate inquiry failed to gain sufficient support while Labor were still in government. However, by mid-1998, with the Liberal Coalition in power, Labor Senator Peter Cook helped to raise support for the organisation of a Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy (SSCSECNCP). I was a member of that Select Committee. One of the clearest and most obvious criticisms of the impacts of NCP was presented by representatives of the Dairy Industry. However, the inquiry was

[12] The details of 'contestability' theory are explained in the Retail Case Study (see Chapter 6).

[13] In 1995, the House of Representatives Standing Committee on Financial Institutions and Public Administration was given the Terms of Reference of an Inquiry to 'consider appropriate means' to apply the NCP 'public interest'. However, the report was not published until June 1997, two years after NCP was introduced. As the two major parties controlled the House of Representatives, they were supportive of NCP, but they did recommend that the public interest 'reviews' and review processes should be publically available (HRSCFIPA 1997). However, senior bureaucrats ensured that the details of these public interest 'reviews' and 'review processes' were not made available until the NCC had achieved its goals for NCP amendment approvals (Margetts 2003).

incomplete at the time of the 1998 election, and the Select Committee produced an interim report, which was published in August 1999, two months after my Senate term had ended.

The SSCSECNCP was re-established after mid-1999, and their final report was published in February 2000. Their inquiry acknowledged my contribution:

> **Acknowledgment of the role of former Senator Dee Margetts**
>
> 1.14 Former Senator Dee Margetts (the Greens, WA), whose term as a Senator expired on 30 June 1999, had a significant role in the establishment of this inquiry and jointly moved with Senator Peter Cook (ALP, WA), the original motion in the Senate that led to the Committee's establishment. The Committee wishes to place on record its appreciation of the considerable contribution Senator Margetts made to the inquiry as a member of the Committee from its inception until the expiry of her term (Senate Select Committee on the Socio-Economic Consequences of the NCP 1999: 4).

The interim SSCSECNCP Inquiry Report entitled *Competition Policy: Friend or Foe: Economic Surplus, Social Deficit* (1999) was highly critical of a range of problems associated with NCP. However, since both major parties had supported NCP in 1995, the range of recommendations was far from significant in their final report entitled *Riding the Waves of Change* (2000). My speeches, questions, debates, parliamentary committee and electoral work tended to be more voluminous in quantity than that of the average parliamentarian, making my average hours of weekly work enormous; after six years in the Senate, I was exhausted. However, on moving from the Senate, I took the opportunity of clarifying and deepening my own understanding of this momentous policy shift through researching for a Master's degree on NCP at Murdoch University. However, researching the outcomes of NCP was considered far too complex for a Masters' thesis, so I examined how the Western Australia (WA) State Agreement Acts (which provided economic benefits for mining corporations) were exempted from assessment from the NCP's 'public interest tests'. A case study methodology was used, to examine a range of State Agreement Acts that were not in the public benefit (Margetts 2001).

While researching my Masters' thesis on aspects of NCP (Margetts 2001), I asked a member of the SSCSECNCP Committee Secretariat, David Butt, who had been in Treasury's Department of Economic Management at the time the NCP was introduced, where I could find the theoretical basis of 'competitive neutrality' (which forced the

outsourcing of many aspects of public services). A Treasury official who had been seconded to the Senate's NCP inquiry admitted to me that Treasury had invented the term 'competitive neutrality'. Therefore, like NCP in general, as it shall be argued, there was no specific theoretical basis for the concept of 'competitive neutrality', which had an enormous impact on the costs of Government Services to extend privatisation. Therefore, I argue that the impacts of NCP on Government services, such as mental health and aged care, should have been properly assessed.

I was elected to the WA State Upper House (Agricultural Region) in 2001, the year I completed my Masters' thesis. One role I played as a State Upper House Parliamentarian was to host a Globalisation Roundtable to enable people from a range of business and social groups to discuss and debate the impacts of corporate globalisation on Australia and WA. The popularity of this event led to its extension until I finished my term in the State Upper House. My Masters' research and these community debates kept alive my interest in NCP, its thin, uncontested theoretical underpinning and the absence of empirical research on the actual impacts of policy change. This has led to the present work. I was driven by a need to relate these changes to the public interest, in the absence of any rigorous assessment of policy change advanced in the name of the public.

Finally, to conclude, I make an important political observation. What the above story reveals so conclusively is the ways in which the political process is engineered to negate a proper scrutiny of the public interest. I hope that this intervention will lead to a new re-evaluation of NCP and its impacts.

Declaration of Originality

I declare that this thesis is my own account of my research and contains as its main content work which has not previously been submitted for a degree in any tertiary education institution.

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I would like to acknowledge my supervisors Professor Rob Lambert and Dr Donella Caspersz for their support and all of their work in helping me to improve my thesis.

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The Senate Economics Committee Dairy Inquiry took my submission and publications seriously and made important recommendations. I also appreciate all of the Federal Parliamentarians from a range of parties with whom I met, discussed and provided copies of my Academic Journal Articles from my Dairy and Retail Case Studies.

And many, many thanks to my partner Nic Dunlop for supporting me over the years.

Dee Margetts

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List of Abbreviations

ABARE/S	Australian Bureau of Agriculture and Resource Economics/ and Sciences
ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
ACTU	Australian Unions
AFTA	Asian Free Trade Area
ALP	Australian Labor Party
AMC	Australian Manufacturing Council
APEC	Asia-Pacific Economic Cooperation
AWA	Enterprise Bargaining Agreements
BCA	Business Council of Australia
BIE	Bureau of Industry Economics
COAG	Coalition of Australian Governments
CPI	Consumer Price Index
CSIRO	Commonwealth Scientific and Industrial Research Organisation
EBIT	earnings before interest
EMA	Environmental Management Authority
EPAC	Economic Planning and Advisory Council
EU	European Union
FT	France's Telecom
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GNP	Gross National Product
HR	Human Resources
HSCW	Hot standard carcass weight
IAC	Industry Assistance Commission
IC	Industry Commission
ICT	Information and communications technology
IMF	International Monetary Fund
JSCRTS	Joint Select Committee Inquiry on the Retail Trading Sector
MDBC	Murray-Darling Basin Commission

MFP	Multi-factor productivity
MSCs	Major supermarket chains
NARGA	National Association of Retail Groceries of Australia
NCC	National Competition Council
NCP	National Competition Policy
NDIS	National Disability Insurance Scheme
NIIS	National injury insurance scheme
NOPSA	National Offshore Petroleum Safety Authority
NPDCC	National People with Disabilities and Carer Council
NSW	New South Wales
NT	Northern Territory
NWC	National Water Commission
NWI	National Water Initiative
NZ	New Zealand
PC	Productivity Commission
SA	South Australia
SERC	Senate Economics References Committee
SSCSECNCP	Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy
TFP	Total Factor Productivity
TPA	*Trade Practices Act 1974*
TUF	Trade Union Federation
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
US	United States
WA	Western Australia
WGWRP	Working Group on Water Resource Policy
WTO	World Trade Organization

Chapter 1: Towards a Critique of NCP

Introduction

The thesis presents a critical analysis of NCP, testing the stated assumptions and predictions of this neo-liberal intervention in core sectors of the economy (dairy, retail and water) against *actual* outcomes. Complementing the macro-economic settings of free trade, investment and finance, NCP is an instrument of the state, which seeks to ensure that these macro-economic logics penetrate the economy and society ever more deeply, wherein the public interest is seen to be at one with market-driven reconstruction. Geoffrey Edwards (2007) argues that this is a false assumption that marginalises the needs of society. The aim of this thesis is to uncover the contradictions between the application of NCP and the public interest.

The problematic of the public interest is tested against the actual outcomes of NCP restructuring in the above-mentioned sectors.[14] This approach fills a significant gap, as NCP was established without a process to evaluate sectoral outcomes critically. This is remarkable given the radical nature of the market-driven policy change. To date, there has not been a systematic attempt to analyse whether the outcomes of NCP reflect the original assumptions and predictions following the implementation of this policy. In particular, this research looks closely at a range of key primary industries, where statutory marketing arrangements were removed and vital utilities were privatised.

The Industry Commission (IC) (now the Productivity Commission [PC]) has reviewed aspects of NCP.[15] Both the 1999 and 2005 PC NCP review reports were commissioned by Liberal Government Treasurer Peter Costello (1996-2007). When the Treasurer commissioned the 1999 PC Inquiry on NCP to avoid a Senate NCP inquiry, the Senate nevertheless voted in support of conducting their own NCP inquiry. The 1999 and 2005

[14] It is significant that the thesis title uses the term 'outcomes' rather than a singular/overall 'outcome' of NCP. The title does not assume that the research aimed to achieve a comprehensive assessment of NCP. Rather, it analyses the outcomes and impacts of the policy changes in a range of critical sectors.

[15] 1995: Implementing the National Competition Policy: Access and Price Regulation—Industry Commission Information Paper; 1999: Impact of Competition Policy Reforms on Rural and Regional Australia; Modelling the Regional Impacts of National Competition Policy Reforms.

- Statistical Annex to the Supplement to the Inquiry Report: Modelling the Regional Impacts of National Competition Policy Reforms.
- Modelling the Regional Impacts of National Competition Policy Reforms—Supplement to Inquiry.

2005: Review of National Competition Policy Reforms—Productivity Commission Inquiry Report.

PC publications on NCP have promoted this intervention as a model for change and have failed to provide a detailed assessment of the outcomes of this policy with reference to the predictions made. Other Government bodies, such as the National Competition Council (NCC) and the National Water Commission (NWC) have published reports providing a positive portrayal of NCP, without systematically making this type of assessment (NCC 1996, 1999, 2003a, 2003b NWC 2006).

Aims

The aim of this thesis is to demystify this major but little understood policy initiative, which has been pursued by successive Australian governments, and which is having significant impacts on the socio-political fabric of Australian society. By considering whether the legislative and regulatory changes brought by NCP in the sectors chosen for analysis are in the public interest, this thesis fills a gap in the literature, as there has been no systematic research into the human, social and economic impacts of these radical policy prescriptions.

Section 1(3) of the 'National Competition Policy Agreements' included a list of 'matters that may be taken into account' (NCC 1997: 10)[16] in determining the application of NCP. However, in that document, 'public interest' was not clearly defined. Since the 1980s, governments have viewed markets as the determinant of the public interest and subsequently eschewed ethical standards based on social values (Edwards 2007). In seeking to test the public interest, the thesis will evaluate the outcomes (as defined) for both business and community against the key assumptions and modelling of NCP. As NCP is based on corporate-based 'contestability' theory

[16] Section 1(3) of the NCP Agreement includes the following:
'(3) 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 public 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 of a class of consumers;
(i) The competitiveness of Australian businesses; and
(j) The efficient allocation of resources' (NCC 1997: 10).

(Baumol 1982, Baumol *et al.* 1982[17]) rather than on the more regular market theory (see, for example, Samuelson & Nordhaus 1989 [1948])[18], the thesis explores the impacts of the corporate globalisation model in Australia (neo-liberalism/economic rationalism as will be explained in Chapter 3) and its implementation through NCP. The thesis creates space for a potential integration of an ethical stance by exposing the credibility gap between claimed and actual policy outcomes in the select sectors in which NCP intervened. This explores the economic and social impacts (political economy) of the implementation of NCP.

Research Questions

To achieve these aims, the following focal research questions are posed:

- Have the outcomes of important aspects of NCP been in the public interest in the sectors which were researched in this thesis?
- In these sectors, since NCP is a major policy change, have there been systematic Government assessments of the public interest of these claimed 'competitive' outcomes and have Government sectors assessed whether major NCP policy changes are meeting the basic needs of society? and
- Have Federal Government sectors which were researched in this thesis been publically assessed or admitted by the Government whether the assumed preconditions of NCP policy changes (such as 'contestability theory') exist?

A central purpose of this thesis will be to expose gaps, by determining the extent to which the assumptions surrounding NCP were founded or unfounded and/or ideologically driven. Since NCP has failed to define the public interest in relation to major policy change, a suitable definition must be determined here, to underpin this study. The choice is a pivotal one, for the definition shapes the nature of the critique, and a poorly defined 'public interest' weakens the critique. John Quiggin (1996) explains that in 'microeconomic reform' in Australia the 'competing views of the role of government may be referred to as the 'public interest' and 'private interest' models' (p 51). He then notes that 'The public interest is based on the assumption that policies

[17] Baumol *et al.* (1982: xx) define a 'contestable market' as 'one in which entry and exit are easy and costless, which may or may not be characterized by economics of scale or scope, but which have no entry barriers (cited from Baumol and Willig 1981).

[18] As Samuelson and Nordhaus (1988 [1948]: 42) explain, 'perfect competition' refers to a market in which no firm or consumer is large enough to affect the market price'.

are designed with the aim of increasing social welfare' (Quiggin 1996: 51) and the 'public interest model' in its simplest form suggests that Government Business Enterprises (GBEs) '... will yield better outcomes than private enterprises because private enterprises are interested in maximizing profit while GBEs pursue policies aimed at promoting public welfare ...[however] ...The public interest model of GBEs has been abandoned in recent years ...' (Quiggin 1996: 63). Thus, from a public interest perspective, *the state* would need to intervene strongly *on the side of society* to defend the rights of persons, society and nature against the untamed profit logic of corporations and finance capital. In a Book Review of Karl Polanyi's *Great Transformation* by Gregory Clark in *The New York Sun* (Clark, G 2008: 1) Clark explained how Polanyi showed 'the free market to be the enemy of humanity'. For a fuller discussion of this Polanyian approach to the public interest, see the work of Leys (2001) and Webster, Lambert and Bezuidenhout (2008).

This highlighting of a strong public interest definition characterised my earlier work, which focussed on NCP (Margetts 2001) and the 'public interest' of a range of Western Australian (WA) State Agreement Acts, which were remarkably exempted from the weakly defined NCP public interest assessment. This approach is summarised in the following section, as it illuminates the author's intellectual journey and the approach taken in this work.

NCP and WA State Agreement Acts

In my research for my Masters' Thesis (*Competition Policy, State Agreement Acts and the Public Interest),* completed in 2001, I analysed three instances of the application of WA State Agreement Acts. The relationship between 'public interest', NCP and the State Agreement Acts was analysed in relation to claims that these agreements advanced resource development policy in WA. The question was; what was the relationship between these interventions and the 'public interest' (Margetts 2001: 1). As Adrian Jones (1999) observes, State Agreement Acts in WA promoted corporate interests and were of considerable benefit to major resource developers. For Jones, 'State Agreement Acts are a non-compulsory legal instrument that outlines the respective entitlements of the State Government and private developers in relation to major resource projects' (Jones 1999: 1). WA used State Agreements as a means of securing particular types of investment. However, as State Agreement Acts tended to include public subsidies to

attract investment, these subsidies should have been a logical target for public interest scrutiny (Margetts 2001: 5). The three case studies included in my analysis, which concluded that the public interest was not being realised, were the *Woodchipping Industry Agreement Act 1969*, the Oakajee *Iron and Steel (Mid-West) Agreement Act 1997* and the *Silicon (Kemerton) Agreement Act 1987* (Margetts 2001: vi).

In the case of the expired *Wood Chipping Industry Agreement Act 1969*, there was a strong case that the economic and ecological costs associated with the agreement were greater than were the benefits to the State, and that this would not justify the agreement. In the case of the *Iron and Steel (Mid-West) Agreement Act 1997*, it was shown that the State would not receive an economic return from their investment in the near future. With regard to the *Silicon (Kemerton) Agreement Act 1987*, Government assistance was not justified financially and environmentally (Margetts 2001: 288).

What is evident from this is that the State has facilitated a corporate sector determination of the public interest (Edwards 2007). While State interventions are supposed to be bound by the 'public interest', my Masters' research showed that only a few State Agreement Acts were NCP 'public interest' assessed. As is demonstrated in the Retail Case Study, NCP was based on corporate interest. In the 1997 UNSW Public Sector Research Centre Seminar, Ed Willett, Director of the NCC, reflected the contradictions of the state through its identity with corporations when he stated that the 'starting point' of public interest assessment is that the State is the 'arbiter' of the public interest. However, they are 'not accountable to the community' and there is 'no constraint on policy implementation by governments' (Willett in Cater (ed) 1998: 10). Such contradictory positions on the part of State bureaucrats only serve to construct a weak definition of the public interest, thereby permitting for the dominance of major corporations in the restructuring process promoted by NCP.[19] This is a key dynamic in the three case studies of this thesis.

Significance of NCP Research

Competition policy became one of the principle means of constructing regulations favourable to the large corporations thereby limiting the capacity of society and nature

[19] Page 20 of this chapter explains aspects of NCP which challenge that NCP was promoting 'competition'.

to protect those interests with an inherently different logic to that of the market. The post-1983 market-driven changes in Australia as explained below have been momentous, yet there has been no systematic analysis of the societal and ecological impacts of these changes. The significance of this research resides in its attempt to fill aspects of this void by focussing on the impacts of NCP and highlighting the weak interest definition.

The Australian Labor Government embraced 'microeconomic reform' in a highly dogmatic fashion from the mid-1980s and Quiggin explained that 'Traditional Labor views about the desirability of public ownership were abandoned as public enterprises were first corporatised, then privatised' (Quiggin 1996: 3).[20] This was followed by major market changes with the introduction of NCP in the mid-1990s. However, the roots of these 'reforms' predate the Hawke/Keating (1983-1996) Labor Government. In 1973, the Whitlam Labor Government introduced a 25 per cent cut in tariffs. The establishment of the Campbell Committee in 1979 by the Liberal Prime Minister Malcolm Fraser (1975-1983) instituted financial deregulation, which led to the dollar being floated in 1983 (Quiggin 1996: 1). However, it was from 1986 that the newly elected Labor Government embraced neo-liberal change uncompromisingly (Quiggin 1996: 3) and made substantial impacts on the treatment of Australian law and policy changes.[21] Regulations that protected social justice, public enterprises and small business were reduced or removed leaving the question as to why they adopted this position and its narrow focus on the needs of corporation and supporting corporate market dominance (Jones 2012: 66). This led to the introduction of NCP in 1995.

The significance of this attempt to uncover the realities of the impacts of competition policy is that it is the first systematic review of the stated assumptions and modelling that influenced the structure and implementation of NCP. In the absence of such systematic assessments, the process of NCP implementation continues and is likely to be extended into areas such as health and education, without broader public understanding and debate around the public interest dimension of the mantra of restructuring.

[20] By contrast, Quiggin cites that 'economists who adhere to standard welfare theory support government intervention whenever it produces better outcomes than would a free market' (Quiggin 1996: 36).
[21] NCP supporter and promoter, Bronwen Morgan, calls it 'meta-regulation'. It uses NCP as a technique for legitimating and perpetuating the neo-liberal version of globalisation and deregulation, and as a second level of constitutional power (Morgan 2003).

Structure

The thesis is structured as follows:

- Chapter 2 will explain the political economy methodological approach of this NCP research, and provides details of the methodology of the Case Studies.
- Chapter 3 will summarise the political economy of NCP. The chapter will explain the historical and theoretical push by a range of economic theorists towards neo-liberalism, which became the theoretical model underpinning the 'economic rationalist' basis of NCP. Hence a critique of NCP arises out of a critique of neo-liberalism.
- Chapter 4 will provide a summary of the IC's predicted economic benefits of NCP, before critiquing the flawed assessments of these assumed benefits. Outcomes such as the growing gap between rich and poor, and issues in assuming international links between deregulation and productivity will also be discussed. This chapter will also test the public interest assumptions of NCP market theory. Finally, links will be made to the case studies to be presented in Chapters 5, 6 and 7.
- Chapter 5: The Dairy Case Study will assess the impacts of NCP on the Dairy Industry and its consumers and suppliers owing to the removal of the Statutory Marketing Arrangements and other NCP policy changes. This will include the impacts on the Dairy Industry of the ability of major retailers to use their corporate market dominance on their supply sectors such as the Dairy Industry, and the most recent impacts by the major grocery retailers on the Dairy Industry.
- Chapter 6: The Retail Case Study will analyse the theoretical basis of Australia's NCP retail deregulation and will link this to employment relations changes, will explain the major sources of trading hour changes, will summarise the impacts of the ACCC Grocery Price Inquiry and critique the manner in which the ACCC handled the inquiry. Furthermore, this chapter will explain the requirements of more effective inquiries, assesses whether the assumed preconditions of the theoretical basis of NCP's 'contestability theory' existed, will discuss how the ACCC avoided assessing the impacts of NCP on the retail sector and reviews the most recent behaviour of the major corporate grocery retail sector.
- Chapter 7: The Water Case Study will explain the political economy of water policy changes in Australia as the basis of the development of the Water Policy 'agreement'. A WA water policy change perspective includes an international

comparison of the lack of data on Australian water use and water availability while Australian States and Territories are financially punished if their water policies do not fully support water trading/privatisation. The impacts of climate change will also be incorporated into this discussion and evaluation of the impacts of NCP.

- Chapter 8 will end with a summary and a conclusion to the thesis.

I will conclude this introductory overview of the thesis' conceptual framework by situating this work in the Australian political context and this debate which occurred over this shift to a radical model.

Public debate occurs in many areas of public policy change. NCP, which represented a major change in Australia's political economy, now introduced more than a decade and a half ago, is having enormous impacts on many aspects of the Australian economy. However, in the absence of significant targeted public assessment and debate about the NCP policy itself, most Australians do not understand the connections between NCP and Australia's political economy changes. The assumption upon which this policy direction continues is that it is in the public interest, and yet there are considerable questions about the nature and application of the NCP public interest tests. One way to investigate this issue is to follow through the assumptions and check the outcomes for a range of sectors in which the NCP 'reforms' and public interest tests have been applied. Thus, the thesis explores some significant outcomes of NCP; examines the assessment, or lack of assessment, of the impacts of NCP and its support for the corporate globalisation model in Australia; and will consider what changes should occur. The thesis tests the major assumptions of the model through empirical work in key economic sectors to explore the economic and social impacts of the implementation of NCP by applying the strong societal definition of the public interest.

In my Masters' thesis, I described how 'economic rationalism gave birth to National Competition Policy' (Margetts 2001: 23). Quiggin (2003) elaborates how the term 'economic rationalism' first entered the Australian lexicon in the 1970s when the Whitlam Labor Government came to power and sought to reduce tariffs and agricultural price support schemes, and support free trade. Those opposing Labor's schemes were regarded as 'economically irrational', with 'economic rationalists' emerging as the antithesis of this. By the 1980s, these 'economic rationalists' had largely adopted the

'micro-economic views of the Chicago School' (Quiggin 2003).[22] In addition to having 'micro-economic views', the Chicago School promoters were also referred to as 'neo-liberalists' that supported 'deregulation, exposing the nation and its citizens to volatile world markets and rapid technological change' (Galligan *et al.* 2001: 165). In Australia, Pusey's (1992: 6) description of 'economic rationalism' explained that it was based on the support of 'neo-liberalism', which has been described as 'anti-statist, 'anti-union' and 'either asocial or anti-social'. From a neo-liberal perspective, Ann Capling and Brian Galligan (1992) acknowledged that from the mid-1980s protectionism was being abolished by the Hawke/Keating Labor Government. However, unlike Pusey, they supported the economic rationalist approach, as they considered that the abolition of protectionism was a transaction from 'a protective to a corrective state' (Capling & Galligan 1992: xi).

An 'economic rationalist' is described as someone who believes that the market is almost always the best way of deciding what is to be produced and that the consequences of market failure are usually less important than the failures of government in that respect (Neville 1997: 5). Senior bureaucrat economic rationalists were described as beginning to move 'from the wings to the centre stage' in Canberra from around 1984 (Pusey 1992: 47). The current economic environment in Australia, in which NCP operates, tends to treat economic rationalism as 'economics' rather than a theoretical construct linked to the Chicago-School based models of the 1970s and 80s. However, even the Chairman of the Committee, which undertook the Inquiry to develop NCP, admitted that NCP itself was not theoretically substantiated (Hilmer 1994: xiii).

This contestation over the shift to free markets in Australia also shapes the way in which NCP is viewed. For the neo-liberalists, NCP is a positive, constructive intervention in the public interest. For those who have adopted a critical stance, NCP undermines society.

[22] In the 1930s, John Maynard Keynes rejected the idea that the economy was naturally self-regulating and he took a macroeconomic approach (Quiggin 1996: 8). The Collins Concise English Dictionary defines Macroeconomics is the study of the economy as a whole, and has been defined as 'the branch of economics concerned with aggregates, such as national income, consumption, and investment' (Wilkes & Krebs (ed) 1991: 680–681). Keynes' opponents tended to promote a microeconomic approach, which examines the behaviour of individual economic entities, forms and consumers and is defined as 'the branch of economics concerned with particular commodities, firms or individuals and the economic relationships between them' (Wilkes & Krebs (ed) 1991: 717).

Conclusions

This chapter explained the aims of and rationale behind this project. In the following chapter, the methodological approach is detailed, and explanation is offered as to the importance of developing a robust and rigorous assessment of NCP outcomes for those affected by the policy change, including the Australian consumer.

Chapter 2: Methodological Approach

> This sketch of the course of my studies in the domain of political economy is intended merely to show that my views—no matter how they may be judged and how little they conform to the interested prejudices of the ruling classes—are the outcome of conscientious research carried on over many years (Marx 1977).

Introduction

As argued in Chapter 1, it is appropriate that an analysis of competition policy in Australia is informed though an engagement with political economy. Adam Smith laid the foundation of this approach, claiming competition to be a positive force in the economy and society. Marx's critique of political economy challenged this notion of self-regulation by demonstrating how competition actually played out, leading to an anti-competitive logic of centralisation and concentration. This transformation logic, which now characterises neo-liberal globalisation, is ignored by the power elite in Australia. As highlighted in the introduction, the *method* of this critique of NCP is grounded in case studies of specific sectors of the economy: the Dairy Industry, the retail sector and water provisioning. The essential critique of the application of NCP in these sectors is based on testing *claimed* outcomes against *actual* transformations, thereby exposing false public interest claims of NCP. This methodology chapter begins by situating this case study critique within the field of political economy.

The NCC claimed that NCP sought to promote public interest and favour competition (NCC n.d.). However, the term 'public interest' is nowhere defined by the NCC in the NCP. Instead, the term seems to be used to indicate the factors that a government could examine when considering the benefits and costs of a particular action. Thus, 'it is neither [an] exhaustive or prescriptive' term (NCC n.d.).

This 'open-endedness' of a concept that lies at the core of NCP has posed methodological challenges in developing the analysis presented in this thesis. In light of this ambivalence, the analysis has had to draw on a number of disciplinary schools of thought to interrogate the claims made by advocates that NCP meets the public interest, against the 'public' responses as expressed by either representative groups or individuals alone. A political economy framework has allowed the melding of these

views and the juxtaposing of data that have not only used different methodologies but that also stem from different sources.

The Concise Oxford Dictionary of Politics identifies three broad traditions of political economy: the traditional meaning concerning the systematic inquiry into the nature and causes of the Adam Smith 'Wealth of Nations'; the Marxian tradition; and the tradition of 'political economics which uses statistical and modelling techniques to test hypothesis about the relationship between government and the economy' (McLean & McMillan (ed) 2003). The first two of these have been mentioned earlier in this chapter. Regarding the third, Kratke and Underhill's (2006: 24–25) definition of political economy is a:

> ... venerable intellectual tradition which has undergone a recent revival'... [and which] … indicates the recent rediscovery by political scientists of the importance of economic issues and, in particular, of the political nature allegedly of 'economic' facts, structures and processes. This has led to a series of efforts to reoccupy what was once a no-man's land between the realms of economics and political science.

Another definition of the term 'political economy' is that it is 'a branch of the art of government concerned with the systematic inquiry into the nature and causes of the wealth of nations ... [and it is now] ... more often used loosely to describe political aspects of economic policy making' (McLean & McMillan 2003). This thesis takes on the 'statistical and modelling techniques to test hypothesis about the relationship between government and the economy' (McLean & McMillan (ed) 2003) as mentioned above, and the study of political economy uses multidisciplinary approaches including economics, law and political science (Drazen 2008). This thesis similarly draws on this multidisciplinary approach in analysing the select economic sectors.

Given the paucity of research addressing the issue of competition policy, the method is exploratory. This is consistent with the use of political economy as a method (Krätke & Underhill 2006; McLean & McMillan 2003; Drazen 2008). Thus, before discussing the data gathering and data analysis methods used, the chapter begins by discussing the method of political economy. The format is of a general discussion about these points, followed by specific reference to the case studies developed for the thesis.

Political Economy as a Method

In essence, political economy is an approach within the social sciences that can be described as the study of political and social processes shaping the nature of economic growth and change (Munro 2004: 147). This approach originates in the seventeenth and eighteenth centuries, in the works of Smith, Malthus, Ricardo and Mills (Munro 2004: 146). Marx and Engels, who were part of the later German 'social and historical strand of political economy', focussed their analyses on the 'material betterment of people and the stability of the nation state' (Munro 2004: 146).

The use of political economy as a method entails interrogating traditionally held views regarding the claimed objectivity of economics in analysing society, economy and the state (Anderson 2004; Stilwell 2005). Mainstream economic frameworks reinforce the view of the market as an impersonal and homogenous entity (Anderson 2004), whereas political economy interpretations instead embrace diverse schools of economic thought and engage more directly with contemporary economic problems. Political economy therefore exposes the value-judgements that different stakeholders may have in interpreting the economy (Stilwell 2005: 109–110).

Stilwell argues that 'political economy challenges economic orthodoxy' (Stilwell 2005: 107). In his view, mainstream economics does not challenge or break from the assumptions of Keynesian economics theory, nor does it challenge:

> the separateness of the economic from the social and political: methodological individualism; the impersonal market and its capacity, given appropriate competitive conditions, to generate allocative efficiency; a pervasive trade-off between equity and efficiency, and so forth ... [and that this lack of process involves] tunnel vision (Stilwell 2005: 108-9).

Rather, political economy:

> embraces diverse schools of economic thought, it engages more directly than neoclassical economic theory with contemporary economic problems, it requires less 'suspension of disbelief' than more 'orthodox' economic theoretical methods and it sits more comfortably with the consideration of value-judgements (Stilwell 2005: 109–110).

When embraced as an approach informing a method of critique, Anderson, T (2004) advocates the following guidelines:

> 1) Defer judgement—discount the stated aims and objectives [of economic theorists] and defer ethical or summary judgement;
> 2) Explain historical and institutional context—explain why the issue/question arises, explain what particular histories and social structures bear on the issue/question and discuss the fragility or resilience of systems;
> 3) Apply group/class interest analysis—disaggregate general claims, identify which formal group/class rights are stressed or advanced and identify the interest of monopoly power;
> 4) Identify the argument—identify ideologically charged concepts, discuss the interest group-concept relationship and critically analyse 'rights' claims;
> 5) Discuss value distribution—identify any distributional issue embedded in social relationships, explain how value might be (re)distributed and explain impact on effective group/class rights; and
> 6) Present a considered judgement—apply above considerations to form a conclusion (Anderson, T 2004: 142).

The approach of this thesis is grounded in these guidelines, for the following reasons. Firstly, recognising the significance of history in shaping the state, economy and society has facilitated the contextualisation of NCP in a manner that recognises the critical interests of society in relation to political choices, which has vast implications for these interests. Chapter 3 details the 'stated aims and objectives' of economic theorists, explains the 'historical and institutional contexts', identifies the 'interest of monopoly [and oligopoly] powers' and identifies the 'ideologically charged concepts' pushing towards NCP. Then, the case study chapters 5, 6 and 7 provide examples of 'impacts on effective groups' and the combined judgements provide the thesis conclusion.

Secondly, using political economy as a method has enabled the inclusion of significant 'voices' or 'interest groups' in understanding both the formulation of, and impacts, of NCP. Finally, in the absence of rigorous analysis by either governments or economists regarding the actual outcomes of NCP, especially in terms of the significance of the public interest test, the political economy approach has been useful in theorising the range of interests in play with regard to NCP. This avoids simply assuming the singular interpretation of state ideologies and the narrow set of economic interests states' have chosen to represent since the introduction of market reforms in Australia from the mid-1980s onwards.

The case studies have exposed these interests and can contradict the so-called 'scientific evidence' that the architects of the change have advanced. By broadening this case study approach (Yin 1981; Crossthwaite *et al*. 1997; Mikkelson 2005), a specificity of analysis has been possible, which has made 'sense' of the general claim that public interest has been met through NCP for individuals, groups and society. Anderson, T's principle (2004), that it is only when this information is gathered and analysed that 'judgement' can be made, has placed a further onus on the researcher to ensure that the claims being made in this thesis about the impacts of NCP are substantiated and grounded, prior to judgements being made. NCP has potential impacts across the entire economy, the legislative systems and the community, hence the need to apply the rigor and scientific discipline suggested by Anderson above (2004: 135–145).

For the conclusions drawn from the study to engage a public discourse on NCP, the data has to be sufficiently rigorous to withstand dismissive 'critique' from the defenders of the neo-liberal model. Anderson's (2004) recommendations regarding assessment of the mechanisms for evaluating the nature and outcomes of political economy allow for the use of such 'mechanisms' in case studies from major sectors in the economy. The 'historical context' of NCP is explained in the theory chapter (Chapter 3), before being covered in the case study chapters by 'applying group/class interest', 'identifying the arguments' by the proponents of NCP and 'discuss[ing] value distribution' before and after NCP policy change. As outlined later in this chapter, in undertaking this task, there has been extensive use of secondary data available from reports and other publications, combined with the gathering of original data from communications with key informants and, where relevant, such as in the Dairy Case Study, conducting focus groups with key stakeholders to verify accuracy.

When used this way, political economy as a method reflects an exploratory research design. Exploratory research is where research is conducted on a problem that is not clearly defined or where a situation has received little or no empirical scrutiny (Stebbins 2001: 9). Stebbins writes that this exploratory research 'is appropriate in areas where social scientists have often been found wandering among the trees, having lost sight of the forest' (Stebbins 2001: 5). Thus, exploratory research may not be finished until everything of importance for describing and understanding the area under study has been created (Stebbins 2001: 3).

An exploratory research design is appropriate for this study, because although NCP is assumed to be in the 'public interest', there is little systematic assessment of the impacts of NCP, especially with regard to the significance of the public interest test. In summary, understanding the outcomes of NCP has become obfuscated by the rhetoric surrounding the policy. An exploratory research design also fosters multidisciplinary enquiry and a multiplicity of data collection techniques (Stebbins 2001), thus making it suitable when drawing on political economy to inform the methodological approach.

Justifying the Use of Case Studies

Yin (1981) defines case study as a mode of empirical inquiry that investigates a contemporary phenomenon within its real-life context, where the boundaries between the phenomenon and context are unclear. If properly conducted, case studies can be useful in understanding complex social and economic policy phenomena (Mikkelson 2005: 92). Good case study design is ideally based on well-grounded theory and a set of testable propositions (Crossthwaite *et al.* 1997). Case studies rely on multiple sources of evidence, so as to meet the test of triangulation of data, which requires that findings from developing case studies are not reliant on only one source. Given the reliance on multiple sources of findings, case studies generally embrace a range of disciplinary approaches to analyse the phenomenon under study (Yin 1981). Case studies have been noted as being useful vehicles for building theory (Crossthwaite *et al.* 1997, citing Eisenhardt 1989, 1991), and as such, case studies meet the 'test' identified by Anderson (2004) of deferring judgement or theorising in advance (Dyer & Wilkins 1991) of meticulous compilation and analysis of relevant data.

Nevertheless, a frequent criticism of case studies is that, because findings generally depend on a single case, case studies fail the test of generalisation (Tellis 1997). However, Yin argues forcefully against this criticism and suggests that, given that the goal of case studies is to explore theoretical parameters, the numbers of cases becomes irrelevant; what counts is the rigour adopted in collecting and analysing the data to support findings (Yin 1984, 1989a, 1989b, 1993, 1994, cited in Tellis 1997).

In this study, a case study methodology has been useful because it has enabled the integration of multiple data sources and theoretical understandings to explore the research question, namely the impacts of NCP with particular reference to the public

interest test on the Dairy, Retail and Water sectors (see Chapters 5, 6 and 7, respectively). A case study methodology has also necessitated the use of multiple data gathering techniques in exploring the question (Crossthwaite *et al.* 1997). By developing multiple case studies, the findings of the thesis support the test of generalisation of the findings in terms of the key aspect of the research question in Chapter 1; that is, the impacts of NCP, with particular reference to the public interest test. Further discussion on this is presented in the concluding chapter of the thesis.

Despite my best efforts, it has not been possible to test the 'theory' of NCP fully in each case study. This is because, even though NCP is derived from the neo-liberal model (often referred to in Australia as 'economic rationalism', see Chapter 3), Hilmer (1994) himself admitted that NCP is not based on a clearly accepted theory.[23] This poses a challenge in identifying propositions able to be tested through the collection of data. As political interventions derive from 'theory' and are justified by reference to 'theory', the assumed 'competition' theoretical basis was considered to be self-evident, despite the lack of a generally accepted 'competition theory'.[24] In the Hilmer report, it was admitted that 'Competition policy is not about the pursuit of competition *per se* ...' (Hilmer *et al*. 1993 xvi). However, while the Hilmer Report did not explain the details of NCP's theoretical basis, in the Retail Case Study (see Chapter 6) it is explained that an early footnote in the Report (Hilmer *et al.* 1993: 2) revealed support for Baumol's (1982) 'contestability theory', which (the authors omitted to mention) supports corporate market dominance and is not a 'clearly accepted theory'.

The Retail Case Study provides examples of the impacts of retail market dominance and notes the assumed preconditions of 'contestability theory'. It also checks whether those 'preconditions' existed in the retail grocery sector and whether the ACCC admits the assumed preconditions of 'contestability theory' existed in the Australian retail supermarket sector. Thus, rather than fully test the inadequately explained 'theory', what has been explored in this thesis are examples of the dominant paradigm behind the legislative and regulatory changes brought about as a result of NCP; that is, the

[23] A major reason it is not possible to test the NCP theory fully is that there are no specific academic publications explaining its full theoretical basis.

[24] A classical Australian definition of 'perfect competition/perfect market' in Miller & Shade's *Foundations of Economics* (1982: 248) states that the conditions of 'perfect competition' must be satisfied to for a 'perfectly competitive industry to exist': 'A large number of buyers and sellers', 'a homogeneous product',' no preferential treatment for either buyers or sellers', 'perfect knowledge', 'complete freedom of entry to the market', and 'perfect mobility'. As shall be seen throughout this thesis, this makes the Hilmer Report's (Hilmer *et al.* 1993) views on 'competition' highly challengeable.

assumption that the push for Australia-wide legislative changes are *all* in the public interest. Hence the 'testable propositions' around which the case studies have been developed in this thesis have evolved through the analysis of secondary material that outlines the predictions, models and assumptions produced by the key proponents of NCP (such as the IC),[25] prior to the implementation of NCP (see Chapters 5, 6 and 7). This analysis has been further informed by original research with key informants and other stakeholders using both focus groups and interviews. Use of these techniques is described in the next section.

Using Multiple Sources of Data/Multiple Methods of Data Collection

A number of methods have been adopted in this thesis to gather data, including analysis of secondary material, focus groups and interviews/communication with key persons in various sectors.

Analysis of Secondary Material

In this thesis, secondary data has been a major method to gather data for the case studies (see Chapters 5, 6 and 7). Secondary data is used to interrogate the claims made by the ACCC's *Report of the ACCC Inquiry into the Competiveness of Retail Prices for Standard Groceries* (ACCC 2008d) to develop the Retail Case Study analysis provided (see Chapter 6). For example, secondary data has been sourced from submissions to the ACCC's retail prices inquiry, combined with data from reports such as the ACCC's report entitled *Examination of the Prices Paid to Farmers for Livestock and the Prices Paid to Consumers for Red Meat* (2007). In addition to reading and summarising all of the 250 public submissions to the ACCC retail prices inquiry, a list was made of the sources of the submissions.[26]

[25] A range of historical details of the IAC/IC that provides some background to their push for NCP is published in 'From Industry Assistance to Productivity: 30 years of the Commission (PC 2003).

[26] Primary Producer Organisations (38 submissions, 30 organisations), Individual Primary Producers (14 submissions), Fresh Produce Wholesalers (5 submissions), Health Organisations/Food Health Lobbyists (15 submissions, 14 individuals/organisations), Manufacturers/Packaged Grocery Suppliers (7 submissions, 6 individuals/organisations), Wholesalers/Marketers/Mid-Chain (6 submissions, 4 organisations), 'Other' Government Bodies (7 submissions), Retail Property Developers (10 submissions, 4 organisations), Retailers (40 submissions, 15 retail organisations), Individual Consumers (47 submissions), Consumer Organisations/Research Bodies (17 submissions, 14 individuals/organisations), Other Academics (4 submissions, 2 individuals), Other Industry Organisations (1 submission), Worker Representatives/Unions (3 submissions), Politicians/Political Parties (7 submissions) and Unknown/Other (22 submissions).

As primary producers were the largest group of organisations contributing to the ACCC retail prices inquiry, it was important to assess the nature of their concerns and check whether the ACCC had adequately acknowledged and responded to their concerns. The Retail Case Study will explain how many submissions by organisations representing Australian primary producers, claimed that there was a growing gap between farmgate and retail pricing. Further, the meat section of the ACCC's (2008d) report avoided admitting that their own data published in the previous year (ACCC 2007) showed the growing gap between farmgate and retail beef pricing. After communicating with a range of representatives from the Australian Beef Association, data was obtained for the 1984–2007 period, which will enable the graph of any growing gap between farmgate and retail pricing (Margetts 2011a: 89).

Secondary material has been crucial in engaging the state institutions. Key state interventions are summarised because they reflect the views of key proponents of NCP claiming to meet the public interest test. Thus, to explore the research question, which seeks to assess the impacts of NCP with particular reference to the questions of public interest, it was critical to firstly interrogate the claims by proponents by collecting public data for the years before, during and after the introduction of NCP (see Chapter 4). This was to check whether the assumed benefits were tenable, before being able to establish any clear finding. This approach of deferring judgements in line with Anderson (2004) has been discussed above. Similarly, it was necessary to consider graphs from the Australian Bureau of Statistics (ABS) and the Australian Bureau of Agriculture, Resource Economics and Sciences (ABARE), as well as documents commenting on NCP assumptions, to ascertain the veracity of the thesis' emerging viewpoint.

Drawing on secondary data was also necessary to substantiate the extent of the change since the introduction of NCP. This is because inquiry's such as the ACCC's (2008d) '*Report of the ACCC inquiry into the Competiveness of Retail Prices for Standard Groceries*' only requested submissions with data going back '5 to 10 years' from 2008. This was a time period ex-post the introduction of the NCP (since 1995), whereas a thorough assessment of NCP required assessments dating back at least 15–20 years, to coincide with the time of introduction of NCP and hence properly evaluate changes as a result of NCP (Margetts 2011a: 83).

A key compilation of secondary material that was analysed for this thesis was the collection of submissions provided to the Senate Select Committee's NCP inquiry in 1998/99. In addition, utilising my contacts within the Federal Parliamentary Library, reports from a wide range of NCP-related issues were also analysed. This included a copy of the Hilmer Report that is no longer easily available: the *National Competition Policy: Report by the Independent Committee of Inquiry* (Hilmer *et al*. 1993).

Focus Groups

In this thesis, a focus group was arranged with WA dairy farmers to verify the accuracy and interpretation of the analysis developed through use of secondary data. The section below describing the methodology used to develop the Dairy Case Study provides a full explanation of how participants were recruited.

Interviews/Oral Communication

In this thesis, interviews and discussions were conducted to complement the data analysis. These interviews were conducted with a range of informants from relevant government, academic and industry groups. Details of the informants are provided as part of the descriptions of the methodology used in each individual case study below.

The method of choosing key informants was justified based on checking whether any important data was ignored, making sure errors were not made in the research and checking what other important publications and sources of data needed to be accessed and assessed. Thus, not only were key informants interviewed for the purposes of collecting data, they were also used to check the accuracy of the analysis developed in each case study. Lincoln and Guba (1985: 370–371) suggest that once the first draft of a case study (or chapter) is completed, reactions covering the range of interests impinging on the study should be sought, to check for errors of fact or interpretation.

To illustrate how interviews and communications were used to collect data for this thesis, the example of contacting a key informant, Prof Pat Ranald, is used. Ranald had participated in a phone-based presentation to one of the Western Australia Globalisation Roundtable meetings (2002–2005), which my office organised while I served as a WA Upper House Member of Parliament. While preparing the thesis, I communicated with

Pat Ranald, as she had written journal articles on the likely impacts of NCP on the outsourcing of public services. I also had access to a range of academics that I had met while in the Senate who I could contact when I needed to discuss my findings, or locate useful publications.[27]

Selection of Case Studies and Methodologies Deployed

Dairy Case Study

The Dairy industry is chosen for case study because of the industry's significance to primary production, manufacturing, retail and export industries[28] and because, while I was in the Senate, a NCP Senate enquiry foreshadowed the impacts of NCP, confirming my decision to research the restructuring following the application of NCP strategy (SSCSECNCP 1999).[29]

The Dairy Case Study will explore the impacts of the removal of state-based dairy regulatory arrangements on the Dairy Industry, dairy consumers, processors, retailers and the wider community. Owing to the complexity of the subjects under investigation, focus groups were conducted, to check whether the particular case study included errors that required correction or whether the case required further explanation or data to cover the issue adequately.

The approach used in compiling this case study will involve identifying and outlining the assumptions and predictions used by the proponents of NCP, and will compare these to actual outcomes. For the Dairy Case Study, this will mean examining whether the process of dairy deregulation meets the NCP public interest test criteria. This requires

[27] Those highly respected academics included Prof John Quiggin, Prof Frank Stilwell and Evan Jones, whose relevant publications have been quoted throughout this thesis and who assisted in advising on where to locate other useful academic publications. The Case Study Methodology section later in this chapter also provides some examples of useful and important oral communications/interviews.

[28] In 1994/95, the value of milk production ($2,419m) was greater than wheat ($2,127m) and less than total horticulture ($3,426m). However, by 2009/10, wheat production was valued at $3,365m, wheat at $5,315 and total horticulture at $6,905m. In 1996/97, dairy food processing ($2,911m) was less than half the value of grain, flour and bakery production ($6,225m), but in 1999/2000, dairy processing was valued at $7,782m and the available data of grain, flour and bakery processing was $6,749m. Dairy production value continued to remain higher than the value of grain, flour and bakery production (ABARE 2000, 2005, 2010). In 1975/76, retail dairy products were worth 9.18 per cent of total food and beverage domestic expenditure (ABARE 2010). From 1991/92, dairy exports were 8.24 per cent of Australia's processed food exports, rising to 12.57 per cent in 2000/01, before falling to 8.47 per cent by 2009/10 (ABARE 2000, 2005, 2010).

[29] As mentioned in the Thesis Preface, the degree of evidence of the impacts of NCP on the dairy sector was significant during the Senate NCP Inquiry (SSCSECNCP 1999).

finding published time series data in areas such as employment, production levels, efficiency, farm numbers and retail and farmgate prices. In addition, a number of official reports and submissions will be assessed in detail. Focus groups were also conducted with industry participants and other interested parties to provide feedback on the Dairy Case Study draft. Very useful discussions resulted with Nola Marino, a Liberal elected member to the Federal Parliament (in 2007), who was representing a group of WA dairy farmers.

I was also in communication with Executives and members of the dairy section of the Western Australian Farmers Federation (WAFarmers Federation). Focus group members were recruited through the dairy sector of the WAFarmers Federation and dairy farmers were contacted who had particularly expressed concern about the impacts of NCP on the sector. In addition to those who attended the meetings, notes were provided by those unable to attend the meetings. Most of the focus group members were of middle age. The meetings were recorded and notes were taken. Copies of the letters and questions to invited participants and the Consent Form are in Appendix A. All focus groups who attended were given a draft of the Dairy Case Study Discussion Paper and were invited to a meeting convened in their locality to provide feedback on the report. After the focus group discussions, the developed paper was cross-checked by academic representatives from the Western Australian Department of Agriculture through the office of the WA Minister for Agriculture.

In addition to the WA Labor Minister for Agriculture, copies of the Dairy Case Study Discussion Paper were given to a Federal Liberal member who strongly supported the WA dairy farmers, a Greens Senator and WAFarmers dairy executives, to invite them to participate in the public launch of the Discussion Paper in Harvey in December 2007. They were supportive of the Dairy Case Study on the impacts of NCP

Retail Case Study

A Retail Case Study is selected because of significant market dominance in the grocery sector.[30] Retail sector policy change could affect not only consumers, but also retail suppliers, including manufacturers and primary producers. This case study will assess

[30] In 1975, the combined dry packaged market share between Woolworths, Coles and Franklins was 39.6 per cent. By 1995, their combined market share had grown to 73.3 per cent, and by 2002 Coles' and Woolworths' market share reached 76.7 per cent, with Franklins at 2.3 per cent (Margetts 2011: 84–5).

the nature of 'contestability theory', which is the central theoretical assertion of NCP. This case study will explore trends in impact on consumers and in what measurable impacts retail deregulation and retail market dominance (especially in supermarkets) have had on suppliers, including the Australian manufacturing sector. The retail trading legislation that existed in each Australian jurisdiction prior to 1995 (at which point deregulation occurred) will be reviewed and analysed to investigate to what extent contestability theory affected the nature of retail policy changes.

In the Retail Case Study, the methodology will compare the predictions and modelling for retail deregulation made by bodies such the Hilmer Report and the NCC against the range of views expressed in submissions to public inquiries on competition policy relating to the retail sector prior to and following the introduction of NCP. These views will be then tested against trends emerging from available data, particularly as explained above in the reasons for the use and analysis of secondary data. The level or lack of assessment by the ACCC of whether the preconditions of contestability existed in the Australian retail grocery sector will also be critiqued. The ACCC Grocery Price Inquiry submissions included the positions of small retailers, economists, government departments, consumer groups and suppliers and the corporate retail sector. Data from a wide range of published sources will be used to assess the outcomes against the predictions of both the proponents and opponents of retail deregulation.

The Retail Case Study will also compare farmgate or wholesale prices (where they are available) with retail pricing to assess how, in an era of growing corporate retail concentration, major supermarket chains use their enhanced market power to reduce their costs, and whether this affects the viability of the Australian suppliers and manufacturers. The ACCC has failed to assess this important issue properly. The ACCC Grocery Price Inquiry will be assessed as to why retail grocery pricing was increasing at a rate higher that accounted for by the Goods and Services Tax. While the ACCC were undertaking their inquiry in 2007/08, I was reading and summarising all of the submissions. Based on my familiarity with the issue, in the course of my Retail Case Study, I found it useful to contact Craig Kelly, the head of the Southern Sydney Retailers Association (who later became a Liberal Federal Member of Parliament). It was also very useful to contact the Australian Beef Association and A/Prof Frank Zumbo, who expressed serious concerns about the impacts or retail market dominance.

In addition, it was deemed useful to provide copies of my draft Retail Case Study to the National Association of Retail Groceries of Australia (NARGA), to check for errors.

Evidence of measurable impacts and change associated with NCP-driven deregulation and growing corporate retail dominance will be sought by detailed analysis of submissions to public inquiries (for example, the Joint Select Committee on the Retail Trading Sector and the ACCC Grocery Price Inquiry). These views will then be checked against the trends that emerge from published historical industry data, such as from the AC Nielsen Grocery Reports.

Water Case Study

Corporatisation, outsourcing and privatisation of government business enterprises are also major elements of the NCP Policy Agreements. Australia's utilities, including Electricity, Gas, Water Resource Policy and Road Transport, were 'related reforms' of NCP (NCC 1998). The Water Case Study is thus chosen because water privatisation has been a major global concern, and it is a significant and essential supply sector.[31, 32] The case study will explain how soon the drive for water privatisation commenced and the role the IC took in promoting the growth and international competitiveness of Australian industries, and advancing the privatisation. The water privatisation proposals prior to the NCP 'Agreement' will be assessed and summarised.

The Water Case Study will be significant as water privatisation is highly controversial globally, and it is important to consider whether the impacts of NCP water policy change have ever been properly assessed by government bodies. In addition the Water Case Study checks whether the potential impacts of climate change have ever been properly assessed by government bodies in relation to their assumed benefits of the major NCP water policy change. The Water Case Study will also assess how limited Australia's national water resource data has been, compared to the rest of the world. The Water Case Study will investigate how NCP has affected this major utility and resource sector in Australia, the potential impacts on the environment and the provision of these essential services to the community.

[31] The international significance of water supply and impacts of water privatisation are explained by Maude Barlow (2007, 2009).
[32] Morgan (2003) explained how water privatisation is one of the major international concerns in aspects of corporate globalisation and economic rationalism.

The Water Case Study will describe the links between the Council of Australian Governments (COAG) Water Agreements and NCP. The Case Study will explain whether the stated aim of the COAG Water Agreements was to increase the value of the nation's agricultural output or whether it was largely based on 'micro-economic reform'. The Case Study will explain the models, assumptions and predictions associated with the COAG Water Agreements attached to the NCP agreements. These will then systematically be assessed against the actual outcomes since 1995, to determine the level and effectiveness of Government's assessment of their impacts.

The processes either undertaken or requested to be undertaken in moving from a regulated essential services water environment to a more market and investor-focussed water environment will be explained and critiqued as part of the Water Case Study. To check the effectiveness of this major change in water policy, it will be necessary to assess the effectiveness of Australia's water resources and water use data, to ensure that water trading is sustainable. The annual assessments of the 'progress' of the implementation of the NCP water-related reforms will be checked to determine whether any attempts were made to assess the NCP water reforms in terms of their being in the public interest.

Checking the original predictions of outcomes involves seeking data on volume of usage, efficiency and effect on production and environmental outcomes. In the case of water, some major parliamentary, government and other studies and reviews will be assessed to provide guidance on what other data to pursue. It is also useful to organise a meeting with the head of WA's Department of Water to learn what data were available for WA's water use and supply.

In addition to assessing the impacts of legislative changes that have occurred in each jurisdiction, substantial data will be necessary to assess the impacts of those legislative and policy changes from a public interest perspective. The situation in the Murray-Darling will be compared and contrasted with the largely groundwater-based water system in WA using water allocation data from such agencies as the (former) Water and Rivers Commission from reports and Parliamentary Questions.

The area of water market privatisation/deregulation is one for which there is a considerable amount of comparative literature from other parts of the world, which will make a useful point of comparison to the outcomes of the implementation of NCP in Australia from a public interest perspective. This includes an international perspective of the concerns between the links of water privatisation/deregulation and climate change.

Public Interest Assessments Necessary for Social Services

Further research is necessary on social services. This is a very wide area but one in which there has been more academic assessment of potential NCP outcomes than for most other sectors. For instance Pat Ranald provides a good basis for checking outcomes in a range of social service areas (Ranald 1995a, 1995b, 1996, 1997a, 1997b, 2002). Graeme Hodge (1996) has also made significant global assessments of the impacts of outsourcing public services.

Conclusions

The collection and compilation of methods to assess the political economy of NCP are useful to explain whether it is essential to develop a robust and rigorous assessment of NCP outcomes for those affected by policy change in those sectors, including the economic, environmental and social impacts. Assessing the reports of Government bodies that promote and continue to support NCP is important, as is locating data and evidence that may have been ignored. The analysis will lead to an assessment of the future direction of NCP in Australia.

Chapter 3: The Political Economy of NCP

Introduction

This chapter explains the theoretical basis that informed the development of Australia's major NCP policy changes, and the nature of Australia's bureaucratic influence. The initiation of NCP in July 1991 represented a second wave of market reforms, consolidating the major changes of the 1980s (Kelly 1992: 38), which began a process of radically integrating the previously closed Australian economy into the global economy through floating the dollar and deregulating trade, investment and finance. The fundamental principles underpinning these market freedoms were individual self-interest and competition. Liberal economic ideology contends that the intensification of competition increases the dynamism of the economy to the benefit of society as a whole through the promotion of market freedom (Quiggin 1996: 28). The Hawke/Keating Labor Government (1983–1996) was therefore acting consistently with their commitment to the self-regulating market when they established a Working Group of Officials, chaired by the Commonwealth at a Special Premiers' Conference in July 1991. The purpose of this group was to:

> ... review the appropriateness of current competition policy, including the application of the *Trade Practices Act*, to the following areas within the Commonwealth, State and territory jurisdictions: (1) Government Trading Enterprises; (2) Marketing Authorities; (3) Unincorporated Bodies and (4) Government procurement by Commonwealth, State, Territory and local governments (Kain *et al.* 2003: 3).

In contrast to this market model, Marx's theory of capital accumulation contends that unregulated competition becomes a destructive force in society:

> When you have overthrown the few national barriers which still restrict the progress of capital, you will have merely given it a complete freedom of action ... all the destructive phenomena which unlimited competition give rise to within one country, are reproduced in more gigantic proportion on the world market (Marx, cited in Crough & Wheelright 1982: 89).

For the past 200 years, capital accumulation has set in train a process described as 'creative destruction' (Schumpeter 1975), or what David Harvey identifies as 'accumulation by dispossession' (Harvey 2003: 137–183). Liberal economic policies

give rise to a ceaseless competitive war between private companies, which is the 'driving fire' of the rationalisation of production (Marx 1894: 254). Historically, this concentration and centralisation of production is capitalist development's intrinsic logic, as 'one capitalist always strikes down many others' (Marx 1867: 929). The economic and financial deregulation integral to neo-liberal globalisation has fanned the fire and accelerated the expropriation of the many by the few.[33] This transformation is spiralling because deregulation is empowering financial relative to industrial capital, unleashing an even more singular, unconstrained focus on 'maximising shareholder value' (Kennedy 2000: 49). Buy-outs and mergers are the result, with an increasing concentration of production in large global corporations.

The way NCP is viewed (positive good/destructive force) depends on the theoretical perspective adopted; whether it be that of the free market (including the classical, neo-liberal and corporate-based contestability view), of that of the Marxists, Keynesians or free-market critics such as Polanyi and Galbraith. This chapter expands on these fundamental positions as an introduction to the empirical chapters that follow. Does the evidence of NCP 'reforms' in the key economic areas of Dairy, Retail and Water confirm or undermine these competing theoretical models? Testing the claimed outcomes of these competing theoretical models with *actual* outcomes is the principal aim and contribution of the thesis.

This chapter begins this intellectual journey by summarising the theoretical critique of neo-liberalism and microeconomics. Then, the way in which Australia's economic policy changes were shaped to change the role of the state by a growing number of neo-liberal government officials is discussed (Pusey 1992). This is followed by a description of the basis of the Hilmer[34] (NCP) inquiry, and the application of the recommendations of the Hilmer Report, which gave rise to NCP. Later in this chapter, these critiques are discussed in more detail through the theoretical perspective of Polanyi. His critiques of the destructive force of free markets on society and Galbraith's arguments on the way these positions lead to a concentration of corporate power are also explained in more detail.

[33] A subtitle of an article in *The Australian*, 3 November 2000 read, 'Globalisation is the new Darwinism of business'.

[34] Professor Fred Hilmer was the Dean and Director of the Australian Graduate School of Management at the University of NSW (Hilmer *et al.* 1993: xiv). He supported economic and labour market deregulation (as explained in my Retail Case Study).

Theorising the Nature and Role of Competition

Since NCP is one cornerstone in the architecture of neo-liberalism in Australia, comprehending the rise of this ideology of self-regulating markets, which is indeed a political outcome of a battle for ideas, is a key to understanding NCP from the viewpoint of the needs of society. The contemporary renaissance of liberal economics can be traced to this contestation, which sought to challenge the hegemony of Keynesian regulation. Richard Cockett (1995) traces the lineage of this 'counter revolution' from a handful of economic theorists. A small and exclusive group of passionate advocates—mainly academic economists, historians and philosophers—had gathered together around the Austrian political philosopher Friedrich von Hayek to create the Mont Pelerin Society (named after the Swiss spa where they first met in 1947). The group included Ludwig von Mises, the University of Chicago economist Milton Friedman, and for a time, the noted philosopher Karl Popper (Harvey 2005: 19–20). The free-market doctrine that they were concerned to develop was not only opposed to the socialist tradition, but was also a counter-point to the state interventionist theories of John Maynard Keynes, which had risen to prominence in the 1930s in response to the Great Depression (Harvey 2005: 20–21). Historically, liberalism was a reaction to the mercantilist, feudal and aristocratic societies of the *ancien regime*, which stressed a commitment to individual liberty to counter the coercive powers of the State (Cockett 1995: 5).[35]

These intellectual roots are linked to John Locke and Adam Smith, who had theorised a free-market economy in *The Wealth of Nations* of 1776. The concept of the self-regulating or 'free' market was the centrepiece of Smith's economic theory.[36] The principles of individual freedom, self-interest and competition generated a wealth producing market dynamism that benefitted the whole of society. Competition is viewed as the force that secures just outcomes through keeping self-interest in check. Thus, if any producer attempted exploitation through price hikes or low wages, competition between producers would ensure that the market achieved fair outcomes.

[35] It is also relevant to note Cockett's lamentation that 'economic liberalism as applied in the 1980s [in the UK] effectively wiped out a large part of Britain's manufacturing industry and, at the end of the decade of economic experiment and dislocation, left as many unemployed as there were in the 1930s' (Cockett 1995: 330).

[36] Chapter 2 explains that Adam Smith was also inspired to write his Wealth of Nations (1776) text by political economy (Stubbs & Underhill 2000: 17). The more recent version of political economy is the basis of this thesis.

In this context, the role of the state is to create an environment in which competition can thrive.

In contrast to this 'free' market perspective, Karl Marx contended that the logic of competition gave rise to large corporations creating a process of continuous restructuring, underlying a culture of insecurity and leading to forms of dispossession that would spread unless this logic was challenged. Marx challenged Adam Smith's theoretical notion of atomistic market exchange in which freedom, equality and property rule. As shall be seen, Adam Smith (Eighteenth Century) and Friedrich Hayek (Twentieth Century) both developed a model of a decentralised, fragmented and atomistic economic structure that would prevent any single power cornering and manipulating the market. In the history of capitalist development, this was a fiction. The reality is the increasing centralisation of corporate power. As Harvey observes:

> Competition always tends to produce monopoly, and the fiercer the competition, the faster the tendency towards centralization. The major consequence is the production of immense concentrations of wealth at the one pole (particularly on the part of the concentrating capitalists) and increasing misery, toil and degradation for the working class at the other pole (Harvey 2010: 289). [37]

Marx was one of the leading critiques of classical/laissez-faire market theory. In 1935, Hayek claimed that, although Marx had adopted the tools of the classical economists, he made little use of their analysis of competition (Hayek *et al.* 1935: 12). Hayek *et al.* (1935: 13) also argued that Marx and the 'Marxians' proceeded to discourage any inquiry into the 'actual organization and working of the socialist society of the future'. The case studies at the centre of this thesis will highlight a similar absence of ongoing assessment of major policy change in Australia, resulting from the introduction of neo-liberalist/micro-economic NCP.

Hayek (1935: 15) admitted that socialism aimed to improve the position of 'propertyless classes of society' by a redistribution of property income, but also that the 'aristocratic dictatorship' could use similar methods to further the interest of racial or elite groups. However, this latter point can also be made for a wide range of autocratic economies that are not necessarily socialist. Hayek *et al.* (1935: 17) questioned whether it was

[37] Foster, McChesner & Jonna (2011: 1) cite that the businesses in 'competition' should have no significant control over 'price, output and investment' and in n Chapter 6, the Retail Case Study cites the classical requirements for 'perfect competition' from Samuelson and Nordhaus, 1989: 42).

possible for a 'central authority' to demonstrate the values or success of 'competitive capitalism'.[38] Hayek *et al.* (1935: 19) also considered that in any socialist program, freedom of consumer choice and freedom of occupation were not 'necessary attributes' of sociology.

While the 1920s were generally a period of prosperity (except in Britain), from the 1930s, unemployment increased dramatically throughout the capitalist world and both prices and business confidence fell (the 'Depression') (Routh 1977: 263). John Maynard Keynes first published *The General Theory of Employment, Interest and Money* in 1936 (the year after Hayek's edited 1935 publication, *Collectivist Economic Planning: Critical Studies on the Possibilities of Socialism*). In it, he explained that 'The outstanding faults of the economic society in which we live are its failure to provide for full employment and its arbitrary and inequitable distribution of wealth and incomes' (Keynes 1973 [1936]: 372). Responding to the economic liberalism of his day, Keynes challenged the core principles of existing liberal economics, arguing that the pure market economy created economic insecurity. Hence, he argued, the state should play a stabilising role with regard to economic cycles, international trade and finance (Cockett 1995: 5).

While the period following the 1930s depression was considered by many to be 'the Keynesian restoration' (Routh 1977: 263), Keynes' notion of interventionist statism (Cockett 1995: 41) was challenged by Hayek, who was a key exponent of neo-liberal economics. A group of neo-liberal economists met at a 1938 conference to discuss the 'crisis of liberalism in Europe' (Cockett 1995: 9). Here, participants likened the 1936 Stalinist purges to 'middle way' trends in the west, which, if left unchecked, would lead to forms of collectivism, claiming that western theorists such as Keynes were 'labouring under the most dangerous illusion of all' (Cockett 1995: 11).[39] These contrasting theoretical positions on the nature and impact of competition underpin a battle for ideas following the Second World War. Cockett describes the rise of think tanks in this period, which were well resourced by the large, now global corporations to promote Hayek's view of competition. Even though Keynes (1973 [1936]) had

[38] However, as shall be explained in the Retail Case Study, NCP in Australia, which supported corporate market dominance, could be considered a 'less competitive capitalism' than the outcomes of classical economic policy.

[39] From the 1930s, other significant economists who explained the need for a choice between socialist and market economics included Joan Robinson and EJ Mishan (Margetts 2001: 20).

explained that wage reductions can continue to destroy the economy by reducing prices and item demand, by 1960, Hayek summarised his case against Keynes by arguing that the essential cause of unemployment was that real wages were too high (Cockett 1995: 43).

Hayek (1960: 253–254) also stated that the common aims of socialist movements were the 'means of production, distribution, and exchange'. While Marxism and Fabianism differed, Hayek (1960: 254) considered that the conceptions of the new society that both Marxism and Fabianism hoped to create meant common ownership of the means of production and 'employment for use, not for profit'. Hayek therefore considered that socialism was dead in the Western world, specifically pointing to the example of Russia. Hayek (1960: 255) considered the chief factors behind the disillusionment that Socialism negated competition and that Russian Socialism negated freedom were:

- The increasing recognition that a socialist organization of production would be not more but less productive than private enterprise;
- A recognition that instead of leading to what had been conceived as greater social justice, it would mean a new arbitrary and more inescapable order of rank than ever before; and
- The realization that, instead of the promised greater freedom, it would mean the appearance of a new despotism (Hayek 1960: 255).

Significantly, Hayek focussed on what he regarded as the positive role of competition in the economy and society. He contended that the market order was the highest form of development possible. Therefore, any political attempt to suppress competition would undermine the market, producing dire consequences for society because of the resultant decline in wealth production (Gamble 1996: 70). For this reason, the existence of competition was not optional. Without competition, the effective coordination of economic activities in a complex modern economy cannot take place. Competition regulated de-centralised decision making. An ideal society will be highly decentralised, thereby facilitating a high level of participation in decision making about production. This creates a spirit of entrepreneurship—essentially, a bold, innovative culture, driving economic growth and consequent social wellbeing. This is faith in 'the invisible hand' at its purist. This thesis is an exposition of how these ideas were translated in Australia through NCP.

Hayek's faith in the invisible hand meant that he was inclined to accept as a positive good whatever evolved spontaneously. Hence, he defended the concentration of corporate power and the existence of large-scale companies as 'legitimate agents of the market process' (Gamble 1996: 72). A key divergence in economic policy promotion from Hayek (which has become integral to NCP policy changes in Australia) stems from the fact that the rise of the monopoly power of corporations such as General Motors and IBM in his day was a 'minor problem in the contemporary economy', making anti-trust and anti- monopoly laws unnecessary (Gamble 1996: 72). In Hayek's view, the power of large companies is constrained by competition.[40]

The analysis of Baumol is closely aligned to the theoretical positions adopted by Hayek. As stated above, Hayek views 'economic liberty' as a positive force in the economy and in society, which decentralizes decision-making and creates a spirit of entrepreneurship. He is also sanguine regarding the process of economic concentration and defended the rise of large corporations, arguing that these arose 'spontaneously'. Following on from this, Baumol sought to advance policies which would lead to 'contestable' markets, that is, markets which promote the entry of new corporations in the market but did not require large numbers of competitors (Foster, McChesney & Jonna 2011: 18). And while 'increasing contestability' could be aimed to improve 'efficiency and consumer choice' it may have the 'opposite effect' (Davidson 2011: 217). A key argument throughout the thesis will be that the rise power of large corporations reshapes competition in ways that adversely affect society and the Baumol *et al.* theory shall be explained in the critique of the Hilmer inquiry later in this chapter and in the Retail Case Study in Chapter 6.

In contrast to Hayek's sanguine view of the power of competition, to block the growth of mega-corporations and the consequent process of monopolisation at a time of movement towards forms of market deregulation in the developed Western World, Galbraith warned against the excesses of a new corporate economy (Margetts 2001: 21). Galbraith empirically demonstrated a contrary outcome: the growth of large corporations consolidated monopoly power. For example, he commented on the implications of the market size of General Motors in the United States (US):

[40] A key argument throughout the thesis will be that the rise power of large corporations reshapes competition in ways that adversely affect society and the Baumol *et al.* theory shall be explained in the critique of the Hilmer inquiry later in this chapter and in the Retail Case Study in Chapter 6.

> [S]ize allows General Motors as a seller to set prices for automobiles, diesels, trucks, refrigerators and the rest of its offering and be secure that no individual buyer, by withdrawing its custom, can force a change ... Competitors of General Motors are especially unlikely to initiate price reductions that may provoke further and retributive price cutting. No formal communication is necessary to prevent such actions (Galbraith 1972 [1967]: 29).

Galbraith argued that control of prices is only a facet of market control as control of demand and amount sold to eliminate more market uncertainty (Galbraith 1972 [1967]: 48). He observed that:

> ... industrial planning is an unabashed alliance with size. The large organization can tolerate market uncertainty as a smaller firm cannot. Vertical integration, the control of prices and consumer demand and reciprocal absorption of market uncertainty by contracts between all firms all favour the large enterprise (Galbraith 1972 [1967]: 31).[41]

Galbraith's second conclusion is that the enemy of the market is not ideology but the market 'engineer'. 'In the Western economies, markets are dominated by great firms. These establish prices and seek to ensure a demand for what they have to sell ... [T]he enemies of the market are ... not socialists' (Galbraith 1972 [1967]: 38), but rather the impacts of advanced technology and work specialisation.

Further, Galbraith is critical of the notion of consumer sovereignty for large corporations that are able to dominate consumers through their monopoly power (Galbraith 1972 [1967]: 113). He also points out that:

> Quite a few economists avoid reflection on the conflict between profit maximization and what is universally considered sound management behaviour by the convenient, although not wholly reassuring device of simply ignoring the contemporary reality. In teaching and theoretical model-building, the modern large corporation is ignored (Galbraith 1972 [1967]: 121).

Galbraith identifies a 'small group of scholars', some of whom are neo-liberalists, who have accepted the separation of corporate ownership from control:

> Robin Marris of Cambridge, *William Baumol of Princeton*, Jack Downie of London and, somewhat more circumspectly, my brilliant former colleague, Carl Kaysen of the Institute of advanced Study, have accepted the separation of

[41] The Retail Case Study shows that all of these factors appear to assist Coles and Woolworths in Australia, especially since the NCP changes.

> ownership from control in the mature corporation and its implications for profit maximization. They have gone on to devise explanations of managerial behaviour that are, or seem to be consistent with this separation (Galbraith 1972 [1967]: 125; emphasis added).[42, 43]

Galbraith also explains that the mature corporation can readily control buying and selling prices and manage (by, for example, their substantial advertising ability) what the consumer buys at the prices it controls (Galbraith 1972 [1967]: 205-6).[44] The conclusions that Galbraith drew complement Harvey's analysis (Harvey 2010: 289).[45]

As also cited earlier in this chapter, these contrasting theoretical positions on the nature and impact of competition underpin the battle for ideas following the Second World War, a period in history that also saw the rise of think tanks (Cockett 1995). However, as Harvey (2005) revealed, the contest lay not only in the field of discourse, but were first imposed by an imperial force of arms. While many piecemeal neo-liberal reforms and proposals were undertaken, the first experiment in the formation of a neo-liberal state took place in Chile after the US Engineer Coup in 1973, backed by US corporations, the Central Intelligence Agency and the US Secretary of State Henry Kissinger. The Chilean economy was reconstructed by a group of economists known as the 'the Chicago Boys'. They were attached to the neo-liberal theories of Milton Friedman (who was then teaching at the University of Chicago), who had been invited to participate in the Chilean economic reconstruction project (Harvey 2005: 8). However, in the course of the Latin American debt crisis, the experiment failed. Nevertheless, the *political* nature of this intervention is apparent. The individualisation of social relations was achieved through violence against society (Harvey 2005: 7–8). Neo-liberal restructuring required an inactive society to achieve a structural power shift to large global corporations. Over the next decade, neo-liberalism spread across the globe. Thatcher and Reagan introduced these policies. Harvey (2005: 1) notes, 'From these several epicentres, revolutionary impulses seemingly spread and reverberated to remake the world around us in a total different image'. This image was of a world that, in the name of promoting competition in the public interest, was recast in the monopoly

[42] As shall be seen in the Retail Case Study, William Baumol's 'contestability' market theory was a significant basis of Australia's NCP.
[43] More recently, Karen Ho explains how Wall Street investment bankers reshape corporate America in their own image (Ho 2009).
[44] This is also significant in the Retail Case Study, given the inadequate ACCC grocery price inquiry in Australia.
[45] See page 35.

interests of large corporations. As shall be seen, even though the Thatcher and Reagan neo-liberal policies have become more challengeable with the ongoing global financial crises, this policy direction became a significant basis of Australia's NCP.

The Polanyi Critique of 'Market Liberalism'

Karl Polanyi's views of market deregulation can be summarised as follows:

> Among [Polanyi's] central themes, are the ideas that self-regulating markets never work; their deficiencies not only in their internal workings but also in their consequences (e.g. for the poor), are so great that government intervention becomes necessary...Polanyi's analysis makes it clear that popular doctrines of trickle-down economics—that all, including the poor, benefit from growth—have little historical support (Stiglitz, from Polanyi 2001 [1944]: vii).

In his introduction to the 2001 edition of the 1944 Polanyi publication, Fred Block explained that even though written in the 1940s, Polanyi's work had retained its importance and relevance and provided a powerful critique of market liberalism (Block from Polanyi 2001 [1944]: xviii). Block considered that Polanyi's *The Great Transformation* still provides a powerful critique of the belief that 'both national societies and the global economy can and should be organised through self-regulating markets' (Block in Polanyi 2001 [1944]: xviii). He also notes that after WWII, Ludwig von Mises and Friedrich Hayek were tireless proponents for market liberalism in the US and the UK, and that they directly inspired such influential followers as Milton Friedman (Block in Polanyi 2001 [1944]: xx). Block also indicated Hayek as the person who had inspired both Thatcher and Reagan to pursue polices of deregulation. Correspondingly, market liberalism came to dominate global politics under the labels of 'Thatcherism' and 'Reaganism' as well as 'neo-liberalism' (Block in Polanyi 2001 [1944]: xviii–xix).

Polanyi traced the collapse of peace that led to World War I and showed that the collapse of economic order that led to the Great Depression was the direct consequence of attempting to organise the global economy based on market liberalism, which had commenced more than 100 years before (Polanyi 2001 [1944]: 5). Polanyi stated that the 'true criticism' of market society was based mostly on 'self-interest'. The link between this and NCP was that he stated that 'self-interested' economic activity had been described as 'economic rationality' (Polanyi 2001 [1944]: 257), which is very

similar to the term used by Australian neo-liberalists, who support 'economic rationalism'. Although Polanyi was said to have fitted easily into the standard mappings of the political landscape, he did agree with much of Keynes' critique of market liberalism. Indeed, he was not considered a Keynesian, as he identified himself as a socialist. Throughout his life as a socialist, he was considered to have profound differences with economic determinism of all varieties, including mainstream Marxism (Block in Polanyi 2001 [1944] xxiii).

Polanyi argued that control of the economic systems by the market means no less than the running of society as an adjunct to the market (which appears to be a contrast to Australia's NCP policy direction). Instead of the economy being embedded in social relations, social relations are embedded in the economic system. Polanyi repeatedly said that the goal of a disembedded, fully self-regulated market economy is a utopian project and that it is something that cannot exist (Block in Polanyi 2001 [1944]: xxiv). Polanyi considered that creating a fully self-regulating market economy would require human beings and the natural environment to be turned into pure commodities, which ensures the destruction of both (Block in Polanyi 2001 [1944]: xxv). Real market societies were said to need the state to play an active role in managing markets, as the role required political decision making, and could not be reduced to a technical or administrative function (Block in Polanyi 2001 [1944]: xxvi).

Polanyi was considered by Block to be too sophisticated a thinker to imagine that individual countries are free to choose the particular way to reconcile the two sides of the double movement between the laissez-faire economy and the countermovement to create social stability (Block Polanyi 2001 [1944]: xxix). Polanyi's views were important because the liberals' utopian visions included that, once nations accepted the logic of the global marketplace, international conflict could be replaced by 'benign competition to produce even more exciting goods and services' (Block Polanyi 2001 [1944]: xxxiii). Moreover, if individuals and businesses were given maximum freedom to pursue their self-interest, it was expected that the global marketplace would make everybody better off (Block in Polanyi 2001 [1944]: xxxiii).

Block points out that, from the 1940s to the 1980s, Polanyi's vision was orphaned, and the opposing views of market liberals like Hayek steadily gained sufficient strength to triumph in the 1980s and 1990s (Block in Polanyi 2001 [1944]: xxxvii). Block also

expressed hope regarding the organisation of protestors against international institutions such as the World Trade Organization (WTO), the International Monetary Fund (IMF) and the World Bank, which are said to enforce the rules of neo-liberalism (Block in Polanyi 2001 [1944]: xxxvii–xxviii). Block concluded that, 'It remains highly uncertain whether the global order can be reformed from below without plunging the world economy into the kind of crisis that occurs when investors panic' (Block in Polanyi 2001 [1944]: xxviii). In Australia, the public debate on neo-liberalism or corporate globalisation[46] has been limited due to agreements by both major political parties to support major neo-liberal policy issues such as NCP. It is only now that industry groups are beginning to protest effectively and speak out against the impacts of corporate market dominance on sectors such as Dairy and Retail. Block highlights Polanyi's argument:

> ... that the deepest flaw in market liberalism is that it subordinates human purposes to the logic of impersonal market mechanism. He argues instead that human beings should use the instruments of democratic governance to control and direct the economy to meet our individual and collective needs. Polanyi shows that the failure to take up this challenge produced enormous suffering in the past century. His prophecy for the new century could not be clearer (Block in Polanyi 2001 [1944]: xxxviii).

The Galbraith Critique of Corporate Market Dominance

More than two decades after Polanyi published *The Great Transformation*, Galbraith provided a detailed critique of his assessment of the impacts of corporate market dominance in *The New Industrial State*. Galbraith considered that if the changes in market power were not properly explained, the community would allow economic goals to have an undue monopoly on people's lives at the expense of more vulnerable concerns and that there was a danger that the educational system would be too strongly based on the service of economic goals (Galbraith 1972 [1967]: 8). Galbraith concludes that:

[46] A description of a neo-liberal model includes 'fiscal discipline, public expenditure priorities, tax reform, financial liberalization, competitive exchange-rates, trade liberalization, deregulation and property rights' (Callinocos 2003: 2). As this list includes support of corporate globalisation, Mr Korten is quoted by Enver Masud in the 'Wisdom Fund News and Views' that the Uruguay Round of GATT sought to 'protect the rights of the world's largest corporations against the intrusions of people, communities, and democratically elected governments' (Masud 2000) and the Hawke/Keating Labor Government was in strong support of the Uruguay Round of GATT which became the WTO.

> industrial planning is an unabashed alliance with size. The large organization can tolerate market uncertainty as a smaller firm cannot. Vertical integration, the control of prices and consumer demand and reciprocal absorption of market uncertainty by contracts between all firms all favour the large enterprise (Galbraith 1972 [1967]: 31).[47]

As shall be seen in the Retail Case Study chapter, this is similar to the behaviour of Australia's major supermarket chains.

From a social justice perspective, Galbraith (1972 [1967]: 101) endorses Crosland's (1959: 113) argument that public corporations are, by their nature, 'remote, irresponsible bodies, immune from public scrutiny or democratic control'. In Galbraith's (1972 [1967]: 111) view, there is a growing consensus among economists on the control over market power of the US industrial system (manufacturers).

Galbraith (1972 [1967]: 112) quotes George Stigler (1952: 149), who supported freedom of market entry but not corporate market dominance, contending that profit maximisation is 'the strongest, most universal, and most persistent of the forces governing entrepreneurial behaviour'. Galbraith (1972 [1967]: 112-113) then quotes from Milton Friedman (1962) that 'Few trends could so thoroughly undermine the very foundation of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible'. Galbraith reinforces this understanding of the singular focus of corporations. This is significant, as Friedman's views on neo-liberalism had been a major incentive for the bureaucratic economic rationalist support of NCP in Australia. However, Galbraith's explanation is a significant challenge to the assumptions of community benefit of such major policy changes in Australia. Galbraith summarises how the consumer is not sovereign for large corporations:

> That the consumer and the state are not sovereign in their demand—that they are subject to the management of the firms that supply them with goods and services—is sufficiently argued elsewhere in this book. And the methods used in this management, for example, advertising in managing the consumer, are not of a kind that can be practiced in secret. The reader is not without resources for personal verification (Galbraith 1972 [1967]: 113).

[47] As shall be seen in the Retail Case Study chapter, this is similar to the behaviour of Australia's major supermarket chains.

Galbraith explained how market dominance did not require consultation, even though the US Anti-Trust law was:

> The law is very severe on any overt collusion in the setting of prices. Such collusion simplifies the task in the oligopolies in seeking to arrive at the most advantageous prices for all. And the government scrutinises closely mergers which might have the effect of increasing the market power of the individual oligopolist (Galbraith 1972 [1967]: 186).

However, Galbraith points out that the major industry corporations (such as the US automobile industry):

> ... are able to establish prices which reflect the common interest. And they can do this with precision. No consultation is required. The procedure is legally secure. Not much would be changed were the companies allowed, in fact, to consult and agree on prices (Galbraith 1972 [1967]: 186).[48]

Thus, in effect, Galbraith had provided serious warnings about the effects of corporate market dominance resulting from neo-liberalism. Yet, despite the clear advice that economists such as Galbraith have provided, with the election of the Hawke/Keating Labor Government in 1983, Australia began to follow the neo-liberalist path by deregulating Australia's financial sector. The neo-liberalists argued that, if the embrace of an open economy and global competition was positive, the nation should swiftly embrace the change. In the way, NCP was instituted, to become central to this project years later.

Summary so Far

So far, in this chapter, a range of theoretical ideas has been linked to the development and critique of NCP. These have also been linked to a number of major theoretical positions on the nature and role of 'competition' and the theoretical positions affecting the political economy of NCP. The concept of the self-regulating or 'free' market was the centrepiece of Adam Smith's economic theory, and this was challenged by others such as by Marx's socialist agenda. The result of the Great Depression in the 1930s was Keynes responding to support the market economy, for the improvement of wages, the market and community support. Polanyi, on the other hand, provided a major critique

[48] This is an issue of particular relevance in Australia's current retail sector.

of free-market dominance. Neo-liberalists such as Hayek began to oppose both socialism and Keynesianism, instead supporting greater market freedom. The 'Chicago School' pushed for even greater market dominance. In the period in which the neo-liberals were pushing against Keynes' neo-classical economics, Galbraith provided substantial critiques of the impacts of corporate market dominance. However, this did not prevent the push for major micro-economic/neo-liberalist policy changes in Australia, as will be explained in the following section of this chapter.

Market Reform and the Australian State

While strong supporters of neo-liberalism such as von Mises[49] and Hayek generated the neo-liberal 'counter revolution', Australia's John Quiggin argued that the case for these kinds of reforms in Australia were first advanced by Kasper *et al*. (1980) in *Australia at the Crossroads: Our choices to the year* (cited in Quiggin 1996: 199). Quiggin (1996: 200) is critical of their work, claiming their estimates of neo-liberal outcomes were based on judgement rather than formal modelling. Indeed, the empirical work in this thesis will demonstrate that economic growth declined after the introduction of NCP.

Kasper *et al.* (1980) summarised the main policy directions of their 'libertarian alternative', which they claimed applied the theory of Smith, Hayek and Friedman. Their policy directions included: free international trade; the acceptance of the structural changes from new technology and the removal of protection; the elimination of restrictions on international capital flows and of free competition in the domestic capital markets; the resolute application of anti-monopoly and restrictive trade legislation; the deregulation of markets, especially in the area of entry by persons and firms that wish to compete; greater variation in relative occupational wages and of real wages in response to market forces; reduction of the government's role as a producer of many basic services, including education, health and welfare; and expansion of the government's role as a provider of income maintenance and purchasing power for the acquisition by individuals of the basic services they want (through negative income tax, endowment and voucher schemes) (Kasper et al. 1980: 213).

[49] As explained earlier in this chapter, Ludwig von Mises was one of the founding members of the Mont Pelerin Society.

It is also significant to note that Kasper *et al.* (1980) predicted that after its introduction, neo-liberalism would create an average annual increase in GDP of around 4.9 per cent. They also predicted an annual average increase in manufacturing GDP of 5.1 per cent, to increase in market share from 24.8 per cent in 1973 to 26 per cent in 2000 (Kasper *et al.* 1980: 221). This certainly has not happened; in fact, as shall be seen in Graph (4.5) in Chapter 4, as the level of manufacturing in Australia continued to fall after NCP was introduced, Kasper's predictions on NCP's benefits to the manufacturing sector are highly challengeable.

A political journalist and advocate of neo-liberalism, Paul Kelly, stated that, after Labor gained Federal power in 1983, Hawke and Keating operated with a ruthlessness that the Liberals had never displayed in power (Kelly 1992: 56). In a short period, Hawke and Keating had 'ditched Labor's economic program, rejected the Keynesian model, struck an alliance with their new official advisors, and found a weapon to use against their opponents for years' (Kelly 1992: 57)[50]. At an early stage, Hawke secured three senior advisors who were committed to market politics. These were Graham Evans, who had been the head of a number of departments, including the Department of Primary Industries and Energy, and who, after NCP was introduced in 1995, became the head of external affairs at BHP Billiton and held a number of corporate directorships. His private secretary was Peter Barron, a former political journalist and Wran advisor who assumed the role of political advisor. Australian National University academic, Dr Ross Garnaut, became the Prime Minister's economic advisor (Kelly 1992: 57). John Stone was the Federal Treasury Secretary when the Hawke-Keating government came into power and Kelly observed that some in the Party viewed Keating as merely a puppet of Stone (Kelly 1992: 59).

My own conclusion from close-up observations of the political processes leading to this momentous shift in the role of the state was that Keating embraced these market-orientated changes without critical evaluation and was in fact not the 'world's greatest treasurer'. He was simply the political agent of the senior bureaucrats, embracing their worldview without question and, like politicians across the globe that have played a

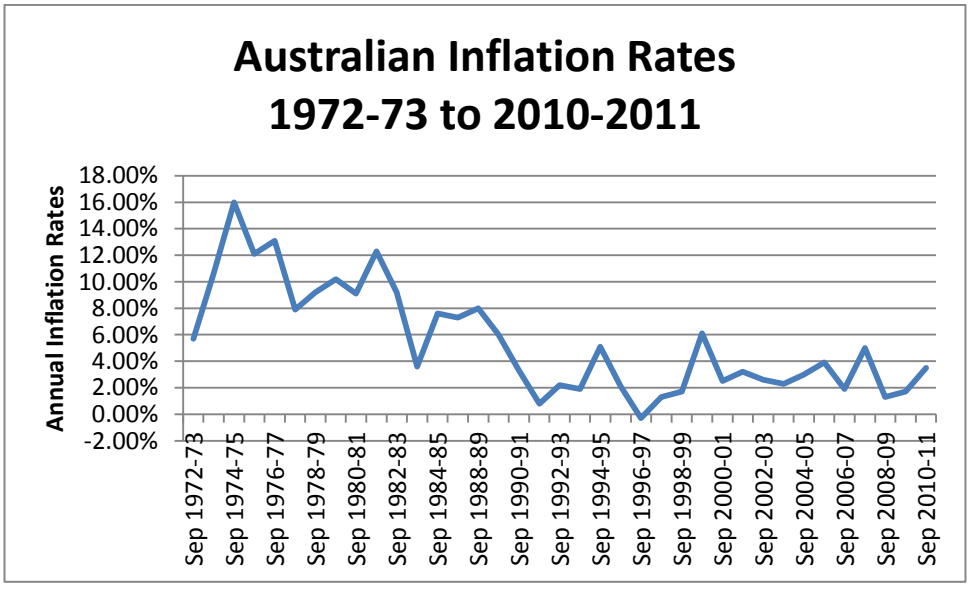
[50] As a result of Keating's moves to deregulate Australia's economy, the business sector and a range of financial journalists dubbed him 'The World's Greatest Treasurer' (National Museum of Australia – **http://www.nma.gov.au/primeministers/paul_keating** - viewed 27/09/2012).

similar role, Keating evidenced no capacity to assess the claims of market restructuring against the empirical data on the actual outcomes of the policies.[51]

As can be seen in Figure 3.1 below, Australia's inflation rates in the mid-1970s were high (up to 16 per cent in 1974–75). The Keynes' employment theory claimed that when full levels of employment were reached, inflation would increase, as demand would also have increased (Keynes 1973 [1936]: 118–119). However, as Australia had both higher unemployment and higher inflation rates at that time, the Hawke/Keating government formed an agreement with the Australian Council of Trade Unions (ACTU) to reduce the growth in per capita incomes. This subsequently dropped down to zero by 1980 (Pusey 1991: 33) to reduce inflation, but this became part of the basis of the bureaucratic critique of Keynesian economics (and the push for neo-liberalism/corporate globalisation):

> General worries about the structure and performance of the Australian economy was at the forefront of [the concerns of senior bureaucrats] ... clear-cut economic problems such as the taxation system, the economic costs of unemployment, inflation, interest rates and the like ... are pointing to what are unambiguously seen as economic problems (Pusey 1992: 34).

Figure 3.1. Australia's Inflation Rates



Source: ABS 6401.0 1973-2011

As Australia's inflation rates were quite high in the 1970s/1980s, this was a means for neo-liberalists to criticise Keynesianism and push towards corporate globalisation. In

[51] As a Senator, I myself observed intelligent 'left wing' parliamentary staff with no university education being easily seduced by the neo-liberalism of Treasury officials; the general nature of which is described below.

addition to Hayek and the 'Chicago Boys' such as Milton Friedman, corporate globalisation was promoted by the World Bank and the International Monetary Fund (IMF) and, over the decades, the world's neo-liberalists established the theory such that it formed a significant basis for the Uruguay Round of GATT. As the Treasurer, in 1988, Keating commissioned an inquiry by the Industries Assistance Commission[52] to investigate the impacts of 'non-tax charges', which he claimed was designed to assist the Australian Government in their negotiations in the Uruguay Round of GATT (IAC 1989 Vol 1: 102). In 1990, the Australian Graduate School of Management conducted a public forum entitled *Internationalising Australia's Economy*, based on two 1989 reports: Ross Garnaut's *Australia and the Northeast Asian Ascendency* and the Australian Manufacturing Council's (AMC) *What Part will Manufacturing Play in Australia's Future*. Editor Ian Marsh explained how Garnaut had proposed moving rapidly towards tariff reductions, while the AMC called for the link between continued tariff reduction and micro-economic reform, as well as changes in working practices. The AMC had also argued that, without such a linkage, Australian manufacturing would be 'uncompetitive both nationally and internationally' (Marsh 1990: i). This forum included an introduction by Professor Fred Hilmer, who became the Chairman of the NCP Independent Committee of Inquiry in 1992, in which he recommended for this major policy change, despite the lack of knowledge and understanding of NCP on the part of most Australians (Hilmer 1990: 1–9).

The Senior Bureaucratic Push for 'Economic Rationalism'

It is therefore important to comprehend the momentous character of the shift. The Hawke/Keating Government distanced itself from the traditional preoccupation of social democracy; namely, attentiveness to the needs of society, equity and social justice. From this moment on, this Labor government imposed at the Federal, State and Local government levels a singular corporate market dominance model of governance. The research of Pusey (1992) into the changing role of the Australian State is illuminating. It explains this momentous abandonment of social values for those of the market as being understood as positive, owing to the perceived force of the market for securing social goals. In reality, the free market is the freedom of large corporations in each sector to dominate and exploit society. Pusey captures a fundamental shift in the role of the State flowing from Labor's strategic shift: instead of being the defender of society,

[52] The IAC later became the IC and then, after NCP, became the PC.

the State has become the handmaiden of the market. Pusey summarises the rationale for the change in the State's role:

> Australia was, then as later, faced with declining markets for its major exports; its manufacturing industries were uncompetitive; and, from the point of view of our respondents, wage and salary levels were too high and the taxation system discouraged 'incentive' and enterprise (Pusey 1992: 43).

The veracity of each of these assertions needs to be substantiated or modified through empirical analysis of the issues at stake. Untested claims are simply components of the construction of an ideology of the transformative power of the free market, without considering the nature and impacts of such a transformation. Pusey's research into the key State apparatuses of economic policy provides an insight into the mindset of senior bureaucrats, particularly senior Treasury officials and John Stone in particular, who had embraced the free-market model and who informed the thinking of Hawke and Keating as key endorsers of a new Labor Party position on economic theory.

The early 1990s recession made both Hawke and Keating even more dependent on the senior bureaucrats. Pusey (1992: 3) states that the groundwork for both the economic and public sector reform was prepared during the era of the Fraser Government from 1975, but that the senior bureaucrats found the Labor government even more amenable to change. Pusey's surveys of these Senior Executives are revealing in their views of Australian society:

> Australians have had it too easy and it was time they were more exposed to the international economy and the discipline of the market in the 'real world'. Strong and courageous leaders were needed to quell the noisy bickering. It was time to take on the vested interests and deregulate the labour market with the abolition of the centralised wage-fixing system and thus, once and for all, to kill the unions and to restructure the economy (Pusey 1992: 43).

Pusey highlights elite influences. Data showed that in 1965, 5 per cent of all school leavers were from elite private schools, whereas 16.3 per cent of the senior executives were from elite private schools. Similarly, 27.9 per cent of the senior executives were from Catholic secondary school, compared to 19 per cent of all school leavers. By 1976, the percentage of senior executives from elite private schools had increased to an estimated 18.5 per cent (Pusey 1992: 52).

Table 3.1 below shows the self-positioned political orientations of the senior executive officers surveyed:

Table 3.1: Political Orientations of Senior Executive Service officers

Orientation	Per cent
Radical	0.0
Centre-left	37.2
Dead-centre	20.9
Centre-right	28.4
Conservative	7.9
Decline to answer	5.6

Source: Pusey 1992: 57 (from SES interviews)

Pusey compared responses to several other questions from the two groups who put himself or herself unambiguously on the centre-left or the right and checked the differences in views on economic rationalism and State involvement in economic and social spheres political orientation. However, even of those who had designated themselves as leaning to the left:

- 46 per cent of them said that the distribution of Gross National Product (GNP) was even balanced or biased to wage and salary earners;
- 42 per cent of them said there should be more individual initiative and less state provision;
- 46 per cent of them agreed that the doubts and fears expressed about the growing State intervention in economic and social spheres were fully justified;
- 52 per cent of them approved the deregulation of the labour market;
- 50 per cent said that the power between trade unions and business interests was balanced and a further 14 per cent said that trade unions had more power (Pusey 1992).[53]

At the time of Pusey's analysis (1992) and the circulation of 'new' ideas on the relevance of the free-market model, NCP had not yet been considered. Pusey was conscious of the lack of understanding of the potential impacts, saying 'In 1985 and 1986, the costs and benefits of "economic rationalism", and indeed the winners and losers of that orientation to national policy, were only dimly visible' (Pusey 1991: vii). Pusey therefore concluded that nearly half of the self-designated 'left-leaning' senior

[53] It is important to note that while still a Labor Prime Minister, Kevin Rudd had strongly argued that neo-liberalism was the major cause of the global financial crisis of the late 1990s: 'Neo-liberalism's anti-regulation agenda rapidly converted a problem in American mortgage markets into a full-blown global financial and economic crisis that now threatens the future of open global markets—yet another example of capitalism cannibalising itself, but this time on a frightening global scale' (Rudd 2009: 27).

executive service officers answered questions in a manner similar to officers from the Liberal and National Parties (Pusey 1992: 58). Pusey concluded that the majority of Australian senior executives at that time were captured by the free-market model.

Pusey also notes that, in the 1990s, Australia had one of the lowest levels of social service provisions among OECD countries, and that only 16 per cent of top public servants favoured moves to increase it:

> Two thirds of the SES officials who were interviewed wanted smaller government, less state involvement, more individual incentives and less government control of the economy. Not many defenders of the public sector here (Pusey 1992: 64).

The hidden agenda of most reforms was to ensure that different decisions and different outcomes changed Australian society (Pusey 1992: 113, citing Wilenski 1979: 345-360).

The top bureaucrats were bolting the door against value commitments such as social justice and participatory democracy that could underpin a welfare state and progressive, social-democratic policies (Pusey 1992: 125). Pusey notes the relationship between economists in the government and those in society:

> The economists have close relations with economists in peak business groups, the private sector economists in the finance sector, and with the staff of the economic 'think tanks' and the 'research' centres that have been set up by New Right private sector interest groups to feed ready made economic 'advice' into the top end of Canberra (Pusey 1992: 133).

Their perspective on what they viewed as 'economic efficiency' and the needs of society was considered by Pusey to have serious consequences:

> one must view the future of Australia's very poorly developed welfare state ... Australia's welfare system ... has been trapped by the invading economic rationalism of the Hawke and [Keating] Treasury economic policy in much the same way as the wages system and the Industrial Relations Commission (Pusey 1992: 224).

The social consciousness of State bureaucrats and their key role in formulating and promoting the rapid implementation of market changes led to a focus on NCP. NCP

was viewed as the essential micro-architecture within the overarching settings, in a drive towards a globally competitive national economy through the application of free trade, investment and finance. The rationale for grounding market logic in the different facets of Australian society is now considered.

Hilmer and the Genesis of NCP in Australia

A Premiers' Conference held in July 1991 agreed to establish a Working Group of Officials, chaired by the Commonwealth:

> ... to review the appropriateness of current competition policy, including the application of the Trade Practices Act, to the following areas within the Commonwealth, State and territory jurisdictions: (1) Government Trading Enterprises; (2) Marketing Authorities; (3) Unincorporated Bodies; and (4) Government procurement by Commonwealth, State, Territory and local governments (Kain *et al*. 2003: 3).

As highlighted by Pusey (1991), Australia's senior 'Working Group Officials' were neo-liberal ('economic rationalists') in the main, who were pressing for greater privatisation and greater economic deregulation. At their November 1991 meeting, the Premiers and Chief Ministers:

> ... endorsed the need for a national competition policy and agreed to the establishment of an independent review of the Trade Practices to assess the capacity to secure a national competition policy and to identify alternative models for regulating market behaviour (Kain *et al.* 2003: 3).

Keating became Prime Minister in December 1991, and he announced the establishment of a major independent inquiry into competition policy in Australia on 4 October 1992. Professor Fred Hilmer, Dean of the Australian Graduate School of Management at the University of NSW, was invited to chair the inquiry with Geoff Taperell, a partner of the law firm of Baker and McKenzie and Mark Rayner, Group Executive of CRA Ltd. Who were asked to join the inquiry as joint consultants (Kain *et al*. 2003: 3–4). This Inquiry became known as 'the Hilmer Inquiry'.

The Hilmer Inquiry Report

In the letter to the heads of Australian Governments at the beginning of their report, Hilmer, Rayner and Taperell stated:

> The Inquiry found strong and widespread community support for implementing an effective and national competition policy. There is a significant awareness of the opportunities such a policy offers Australia to improve our international competitiveness and hence living standards (Hilmer *et al*. 1993: iii).

This statement does not indicate how little the 'widespread community' understood the theoretical basis and likely impacts of NCP. A central purpose of this thesis, (as stated in Chapter 1, p.3) is to highlight the contradictions between the assumptions of NCP and the reality being experienced by affected communities. This is achieved through empirical research in key sectors, which challenges NCP modelling and contestability theory. It is interesting to note that in the Executive Overview of the Hilmer report, their analysis and proposals of 'competition' are based on 'contestability' and neoclassical market theory, the details of which were not clarified. Therefore, another aim of this thesis is to analyse this theoretical underpinning of the model. Baumol defines 'contestability' theory thus:

> The notion of contestable markets offers a generalisation of the notion of purely competitive markets, a generalization in which fewer assumptions need to be made to obtain the usual efficiency results. Using contestability theory, economists no longer need to assume that efficient outcomes occur only when there are large numbers of actively producing firms, each of whom bases its decisions on the belief that it is so small as not to affect price. What drives contestability theory is the possibility of costlessly reversible entry. Where such entry is possible, efficient outcomes are shown to be consistent with the relatively large scales of operation that characterise many industrial technologies (Baumol *et al*. 1982: xix).

Baumol applied the concept of a 'perfectly contestable market' to monopolies and oligopolies (Baumol 1982: 7). The Retail Case Study will highlight contradictions in the Baumol contestability theory, through its acknowledgement of corporate market dominance, which they assume can be mitigated by potential freedom of market entry (Chapter 6 & Margetts 2011a). The final sentence of the above statement is telling, for it acknowledges 'large scales of operation ... characterize many industrial technologies'. Research indicates radical concentrations of economic power across all economic sectors; a process that has accelerated with the advent of market principles (Webster,

Lambert & Bezuidenhout 2008). The significance of this approach is that, while it is based on the theory by Hayek/Friedman, it ignored the substantial critiques of Galbraith on the impacts of corporate market dominance, which would have intensified following the worldwide application of neo-liberal market policies.

When Kevin Rudd was a Labor Prime Minister (2007-2010), he contended that neo-liberalism was having negative global financial impacts. He blamed this on the Liberals (Rudd 2009: 25, 28–29)[54]. However, it is significant to note that in 1993, the Hilmer Report quoted Labor's Prime Minister Keating as saying that 'the engine which drives efficiency is free and open competition'. He then adds that 'competition is also a positive force that assists economic growth and job creation' as well as the opening of 'new retail stores and small manufacturing operations'. Further, he states that these developments in 'smaller firms' would be the 'main source of both new jobs and value-added exports' (Hilmer *et al.* 1993: xv).

The Hilmer Report summarised the essential principles the Commonwealth, State and Territory Governments had agreed upon to give effect to NCP:

> (a) No participant in the market should be able to engage in anti-competitive conduct against the public interest;
> (b) As far as possible, universal and uniformly applied rules of market conduct should apply to all market participants regardless of the form of business ownership;
> (c) Conduct with anti-competitive potential said to be in the public interest should be assessed by an appropriate transparent assessment process, with provision for review, to demonstrate the nature and incidence of the public costs and benefits claimed;
> (d) Any changes in the coverage or nature of competition policy should be consistent with, and support, the general thrust of reforms:
> (i) To develop an open, integrated domestic market for goods and services by removing unnecessary barriers to trade and competition;
> (ii) In recognition of the increasingly national operation of markets, to reduce complexity and administrative duplication (Hilmer *et al*. 1993: xix).

The Committee explained that they had based their views of 'competition & competition policy' on Baumol's 'contestability' theory and claimed that neo-classical market theory was outdated:

[54] Chapter 6 explains Rudd's promise in early 2007 for an ACCC inquiry into rising supermarket prices when Labor was elected later that year and his 2009 contradictory critique of the Global Financial Crisis' and 'neo-liberalism' while also supporting the Hawke/Keating Labor government (Rudd 2009).

> It was once thought that markets would be efficient only when a number of firms were actually competing. Recent work suggests that the real likelihood of competition occurring (potential striving) can have a similar effect on the performance of a firm as actual striving [at which point the Hilmer report references Baumol 1982, before adding] Thus, a market which is highly open to potential rivals—known as highly 'contestable' markets—may be of similar efficiency as a market with actual head-to-head competition (Hilmer *et al.* 1993: 2–3).

The Committee then indicated that they considered that corporate market dominance could potentially improve 'competition':

> Early economic work suggested that large numbers of competitors were important for the effective working of competitive forces. *However in some cases, competition between a few large firms may provide more economic benefit than competition between a large number of small firms.* This may occur due to economies of scale and scope, not only in production but also in marketing, technology and, increasingly in management (Hilmer *et al*. 1993: 3; emphasis added).[55]

Hilmer *et al.* (1993: 25) state that every 'modern market economy' provides a set of rules to prevent the undermining of competitive behaviour, which they say typically 'prohibit[s] agreements or arrangements that increase the market power of firms and prohibit[s] firms which possess substantial market power in their own right from using that power in an anti-competitive way'. This statement is highly challengeable, as the 'self-corrective' micro-economic support of corporate market dominance and the NCP recommendations to remove 'statutory marketing authorities' and the use of 'price discrimination' to the supply sector to help remove competitors was not at the same level as support of 'competition behaviour'. As Galbraith (1999 [1958]) explained, the great interest in 'self-corrective' micro-economic measures in the 1930s led to severe economic depression, which was largely repaired by Keynes a decade later (Galbraith 1999 [1958]: 87).

Hilmer *et al* refers to 'horizontal' and 'vertical' agreements that restrict firms from competing. They state that the existing horizontal agreement provisions in the *Trade Practices Act* (TPA) *1974* are generally satisfactory. However, they choose not to mention that the market power of monopolies and oligopolies does not necessarily

[55] The Retail Case Study explains that after NCP was introduced, Hilmer himself admitted several times that NCP was not based on 'proven principles' (Margetts 2011).

require ‘agreements’ to enable price increases or reduced product choices. Similarly, they find the provisions for ‘vertical agreements’ generally satisfactory. The example they give of an agreement ‘of concern’ is where a retailer agrees to restrictions on competition provided by a wholesaler (Hilmer *et al.* 1993: 33). However, a market-dominating vertically integrated retailer can make its own conditions from both a retail and wholesale perspective, which can have substantial impacts on their range of suppliers. However under *Misuse of Market Power, Mergers and Other Rules* (Hilmer *et al.* 1993: 61-83) then recommends the removal of the legal restrictions that prevent major retailers using their market power to demand ‘price discrimination’ ‘agreements’ of their suppliers, which could have negative consequences for both suppliers and retail competitors[56] which have created significant controversy.

While the Committee claimed agreement that the rules to prevent the ‘misuse of market power’ should be maintained, they recommended that the specific provisions prohibiting ‘price discrimination’ (s.49) in the TPA should be repealed (Hilmer *et al.* 1993: 84). Given the support of the Hilmer Report for Baumol’s ‘contestability theory’ supporting corporate market dominance, the removal of s.49 as part of NCP enabled corporate market dominant retailers and manufacturers, for example, to demand lower supply rates for the same number of items supplied to any of their competitors. It also enabled those with corporate market dominance to charge suppliers to retain their rights to supply them. This had a significant impact on both the supply sector and industry competitors that lacked market dominance (Margetts 2011a, 2011b). The Hilmer Report’s explanation for this significant repeal was as follows: ‘The Committee considers that the existing provision, which prohibits price discrimination in certain circumstances is not warranted and should not form part of the competitive conduct rules of a national competition policy’ (Hilmer *et al*. 1993: 61). The Committee also claimed that ‘The prohibition against price discrimination prevents the sale of like goods to different persons at different prices, where such discrimination substantially lessens competition’. However, having acknowledged that, they added that: ‘The provision is contrary to the objectives of economic efficiency’ (Hilmer *et al*. 1993: 74), which they should have explained means that it is one of the major assumed requirements of contestability theory. Removing the Price Discrimination Provision of the TPA would help to reduce the costs of corporate market dominators further (while

[56] The Retail Case Study gives evidence of this from the submissions to the ACCC’s Grocery Price Inquiry (ACCC 2008d).

increasing the costs of their competitors via the 'waterbed effect')[57] However, instead of acknowledging that, the committee stated:

> such discrimination substantially lessens competition. The provision is contrary to the objective of economic efficiency ['contestability'] and has not been of assistance to small businesses. The Committee does not believe that it is the role of the competitive conduct rules to protect any particular sector of society, and does not believe that the competition rules should be used to achieve objectives contrary to economic efficiency (Hilmer *et al*. 1993: 74).

The Committee chose not to make any specific recommendations about the form of merger regulations, except to wait for a more detailed review of the TPA (Hilmer *et al*. 1993: 83). Eight years after the Hilmer Report (in October 2001), the Liberal Prime Minister John Howard announced that there would be 'an independent review of the competition provisions' of the TPA. The Treasurer's Terms of Reference admitted that they were 'aware of concerns' that 'excessive market concentration and power can be used by businesses to damage competitors' (Costello 2002). However, no significant assessment of the impacts of NCP eventuated, so TPA changes were limited.

Under the heading *Scope of Application—Principles and Issues,* Hilmer *et al* 1993: 85) they then outline their *Rationales for Universal and Uniform Application* related to their proposal to eliminate any exemptions to government businesses from the TPA requirement. This included electricity and port services and 'private professional services', which were 'largely sheltered from international competition' unless the exemptions could be proven to be in the public interest (Hilmer *et al.* 1993: 86). However, they did not require that the removal of Government exemptions themselves be assessed or proven to be in the public interest.

The committee listed the main sectors and areas of activity subject to special treatment under the TPA, 'government owned businesses', 'professions', 'other unincorporated businesses', 'agricultural marketing', 'intellectual property', 'labour', 'approved standards', 'export contracts', 'restrictive covenants', 'consumer boycotts' and 'conduct or arrangements pursuant to international agreements' and the committee said that the

[57] A recent journal article explains the impacts of 'the waterbed effect' as 'When a buyer is able to obtain lower input prices from a supplier, is it possible that other buyers will have to pay more for the same input as a result? Is this bad for consumers? We present a model that analyses the conditions under which the asymmetric exercise of buyer power can lead to consumer detriment through raising other buyers' wholesale prices (the 'waterbed effect') (Inderst & Valletti 2011: 1–20).

result of their recommendations would be to limit the special treatment under the TPA accorded a number of those areas, particularly the first four (Hilmer *et al*. 1993: 123–124). Their target for agricultural marketing was the 'statutory marketing arrangements', because 'agricultural marketing in Australia has long been dominated by statutory schemes of various forms, with rationales including prior support to growers, price stabilisation, and the provision of countervailing market power to producers' (Hilmer *et al*. 1993: 140). The assumed benefits of removing statutory marketing arrangements were to include lowering prices for consumers and improving prospects for developing 'internationally competitive domestic food processing industries' (Hilmer *et al.* 1993: 142). These assumptions are critiqued in my Dairy Case Study (Margetts 2007a, 2007b).

Under the *Overview of Additional Policy Elements* (Hilmer *et al.* 1993: 183) the Committee noted that in announcing the establishment of the Hilmer Inquiry into NCP, the Prime Minister had indicated specific emphasis on areas currently outside the TPA, which the Committee said were 'widely understood to include for certain agricultural products and some professions'. These had been among the economic policy targets for deregulation pushed by the IAC/IC under the Ministry of Keating. They also included further discussions of regulatory restrictions on competition, structural reform on public monopolies, access to essential facilities, monopoly pricing and 'competitive neutrality' (Hilmer *et al*. 1993: 184–187). 'Competitive Neutrality' became the justification for the privatisation of State assets. The Hilmer Report stated that the submissions (no mention of how many or from whom) leading up to the proposed introduction of 'competitive neutrality' included 'concerns over the special advantages many government businesses enjoy when competing with private firms' (Hilmer *et al*. 1993: 187). The Hilmer Report thus advanced the cause of the corporatisation and privatisation of public services, without evidence of impacts on the public interest. As was mentioned in the Preface, I was advised by a Treasury official that had worked on the Senate NCP Committee Inquiry Secretariat that Federal Treasury officials invented the term 'competitive neutrality'. Therefore, if this were to be widely introduced, significant and regular assessments of its impacts would be required.

Under *Regulatory Restrictions on Competition* (Hilmer *et al.* 1993: 189-190) the Committee examined their views on the impact of regulation on competition. They outlined existing review processes and a more systematic approach (in the authors'

view) to the reform of 'regulatory restrictions on competition as part of national competition policy'. As part of this process to 'implement' NCP, the Committee recommended that a new body, the *National Competition Council*, be set up and funded to 'play a role in coordinating and facilitating the cooperative process generally' (Hilmer *et al.* 1993: 208).[58]

In response to *Structural Reform of Public Monopolies*, the Committee said 'structural reforms may be required to dismantle excessive market power and increase the *contestability* of the market' (Hilmer *et al*. 1993: 215; emphasis added). It is important to note that the Hilmer report did not explain what the risks might be if 'public monopolies' became 'private monopolies' or even 'private oligopolies'. In effect, this meant the authors' supported using deregulation, privatisation, support of corporate market dominance and 'competitive neutrality' to change government services or utilities into corporations and/or private monopolies or oligopolies.[59] The 'essential facilities' referred to under *Access to Essential Facilities* (Hilmer *et al.* 1993: 239) are 'natural monopoly' markets such as electricity, gas and rail; some of which they consider should enable the right of access by private competitors.

Under '*Monopoly Pricing'*, the Committee proposed the establishment of a price monitoring surveillance process for NCP, to be applied sparingly after proper investigation of market circumstance—a process that would not directly control prices (Hilmer *et al*. 1993: 269). They discussed the 'monopoly pricing problem', 'general prices oversight' and 'prices oversight of government businesses' but in their recommendations, they put monopoly prices oversight as a secondary option to 'enhance competition' (Hilmer *et al*. 1993: 289).

On the issue of *Competitive Neutrality*, the Committee claimed states that government businesses 'were often seen as enjoying a unique set of competitive advantages by virtue of their ownership, including exemption from tax' and they described these 'kinds of distortions' as 'competitive neutrality' (Hilmer *et al*. 1993: 293). However, as

[58] The Retail Case Study provides a strong critique of the NCC's considerable power to force their processes of 'coordinating and facilitating' NCP under the leadership of Graeme Samuel (Margetts 2011).
[59] In 1997, the Administrative Review Council published a report that stated, 'Where taxpayer-funded services are provided by the private sector, there is a public interest in asking whether these private law remedies will be adequate. This involves comparing them with the remedies which recipients of government provided services have and considering whether any difference is appropriate or additional remedies need to be provided' (Administrative Review Council 1997:16).

mentioned above, 'competitive neutrality' was not theoretically grounded policy, and the Hilmer Report did not clearly define the term or explain where they obtained the policy concept. However, they do admit that 'Australian competition policy has not traditionally dealt with competitive neutrality as a distinct policy element' (Hilmer *et al*. 1993: 294). In effect, they recommended 'policy principles', so that government businesses were not able to secure any 'net competitive advantage by virtue of their ownership when competing with other businesses' (Hilmer *et al*. 1993: 305). Their assumption was that 'Privatisation and corporatisation are likely to be the most effective means of addressing competitive neutrality concerns', but they also admitted that 'it may not be appropriate in all circumstances where government businesses compete with other businesses' (Hilmer *et al*. 1993: 303). 'Competitive neutrality' has been a major issue of NCP, the outcomes of which have never been properly assessed; for instance, what are the public interest impacts on privatising Government services?

In relation to *Institutional Arrangements* (Hilmer *et al.* 1993: 313) the Committee included discussion on the establishment of the NCC and the ACCC, and the re-naming of the Trade Practices Tribunal to the 'Australian Competition Tribunal'.

In conclusion, the Hilmer Inquiry Report on NCP contained a wide range of major policy change suggestions, which effectively promoted privatisation and corporate market dominance on the assumption that this would be in the public interest. Even though this political intervention embodied so many major policy issues promoting privatisation and corporate market dominance, the Hilmer Inquiry Report itself was never properly assessed or explained to the Australian community, or even to the Federal Parliamentarians. As was explained in the Preface, the two major political parties, Labor and the Liberals, voted in support of the legislative changes that resulted from the Hilmer Report. They did so without requiring a proper explanation of the impacts of this major policy change.

This intervention is consistent with the transformation of the state captured in Pusey's (1991) analysis. The whole process surrounding this report and the implementation of its recommendations, without any evaluation of the social and economic impacts, reveals the degree to which democratic accountability through open and transparent engagement with civil society, whose interests the State is meant to defend, has been absent. As Leys (2001) has demonstrated, market-driven politics undermines

democracy and the public interest. This chapter now concludes with an overview of the role of senior executives after the Hilmer Report was released. It was determined that their role was to advance the fundamental ideological principles of neo-liberal restructuring through the Coalition of Australia Government (COAG).

The Role of Commonwealth Senior Executives in Achieving COAG's NCP Policy 'Agreement'

This role needs to be viewed in the context of the reshaping of the Australian State, from guardian of society to defender of large corporate interests, as outlined above. Significantly, Susan Churchman, whose South Australian Executive role in NCP was noted in the Preface of this thesis, explained how much control the Federal senior executives had during the development of micro-economic reform (Churchman 1996). In preparing the draft legislation for NCP reform, both the draft legislation and the intergovernmental Government agreements on NCP were co-ordinated and supported by the Structural Policy Division of the Commonwealth Treasury. Churchman explained that the Legislation Drafting Group's work was supervised by the COAG Micro-economic Reform Group, who comprised Commonwealth, State and Territory senior officials, who were both chaired and supported by the Department of the Prime Minister and Cabinet (Churchman 1996: 97). However, from a State perspective, Churchman observed:

> It was not easy for the states and territories to appoint representatives with all the necessary skills and the time to focus on the task single-mindedly. Of the state and territory members of the LDG, some had a background in law, but had not in the past been closely involved in policy concerning micro-economic reform or competition law (Churchman 1996: 98).

Churchman explained that another difference between the Federal, State and Territory Governments were the resources available for the task:

> At the meetings, one or at most two representatives from each state and territory would be confronted by a phalanx of commonwealth officials of varying degrees of seniority, some of whom were working full time on this project. Most state and territory people had to cope with a number of concurrent responsibilities and limited support from other staff consultants. Great wads of newly drafted of redrafted material would hit the fax machines a couple of days before the meeting, and we would have to analyse it for possible issues and get any legal and policy advice before flying out to the next meeting. Usually, this would have to be done in conjunction with meeting a number of unrelated

> responsibilities, all with their own deadlines and political imperatives. This could lead to a certain imbalance in the degree of preparedness at the meetings (Churchman 1996: 98).

Churchman (1996: 98) did suggest that the States and Territories had the advantage of a broader policy background. However, the Commonwealth senior executives appeared to be in substantial control:

> The ease with which the commonwealth view prevailed among officials did not necessarily translate into political support. It is well known that that the Darwin COAG, held in August 1994, did not produce the outcome most officials expected. By that stage a draft package of legislation and intergovernmental agreements were ready to be released for public consultation. It had been expected that heads of government would endorse the package consistent with their earlier expression of support for the principles of the Hilmer Report. Instead there was a very public disagreement on all but the broad outlines of the package ... Premiers and chief ministers were starting to realise that the package would have costs for them, some political and some financial. They wanted to see some benefits in return (Churchman 1996: 98).

Churchman (1996: 99) explained how the States and Territories did not get it their own way when, by February 1995, 'The commonwealth unexpectedly produced a new intergovernmental agreement, the Agreement to Implement the National Competition Policy and Related reforms, for heads of government to sign'. In effect, the Federal Government 'bought' the agreement from the States and Territories. The Federal Government offered funds in return for acceptance of these reforms, so that, in effect, the Commonwealth senior officials who had taken on the role of promoting NCP not only arranged for the Commonwealth to buy the NCP agreement, but also used the tranche payments to facilitate their continued achievement of their own micro-economic objectives:

> This made the share of commonwealth revenue to be paid to each state and territory dependent upon its meeting its obligations. The new National Competition Council (NCC) has been given the job of deciding whether the states and territories have met these conditions of payment. The former Assistant Treasurer described the NCC as a policeman, making sure states do not backslide on their commitments. Many states and territories found such a view offensive as a description of the implementation of a policy which was meant to work through intergovernmental cooperation. Unfortunately, the NCC has already shown signs of taking an extremely constabulary view of its responsibilities (Churchman 1996: 99).

This explanation is even more astounding when the political nature of the vast majority of Australia's State and Territory Governments is taken into account. By mid-1995, all the Australian State and Territory Governments except Queensland (under the Goss Labor Government) were Liberal or Liberal/Coalition governments. It appeared that the neo-liberal senior executive service officers who were strongly advancing NCP effectively used their power to achieve their desired policy outcomes. Further, from the perspective of Churchman, it appeared that even the conservative State and Territory Governments were far from fully supportive of the final agreement.

Churchman's perspective of the control and dominance of senior Federal bureaucrats is supported by Pusey's (1992) analysis of the changed nature of the Australian State through its newfound commitment to the neo-liberal market model. Even a supporter of NCP, Bronwen Morgan (2003: 90), admitted that, 'the bulk of National Competition Policy was encoded in intergovernmental agreements completed by executives without parliamentary input'. It is also important to note that Morgan's legal view was that NCP, which has the capacity to impact all Federal, State and Local Government legislation, was designed as a massive alternative to Australia's existing Constitution—described as 'meta regulation'. While this significant 'meta regulation' was supposedly based on a formal assessment or interpretation of public interest, Morgan admitted that the NCC, which had much greater enforcing power over NCP than the States or Territories, was discovered by the union movement to have 'blunt hostility to the public interest interpretation clause' (Morgan 2003: 124). Indeed, the NCC considered that they did not see a requirement to examine the matter listed in clause 1(3) of the Competition Principles Agreement formally. Thus, the NCC did not consider that they should take into account the full range of elements within the public interest assessment.

To Summarise

- Senior Government Bureaucrats were the architects of the NCP 'agreement', rather than the electorate or most Federal or State Parliamentarians. Pusey (1992) explained the growth of micro-economic/neo-liberalism among senior bureaucrats during the years leading up to the introduction of NCP and, as explained in the Preface, as a Senator during the NCP policy changes, I encountered no parliamentary explanation that NCP was based on 'contestability theory', which supports corporate market dominance. The Labor parliamentary

leadership accepted the neo-liberal views of the IMF and the World Bank, and they were willing to abandon socialist theory. The experts they tended to follow included the 'Canberra-based economists commanding the senior posts in the major departments who believed in the efficiency of markets and deregulation' (Webster, Lambert & Bezuidenhout 2008: 81).

- Hilmer himself admitted that NCP had not been theoretically substantiated and that it was not based on proven principles (Hilmer 1994: xiii).
- Even though NCP became a powerful new kind of Federal Constitution ('meta regulation') affecting all potential legislation, there is evidence that its formation was not properly based on the agreed public interest assessments.
- The former Labor Prime Minister Kevin Rudd strongly criticised neo-liberalism. However, no Government conception exists of how NCP actually operates in terms of winners and losers, centralisation and the impacts of concentration of economic power in large corporations.

Conclusion

This chapter discussed the theoretical links to the development and critiques of 'market liberalism' and corporate market dominance. It explained the theoretical basis and proponents of Australia's NCP and the roles played by senior bureaucrats in pushing for 'economic rationalism' (Pusey 1992), which can also be referred to as micro-economic/neo-liberalism. The role of the Hilmer working group is mentioned and a detailed critique of the Hilmer report is provided. This explains a range of problems from their proposed major policy changes, and the role played again by senior bureaucrat executives in pushing through the NCP 'agreement'. It has also been argued that State officials lack the ability to understand the theoretical basis of NCP adequately and to make proper assessments of its possible impacts.

To assess some of the impacts of NCP in major Australian sectors, the Dairy, Retail and Water Case Studies from this thesis explain how, in major sectors of the economy, there are considerable challenges to the assumed benefits of NCP. These case studies confirm much of the criticism of the theoretical undertaking of neo-liberalism. They also demonstrate that it should have been necessary for the Government to assess the real impacts of NCP properly. Owing to the lack of adequate assessment of this major

policy change, governments are struggling to repair some NCP-related changes to Australia's political economy.

Chapter 4: Testing Public Interest Assumptions of NCP Market Theory

The NCP was described in the COAG's 'Competition Policy Agreements' as part of 'a national approach to micro-economic reform' to focus on a range of matters including the 'performance of [government] business enterprises and the harmonisation of regulation', following financial market deregulation in the 1980s, and the push to 'systematically reduce trade barriers' (NCC 1998: 3).

The aim of this chapter is to provide an in-depth explanation of the main assumptions underpinning NCP, provide examples of reports which have promoted and/or assessed the levels of NCP policy change and provide a critique of these by drawing on available commentary. This chapter therefore provides a framework for the analysis that follows in Chapters 5, 6, 7 and 8, of the potential effects of NCP on the Dairy, Retail, Water and Social Services sectors. The main argument developed in this chapter is that proper assessments should have been undertaken of the impacts of NCP on a wide range of sectors of the economy to assess the outcomes of this policy, as compared to its assumed benefits. In Chapter 3, it was explained that the Hilmer Committee indicated that it considered that corporate market dominance could potentially improve 'competition'.

Competition is held to be in the public interest, but so is social justice. The conditions of the NCP 'tranche payments'[60] to the States and Territories included the 'implementation of competitive neutrality principles' and 'the review and, where appropriate, reform of all existing legislation which restricts competition by the year 2000' (NCC 1998: 40). It is therefore important to assess whether NCP policy changes were themselves 'competitive' and whether the push for 'competitive neutrality' (corporatisation/privatisation of public services) necessarily supported the public interest. In this chapter, a range of claims by government bodies on the assumed outcomes of NCP are contrasted with publically available data for both several years before and several years after NCP was introduced.[61] This chapter explains the public

[60] NCP 'tranche payments' were the means of offering or holding back funds to States and Territories to force NCP legislative-based changes.

[61] As mentioned in the Thesis Preface, I undertook an Honours Degree in Development Studies at the University of East Anglia. My course included the Principles of Economics, which taught the differences

interest assumptions of NCP market theory across the economy, provides examples of the lack of proven principles of NCP and identifies the lack of an actual theoretical basis for 'competitive neutrality', which is the policy that was used to force privatisation in a wide range of government services.

Examples of Some Major Policy Changes under NCP

The Hilmer Report began by saying that 'A national competition policy aims to promote and maintain competitive forces to increase efficiency and community welfare, while recognising other social goals' (Hilmer *et al.* 1993: v). The Report further stated that the 'increased international exposure is an important means of improving competition and efficiency in a relatively small economy like Australia' (Hilmer *et al*. 1993: 199). However, even though NCP was promoted as improving 'competition' in Australia, it was not based on the market theories of 'perfect competition' presented in basic economic texts such as that of Samuelson and Nordhaus (1989 [1948]: 42)[62] and Miller and Shade (1982: 248)[63]. Instead, as explained in Chapter 1, it was developed on the challengeable, corporate-based 'contestability' theory (Hilmer *et al.* 1993: 2–3). Hilmer himself admitted on several occasions that NCP had not been based on 'proven principles'. For example:

> Many of the areas of competition policy are not amenable to simple answers based on proven principles. The economic logic on which competition policy is based is still being formulated (Hilmer, 1994: xiii).[64]

The implicit theoretical assumptions of the Hilmer Inquiry are made explicit in publications from the corporate-focussed IAC's Inquiries, such as Government Non-Tax Charges (IAC 1989; Margetts 2001: 29). In support of a neo-liberal perspective, the IAC argued that the issue of market power is not simply a question of whether or not a natural monopoly exists, but whether the entry or exit by rival firms is feasible. Hence, the Commission supported private monopolies or oligopolies if the market was

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between the range of economic theories, from Adam Smith right through to Keynes and Marxism. This has helped me to question the theoretical basis of NCP.

[62] The Samuelson and Nordhaus economic text explains that market structures tend to fall somewhere between perfect competition and pure monopoly and that under imperfect competition a firm has some control over its price (Samuelson & Nordhaus (1989 [1948]).

[63] On page 20 of Chapter 1.

[64] This statement was repeated by Hilmer in 1995 at the Higgins Memorial Lecture (Hilmer 1995a), and in the Economic Analysis and Policy Journal of that same year (Hilmer 1995b: 24).

considered ‘contestable’ (IAC 1989). A major critique of this policy change has been the removal of the prohibition of Price Discrimination (s. 49), as discussed above.[65] The Hilmer Report not only supported the views of the Baumol-based ‘contestability’ theory,[66] but also treated the more mainstream market/competition theory as out-dated (Hilmer *et al.* 1993: 2–5).

Another major aspect of NCP policy change is ‘competitive neutrality’, which affects many aspects of public services. A limited explanation of ‘competitive neutrality’ is in the NCP agreements. In the NCC’s Compendium of NCP agreements (1998), it is stated that:

> 3.(1) The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities. Government businesses should not enjoy any net competitive advantage as a result of their public sector ownership (NCC 1998: 17).

In the Preface to this thesis, it is explained that a Senior Research Officer in the Senate Select Committee Secretariat admitted to there being no theoretical basis for ‘competitive neutrality’, as Treasury officials had invented the term. Investigation has shown that ‘competitive neutrality’, although central to the Competition Principles Agreements, was not actually defined in either the Hilmer Report or the NCP agreements (Margetts 2001: 49–54). However, the reasons advanced by the Hilmer Inquiry for promoting ‘competitive neutrality’ included the following:

> While some submissions to the [Hilmer] Inquiry expressed concern at such differences operating between private firms, by far the most systematic distortions appear to arise when government businesses participate in competitive markets. In particular, government businesses were often seen as enjoying a unique set of competitive advantages by virtue of their ownership, including exemption from tax. Policies dealing with these kinds of distortions can be described as elements of ‘competitive neutrality’ (Hilmer *et al.* 1993: 293).

The Hilmer Report described ‘competitive neutrality’ policy as being useful to distinguish distortions affecting competition between private firms and government

[65] Details and a critique of these aspects of ‘contestability’ theory are included in the Retail Case Study (see Chapter 6).
[66] Baumol’s corporate-based ‘contestability theory’ (Baumol & Bradford 1970; Baumol, 1977, 1982; Baumol, Panzar & Willig 1982) was promoted by the IAC (IAC 1989).

businesses (Hilmer *et al.* 1993: 294). It was promoted as the need to neutralise any net competitive advantage of government businesses exposed to competition or competing in new markets. However, as explained in Chapter 8, 'competitive neutrality' should be seriously assessed to determine its likely effect on areas such as aged care, mental health and disability services, as Government bodies in support of NCP have avoided such assessment. In the 'Competition Policy Agreements', it was recommended that 'significant government business enterprises' should, 'where appropriate, adopt a corporatisation model' (NCC 1998: 17). This requires imposing upon these businesses full Commonwealth, State and Territory tax equivalent systems, debt guarantee fees and similar regulatory requirements comparable to those imposed on private sector businesses. This is based on the objective that 'competitive neutrality' would eliminate resource allocation distortions arising out of the public ownership of 'entities engaged in significant business activities' (NCC 1996: 13). However, the impacts of enforcing 'competitive neutrality' on those sectors requiring public services need to be properly assessed.[67]

Examples of Public Interest Assumptions of NCP

As explained in Chapter 3 of this thesis, senior bureaucrats pushed strongly for 'micro-economic reform' (that is, economic rationalism/neo-liberalism) and had substantial influence on the policies of the Hawke/Keating Labor Governments,[68] without any significant public or parliamentary debates. The Hilmer Report claimed that there was 'significant awareness of the opportunities **such a policy** offers to Australia to improve our **international competitiveness**[69] and hence **living standards***'* (Hilmer *et al.* 1993: iii; emphasis added). The terms 'competition', 'competitive' and 'anti-competitive' were used frequently in the Hilmer Inquiry. However, given the lack of public discussion or explanations of the bureaucratic push for 'micro-economic reform', it is unlikely that many of the individuals and representative bodies making submissions to the Hilmer Inquiry would have understood the details of the proposed theoretical basis of NCP, a policy which supported corporate market dominance.

[67] The significance of research by Graeme Hodge, which shows there has been insufficient 'International Evidence' of the impacts of 'Contracting out of Government Services' such as health and welfare (Hodge 1996), will be addressed later in this chapter.

[68] Pusey states that by 1992, two-thirds of the interviewed senior bureaucrats wanted smaller government, less state involvement, more individual incentives, and less government control of the economy (Pusey 1992: 64).

[69] Ironically, early in the Hilmer Report it was admitted that the push for 'international competitiveness' and 'economic growth' 'is not about the pursuit of competition *per se'* (Hilmer et al. 1993: xvi).

Prime Minister Keating stated that the Hilmer Inquiry's Terms of Reference were based on 'the agreement' between himself, the State Premiers and Territory Chief Ministers (Keating, in Hilmer *et al*. 1993: 361). However, COAG had only been formed in May 1992, just a few months before the Hilmer Inquiry commenced. While the Terms of Reference stated that '(b) no participant in the market should be able to engage in anti-competitive conduct against the public interest' (Hilmer et al. 1993: 361), it was not stipulated whether NCP policy changes would require testing if they were considered to be in, or to remain in, the 'public interest'. In 1995, less than two years after the Hilmer Report, COAG signed the NCP 'agreement' (NCC 1998). The 1995 agreement included a 'Legislative Review', which claimed that NCP could not 'restrict competition' as follows:

> 5.(1) The guiding principle is that legislation (including Acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that:
>
> (a) The benefits of the restriction to the community as a whole outweighs the costs; and
>
> (b) The objectives of the legislation can only be achieved by restricting competition (NCC 1998: 19).

However, there were some major challenges to the reality of this agreement. It meant, in effect, that all Federal, State, Territory and Local Government legislation and regulations required change, unless they could be proven to be in the NCP-based 'public interest'. The NCP Agreement included, in Section 1(3), a range of 'matters' 'where relevant', which 'shall' 'be taken into account' to assess NCP legislative changes. NCP supporter Bronwen Morgan (2003) admitted, however, that the NCC[70] showed a 'blunt hostility to the public interest interpretation clause' and 'did not see a requirement for governments to conduct a formal assessment of the public interest in terms of subclause 1(3)' on 'every occasion that it implements reform' (Morgan 2003:124). The nature of 'competition' under the influence of the NCP major policy changes also challenges the assumption that NCP did not itself create 'anti-competitive conduct'. This is because, as mainstream market theory was replaced by corporate-based 'contestability' theory, there was no real pressure to restrict corporate market dominance and no regular requirement for government bodies to check the public interest impacts of corporate market dominance on consumers or suppliers. Changes in the implementation of NCP

[70] The NCC was the Government body proposed by the Hilmer Report to 'give advice to the governments' on NCP (Hilmer *et al.* 1993: 337).

were to be consistent with open and integrated domestic markets resulting from the removal of 'unnecessary barriers to trade and competition' (Hilmer et al. 1993: 361). Therefore, it is considered imperative that Government data be collected on an ongoing basis on the percentage of overseas ownership of Australian land and businesses by multinational corporations.[71]

NCP was based on the corporate-based 'contestability' theory advanced by Professor William Baumol and others (Baumol et al. 1982). The Hilmer Report, in effect, claimed that implementation of this theory of corporate market dominance could potentially improve 'competition' (Hilmer *et al.* 1993: 3). However, his theory was not based on Keynesian economics as presented, for example, in Samuelson and Nordhaus' (1989 [1948]) internationally popular economics texts. It is important therefore to ascertain whether the Australian States and Territories leaders who participated in the COAG NCP 'agreement' were ever advised that the theoretical basis of NCP was a challengeable corporate-based economic theory.

As indicated earlier in this chapter (p 71), the COAG NCP 'Agreements' required the review of all of the Nation's 'Acts, enactments, ordinances or regulations' to remove restrictions on competition, subject to the two key exceptions in 5 (1)(a) and (b) in the 'Legislative Review' section of the 'Competition Policy Agreements' (NCC 1998: 19). This required that these provisions are only limited that communities might benefit from restrictions to competition.

However, as Prime Minister Keating had demanded that 'no participant in the market should be able to engage in anti-competitive conduct against the public interest' (Hilmer *et al.* 1993: 361), the major NCP legislative changes required under this review should have been properly assessed. That they were not seriously challenges the assumed 'public interest' of NCP.

There was no requirement in the Terms of Reference to the Hilmer Inquiry (1993) for NCP-based privatisation and/or deregulation provisions to be assessed themselves, as these were assumed to be in the 'public interest'. COAG's NCP Water Resource Policy

[71] In 2004, the ABS issued a document that presented data based on a 2000/01 study of 'foreign ownership' of businesses in Australia. It was reported that 21 per cent of Australian businesses were 'majority foreign owned', with comparable figures of 45 per cent for mining and 34 per cent for manufacturing (ABS 2004: 4). There has been no similar updated ABS report published since.

Agreements included a 'strategic framework' to 'reform' the Australian Water industry, which included 'more rigorous approaches to future investment' and 'trading in water entitlements' (NCC 1998: 99). As will be assessed in the Water Case Study, are whether these proposals for a free market and trade in Australia's water resources were advanced in the absence of adequate data on Australia's water use and water resource availability.

The first paragraph of the Hilmer Report's Executive Overview stated that Australia was facing 'the challenge of improving productivity' (Hilmer *et al.* 1993: xv). One of the major recommendations for implementing NCP in Australia's agricultural industry was to remove the existing Statutory Marketing Authorities, based on the assumptions that this would make retail prices cheaper**, improve productivity** and enhance economic efficiency. However, given the vital importance of this recommendation, proper assessment is required to determine why a decade later Australia's Dairy Industry has not yet exceeded its productivity level of the year 2000, the year in which the implementation of NCP effected both the removal of the Dairy Industry's Statutory Marketing Authorities and introduced dairy farmgate deregulation (Margetts 2007a, 2007b).[72] Table 4.1 below shows that the level of Australian Dairy Total Factor Productivity actually declined slightly over the period 2000/01 to 2009/2010.[73] This outcome is, of course, contrary to the assumptions of the Hilmer Report.

Table 4.1: Australian Dairy Total Factor Productivity 1978/79–2009/2010

Year	%	Year	%	Year	%
1978/79	100	1989/1990	98	2000/01	106
1979/1980	99	1990/91	100	2001/02	107
1980/81	89	1991/92	99	2002/03	96
1981/82	87	1992/93	98	2004/05	109
1982/83	80	1993/94	102	2005/06	106
1983/84	89	1994/95	96	2006/07	96
1984/85	92	1995/96	97	2007/08	84
1985/86	98	1996/97	93	2008/09	96
1986/87	102	1997/98	96	2009/10	102

[72] Between 1978/79 and 2009/10, while Australia's broad acre productivity was growing at an average of 4.2 per cent per year, the dairy industry's productivity averaged only 0.3 per cent per year (ABARES 2012: 174).
[73] The dairy Total Productivity data was published as a graph in 2012 (ABARES 2012: 174)

1987/88	105	1998/99	100		
1988/89	100	1999/2000	109		

Source: ABARE (2012: 174).

The Executive Overview of the Hilmer Report quotes Prime Minister Keating as saying 'the engine which drives efficiency is free and open competition' (Keating cited in Hilmer *et al.* 1993: xv). The Report then states that 'competition' 'assists economic growth and job creation. It has triggered initiative and discovery in fields ranging from the invention of the telephone to the opening of new retail stores and small manufacturing operations' (Hilmer *et al.* 1993: xv). However, the Report also admitted that 'competition policy' was 'an area central to micro-economic reform' (Hilmer *et al.* 1993: xv). These comments give the impression that NCP/micro-economic reform would enable the opening of new retail stores, and permit expansion of Australia's manufacturing sector. The Report adds that 'these developments in smaller firms, prompted by the belief of these firms in their ability to compete ... are the main source of both new jobs and value-added exports' (Hilmer *et al.* 1993: xv). However, as shall be seen later in this chapter, after NCP was introduced, Australia's manufacturing sector's proportion of GDP fell and continues to fall so this clearly needs a proper assessment of the impacts of NCP on the manufacturing sector. In addition, as shall be explained in the Retail Case Study (Chapter 6) there should also be a public acknowledgement by the Government of the apparent impacts upon Australia's manufacturing sector by the increased corporate-based retail market dominance.

In its August 1994 meeting, COAG requested an inquiry by the IC[74] to assess the economic benefits of the implementation of the Hilmer Report and related reforms. Treasury provided the Terms of Reference on 23 September 1994, but these did not ask the IC to assess any potential negative impacts of NCP (IC 1995: 498). The terms of reference included the following positive assumptions about NCP:

> 3. All sections of Australian society should benefit from competition policy reform through sustainable increases in living standards and greater national output and income. Governments will benefit as part of this process through, inter alia, greater revenue resulting from enhanced levels of economic activity and growth (IC 1995: 499).

[74] The IC became the PC after NCP was introduced.

The IC report was published in March 1995. The following is a summary of what the IC predicted would be the assumed economic benefits of NCP:

- 5.5 per cent growth in real GDP per annum (23 billion p.a.) [see Graph (1) below];
- $9 billion per annum increase in consumption ($1,500 annual increase per household);
- 3 per cent increase in real wages;
- $5.9 billion (6 per cent) increase in Commonwealth Revenue;
- $3.0 billion increase in State, Territories and Local government revenue (4.5 per cent); and
- 30,000 more jobs (IC 1995).

As shall be seen below, the IC's predicted annual GDP growth rate has not occurred and, while average wages may have increased, there is a growing gap between rich and poor in Australia, especially in States such as WA, which has both a rapidly growing resource sector and a significant increase in the costs of housing and accommodation.

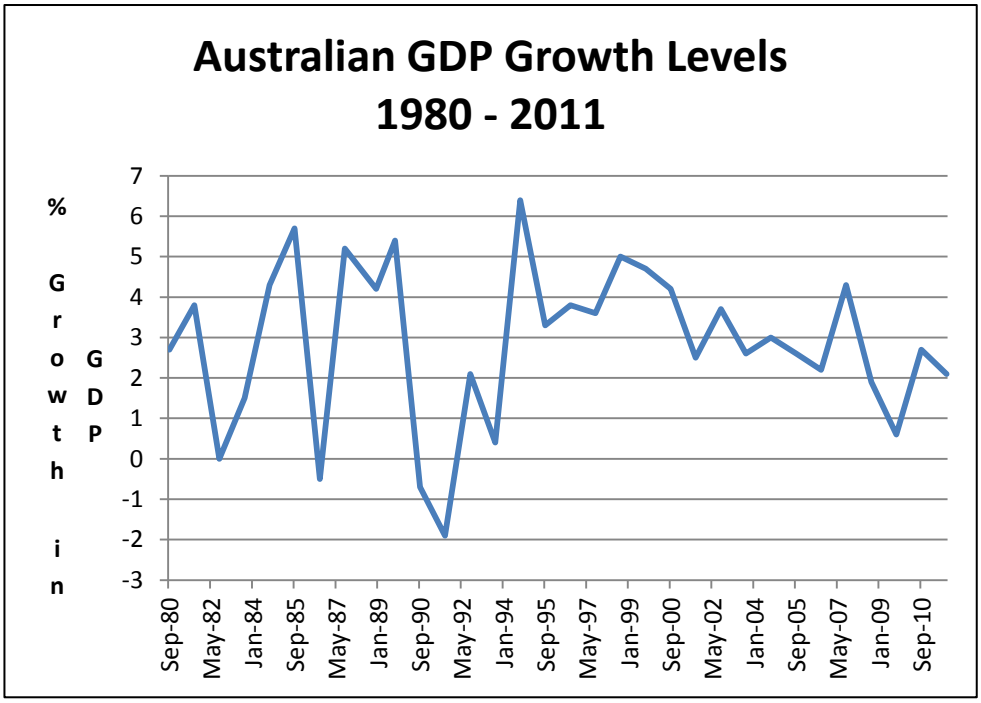
The Flawed Assessment of NCP

Professor Fred Hilmer and Professor Ross Garnaut were among those involved in promoting NCP. It could be expected that, as the NCP was a major policy change, there would have been public explanation of its theoretical basis by those involved, particularly by Professor Garnaut. However, as NCP was not based on 'proven principles', this did not happen prior to the two main political parties combining to pass the NCP legislation in Federal Parliament. However, it is important that the range of assumed benefits should be assessed. For example, the IC had predicted that NCP would enable a 5.5 per cent (real) annual increase in Australia's GDP (IC 2004). However, as Figure 4.1 below indicates, while Australia's GDP was rising prior to the introduction of NCP (up to 6.4 per cent in 1994); beginning in 1995, the year in which NCP was introduced, GDP displayed a downward trend, declining to about 2 per cent in 2010. This growth rate has yet to reach the 5.5 per cent per annum rate[75] predicted by the IC in 1994. Of course, the factors that affect GDP growth rates are wide ranging and complex, including the 2009 Global Financial Crisis, which reduced GDP growth

[75] The ABS GDP data is seasonally adjusted.

rates in many countries. It is not possible to isolate the impacts of NCP on rates of GDP growth in terms of these macro figures. However, the figures do indicate that assessment of the impacts of NCP sector by sector may be very important for assessing the impact of the policy upon the economy as a whole.

Figure 4.1. Australian GDP Growth Levels, 1980–2011



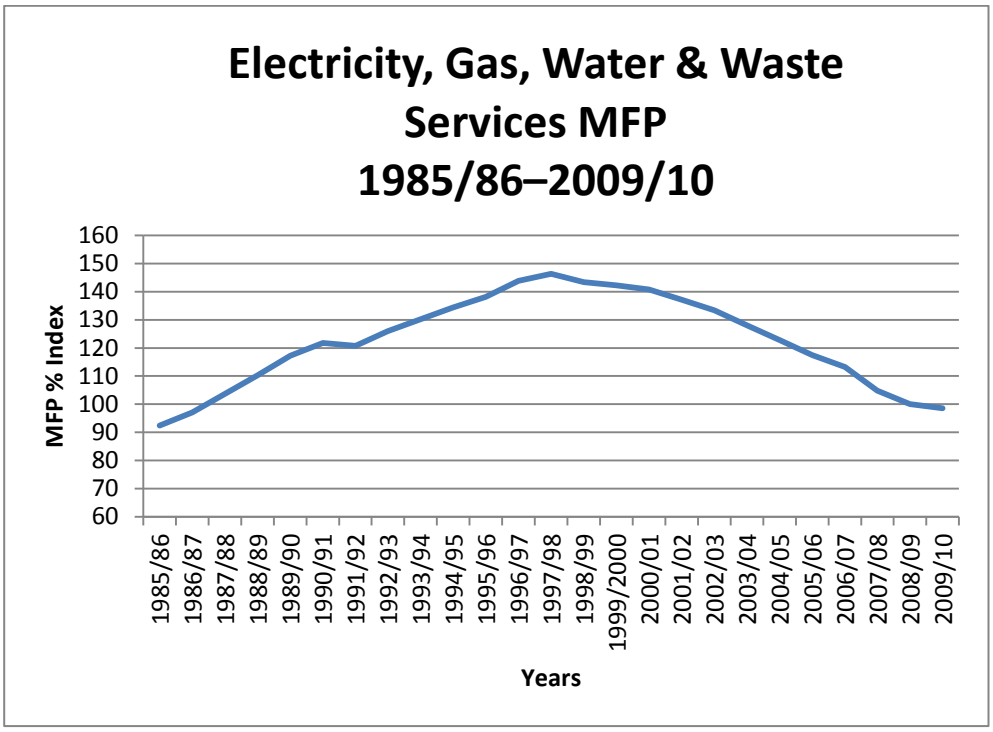
Source: ABS 2012b

The NCP was based on the assumption that Australia had 'no choice but to improve the productivity and international competitiveness of its firms and institutions' (Hilmer *et al.* 1993: 1). Another example of an attempt to assess the value of this policy for Australia therefore is to test it involving some of the major assumed benefits of the NCP Electricity, Gas and Water Resource Policy Agreements. However, as Figure 4.2 clearly shows, the combined multifactor productivity (MFP)[76] of Electricity, Gas, Water and Waste services began to fall not long after NCP was introduced and it continues to fall. Although this Figure includes data for waste services MFP as well as the MFPs for Electricity, Gas and Water, the ABS graphs of the MFPs for the latter three industry sectors are very similar (ABS 2007: 11). Figure 4.2 shows that the ABS data for the MFP of 'Electricity, Gas, Water and Waste Services' continued to increase until 1997/98. The NCP was introduced in 1995, but the NCP policy and legislative changes in Electricity, Gas and Water, State by State, did not occur all at once, but over time.

[76] 'Multifactor productivity' relates a change in output to several types of input (OECD 2001). The ABS measures MFP by dividing an index of the volume of value added by a combined index of capital and labour inputs (ABS 2007: 1).

Figure 4.2 in fact shows that the MFP for these combined industry sectors reached a peak level in 1997/98, but has thereafter declined significantly.

Figure 4.2. The Multifactor Productivity of Electricity, Gas, Water and Waste Services over the Period 1985/86 to 2009/10



Source: ABS 2007

Notwithstanding the apparent evidence to the contrary provided by Figures 4.1 and 4.2, in 2005, the Liberal Government Treasurer Peter Costello stated that:

> the implementation of NCP has brought substantial benefit to the Australian community, including regional Australia, which overall have greatly outweighed their costs. It is estimated [by the Productivity Commission] that the observed productivity and price changes in key infrastructure sectors (electricity, gas, urban water, telecommunications, urban transport, ports and rail freight) in the 1990s, to which NCP and related reforms have directly contributed, have served to increase Australia's GDP by 2.5 per cent, or $20 billion (Costello 2005).

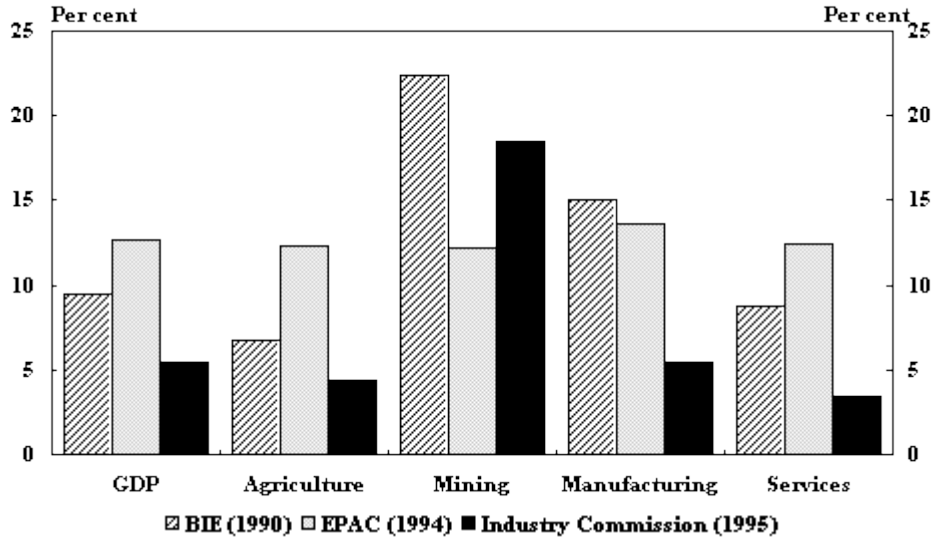
Despite most nations in the world, including Australia, having been affected by the Global Financial Crisis in recent years, it is considered that an NCP assessment is warranted. This assessment should look in detail, not just at the overall economy, but also at the impacts over time on each sector that has been either benefitted or negatively affected by NCP. The impacts of the Global Financial Crisis on these sectors should also be assessed. This assessment should be performed independent of Government, since the published government 'assessments' of NCP have generally been an effort to

promote NCP, rather than to effectively assess the positive and negative impacts of this policy. Critiques of key Government documents offering such 'assessments' comprise much of the remainder of this chapter.

1997/98 Budget Paper Document: 'The Benefits of Micro-economic Reform'

A document entitled 'The Benefits of Micro-economic Reform' was released with the 1997/98 Federal Budget (Federal Government Treasury 1997). It focussed on 'benefits', but made no mention of any costs or errors in the assumed NCP benefits. The document reiterated, the IC's prediction that NCP 'could boost GDP by around 5.5 per cent' (IC 1994). However, the document did not explain that Australia's GDP growth levels had begun to fall from 1995 (as indicated in Figure 4.1 above), the year in which NCP was introduced. The document should at least have explained why the predicted annual 'increase' in GDP growth had not yet occurred.

Figure 4.3. 'Chart 14: The Benefits of Micro-economic Reform'

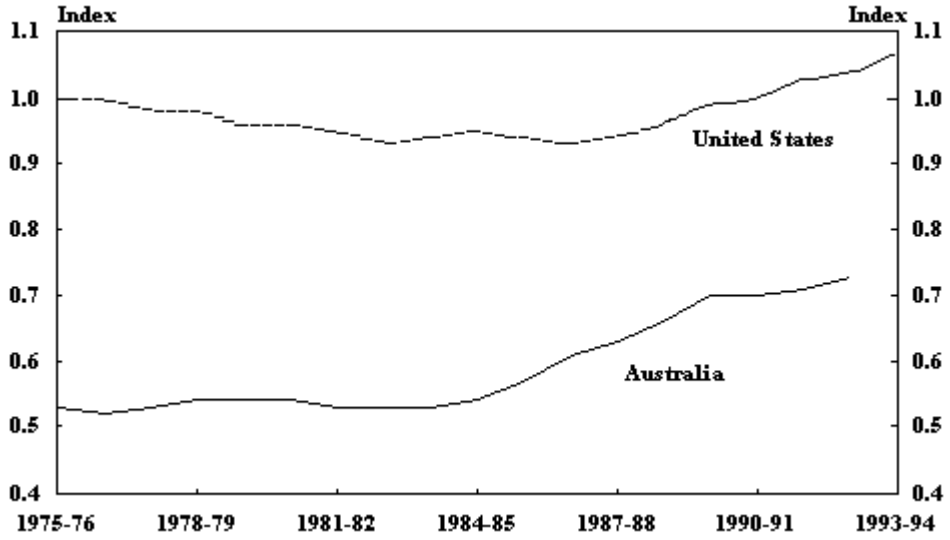


Source: Federal Government Treasury 1997

Figure 4.3 above shows 'Chart 14' from the Federal Government's 1997/98 Budget Papers, which showed that various expert advisory bodies, including the Bureau of Industry Economics (BIE), the Economic Planning and Advisory Council (EPAC) and the PC (formerly the IC), had predicted an increase in Australia's GDP from micro-economic reform of more than 5 per cent per annum. Each had also predicted substantial increases in the Agriculture, Mining, Manufacturing and Services sectors (Federal Government Treasury 1997: 4). However, as Figure 4.5, given later in this

chapter, shows, after NCPs 'micro-economic/neo-liberal reform', the output from Australia's manufacturing industry, for example, has continued to fall. 'Chart 14', in Figure 4.4 below, shows that each of the above-mentioned expert bodies also predicted major 'micro-economic' benefits for the mining sector. This is indeed happening in States such as WA and Queensland, although it brings with it a range of social issues, including a widening of the gap between rich and poor in those States. This is discussed in more detail in the following section.[77]

Figure 4.4. 'Chart 12: Total Factor Productivity Levels in Electricity'



Source: Federal Government Treasury 1997

The Goverment's 1997/98 Budget Statement stated that 'Corporatisation and privatisation of electricity businesses have also fostered a more commercial focus and helped to deliver substantial improvements in productivity in recent years' (Federal Government Treasury 1997). However, as can be seen above, the dates they used in Chart 12 of the Statement were from before NCP was introduced. As already mentioned in respect to Figure 4.2 above, while the combined Total Factor Productivity of Australia's Electricity, Gas, Water and Waste services had been increasing prior to NCP, the growth levels of this measure began to decline until 1998, when it commenced to fall in absolute terms. From 1985/86 to 1995/96 the Total Factor productivity of Australia's Electricity, Gas, Water and Waste services rose from 92.4 per cent to 138.2 per cent, but since then it has continued to fall. From 1995/96 to 2009/10, it fell back down to 98.6 per cent (ABS 2007). Therefore, as their assumed benefits in Australia's

[77] However, it should be noted that research has shown that the legislation supporting most major mining projects in Australia's major mining state of WA (State Agreement Acts) was exempted from NCP public interest assessments, even though it has been shown that a range of State Agreement Act projects were not in the public interest (Margetts 2001).

utility services were significant, the actual trend in Total Factor productivity of the Electricity sector since then appears to be the opposite of that announced in the Government's Budget Statement (Federal Government Treasury 1997).

Greater Dependency on the Mining Sector and the Growing Gap between Rich and Poor

As indicated above, the BIE, EPAC and the IC each predicted substantial benefits for Australia from 'micro-economic reform' in the mining and manufacturing sectors. This section analyses these assumed benefits.

In commenting on the impacts of promoting global capitalism based on initiatives such as micro-economic reform, Crough and Wheelwright (1982: 48) stated that:

> ... the growth in the minerals and energy industries is almost totally externally determined by the global profit and productive decisions of the trans-nationals. For example, it is not coincidental that Australia remains as a very large producer of minerals, but accounts for only a very small proportion of the world output of processed minerals.

The authors also cite Professor Bob Gregory from the ANU (Gregory 1976: 71) as concluding that Australia's resource boom of the 1970s had as much of a negative effect on Australia's manufacturing sector as the 25 per cent tariff cut at the time. Another author, also citing Gregory, summarised this issue as follows:

> The rapid growth of Australian mineral exports, through its effects on the balance of payments, is a significant force for structural change in other sectors. From the viewpoint of the rural sector which exports and the manufacturing sector which competes with imports, this force will be similar to that which would flow from very large tariff changes (Cleary 2011: 16, citing Gregory 1976: 71).

Crough and Wheelwright (1982: 99–100) later described how some of the 'reform movements' had spread to Australia from the:

> ... more powerful transmission belt of US multinationals and their acolytes ... There have been attacks on governmental regulations and attempts to dismantle or emasculate a variety of social controls in such areas as environmental quality,

> industrial health and safety, and agricultural marketing, as well as industry protection. The usual rationale is that these regulations are a burden on corporations and reduce their international competitiveness.

Further, these authors point out that, if the mineral industry had doubled in size:

> ... it would still only employ about 200,000 people, and the most optimistic multipliers do not show many jobs being created in other industries once construction ceases ... As important as the total number of jobs created by the mineral and energy developments is the type of jobs available. A number of estimates point to the fact that that a large proportion will be for skilled workers, of which there is already a shortage, so that the additional demands for labour may not be met by domestic sources, rather by additional immigration (Crough & Wheelwright 1982: 119).[78]

Crough and Wheelwright also claimed that the mineral industry helps to create growing gaps between rich and poor. In this context, they referred to the extremely different positions of economists such as Galbraith and Friedman on the impact on societies of the free play of market forces:

> The fundamental lesson of the economics of capitalist societies, as Galbraith and other before him have told us, is that market forces, if left to themselves, do not work for the best of all people but for the benefit of the rich and the powerful. This is why for many generations those in neither of these categories have organised themselves into trade unions and political parties in attempts to use political processes to interfere with market forces and to make the economic system work more in their interests. When they become successful enough to threaten the rich and powerful, the 'counter revolution' begins, with or without violence, and market forces are restored, with benedictions from a duly sanctified economist, a Malthus or a Friedman usually being available. The main purpose of studying economics, as Joan Robinson has suggested, should be to avoid being deceived by economists (Crough & Wheelwright 1982: 123).

Crough and Wheelwright then warned of how little value adding Australia's mineral resource sector provides to the economy: 'Although Australia is a very large exporter of many minerals, its share of world production and export of processed minerals is very low' because the companies controlling mineral production 'decide where they will locate their processing facilities' (Crough & Wheelwright 1982: 125–6). They also stated that:

[78] This appears to be a growing problem in WA, and union/worker representatives are publically lobbying against the lack of local employment for skilled workers and lack of adequate skills training. The State Agreement Acts, which were mostly meant to require a preference for local employees, have generally been ignored.

> One of the most important general effects of excessive mineralisation in Australia is that the external economic relations are coming to over-shadow and dominate the internal economic relations; that is, as more and more of the gross domestic production is exported and imported, the 'external' international economy comes to influence more heavily the health of the domestic economy (Crough and Wheelwright 1982: 128).

The warnings by Crough and Wheelwright about the impacts of promoting corporate globalisation and transnational mineral resource development showed the need for proper assessments on the impacts of micro-economic reform from the mid-1980s, as can be seen later by economists such as John Quiggin. For example, after NCP was introduced, Quiggin was quite critical of the models used by bodies such as the IC (now the PC) to promote micro-economic reform and NCP. While he explained that the lack of transparency of the ORANI model was too great to enable a proper analysis of the Commission's claims, he did agree that 'It is reasonable to conjecture … that benefits to mining and to export-oriented agriculture have a major role' (Quiggin 1996: 216–217). In summarising the aggregate costs and benefits of micro-economic reform, Quiggin (1996: 221) added that:

> It is clear that many people are a good deal worse off as a result of micro-economic reform, while others are a good deal better off. Moreover the scope of the program makes it unlikely that compensation through the tax-welfare system will counterbalance these effects.

In 2007, Frank Stilwell and Kirrily Jordan examined Australia's growing inequality. Commenting on their work, Lauren Smelcher from the University of Sydney stated that, 'The book is centred on a disturbing premise: though society as a whole has become wealthier, that wealth has been distributed very unevenly' (Smelcher, 2007).

In 2011, Bankwest announced the results of their second financial fitness survey, which showed that 31 per cent of Australians were financially unfit (up from 28 per cent the previous year) (Bankwest 2011), and that both Queensland and WA (the states with the most substantial mining and resource development) had the most financially unfit residents. This gap between the rich and the poor in Australia has been growing along with neo-liberalism. Back in 1996, the year after the introduction of NCP, Marina Cameron from Green Left argued that 'For more than a decade, neo-liberal rhetoric has promised that a globalised "free market" will lead to progress and increasing prosperity for greater numbers. But the reality is the opposite' (Cameron 1996). Further to this

conclusion, Cameron quoted the Human Development Report as stating 'In the past 15 years the world has become more economically polarised—both between countries and within countries' (Cameron 1996, citing UN Development Program 1996). In this context, it is therefore useful to look at the PC's Report on the Impacts of NCP (PC 1999).

The PC's 1999 Report on the Impacts of NCP in Rural and Regional Australia

As was mentioned in the previous chapter, after NCP was introduced, it took some years for the Federal Parliament to agree to undertake an inquiry on the regional and rural impacts of NCP. By the time the Senate agreed to set up a Select Committee to undertake such an inquiry in 1998, the Federal Treasurer Peter Costello had used the *Productivity Commission Act 1998* to require the PC to conduct their own inquiry into the impacts of NCP on rural and regional Australia. Costello's Terms of Reference were received by the PC in August of that year. As a Senator at that time, I recall that the Terms of Reference were discussed in the Senate, with the Treasurer indicating that he hoped that this would undermine support for a Senate Select Committee Inquiry into the impacts of NCP. A major reason this did not happen was that the PC, in its former manifestations of the IAC and then the IC, had been one of the major promoters of NCP. To the Senate members supporting the Select Committee Inquiry (the Labor Party, Independents, the Greens and the Democrats), this suggested a possible conflict of interest. Thus, it was not considered that the PC inquiry would render the Senate's NCP Inquiry unnecessary. In due course, the Senate authorised an Inquiry.

In its 1999 PC Inquiry Report, the PC made general comments on the changing nature of the Australian economy due to NCP, which included a limited recognition that NCP had both 'beneficial and adverse influences'. However, while the Commission considered that most of the adverse influences were outside the Government's control, it claimed that NCP had become a scapegoat for the effects of what they considered 'broader influences' (PC 1999). In addition, the Report claimed that:

> While there are costs associated with implementing NCP, it will bring net benefits to the nation, and to rural and regional Australia as a whole. The early effects have favoured metropolitan areas more than rural and regional areas (PC 1999: xxii).

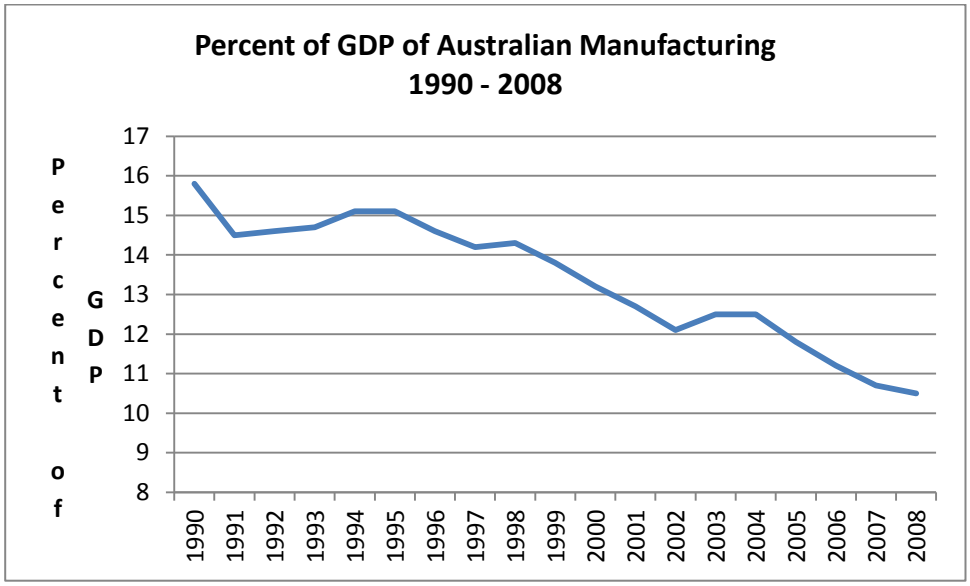
While Chapter 10 of the PC's Report claimed to be a 'summary of the impacts of National Competition Policy reforms', the modelling underpinning the Report related only to Gas and Electricity, Rail Transport, Road Transport, Telecommunications, Water and Commonwealth and State Statutory Marketing Authorities. In addition, it did not specify the NCP reform 'costs'. Nevertheless (and setting aside the influence of changes in the 'terms of trade'), the Report estimated that all of these sectors would gain benefits in 'real GDP', 'export volumes', 'import volumes' and 'post-tax real-wages' (PC 1999: 299). The Report then stated that 'many of the costs associated with implementing NCP are likely to be of limited duration. In contrast, many of the benefits are likely to be ongoing' (PC 1999: 332). The 'costs' associated with removing Statutory Marketing Authorities, such as the Dairy Industry authority, were in effect paid for by both consumers and producers (Margetts 2007a, 2007b).[79]

A further limitation of the Report was that the data used by the PC in their 1999 NCP report tended to be limited to the mid-1990s. As the NCP legislative changes had been introduced in 1995, and there were many aspects of NCP that took years to be introduced, such as the removal of the Statutory Marketing Arrangements, the PC should have conducted regular re-assessments of the impacts of NCP, including specific assessments of those sectors that had been seriously impacted by NCP.

Chapter 3 of the PC report claimed that, 'The changing structure of the Australian economy has seen an increase in the relative importance of services, notwithstanding the continued expansion in output from agriculture, **manufacturing** and mining' (PC 1999: 47; emphasis added). However, Figure 4.5 below shows that the percentage of GDP attributed to the Australian manufacturing sector continued to decline after NCP was introduced in 1995, a key point not acknowledged in the PC's 1999 Report.

[79] Both the Dairy and the Retail Case Studies (see Chapters 5 and 6) assess the impacts of the NCP upon the grocery supply sector, for both primary producers and manufacturers. As shall be explained in the Dairy Case Study, by 2009, the Senate agreed to refer the impacts on the dairy industry 'competition' and 'pricing' to the Senate Economics References Committee. The 2010 Report from this Inquiry included recommendations regarding the need for government bodies to inquire into the impacts of NCP (Senate Economics References Committee 2010: 2–4).

Figure 4.5. Percentage of GDP of Australian Manufacturing, 1990–2008



Source: World Bank 2010

Impacts of Neo-liberalism on Whitegoods Manufacturing

Professor Rob Lambert of The University of WA explained that, prior to the Government's policy change to neo-liberalism, Australian manufacturing was viewed as essential to providing employment opportunities for Australia's growing immigrant population. However, once the new rationalist ideology had become a major part of Australian policy, manufacturers were considered to be nothing more than 'an interest group constantly pressing claims and seeking patronage from the state' (Lambert Unpublished: 10). Ron Barbano, Manager of Chef Cook, for example, concluded that the Government did not really care whether Australian manufacturing would be viable in the future (Lambert Unpublished: 11), despite the problems being experienced by whitegoods manufacturers during the mid-1990s. The then Labor Minister for Industry, Mr Peter Cook, responded to this claim by stating that 'The government is building a competitive environment and competitive firms ... If Australia is to gain greater access to overseas markets, we must be prepared to open our own markets to overseas competition' (Lambert Unpublished). This response by the Minister appears to have been strongly influenced by the support of neo-liberalism by senior bureaucrats within his Department, who, as explained above, lacked adequate understanding of the ongoing impacts of NCP. Thus, despite the implication of the Hilmer Report that employment in manufacturing would increase under NCP, the share of the manufacturing sector in the Australian economy has continued to decline.

The ACCC 2001 Dairy Inquiry Report on the Impacts of NCP

In April 2000, just prior to the nationwide Dairy farmgate deregulation that removed the Statutory Marketing Authorities, the Federal Minister for Financial Services and Regulation, Joe Hockey, commissioned the ACCC to monitor prices, costs and profits of the Australian milk industry. The duration was to be for the three months prior to the Dairy deregulation and then for six months following its implementation (ACCC 2001). However, this latter period was too short for adequate monitoring and assessment of the impacts of such a major change upon the Dairy Industry as a whole, including the processing sector, retailers and consumers (Margetts 2007a: 39).

The level of damage in the Dairy Industry in recent years has led to the Senate agreeing that the Senate's Economics References Committee undertake an inquiry into 'competition and pricing in the Australian Dairy Industry' (Senate Economics References Committee 2010: 1). As can be seen from both my Dairy Case Study (Margetts 2007a) and the 2009/10 Senate Economics Committee Inquiry into Competition and Pricing in the Australian Dairy Industry, the negative impacts on the Australian Dairy Industry have increased considerably (Senate Economics References Committee 2010).

The 2002 PC Report 'Australia's Service Sector: A Study in Diversity'

The PC (formerly the IAC and the IC) has been one of the major Government bodies promoting corporate globalisation and NCP domestically. The PC has tended to promote and support further NCP policy changes, rather than to assess both its positive and negative impacts. A 2002 'staff research paper' from the PC on 'Australia's Service Sector' set out to provide what the authors considered to be a better understanding of the Service Sector, and to challenge a range of what they referred to as 'myths and misconceptions' regarding that sector.

A major argument used by them in this report was that:

> Services are commonly viewed as 'productivity laggards'. Australia's two outstanding performers, in terms of multifactor productivity growth over the period 1984–85 to 1999–2000, were service industries—communications and electricity, gas and water. Other service industries, however, such as construction, cultural and recreational services, accommodation, cafes and

> restaurants, recorded relatively slow multifactor productivity growth (McLachlan, Clark and Monday 2002: x)

The authors made no mention of NCP or its impacts upon the Service sector. However, considering that major policy changes were implemented in Australia's Electricity, Gas and Water Service sectors from the mid- to late 1990s as part of the NCP, it is significant to note that the 'outstanding performances' in MFP in these sectors ceased to grow at the levels prior to the implementation of the NCP policy changes. In fact, as indicated in Figure 4.2 above, the levels stopped growing and then fell considerably.

Some more recent examples of efforts by the PC to support NCP in relation to some of the major sectors impacted are summarised below.

2005 PC Report 'Review of National Competition Policy Reforms'

In a manner similar to that used by then Treasurer Peter Costello in approving the Terms of Reference of a range of other PC inquiries, he called for findings of **positive** progress in respect to the program of Competition Policy Reform. For example, in relation to the major changes to Electricity, Gas, Road Transport and Water services, Costello stated that:

> There has been substantial progress in the implementation of NCP over the past eight years, including in the related reform areas of electricity, gas, road transport and water. This has delivered significant benefits to Australia (PC 2005: iv).

Instead of asking the PC to assess both the positive and negative impacts of NCP to determine potential improvements, he instead specified that:

> It is therefore timely to undertake an independent review of these arrangements to consider the extent of the benefits the reform program has delivered to data and to inform an assessment of the most worthwhile competition related reforms, which could apply beyond current NCP arrangements (PC 2005: iv).

Not surprisingly, this report was used as the basis for promoting the next level of NCP-based reform in major areas such as health, education and aged care. My reason for researching the case studies that I have included in Chapters 5, 6 and 7 in this thesis is

to demonstrate how little proper assessment has been conducted by the Government on the impacts of NCP. A clear understanding of these impacts is essential to determine whether the next push for related reforms in major service areas of the economy is appropriate.

2006 PC Inquiry Report 'Rural Water Use and the Environment: The Role of Market Mechanisms'

The Terms of Reference for the PC Report on Rural Water Use and the Environment were commissioned by Treasurer Peter Costello to help implement the commitments made under the Intergovernmental Agreement on a National Water Initiative (NWI) (PC 2006: iii). The Terms of Reference made no request for the PC to assess any problems of the NCP Water Agreement and the subsequent NWI. However, they were asked to 'assess and report on the feasibility of establishing workable market mechanisms' as the NWI Agreement was required to 'facilitate the operation of efficient water markets and the opportunities for trading water between States and Territories' (PC 2006: iii).

The subsequent PC Report stated that the Commission had been asked to 'support jurisdictions in achieving the water markets and trading outcomes, under the National Water Initiative' (PC 2006: v) and recommended that 'restrictions on who can participate in water trade should be relaxed or removed' (PC 2006: xxxi). However, as the NWI was signed before the PC conducted the Water Inquiry, it would be highly unlikely that the NWI Agreement was based on an effective assessment of the positive or negative impacts of the NCP Water Agreement. As mentioned previously, by 2006 it would have been clear that the Total Factor Productivity of Water, Gas and Electricity services was moving in the opposite direction of the assumed outcomes of the NCP agreements. However, this was not discussed in the PC water report.

The PC admitted that the focus of the Terms of Reference was on 'practical and workable market mechanisms' (PC 2006: 4). These Terms of Reference meant that the PC did not need to assess whether there were negative impacts of the NCP Water Agreement, nor was it necessary to determine what, if anything, needed to be changed. One implication of this lack of assessment is that the Commission was not required to explain the impacts of privatising and introducing water trading in water regions in which water licences were already over-allocated. The Report stated that most of the

examples of practical and workable market mechanisms were from the Murray-Darling Basin because of the concentration there of large irrigation schemes and the fact that ABARE had produced 'well-documented' over-allocation details of the Murray-Darling Basin. However, the Beare and Heaney document that they cited had only discussed the over-allocation of salt water, not more general water over-allocation issues (PC 2006: 5, cited Beare and Heaney 2001).

The Assumed Links between 'Deregulation and Productivity'

In 2006, The Federal Treasury published a report online, entitled 'Economic Roundup Summer 2006', which showed that market sector productivity had increased at an average annual rate of 3.2 per cent during the five years to 1998/99, but that this rate had then 'eased' to 2.2 per cent over the five years to 2003/04 (Treasury, 2006). Given that it took several years for many of the NCP legislative changes towards economic deregulation to take place, this fall in productivity growth coincided with the introduction of NCP. This again raises the issue of properly assessing the assumptions that NCP increases market productivity.

2007 Discussion Paper of Link between Productivity Growth and Deregulation

A discussion paper released in June 2007 by Christopher Kent and John Simon for the Reserve Bank (Kent & Simon 2007) attempted to make a case for linking development and/or investment in information and communications technology (ICT) with increased productivity. More significantly, the paper argued that productivity growth is associated with deregulation. However, their case for making this link is weak. For example, in their Figure 1, a double graph of Sweden, Canada, the US and Australia showed that Canada, the US and Australia had slightly increased their average growth rate from the mid-1970s to 2004 (at a rate of less than 1 per cent). In contrast, an attached graph of Italy, Belgium, Germany and Spain showed that their annual growth rates had all reduced on a 10-year average. However, in their Table 1, all of these eight countries showed that they had significantly reduced their market regulations from 1993 to 2003 (Kent & Simon 2007: 10). Further, their graph on 'ICT Spending Versus Changes in TFP [Total Factor Productivity] Growth' (Kent & Simon 2007: 2) appears questionable, as it is widely dispersed, it cites no correlation coefficient and it provides no rationale for the dates of the data chosen. From an Australian perspective, this figure

avoids any explanation of impacts, based on data from before and after the introduction of NCP.

Kent and Simon's (2007) Figure 3, entitled 'ICT Spending Versus Product Market Regulation' (Kent & Simon 2007: 4) appears more credible, but they have extrapolated from this figure that deregulation can be linked to productivity, as shown by their Figure 4, entitled 'Changes in TFP Growth and Product Market Regulation' (Kent & Simon 2007: 5). However, as only the middle graph appears to be statistically significant, they should not have extrapolated on either side. I tested a different set of dates from their Figure 4 data sets and found an opposite slope and no significant correlation (about 0.29, with 0.6+ being significant). Their 'measure' of deregulation is hard to fathom, as it is based on a judgement of scale in 'product market regulation', limited to a number of 'sub-indices' covering regulations in seven 'non-manufacturing industries'. These are 'airlines', 'railways', 'road', 'gas', 'electricity', 'post' and 'telecommunications'. The features they use as indicators are 'barriers to entry', 'public ownership', 'market structure', 'vertical integration' and 'price controls'(Kent & Simon 2007: 12). They claim that this time-series index is 'highly correlated with the economy-wide measure of product market regulation for the years where the two overlap' (Kent & Simon 2007: 29), but give no data on that, nor a correlation coefficient. In brief, the proposed link claimed by the authors between productivity and deregulation remains in doubt.

2008 Treasury Report on Government Spending

In 2008, while NCP's 'competitive neutrality' had pushed for outsourcing of many government services, Treasury's 2008 publication 'A Perspective on Trends in Australian Government Public Spending' (Laurie & McDonald 2008) shows that the 2007/08 Federal Government expenses on Social Security and Welfare were $96.5 billion (41 per cent of the Budget). Chart 10 shows that the Budget allocation for Social Security and Welfare had increase by 5 per cent of the Budget since the late 1990s. From a purely financial perspective, this would appear to support the work of Graeme Hodge (1996) that there has been inadequate assessment of the costs and public interest of the impacts of the outsourcing of Government services.

2009 Australian Institute Report

It is also significant to note that in November 2009, the Australia Institute published a report ('*Something for Nothing: Unpaid Overtime in Australia'*) that showed that Australians were working the longest working hours in the Western world and that they worked more days each year than their counterparts in Europe (Fear & Denniss 2009: 4). The growing requirement for employees to perform unpaid work indicates that labour 'productivity' has been significantly impacted as a result of the increase in working hours, by a reduction in paid overtime and reduced union bargaining power. Fear and Denniss also noted 'The [adverse] effects of overwork on the health and wellbeing of individuals' (Fear & Denniss 2009: 5).

The Lack of NCP Public Interest Assessments of State Agreement Acts

Research by me for my Masters' thesis on *Competition Policy, State Agreement Acts and the Public Interest*, completed in 2001 (Margetts 2001), included three case studies. These investigated whether WA State Agreement Acts were necessarily in the public interest, and, if not, why State Agreement Acts for WA's major resource sector were exempted from the public interest assessments required for all other Australian legislation.

State Agreement Acts differ in their requirement of public interest assessment from the vast majority of Australian legislation, which requires assessment under the NCP legislative review program. This is because a few legislative examples of were secretly reviewed by the WA State Government (Margetts 2001), to determine whether similar legislation could be exempted from public interest assessment. My Masters' research showed that if cost-benefit analyses had been conducted on the case studies included as examples in my study, the results would have been negative rather than positive.

Even though effective public interest tests are not generally conducted in the Australian mining sector, and a range of State Agreement Acts may prove to not be in the public interest, ABS (2012b) data shows that the percentage of Australia's GDP represented by the mining sector has increased from 4–4.5 per cent in 1996/7, to 8 per cent in 2007/08. Hence, a major sector of the economy, largely exempted from NCP legislative reviews,

has benefited considerably more than those sectors that have been heavily targeted by reviews.

Link to Case Studies

This chapter has explained why it was necessary for proper assessment to have been undertaken on the real impacts of NCP. The case studies on the Australian Dairy, Retail and Water Resource sectors given in Chapters 5, 6 and 7 will provide further evidence of the lack of objective assessment, and specifically detail the importance of ensuring that the real impacts of NCP on the public interest are both understood, and used to inform future NCP policy implementations.

Chapter 5: NCP and the Restructuring of the Australian Dairy Industry

The Dairy Case Study was chosen because, since July 1998, when the Senate Select Committee commenced its inquiry into the impacts of NCP, after its legislative and policy changes had been introduced in 1995, the Australian Dairy Industry sector has been one of the most critical and concerned sectors on the impacts of NCP. The following quotation shows how the Hilmer Report pushed to remove Government regulatory assistance across a range of Australian industry sectors:

> The Committee believes that the time has come to progress regulatory reform more broadly, and to do so by **reversing the onus of proof** in considering the desirability of reforming particular regulation. Consistent with the principles already agreed between governments, in relation to market conduct, the Committee considers there should be **no regulatory restriction on competition unless clearly demonstrated to be in the public interest** (Hilmer et al. 1993: 190; emphasis added).

Introduction

NCP was an important part of the Hawke/Keating Federal Labor Government's free trade-oriented 'regulatory reforms', which led, among many other major changes, to dairy market deregulation. NCP was the vehicle by which corporate interests, sectors of the Australian Government and some Dairy Industry heavyweights[80] sought to achieve their combined free trade, free-market agenda.

As has been explained earlier in this thesis, the main argument supporting NCP is that it creates a net community benefit. This chapter provides further evidence that the real goals of NCP were tied to increasing corporate market power and profitability and that public interest arguments against deregulation were not given proper consideration when they stood in the way of the wishes of existing big businesses or potential corporate investors. Substantial as the 1995 NCP changes were, public debate on NCP has been limited to the margins. The fact that mainstream media has given scant coverage to such a major policy change is evidence of their own lack of understanding of its processes and implications.

[80] Such as Victoria's Murray Goulburn Co-operative and Bonlac Foods (WA Legislative Council 2000: 7924).

Much of the Australian literature devoted to the imperatives of 'globalisation' does not bring in the domestic implications and linkages. Bob Catley's (1996) *Globalising Australian Capitalism* provides a semi-critical explanation from a Labor insider's perspective of the reasons such policy changes were implemented. Ann Capling's (2001) *Australia and the Global Trade System* describes Australia's adoption of the global free trade agenda, but like Catley, makes no specific mention of NCP.

More than a decade after the introduction of NCP, this chapter will use the example of the deregulation of one of Australia's most valuable rural industries, Dairy, to reveal the means by which the corporate focus was embedded in NCP. The NCP proponents' case for change will be revised to assess the strength of their original argued case for deregulation against currently available data on outcomes in the Dairy sector.[81] Previous research on the social impacts of dairy deregulation includes *Kin, Cows and Capital* (Anderson 2004) and *Taking Stock: Farmers' Reflections on the Deregulation of Australian Dairying* (Cocklin & Dibden 2002). However, to focus more future attention on the wider social impacts, this chapter will be challenging the assumptions that the economic benefits of NCP, as it has been implemented in Australia, are so obvious that any social (or environmental) costs need not be considered.

Apart from its regional implications, reasons for the level of public controversy over dairy market deregulation include the fact that milk and dairy products are a dietary staple, with almost half of Australia's milk and dairy produce still consumed domestically (Spencer 2004a: 9). Moreover, in 1999, dairy was Australia's largest rural industry at the wholesale level, valued at around $7 billion per year, $2 billion of which was export earnings (SRRATC 1999: 5). Demand for market milk is inelastic because, while there are other options such as long life milk, powdered milk or soy, Australian consumers generally continue to prefer the fresh product (Dairy Australia 2006b: 11).

This chapter will explain the link between the nature of NCP and its main driving forces including the role of Paul Keating (as both Treasurer and then Prime Minister), powerful sections of the Federal bureaucracy and big business. In addition, the connection between NCP and corporate globalisation/free trade will be discussed, as

[81] Since 1995, the PC has published two major reviews on NCP, but in neither have they assessed their own former models and predictions against measurable outcomes in those sectors that have been subject to NCP reform (PC 1999, 2005).

will the main assumptions of the proponents of Dairy deregulation and the nature of the public interest assessment process. Before summarising the conclusions and implications, comparisons will also be drawn between the economic and social positions of the Dairy Industry against the predicted outcomes of deregulation.

Background

According to the former Australian Ambassador to the General Agreement on Tariffs and Trade (GATT), Donald Kenyon (Kenyon & Lee 2006: 55), it was on the instigation of Trade Secretary Vince Fitzgerald, that Trade Minister John Dawkins inaugurated the meeting of 14 agricultural exporting nations in Queensland, to push for agricultural free trade leading into the Uruguay Round of the GATT. Fitzgerald argued that this could be a means by which Australia could 'punch above its weight' in the GATT trade negotiations. This group of agricultural exporting nations promoting agricultural free trade became known as the Cairns Group, named after the location of its inaugural meeting. By July 1988, the Cairns Group had submitted a proposal on agricultural trade liberalisation calling for the elimination of all production or consumption subsidies affecting agricultural trade (CUSCBO 1998: 1).[82]

The leadership position taken by Australia in the Cairns Group was reflected in the way that it set up NCP and, subsequently, in the way the NCP public interest process was treated in relation to agricultural marketing arrangements such as Dairy. The desire of the Hawke/Keating Government to 'punch above their weight' in trade negotiations saw them attempting to lead the way by introducing competition policy to target domestic industry assistance and regulatory controls. However, competition policy, although it was discussed, did not form part of the GATT, and, in 2004, it was taken off the trade-talks agenda by the General Council of the WTO (WTO 2007). In addition to introducing NCP domestically, the Government reduced tariffs in a range of industries prior to the Uruguay Round of GATT coming into force; some might say assuming naively that such actions would so impress the rest of the world that they would follow suit.

[82] A further explanation of the links between trade and competition policy is provided in Margetts (2001: 23–30).

The Domestic Basis of NCP Leading to Dairy Deregulation

NCP was explained in Chapter 3 as a major policy change introduced in 1995 under the Keating Labor Government, following reports and recommendations from the IC (and its precursor, the IAC) and the Hilmer Inquiry. Based on the Hilmer Report, the COAG NCP 'Agreements' included changes to the TPA to bring many aspects of Government under the jurisdiction of the ACCC[83] and powerful bureaucratic structures, such as the NCC,[84] both of which inserted the rules of global free trade and free-market ideology into the local economy.

While Ranald (1995b) described the direction of NCP and highlighted a number of potential problems associated with its corporate focus, especially for service provision, others, like Morgan, while acknowledging NCP's impact on Australia's most vulnerable groups and individuals, support NCP's economic tenets. Morgan describes NCP as a 'meta-regulatory system' of unprecedented scale, scope and comprehensiveness (Morgan 2003:10) with powers akin to that of a constitution, which can place 'extra-political constraints' on legislation and lawmaking by way of 'economic adjudication' (Morgan 2003: 27) and powerful enough to enforce economic rationality (Morgan 2003: 72). However, while Morgan acknowledges that NCP was sponsored and promoted by a coalition of business interests and technocratic officials (Morgan 2003: 50) and driven politically by the Right faction of Labor (Morgan 2003: 64), she uses terms such as 'objective' and 'neutral' to describe NCP's economic rationalist power structures, appearing to support their overriding of democratic processes (Morgan 2003: 31). Taking a more critical approach, in his submission to the SSCSECNCP in 1999, John Quiggin (1999b: 1066) included a warning relating to the possible impact of NCP on the rural sector:

> The processing of agricultural commodities is an industry characterised by scale economies and market power. The result is that large numbers of farmers deal with a relatively small number of firms engaged in processing and marketing. In the absence of regulation or of frameworks for collective negotiation over prices, processing firms will be able to set prices paid to farmers far below the level that would prevail in a competitive equilibrium.

[83] The ACCC took over from the Prices Surveillance Authority and the Trade Practices Commission.
[84] Significantly, the inaugural staff of the NCC were mostly seconded from the Federal Treasury and the PC (Morgan 2003: 122).

So what drove the Government to introduce such a major policy change in the rural sector?

Drivers of NCP Policy Change on the Dairy Industry

The 2003 PC publication, *From Industry Assistance to Productivity: 30 Years Of 'The Commission*, lists a range of IAC reports, from its inception in 1974, relating to statutory marketing arrangements (PC 2003: 137–148). During the 1980s, the recommendations from these inquiries generally moved away from monitoring and reporting on industry policy, to focus on recommendations to remove industry assistance and regulatory control (PC 2003: 2). As has been explained in Chapter 3,[85] the leaders in the Hawke Government were influenced by the intellectual climate at the time, which strongly supported micro-economic reform, especially tariff reduction and financial deregulation.

The Hawke/Keating Government clearly recognised there would be 'winners' and 'losers' from such a major departure from past policies and approaches and found ways to give the whole process a corporate focus by involving industry in policy development:

> The Government harnessed the support of the industries and interests that stood to gain from the reforms by enhancing their political power through its 'recognition' of 'peak' interest groups; it sought to lower the resistance of potential 'losers' by structural adjustment assistance and 'compensation' (PC 2003: 58).

Federal Treasury, under Paul Keating, assumed responsibility for oversight of the IAC in 1987 from the Department of Industry and Commerce (PC 2003: 27), and it is significant that Keating invited big business allies to assist in the IAC's Inquiry into *Government (Non-Tax) Charges* (IAC 1989). This report effectively became a big business wish list of how to reduce regulatory impediments to investment and increase corporate profits.

Prior to the Hilmer NCP inquiry, in 1990, Treasurer Paul Keating commissioned the IC to conduct targeted inquiries into Statutory Marketing Arrangements for Primary

[85] The political origins of this policy direction can be traced back to senior government officials and key members of the Whitlam Government, including Bill Hayden (Strangio 2002).

Products and into specific sectors such as the Australian Dairy Industry. This echoed the Cairns 'leadership' approach. In Dairy, this project meant targeting State-based statutory arrangements for milk production that regulated price, quality and quota of domestic market milk.

In their report on Statutory Marketing Arrangements, the Commission's assumptions were expressed in general discussion about the effects of Statutory Marketing Arrangements under the broad headings of 'efficiency effects on producers and buyers', 'wider economic effects' and 'social and environmental effects' (IC 1991a: 75–99).

Without factoring in any major changes to the market power in the Retail or Processing sectors because of deregulation, the Commission's predictions of the price effects of deregulating the Dairy Industry can be summarised as follows:

- The overall price distorting effects of Statutory Marketing Arrangements were found to be relatively small and their removal in the combined Dairy, Sugar and Rice industries was estimated to lead to an expansion of 0.03 per cent of GDP.
- Domestic prices would be lower (estimated at a 30 per cent decline in the price of market milk) and, since it was assumed that domestic marketing arrangements constituted an export subsidy, they predicted Dairy exports to decline by 80 per cent, with total output of the Dairy Industry to decline by 10 per cent.
- Dairy manufacturing employment was estimated to decline by 10 per cent, but as domestic market milk consumption was predicted to rise, this would lead to a slight expansion in output and employment in that part of the industry (IC, 1991a: 230).

These views are reiterated in the Commission's report specifically on the Dairy Industry released later that same year.

Modelling work undertaken for the Commission on the effects of implementing its recommendations in the medium term (about five years after implementation) and the Commission's own analysis indicate that:

- The farmgate price of manufactured milk would decline between 5 and 9 per cent, or 2 to 3 cents per litre;
- Prices of manufactured dairy products would fall by around 12 per cent as market support payments are reduced;

- The farmgate price of market milk would decline by more than one third, or around 12 to 15 cents per litre;
- The reduction of the farmgate price would allow a similar reduction in the retail price of fresh milk;
- Total milk output would likely contract by around 5 per cent; and
- Australia would remain a net exporter of dairy products (IC 1991b: xv).

These assumptions and predictions will be revisited later in this chapter and compared to the economic and social outcomes experienced since that time by the Australian Dairy Industry. Here it will suffice to say that these predictions had a significant impact on the way that decisions were made regarding Dairy market deregulation and, in particular, on the formulation of the Hilmer report leading to the implementation of NCP.

The Impacts of the Hilmer Inquiry on the Dairy Industry

NCP did not appear by public demand. In October 1992, less than a year after taking over as Prime Minister, Paul Keating commissioned the Independent Committee of Inquiry, to conduct an inquiry into NCP. The committee consisted of three members: the Chair, Professor Frederick Hilmer, Dean and Director of the Australian Graduate School of Management, and Members, Mr Mark Rayner, Director and Group Executive of CRA Ltd, and Mr Geoffrey Taperell, International Partner, Baker and McKenzie. *National Competition Policy: The Report of the Independent Committee of Inquiry* (the Hilmer Report) was published in August 1993. Taking the many unproven IC predictions and assumptions as given, the Hilmer Report's recommendations incorporated much of the corporate wish list as expressed in the IAC's recommendations, such as the targeting of specific sectors of the economy:

> While trade policy reforms have increased the exposure of the internationally traded goods sector to competition, many goods and services provided by *government businesses*, some areas of *agriculture*, the *professions* and other important sectors are sheltered from international competition. Increasing *competition* and *efficiency* in these sectors requires more sustained attention to domestic constraints on competition (Hilmer 1993: 11; emphasis added).

One of the most significant (but probably least understood) recommendations adopted from the Hilmer report was the agreement to 'review and, where appropriate, reform all

existing legislation that restricts competition' (NCC 1998: 19), unless a successful case for public interest could be mounted. Nearly 2,000 pieces of Federal, State and Local Government legislation and regulations were identified for review, overseen by the NCC. State and Territory Governments then had to conduct legislative review processes for their own legislation and to amend or repeal legislation or regulations that were considered to restrict competition, unless an argument could be successfully mounted that the benefits of the restriction outweighed the costs and that those objectives could only be achieved by restricting competition (NCC 1998: 19). The States and Territories agreed to a staged payment system (tranche payments) from the Commonwealth, based on whether the NCC considered that they had made satisfactory progress on NCP legislative reviews and reforms (NCC 1998: 36–37).

Industry and community groups needed to mount a public interest case at their own expense if they wished to retain regulations. Having done so, the 'power' was allocated to the States and Territories to make their own judgements. However, should any outcome of the reviews not be in line with the NCC's pre-determined preferred nationally consistent approach (based on the IC/Hilmer position), the Commonwealth could find fault with the review process, using the threat of recommending to withhold tranche payments, for example, until States or Territories acquiesced.[86] The NCP legislative review process, driven by the NCC and overseen by the Federal Treasury, has placed far more emphasis on theoretical market and free trade/investment outcomes (based on untested and often faulty assumptions) and on a nationally consistent approach as desired by the potential 'winners', than on the arguments of State or regional public interest. Morgan refers to the NCC's 'blunt hostility' to the public interest clause of the Competition Policy Agreements, and she reinforces this with the following quote from leaked correspondence from the NCC:

> The rationale underlying the competition policy agreements is the presumption that enhancing competition is generally in the public interest. As a consequence, the Council does not see a requirement for a government to formally examine the matters in clause 1(3) of the Competition Principles Agreement on every occasion that it implements reform (Morgan 2003: 124).[87]

[86] For an explanation of the NCP public interest process and some of the difficulties involved in mounting a successful public interest case see Margetts (2001: 55–59).

[87] Morgan sourced this quote from a union submission to the 1995 House of Representatives Standing Committee on Banking, Finance and Public Administration *Inquiry into Aspects of the National Competition Policy Reform Package*, Volume 6: 817.

The irony in relation to dairy farmgate deregulation is that, of the five States that undertook the public interest review processes in 1998, the public reviews from the majority of those States (New South Wales, Queensland, WA and Tasmania) recommended that there was a public benefit in retaining farmgate regulations (JCIDRSA 2003: 10). However, Victoria, a State having already undergone a degree of dairy deregulation, and whose dairy sector was mostly geared to the manufactured milk market, chose to remove dairy farmgate regulatory arrangements. This decision was not without controversy, even though Victoria's dairy producers were already producing the majority of Australia's milk and were hoping for an increase in their farmgate prices as a result. Industry interviews (Cocklin & Dibden 2002) reveal that, despite over 80 per cent of Victorian farmers voting in favour of deregulation, the Victorian Dairy Industry opinion was divided between those who saw deregulation as a good thing, those who saw it as inevitable but were worried about the Commonwealth's threat to withhold compensation if they voted NO, and those who did not agree that farmgate deregulation was the right answer. South Australia followed Victoria's lead and agreed to deregulation in 2000 (JCIDRSA 2003: 10–11). The Commonwealth set about to force the changes, regardless of the views of the majority of States or implications for particular regions.

Prior to farmgate deregulation, the deregulation of the Australian Dairy Industry had occurred in stages. Before 1986, pooling arrangements existed for both domestic and export milk produced in Australia (SRRATRC 1999: 20). In 1986, John Kerin, Minister for Primary Industry in the Hawke/Keating Labor Government, introduced a new market support scheme with the intention of making the Dairy Industry more market-oriented. Between 1986 and 1992, export support was wound down from 44.2 per cent to 22 per cent above world parity prices (SRRATRC 1999: 21). This action was followed by the Crean Plan, prompted by findings from IC inquiries into rural marketing arrangements and the Dairy Industry in particular, in 1991, which saw the extension but gradual reduction in export assistance from July 1992.

This reduction in dairy export assistance coincided with a range of export tariff reduction schemes in Australia associated with the April 1994 signing of the Uruguay Round of GATT. Australia's commitments to the WTO under this agreement required the termination of export subsidies (domestic industry assistance was still permitted, but it was required to be unconnected to export sales). The Crean Plan for market

assistance for dairy exports was subsequently stopped on 30 June 1995, replaced by a Domestic Market Support Scheme. This supported the domestic manufactured milk sector plan (SRRATRC 1999: 21).

Up to mid-2000, each State had regulatory arrangements for market milk quota or pooling arrangements and the setting of farmgate prices for market milk to help to ensure year-round, reliable and adequate supplies of fresh milk and an equitable sharing of the higher farmgate prices attracted by market milk as compared to milk used in manufacturing. For instance, the WA Dairy Industry operated under a quota and market regulatory system administered by the Dairy Industry Authority of Western Australia (SRRATRC 1999: 31).

Dairy deregulation effectively meant that the State-based dairy statutory bodies for market milk would be abolished, along with the ability of the State to negotiate prices and quotas for market milk with stakeholders that would ensure its reliable supply. This meant that the dairy processing and the corporate retail sector would have much greater control over farmgate prices for market milk. Having removed the negotiated market milk premium, the farmgate prices for Australian market milk would now also be linked to export prices,[88] which generally fail to factor in domestic supply constraints such as drought.

In a submission to the Minister for Agriculture, Forestry and Fisheries (SRRATRC 1999: 5), the Australian Dairy Industry Council provided a 'snapshot', as of 14 April 1999, of a Dairy Industry that:

- Has export earnings of $2 billion in 1998/99
- Supplies 12% of world dairy trade (third largest dairy trader after the EU [European Union] and NZ)
- Is Australia's third largest rural industry in value at the farmgate (behind beef and wheat)
- Is the largest rural industry valued at the wholesale level ($7 billion)
- **Has efficient milk production costs by world standards**
- Exports over 50% of total milk production
- Produces 10 billion litres of milk—a 55% increase since 1986, and 6% average annual increase during the 1990s
- Has 13,500 dairy farmers—a 30% reduction since 1985 (19,342) – with approximately 98% of dairy farms in family ownership
- Average farm size (now 180 hectares) and average herd size (now 149 cows) have doubled since the 1980s

[88] As there is no one 'international milk price', there is some discretion in the price to which farmgate prices would be linked.

- Has seen dairy companies invest $1.5 billion to expand manufacturing capabilities in the five years to 1998
- **Is an important regional employer (60,000 direct jobs at farm and manufacturing level)**
- **Has 75% of Australia's milk production processed by dairy farmer owned cooperatives**
- Has 45% of all milk intake and 50% of all milk used for manufacturing controlled by the two major dairy cooperatives (Bonlac Foods and Murray Goulburn, both Victorian based) (SRRATRC 1999: 5) [89] (Emphasis added)

This 'snapshot' argued for the relative importance and strengths of the Australian Dairy Industry prior to deregulation. One important economic (and public interest) question this submission raises is whether deregulation has resulted in a stronger or more efficient Dairy Industry.

Data from across the Australian Dairy Industry, published by Dairy Australia and ABARE, indicates that Total Factor productivity began to decline after deregulation. However, both Dairy Australia and ABARE seem to have difficulty admitting this outcome. Instead of talking about the reasons for the drop off in productivity from 2000, ABARE talks of the slowing of average (Total Factor) productivity growth over the decade to 2003/04. The following quote illustrates the roundabout way that ABARE explains this development:

> Although dairy farmers achieved average growth in output of 5.3 percent a year over the decade to 2003–04, they obtained this by increasing their use of inputs, on average, by 4.4 per cent a year. As a result, the average rate of growth in total factor productivity slowed to 1.0 per cent a year (ABARE 2005a: 3).

That is, since 2000, Australian dairy producers, on average, have not been able to maintain their pre-deregulation levels of efficiency, measured as TFP. This decline is likely to be associated with cost and risk shifting, from the retail and manufacturing sectors to producers, post-deregulation, especially when trying to cope with drought conditions.

Employment in the sector has been considerably reduced. From a value-added perspective, a growing portion of Australian dairy manufacturing has been bought up by

[89] In July 2002, New Zealand milk giant, Fonterra, merged with Bonlac to take effective control of Australasian Food Holdings (Todd 2002). By June 2005, the company had moved to full ownership of Bonlac after failing in its bid to buy National Foods (Freed 2005).

large multinationals since deregulation. For example, in WA, one of the two major dairy processors, PB Foods (Peters-Brownes) was taken over by Kiwi Co-operative Dairies (which later became Fonterra) just months after deregulation. This same company has since bought the large Victorian Co-operative, Bonlac. National Foods, which bought WA's other major dairy processor, Masters, in 1993, was taken over by Philippines-based San Miguel in 2004, following an unsuccessful bid also by Fonterra (National Foods 2006). This rationalisation tends to challenge the argument that NCP benefits Australia's manufacturing sector. Instead, in the case of dairy manufacturing, the major beneficiaries appear to be overseas corporate giants (Margetts 2007a). In 2012, a report from ABARE, commissioned by the Australian Government's Rural Industries Research and Development Corporation explains that more than half of the milk processed in Australia is handled by foreign corporations, who own 53 per cent of the nation's milk processors (Paish 2012). As well as increased corporate ownership of milk processing, by April 2010, the Australian media reported that overseas investment in Australia's farmland was increasing and that real estate agents were 'seeing ten-fold increase in foreign investment, particularly from Chinese buyers' (Australian Broadcasting Corporation [ABC] 2010).

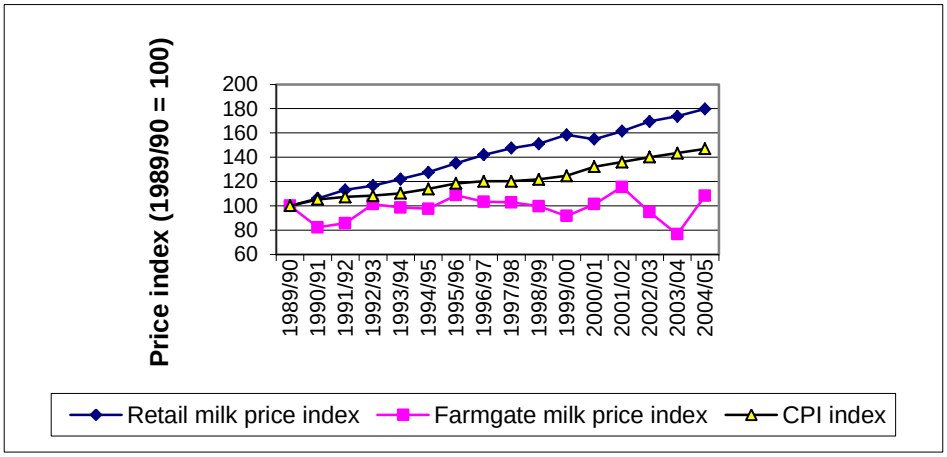
Revisiting the IC's Assumptions[90]

Regarding the predicted price effects of removing statutory marketing arrangements, the IC estimated that this would lead to a small boost to GDP of 0.03 per cent, but assumed that deregulation would remove what the IC termed a '30% price distortion' for market milk, which would translate to a similar farmgate and retail price reduction (IC 1991a, 1991b). Immediately following dairy deregulation, retail prices of market milk in supermarkets generally dropped, especially among the newly emerging homebrands, while prices for flavoured and specialty milk continued to rise. The ACCC was commissioned to monitor farmgate, retail and wholesale prices and profit margins from April to December 2000; that is, for only six months following dairy deregulation (ACCC 2001: xv). Average domestic retail prices, having dropped temporarily, began

[90] In 1994, COAG requested the IC to assess the growth and revenue 'benefit' of 'Hilmer and related reforms' and, in doing so, to 'undertake a review of previous studies which have investigated economic costs and benefits arising from microeconomic reform, outline the different scope and coverage of those studies compared with its current assessment, and, where feasible, reconcile the results of the current study with those from earlier studies' (IC 1995: 3). In its 560 page report, the IC chose not to review its 1991 dairy predictions.

climbing again at a rate that exceeded the Consumer Price Index (CPI), as can be seen from Figure 5.1.

Figure 5.1: Indexed Retail and Farmgate Milk Prices, 1989/90–2004/05



Sources: ABS, ABARE 2005c

The significance of this data is that despite the growing differences between farmgate and retail prices after 2000, in October 2004, an NCC commissioned submission (Spencer 2004b: 6) claimed that the consumer was the 'big winner' of dairy deregulation. However, Figure 5.1 also shows that retail prices do not directly reflect average farmgate prices, which, since deregulation, have become more closely linked to the international dairy market and, by association, to the value of the Australian dollar. Although the dismantling of State-based regulatory bodies that controlled the price and quantity of market milk **allowed** similar retail price reductions to that experienced by producers of market milk, there was nothing to **require** milk processors or retailers to pass on any reduced costs to consumers. This calls into question the main public interest argument of the IC and the NCC for supporting dairy deregulation.[91]

However, as will be seen in the Retail Case Study (see Chapter 6), by 2008, the majority of Australian organisations representing primary producers gave evidence to the ACCC that there was a growing gap between farmgate and retail prices (Margetts 2011a). As will be explained below, instead of improving farmgate pricing for primary producers, such as dairy farmers, the major supermarket chains used the gap between farmgate and

[91] From 2006/07 to 2011/12, in cents per litre, the average farmgate milk prices were in 2006/06 33.2c, 2007/08 49.6c, 2008/09 42.4c, 2009/10 37.3c, 2010/11 43.2c and 2011/12 42.0c (Dairy Australia, **http://www.dairyaustralia.com.au/Statistics-and-Market/Prices/Farmgate-Prices.aspx** accessed 17/04/13). The temporary 2007/08 increase was 'on the back of an international price spike' (Core Economics 2010, **http://economics.com.au/?p=5592** accessed 18/04/13) but as can be seen on Table 5.1 later in this chapter, 42.0c in 2011/12 was still considerably lower than the average farmgate milk prices prior to NCPs retail deregulation in 2000.

retail pricing to decrease their homebrand milk prices, creating more negative impacts on both dairy suppliers and independent retailers.

By September 2009, the damage to the Australian Dairy Industry due to the low farmgate pricing was becoming so serious that the Senate referred an inquiry to the Senate Economics Committee to 'investigate the impacts of the varying prices being paid to dairy farmers across the country' (Margetts 2011b). In May 2010, the Senate Economics References Committee (SERC), who had received a copy of my 2007 dairy study along with my submission to their Dairy Inquiry, published a report on the impacts of competition and pricing in the Australian Dairy Industry. Three years after the publication of my Dairy Case Study journal article (Margetts 2007a), they reconfirmed from their evidence from the Dairy Industry that 'the ratio of the farmgate [milk] price ... to the retail [milk] price ... has declined over time' (SERC 2010: 40). That is, many dairy farmers were finding it difficult to survive. the gap between farmgate and retail milk prices was continuing to increase. As given in Appendix B of this thesis, the SERC made a range of significant recommendations, and these will be summarised at the end of this chapter.

By January 2011, Coles announced their 'down, down, prices are down' campaign. This sparked a milk price war, described in the media as a price war between Coles and Woolworths, with both major corporate retail chains reducing the retail prices of their home brand milk products. The 2010 Senate Economics Committee Dairy Inquiry Report explained that the differential between branded and home brand milk prices (due to the use of price discrimination on their dairy supply sector) were higher for milk than for other products. Independent retailers advised the Committee that retailers have to pay more for branded milk products due to the 'waterbed' effect of dairy price discrimination, which requires dairy suppliers to charge more for their own branded products to survive financially (SERC 2010: 28). These retailers argued that price wars destroy competitor retailers, while also damaging Australia's retail supply sector; in this case, the Dairy Industry (Margetts 2011b).

On 25 July 2011, Coles put out a Media Release claiming that:

> We have always said we are committed to reducing prices for Australian consumers as well as supporting Australian farmers. We are therefore re-

> assured that farm gate milk prices are increasing for most dairy farmers and domestic milk consumption is up (Coles 2011).

However, only a month before (in June 2011), Australian Food News had published a Press Release entitled *Milk wars kick Parmalat farmgate prices down.* They explained that due to the floods, cyclones and prolonged wet weather in Queensland at the time, dairy production had been reduced by around 20 per cent. However, due to the 'milk price war' the portion of their own branded milk products had 'dropped to 76.08 per cent from 83.29 per cent during the corresponding month last year' (Ausfoodnews 2011). This is significant because the Senate Economics Committee Dairy Inquiry had confirmed that to sell their own branded milk products to the major corporate retailers, dairy manufacturers were also required to supply milk to the major supermarket chains at very low prices (at or below costs) (SERC 2010). As the farmgate milk prices had been kept low for so many years, small farmgate price increases would not provide benefits during times of reduced milk production due to floods and droughts. Thus, in summary, by the major supermarket chains reducing the gap between farmgate and retail prices for their homebrand milk products, instead of competing against each other, they could use their combined market power to secure even greater market dominance and destroy more of their smaller and independent retail competitors (Margetts 2011b).[92]

Regarding the predicted 10 per cent decline in output for manufacturing milk, as Figure 5.2 shows, output for manufacturing milk has declined since 2001/02. As this drop did not begin immediately after dairy deregulation, this could have been the combined result of farm departures, drought conditions, changes in the international dairy market or fluctuations in the value of the dollar. It will not be clear how much of the drop is climate-related until rainfall in the major dairy regions returns to normal levels.

Ironically, the Hilmer Report promotes the potential of NCP for value adding to primary produce in Australia:

> The continuing exemption of some agricultural marketing arrangements … affects efficiency, and runs counter to efforts to increase our export income through further processing of primary products in Australia (Hilmer et al. 1993: 15).

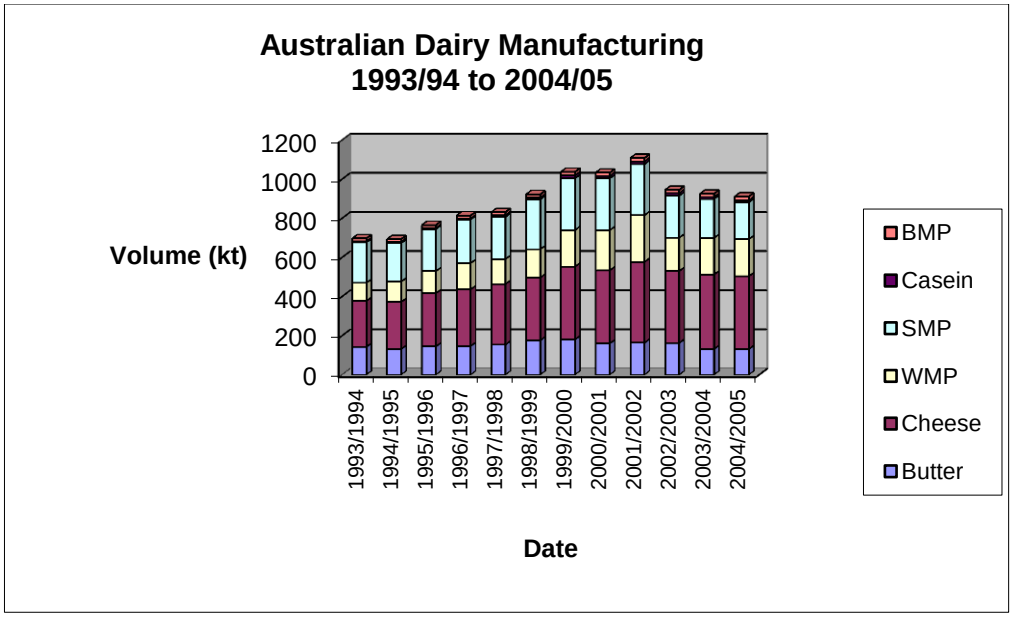
[92] The causes and impacts of retail market dominance are explained in the next Retail Case Study chapter.

In their executive summary, Hilmer cites Prime Minister Paul Keating's sales pitch for 'free and open competition' from his 1992 '*One Nation'* speech and adds:

> Competition is also a positive force that assists economic growth and job creation. It has triggered initiative and discovery in fields ranging from the invention of the telephone to the opening of new retail stores and small manufacturing operations. In fact, it is these developments in smaller firms, prompted by the belief in these firms in their ability to compete, that are the main source of both new jobs and value-added exports (Hilmer *et al.* 1993: xv).

However, as shall be seen from Figure 5.2, from Margetts (2007a), the NCP removal of 'agricultural marketing arrangements' from the Dairy Industry did not produce 'further processing' of dairy products, but instead reduced dairy manufacturing.

Figure 5.2. Australian Dairy Manufacturing, 1993/94–2004/05



Sources: ABARE 2000–2002, 2003a, 2005b, 2005c

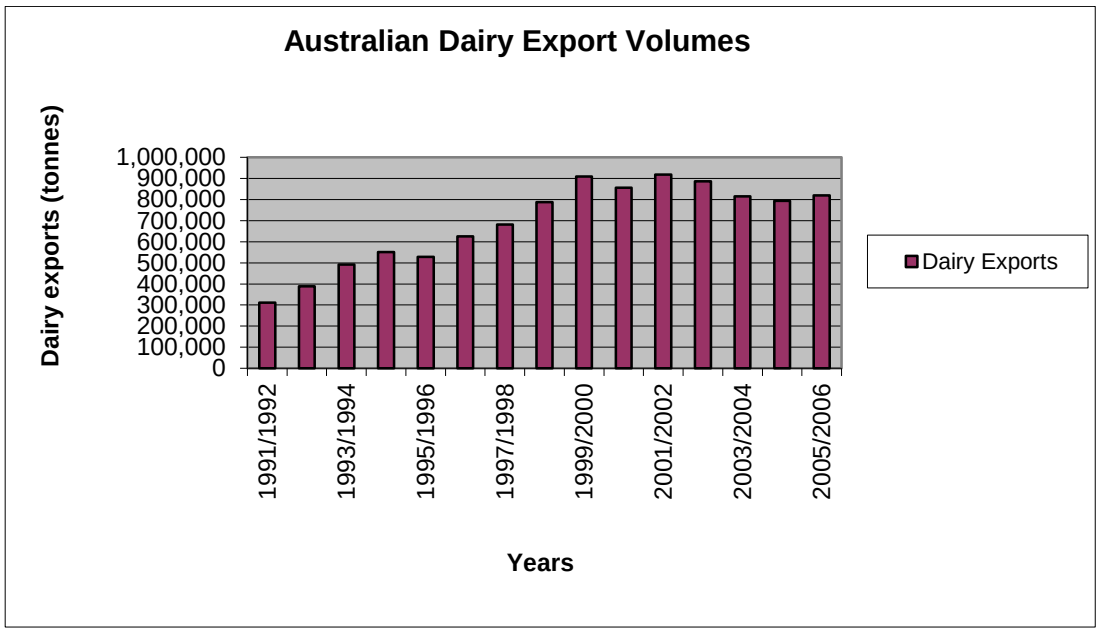
Australian dairy manufacturing has continued to reduce in output. In 2004/05 Australian milk production was 10,127 ML, but by 2010/11, this had reduced to 9,102 ML. In 2004/05, Australian butter products were 147 kt and cheese products 388 kt, but by 2010/11, they had reduced to 122 kt and 338 kt, respectively (ABARE 2012).

In relation to Australia's dairy exports, not surprisingly, most of Australia's dairy exports are processed rather than fresh milk products. In the Australian Food Statistics report 1999/2000, 96.72 per cent of the $2.291 billion worth of dairy exports comprised

processed dairy products (ABARE 2000). In 2004/05, dairy exports were worth $2.486 billion, of which 97.75 per cent were processed dairy products (ABARE 2005c: 74).

The IC (1991a: 230) made a critical prediction that removing the dairy industry's Statutory Marketing Arrangements would create lower domestic prices, abolish the need for dairy export subsidies, and stimulate a decline in exports of around 80 per cent. In reality, dairy exports as a proportion of total production volume expanded from 44 per cent in the early 1990s to almost 60 per cent in 2002/03, before dropping back to 50 per cent in 2004/05 (Dairy Australia, 2006b: 11). As total production has reduced in recent years, some milk will have been redirected from manufacturing/export production to market milk. In dollar terms, rather than declining to 20 per cent of the pre-deregulation export levels as predicted by the IC (IC, 1991b: xv), in Margetts (2007a), the most recently published export figures were similar to the value of exports prior to deregulation; that is, $2,482 million in 2004/05 compared with $2,467 million in 1999/2000 (ABARE 2005c: 71, 2000).

Figure 5.3. Australian Dairy Export Volumes



Sources: Dairy Australia 2006b

In volume terms, as Figure 5.3 above illustrates, we have seen a levelling rather than a dramatic fall in export volumes, with the 2005/06 export volumes of 820,075 tonnes roughly 10 per cent down on the figures from 1999/00 (having reached a peak of 917,392 in 2001/02 (Dairy Australia 2006a). The drought and the rising Australian dollar may also have influenced export volumes in recent years. It should be noted that, as discussed in more detail later in this chapter, the farmgate prices for those

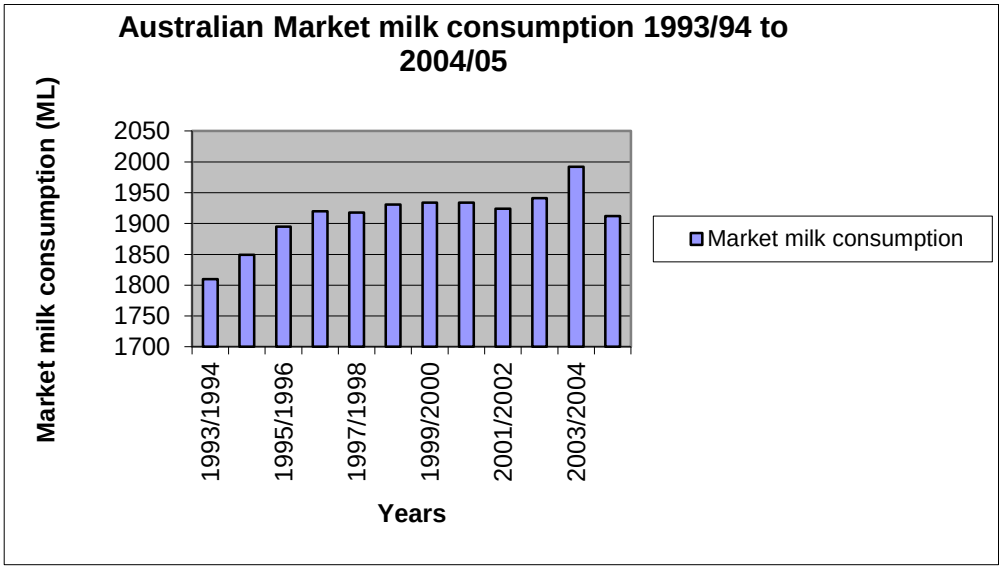
(principally Victorian farmers) producing milk for dairy processing and exporting were already low prior to the removal in 2000 of the Dairy Industry Statutory Marketing Arrangements. Therefore, it is difficult to understand why the IC assumed there would be such a dramatic reduction in the percentage of Australian dairy exports when the dairy farmers producing milk for domestic use were the ones to take the major reduction in their incomes.

This outcome is significant, as the IC prediction of an 80 per cent decline in dairy exports was clearly linked to the dual assumptions that deregulation would bring about a drop in farmgate prices for manufactured milk and that the State-based Statutory Marketing Arrangements for market milk constituted a substantial export subsidy. Other domestic or international trading conditions may well have affected the export volumes, but it would have required an extraordinarily positive set of market circumstances to negate a prediction of such a large export loss. That prediction of a massive decline in exports appears to ignore the fact that the dairy regions likely to have been least affected by a post-deregulation drop in market milk farmgate prices are generally those with the highest percentage of exports.

A 10 per cent decline in dairy manufacturing employment was also predicted. The latest available figures from Australian Foods Statistics do show dairy manufacturing employment just prior to deregulation at 17,000, peaking in 2002/03 at 19,050 before dropping to 15,900 in 2004/05. This change represents a drop of 6.5 per cent from pre-deregulation employment levels and a drop of 16.5 per cent from the 2003/04 peak (ABARE, 2000–2002, 2003a, 2005b, 2005c). There is insufficient data to date to determine what will happen to manufacturing employment after the drought.

Regarding the predicted minor expansion in market milk sector employment, demand for milk steadily grew with the population in the years leading up to deregulation, levelling out in 1999/01, rising in 2003/04 and dropping again in 2004/05 (see Figure 5.4). The sudden decline in fresh milk consumption in 2004/05 is likely to be related to a combination of factors such as an aging population, the availability of fresh milk, and promotion of alternatives such as UHT or soy. It is unlikely to be a direct response to price.

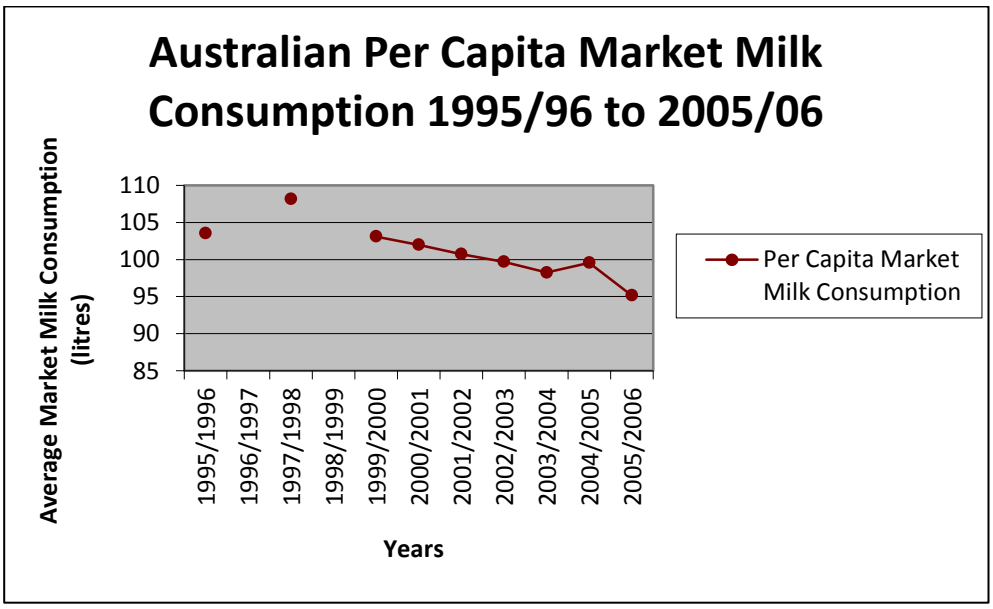
Figure 5.4: Australian Market Milk Consumption, 1993/94–2004/05



Sources: ABARE 2000–2002, 2003a, 2005b, 2005c

However, as Figure 5.5 below indicates, per capita milk consumption has been trending down in the years following deregulation.

Figure 5.5. Australian Per Capita Market Milk Consumption, 1995/96–2005/06



Sources: ABARE 2000-2002, 2003a, 2005b, 2005c

Note: No data available for milk consumption 1996/97 and 1998/99

In dollar terms, *Australian Food Statistics 2005* reports that average weekly household expenditure on dairy products rose slightly from $10.50 in 1998/99 to $11.26 in 2003/04, but that expenditure on combined fresh milk and cream dropped from $5.89 to $5.64. This change would indicate that domestic fresh milk and cream consumption has dropped since deregulation (ABARE 2000–2002, 2003a, 2005b, 2005c).

No specific employment figures are available for market milk. However, dairy farm employment has dropped at a much greater rate than for dairy manufacturing. Dairy farm employment is reported to have dropped from 33,736 in 1999/2000 to 21,550 in 2004/2005—a drop of over 36 per cent, excluding indirect regional employment losses. Federal elections have been lost over potential direct job losses in the native woodchipping industry at much lower percentages.

Another predicted decline was in the farmgate price of manufactured milk, of between 5 and 9 per cent, or 2 to 3 cents per litre. On average, the farmgate price for manufactured milk *rose* after deregulation, but the amount varies from region to region, as can be seen from Table 5.1. The motives behind the IC making the prediction of manufactured milk price drops are unclear because, as farmgate prices for manufactured milk prior to deregulation were already well below average world prices.[93] It is unlikely that farmers in the large dairy cooperatives in States like Victoria would have agreed to deregulation and associated removal of market milk premiums if there was to be no subsequent increase in the price of manufactured milk. The rise in farmgate prices for manufactured milk, combined with the reduced wholesale prices offered by the supermarkets during the six months to December 2000, saw net profit margins for the dairy manufacturing sector over that monitoring period drop by 12–18 per cent (ACCC 2004: 101), increasing manufacturing firms' vulnerability to overseas takeovers.

Table 5.1: Farmgate Milk Prices Pre- and Post-deregulation, by Region

	Pre-deregulation			**Post-deregulation**	
Dairy Region	Market milk	MFG milk	Average Price	2003–04 prices	Av. change
Far North QLD	54.9	21.9	36.7	29–31	-5.7 to -7.7
Central QLD	54.9	21.9	36.7	38–41	+1.3 to +4.3
SE QLD	54.9	21.9	36.7	29–31	-5.7 to -7.7
N Central & S NSW	47.7	21.8	32.6	29–34	-3.6 to +1.4
Victoria	42.7	22.2	22.2	25–30	+2.8 to +7.8
South Australia	44.6	22.2	28.0	25–30	-3.0 to +2.0
Tasmania	44.6	18.8	20.9	25–27	+4.1 to +6.1
Western Australia	45.5	24.6	34.3	24–27	-7.3 to -10.3

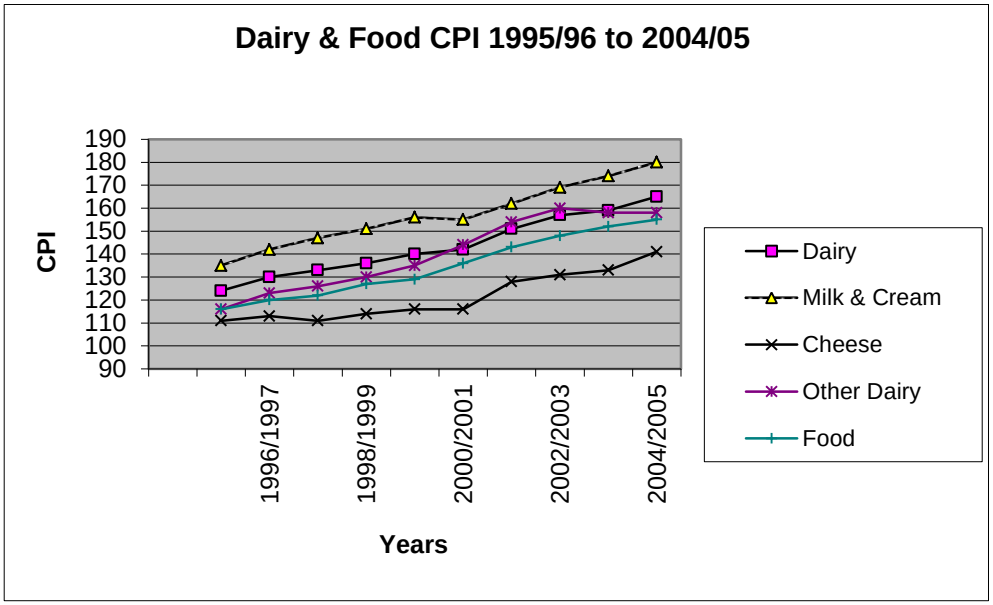
[93] In 2000, the average European farmgate price for milk was 30.67c Euro (AUD $0.49). Even average New Zealand milk prices were higher than in Australia, at 16.64c Euro (AUD $0.26) (LTO Nederland 2002: 4).

Source: Spencer 2004b: 20*

*Spencer cites the sources of this data as RidgePartners and Australian Dairy Farmers Ltd.

Regarding the predicted fall in the prices of manufactured dairy products of around 12 per cent as market support payments are reduced, there is no evidence of any sustained fall in the prices of manufactured dairy products post-deregulation. As can be seen from Figure 5.6, the prices for processed dairy foods such as cheese, which had been rising at a rate less than that of CPI prior to deregulation, stabilised, then *rose* 12 percentage points from 2000/01 to 2001/02 (ABARE 2005c: 66).

Figure 5.6. Dairy and Food CPI, 1995/96–2004/05



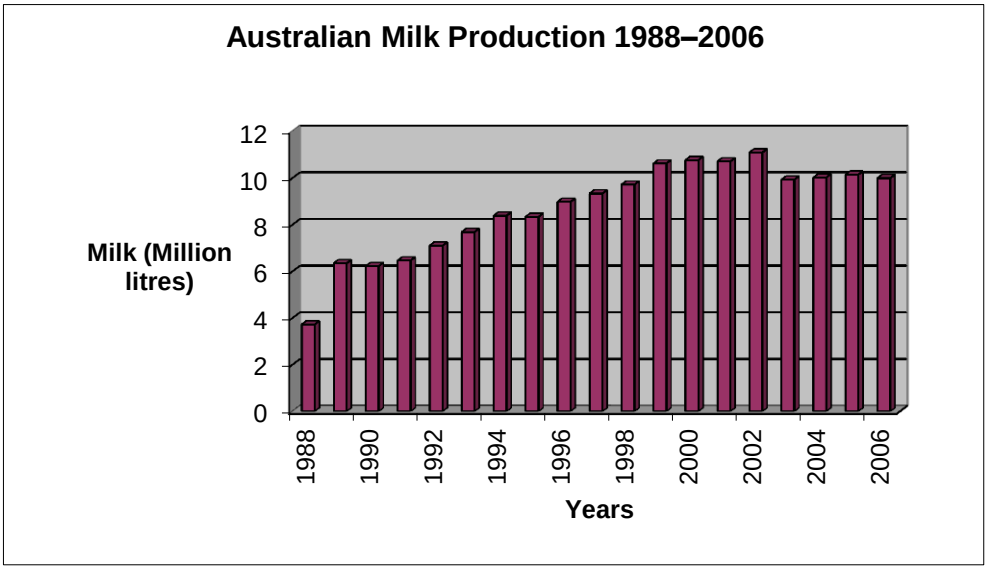
Sources: ABARE 2001–2002, 2003a, 2005b, 2005c

As can be seen from Figure 5.1, the predicted decline in the farmgate price of market milk by more than one third, or around 12 to 15 cents per litre would appear to be an underestimate. In some cases, the farmgate price fall for market milk was over 25 cents per litre—a drop of over 40 per cent. As has also been seen, if the farmgate price for market milk declines, this may allow a similar retail price drop. However, the blunt instrument of deregulation provides no guarantees that such a retail price drop will happen, or continue.

On the predicted decline in total milk output of around 5 per cent, as can be seen from Figure 5.7, total milk production steadied after deregulation, peaked in 2002 and dropped again from 2003. Production in 2006 was around 10 per cent lower than for 2003, and over 6 per cent below pre-deregulation levels. Farm departures appear to

have halted the levels of pre-deregulation production growth, but the recent drop in production is likely also to be related to drought.

Figure 5.7. Australian Milk Production, 1988–2006



Sources: ABARE 2000–2002, 2003a, 2005b, 2005c

The IC's original Dairy Industry assumptions and modelling were generally open-ended and lacked qualification, but this paper is not claiming that all of the post-deregulation experience of the Dairy Industry can be attributed to NCP.[94] ABARE (2005a: 1) identify the combined effects of deregulation, drought, reduced water allocations and fluctuating world market prices as causing major restructuring in both dairy production and manufacturing since 2000. However, it is argued that deregulation has made domestic market milk producers much more vulnerable to conditions that formerly would only have affected the dairy export sector, such as a rising dollar, and less able to survive domestic market conditions such as drought.

IC assumptions, such as the loss of most of Australia's dairy exports and the benefits for domestic dairy consumers once the premium prices for market milk were abolished, have yet to be proven. Such assumptions, especially relating to consumer outcomes, appear to have given little regard to the impact of the changes to the market bargaining powers of the production, corporate retail or manufacturing sectors once the statutory

[94] Some would say that Australia's free-trade agreements, especially with New Zealand, made the removal of State-based statutory marketing arrangements inevitable, but the 1992 submission to the Hilmer Inquiry by the Australian Dairy Industry Council, which included the United Dairy Farmers of Victoria, opposed dairy deregulation on public interest grounds (Australian Dairy Industry Council 1992). Pressure from the powerful export-based Victorian dairy cooperatives to deregulate coincided with the phasing out of market support for domestically consumed manufacturing milk and the scrutiny put on the States via NCP after 1995 (Dairy Australia 2007: 8).

marketing arrangements were removed. Similarly ignored is the retail sector's potential to take more profits from the dairy sector, at the expense of producers, manufacturers and consumers, in a post-regulatory environment.

Consideration of Social Costs and Benefits of Dairy Market Deregulation

If the assumed consumer benefits of dairy market deregulation remain unproven, the case for looking more carefully at the associated social cost/benefit equation is strengthened. Relevant considerations include changes to farmgate prices, changes to dairy farm incomes, loss of family farm businesses, changes to levels of employment on dairy regions and loss of dairy processing capacity to overseas interests.

Changes to Farmgate Prices

The impact of farmgate prices is uneven across Australia, depending on the proportion of market milk being produced in each region. As can be seen from Chart 1 above, Victorian dairy farmers on average would be the major beneficiaries of any manufactured milk price rises, given their high percentage of manufactured milk. Average farmgate milk prices increased from their pre-deregulation levels until 2003/04, at which point they suffered a drop in real terms, linked to changes in international market conditions. However, primarily market milk producing regions, including parts of Queensland and the South West of WA, experienced the most dramatic average price drops.

As Figure 5.1 shows, average farmgate prices have not kept pace with inflation or the rising average retail price for milk, and appear to have become more volatile since deregulation.

Changes to Dairy Farm Incomes and Profits

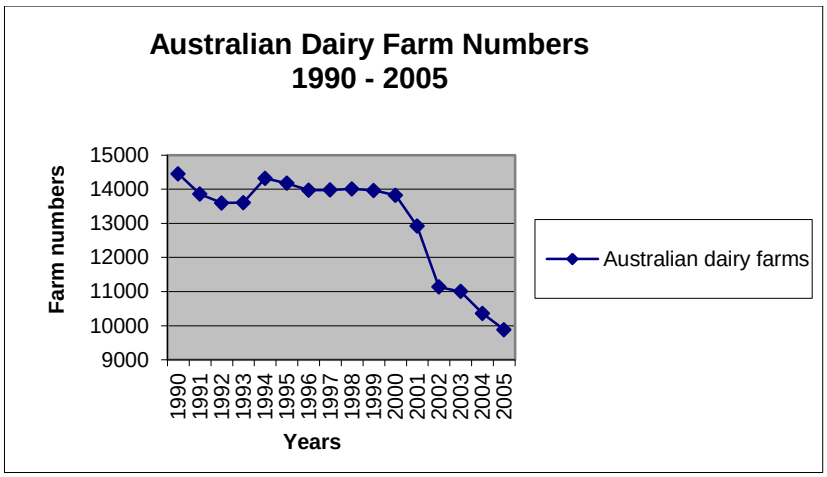
The ABARE report, *Australian Dairy 05.1* (ABARE, 2005a: 1) on behalf of Dairy Australia, shows that average dairy farm profits rose briefly and sharply for a period around the year 2000 and then dived even further into negative territory (to an average negative profit of $40,000 per year before returning to a zero profit level for 2004.

Whilst ABARE attribute that profit dive to a combination of lower milk prices, reduced dairy cow numbers and milk yields, and reduced irrigation water availability due to drought, it is clear that deregulation has introduced a much greater level of profit volatility in the Australian Dairy Industry. The negotiated pre-deregulation farmgate price for market milk enabled dairy producers to adjust their production more readily to drought and other low production events – a means of evening out revenue streams to some extent.

Loss of Family Farm Businesses

Figure 5.8 shows that there was a period of relative stability in dairy farm numbers from the late 1980s until 2000. The loss in dairy farm numbers has accelerated from 2000, the year of nationwide farmgate deregulation. The offer of Government adjustment packages clearly indicates that dairy farm departures were predicted, but it is questionable whether (even in periods of drought) such a high percentage of South Australian farm departures, for example, were expected. Even Victoria, the State that appeared to have the most support for farmgate deregulation, lost almost one quarter of its dairy farm businesses over a short period.[95]

Figure 5.8. Australian Dairy Farm Numbers, 1990–2005



Source: ABS Year Books 1990-2005

[95] Dairy Australia predicted that over the period 2006–2009, the highest exit rates would be from Far North Queensland (40 per cent) and Western Australia (34 per cent) (Dairy Australia 2006b: 25). By 15 November 2010, The Telegraph noted that 'foreign investors have snapped up tens of billions of dollars of Australian's prime agricultural land and rural enterprises – and no one is keeping watch (Lewis, S & Christensen, N 2010, **http://www.dailytelegraph.com.au/news/selling-the-australian-farm/story-e6freuy9-1225953456109** accessed 18/04/13).

ABS figures show that from 2000 to 2005, Australia lost around 3,939 dairy farm businesses (an average 28.5 per cent reduction), with WA losing 90 dairy farms (23.3 per cent), Victoria 1,934 farms (23.8 per cent), NSW 475 (24.4 per cent), Tasmania 190 (25.6 per cent), SA 361 (46.9 per cent) and Queensland 886 (48.1 per cent).

Changes to Levels of Employment/Unemployment in Dairy Regions

Declines in levels of employment in the Dairy Industry have been reported in all dairy regions since 1996. Declines have been highest in Western Dairy (from 19.4 per cent to 14.6 per cent), DIDCO (from 18.8 per cent to 14.8 per cent), Sub-Tropical Dairy (from 14 per cent to 11.4 per cent) and DairyTas (from 29.5 per cent to 27.1 per cent). The smallest declines have been reported by GippsDairy, WestVic Dairy and Murray Dairy; down around 1 per cent, respectively (Herreria, Magpantay and Aslin 2004: vii). The direct employment figure dropped from 60,000 direct jobs at the farm and manufacturing levels in 1999 to 37,450 in 2005 (a reduction of around 38 per cent). This included 21,550 job losses in dairy cattle farming and 15,900 in dairy processing (ABARE 2000–2002, 2003a, 2005b, 2005c).

Loss of Dairy Processors to Overseas Interests

Table 5.2 outlines the level of overseas corporate takeover in the Australian milk-processing sector since deregulation.

Table 5.2: Changes to Major Dairy Processor Ownership 1999-2000 to 2006

Company	% Milk intake 1999-2000	Ownership in 2000	Ownership in 2006
Murray Goulburn	29	Co-operative	Co-operative
Bonlac Foods	21.4	Co-operative	Fonterra (NZ)
Dairy Farmers Group	13.4	Co-operative	'Hybrid' Co-operative
Nestle Australia	5.8	Nestle Int'l (Switzerland)	Nestle Int'l (Switzerland)
National Dairies	5.4	Co-operative	San Miguel (Philippines)
Warrrnambool Cheese & Butter	4.8	Co-operative	Listed Company
Tatura Milk Industries	3.9	Co-operative	Co-operative
Parmalat Australia	3.9	Parmalat (Italy)	Parmalat (Italy)
Kraft Foods Ltd	2.7	Kraft (USA)	Kraft (USA)
Norco Co-operative	1.7	Co-operative	Co-operative

Bega Co-operative	1.6	Co-operative	Fonterra (NZ)
Peters & Brownes Foods Ltd	1.5	Australian *	Fonterra (NZ)
Lactos	0.9	Bongrain (France)	National Foods/San Miguel (Philippines)
Capel (Wesmilk)	0.6	Wesmilk (WA)	Challenge Dairy (WA)
Cadbury Schweppes	0.6	US/International	US/International

Sources: Company list and market shares—ACCC 2001; Ownership in 2006—Company websites.

In addition to the above public interest considerations, it should be noted that Dairy Industry representatives have expressed concern that the extra pressure on farmers as a result of deregulation may require running larger herds; more intensive stocking, feeding and milk production (resulting in increased waste disposal problems); increased use of fertilisers; increased demands on limited water resources; and less attention to animal welfare issues (Queensland Dairy Farmers, n.d.). This suggests that there may also be a case to investigate whether there has been extra pressure on land and water resources of dairy farmers because of the reduction in their bargaining power.

Conclusions

The National Competition public interest test should have taken into account:

- legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or of a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources (Margetts 2001: 56).

Based on the above test, the NCC and the Federal Treasurer were wrong to override the majority of States' assessment of the public interest in retaining statutory marketing arrangements for market milk. Therefore, there is a very strong argument to require the States and the Commonwealth to revisit NCP outcomes for statutory marketing arrangements and beyond, and to check systematically whether the driving assumptions were accurate, and the NCC's public interest rulings justified. If not, it should be

possible for the relevant levels of Government to reintroduce appropriate regulatory safeguards against market failures in essential services and against corporate exploitation of their market powers. Now that the NCC has completed its legislative review functions, COAG members should also ensure that the same kinds of mistakes are not repeated with the successor to the NCC, the COAG Reform Council.

The SERC Dairy Inquiry was mentioned earlier in this chapter. Their substantial recommendations are summarised as follows:

The PC should review and evaluate the effectiveness of NCP. The Government should request the ACCC to use its powers to provide accurate estimates of retail and farmgate dairy prices and estimate the costs of dairy farmers and manufacturers. Contracts with farmers should offer clear and consistent pricing conditions. The Government should review the collective bargaining provisions of the TPA. In reviewing collective bargaining provisions, the Government should investigate the effectiveness of allowing collective bargaining groups to merge to address imbalances in bargaining power. The introduction of a requirement for the ACCC to appoint a mediator, should the parties require assistance in negotiations, should also be considered, and the introduction of a mandatory cooling off period between dairy farmers and processors could be investigated. The Federal Government is recommended to commission an independent report into the impediments of new processors owned by farm cooperatives, and into how to overcome these impediments. The Government requests the National Competition Tribunal to review the effectiveness of section 46 of the TPA in preventing price discrimination and to consider reinstating anti-price discrimination provisions, particularly to protect those parties participating in industries dominated by multinational corporations. The ACCC is recommended to undertake monitoring of pricing practices within the dairy chain to establish whether predatory pricing or misuse of market power is occurring. The SERC recommended a moratorium on any further takeovers in the Dairy Industry until the PC published their report on the effectiveness of NCP. They considered that the anti-price discrimination provisions should be reinstated in the TPA to inhibit market power takeovers and that the ACCC should conduct a further study into the implications of increased grocery market shares. In a further review of NCP, they recommended that the PC consider the appropriateness of separating the powers of the ACCC, to the effect that separate agencies be responsible for the approval of mergers and the assessment of market concentration. The topic of

competition and pricing in the Dairy Industry was recommended for referral back to them in May 2012, to assess whether progress had been made. The Australian and NZ Food Regulation Act aims to ensure that labelling on dairy products is done adequately and accurately, that Government addresses the issues on the risks of food security, and that industry bodies be encouraged to increase production, identify the source of increased demand and identify degrees of production uncertainty.

The SERC inquiry was significant and was supportive of the evidence both from throughout the Dairy Industry and from my explanation of the impacts of NCP as reported in my Dairy Case Study publications. Thus, it is important to note that on 22 July 2011, just days before the Chairman of the ACCC, Graeme Samuel, was about to leave the ACCC, he made a public statement claiming that there was no evidence that Coles acted in breach of the Competition and Consumer Act 2010 (Margetts 2011b: 20). The Retail Case Study explains the significant impact Samuel had on Retail Deregulation while he was the President of the NCC. Thus, this statement indicates that there remains a significant challenge for the ACCC to address the issues (and associated recommendations) so clearly explained by SERC.

Chapter 6: National Competition Policy & the Retail Sector

> The time has come to proclaim that the great neo-liberal experiment of the past 30 years has failed, that the emperor has no clothes … Labor, in the international tradition of social democracy, consistently argues for a central role for government in the regulation of markets and the provision of public goods … The Liberals, embracing the neo-liberal tradition of anti-regulation, seek to reduce the agency of the state in private markets as much as possible … As President Sarkozy put it: '*Le laissez-faire, c'est fini'* (Rudd 2009: 25, 28, 29).

By 1998, following the introduction of NCP in 1995, the concerns of NARGA on the growth of the major supermarket chains had been taken up by the major parties. During the 1998 Federal Election campaign, the Coalition Parties committed to establishing an inquiry into retail domination as soon as possible after the 1998 election (JSCRTS 1999: 1). By December 1998, the Federal House of Representatives and the Senate had agreed to the Terms of Reference for a Joint Select Committee Inquiry on the Retail Trading Sector (JSCRTS 1999: 149). This Inquiry issued the 'Baird Report', which expressed concern that the retail market was 'heavily concentrated and oligopolistic in nature'. Further, the Inquiry raised the issue of 'the [poor] health and wellbeing of many small retailers, brought about by longer working hours and stressful dealings with the "big end of town"' (JSCRTS 1999: vii).

The report was contradictory, for they concluded that despite the growth of the major supermarket chains, 'consumers appear to be benefitting from the competitive forces of the current market structure (JSCRTS 1999: vii). My research into the impacts of concentration challenges their conclusion (Margetts 2011a). Following NCP, retail grocery prices began rising at a higher rate than the general CPI. However, the Baird Report, while expressing serious concern about the misuse of market power via predatory pricing and unconscionable market conduct, did not adequately assess the impacts of NCP and avoided advancing measures to restrict the level of market dominance. Meanwhile, the NCC continued to impose retail-trading deregulation in all States and Territories, despite concerns over the long-term impacts on competitors and suppliers.

By 2009, then Prime Minister Kevin Rudd was endeavouring to link neo-liberalism specifically with the Liberal Party in Australia and to claim that Labor had consistently

promoted a strong interventionist role for the State. The irony is that Rudd did not acknowledge that the push to implement economic globalisation and NCP was greatest during the Hawke-Keating era and that, although the subsequent Liberal Coalition Government became involved, the initiation and implementation of this widely impacting policy change played a major role in Australia's current 'neo-liberalism'.[96] In his essay in *The Monthly* magazine, Rudd tended to link the Hawke/Keating era with only positive changes to Australia's political economy:

> Examples of such a (social-democratic) government are the Australian Labor governments of Bob Hawke and Paul Keating during the 1980s and early '90s program of economic modernisation. Their reforms internationalised the Australian economy, removed protectionist barriers and opened it up to greater competition (Rudd 2009: 25).

Rudd claimed that the Hawke/Keating Labor Governments were able to dramatically improve the productivity of the Australian private economy while also expanding the role of the State in providing health and educational services (Rudd 2009: 25). A more careful assessment of NCP, as a central feature of policies supported by both major parties in the last two decades, is needed. Research into the impacts of deregulation on important parts of Australia's grocery supply sector, such as Australia's Dairy Industry (Margetts, 2007a), has already put forward serious challenges to a range of NCP outcome assumptions of the public 'benefits' of NCP, such as 'lower prices and improved choice for consumers' (Hilmer *et al.* 1993: 1). However, similar assumptions guided the introduction of reforms in the retail sector. A key assumption was that new retail stores and manufacturers resulting from NCP would be the main source of new jobs in Australia (Hilmer *et al.* 1993: xv).

Former Prime Minister Kevin Rudd claimed that, while the Coalition was in government, it deregulated the labour market on the basis that human labour was no different from other commodities (Rudd, 2009: 28). However, this chapter argues that proper assessment is yet to be made of the combination of labour market deregulation (which began under Labor) with forced deregulation of trading hours, and the combined impacts of NCP on Australia's retail and retail supply sectors, such as via the removal of Statutory Marketing Authorities and the Prices Discrimination Provisions of the TPA.

[96] Rudd himself reportedly played a major role in the implementation of NCP when he was a senior official in Queensland's Goss Labor Government (Steketee 2008).

Prior to the 2007 Federal election, the ALP campaigned against rising grocery prices and, in September of that year, as Opposition Leader, Rudd promised to engage the ACCC to conduct an inquiry into the prices charged by the major supermarket chains (ABC News 2007). Soon after gaining government, Labor announced that it would follow through on this promise by commissioning a full inquiry into Australian grocery prices.

The *Report of the ACCC Inquiry Into The Competitiveness of Retail Prices for Standard Groceries* strongly criticised Metcash (the major supplier of Australia's independent grocers) (ACCC 2008d: 153–199), but largely avoided criticising the far more market dominant Woolworths and Coles for their impacts on retail competitors and suppliers, most notably the farming community (family farms), and consumers. The ACCC claimed that it had analysed 'the extent to which competition (or lack of it) has contributed to increased grocery prices', but concluded that, despite a range of factors limiting the level of price competition, the grocery retail sector was 'workably competitive' (ACCC 2008d: xiii-xiv). This chapter presents a less benign view of the combined impacts of NCP and labour market deregulation on market concentration in Australia's grocery retail sector.

The Theoretical Basis of Australian Retail Deregulation

As mentioned in Chapters 1 and 3, the implicit theoretical basis of the Hilmer Inquiry that led to the establishment of NCP was shaped by the corporate-focussed IAC's inquiry into *Government (Non-Tax) Charges* (IAC 1989, Margetts 2001: 29). The IAC argued that the issue of market power was not just whether a natural monopoly existed, but whether the entry or exit by rival firms was feasible. Thus, they supported private monopolies or oligopolies, provided the market was considered 'contestable' (IAC 1989). As is explained below, Hilmer *et al.* (1993) not only reflected the views of 'contestability' theory (as promoted by the IAC), but they also treated the more mainstream market/competition theory as out-dated.

However, as mentioned in Chapter 3, even the classical supporter of free-market entry, George Stigler,[97] had outlined what he considered the two features of competition necessary for the support for market deregulation. Firstly, that each economic unit was sufficiently small to exert an imperceptible influence on prices; secondly, that neither government nor private associations erect obstacles to the movement of resources into and out of industries, or regulate the prices paid or received by economic units (Stigler, 1987: 13). The two points together could only fully apply in cases of 'perfect competition'. Stigler retained the view of the significance of market share, despite the published work of economists such as William Baumol, who were pushing for further market deregulation as a result of the addition of their concept of 'perfect market contestability' to the concept of 'perfect competition'.

From a retail perspective, it is important to note that Baumol applied the concept of a 'perfectly contestable market' to monopolies and oligopolies in certain types of industry sectors, such as city-to-city air services (Baumol *et al.* 1982b: 7), despite admitting that neither 'perfect competition' nor 'perfect contestability' were common. He also made it clear that, when including the possibility of oligopolies and monopolies in the concept of market contestability, 'perfectly contestable markets' are no more common in the real world than are 'perfectly competitive markets' (Baumol 1982a: 2). However, he did indicate that, even though markets are rarely if ever perfectly contestable, the concept of 'perfect contestability' could be more frequently applied than 'perfect competition' and that contestability was merely a broader idea and a benchmark of wider applicability than perfect competition (Baumol 1982a: 3). Baumol's definition of 'perfect contestability' refers to the potential ability of free entry for a new market player and the potential for a cost-free exit. It also requires that incumbent market operators restrict their prices to that of marginal cost, with no supernormal profit:

> ... a contestable market never offers more than a normal rate of profit - its economic profits must be zero or negative, even if it is oligopolistic or monopolistic. The reason is simple. Any positive profit means that a transient entrant can set up business, replicate a profit-making incumbent's output at the same cost as his, undercut the incumbent's prices slightly and still earn profit (Baumol, 1982a: 4).

The Baumol emphasis on potential (and not necessarily actual) ease of market entry has been challenged by economist William Shepherd for ignoring internal market features

[97] Close friend and associate of the famous Chicago School monetarist economist, Milton Friedman.

such as market structure, demand elasticity, lags, brand loyalties, price discrimination, cost differences, information gaps and strategic behaviour. Shepherd criticised the fact that the rising preoccupation with oligopoly and monopoly ratios tended to neglect the differences among individual firms' behaviour, resulting in the ignoring of blown out market shares and the prevalence of price discrimination (Shepherd 1984: 574). Shepherd portrayed the push for acceptance of the contestability concept as part of an 'optimistic new-Chicago-school view' that regarded internal and external elements of market power as small and/or short lived. He claimed that existing market power was being justified on the assumption of greater economies of scale and better efficiencies (Shepherd 1984: 575). Significantly, Shepherd noted that Baumol *et al.* provided little in the way of practical examples of where such a concept of contestability in oligopolistic or monopolistic market circumstances existed or actually worked (Shepherd 1984: 576). Shepherd later found that, as the 'deductive results' hold only when the preconditions of contestability exist, they were not observable in any markets (Shepherd 1995).

For those in favour of strong market deregulation, the Baumol theory places the hypothetical benefits of contestability and deregulation above the impacts of blown out market shares and corporate market domination. Ironically, the Baumol theory of contestability has not influenced basic economic texts' positions on competition. For instance, in the late 1980s, Samuelson and Nordhaus (1989 [1948]) did not include a discussion of contestability in their definitions of free-market competition. Instead, they pointed out that imperfect competition, monopoly elements and externalities amount to serious deviations from perfect competition:

> What is meant by perfect competition? It is a technical economic term that refers to a market in which no firm or consumer is large enough to affect the market price (Samuelson & Nordhaus, 1989 [1948]: 42).

The significance of these theories regarding competition and markets from an Australian perspective is that the focus of the Hilmer Report reflects the views of 'contestability' theory rather than mainstream competitive market theory and treats the more mainstream market/competition theory as out-dated. Thus, its definition of 'competition' is substantially different from that of Samuelson and Nordhaus (above):

> **Striving or potential striving**: it was once thought that markets would be efficient only when a number of firms were actually competing. Recent work suggests that the real likelihood of competition occurring (potential striving) can have a similar effect on the performance of a firm as actual striving … Thus, a market which is highly open to potential rivals—known as a highly contestable market—may be of similar efficiency as a market with actual head-to-head competition (Hilmer *et al.* 1993: 2).[98]

Similarly, the Hilmer Report makes no specific mention of Galbraith's concerns about corporate market power abuse and mainstream economists' views on the significance of market share and the numbers of market competitors:

> **Two or more persons or entities**: early economic work suggested that large numbers of competitors were important for the effective working of competitive forces. However, in some cases competition between a few large firms may provide more economic benefit than competition between a large number of small firms. This may occur due to economics of scale and scope, not only in production but also in marketing, technology and, increasingly, in management (Hilmer *et al.* 1993: 3).

Hilmer needed to have added that, even from Baumol's point of view, 'some cases' are those that fit within the definition of 'contestability'. This means that, if NCP were to use the Baumol theoretical position, it would be necessary to assess whether the basic preconditions of contestability existed in the sector being examined. Even though Hilmer seemed to accept contestability theory as if it was now unchallengeable, from the point of view of economists such as Shepherd, this is clearly not the case. Even Baumol admitted that 'perfect contestability' is uncommon. The preconditions for contestability, according to Baumol *et al.* (1982b), are as follows:

- A perfectly contestable market must have free entry and costless market exit;
- Contestable market prices must not be greater than marginal costs; and
- Incumbent firms in contestable markets must never have more than a normal rate of profit and its economic profits must be zero or negative.

The benefits emphasised by contestability theory are that large corporations in a 'contestable oligopoly' can use their size to keep costs lower and, if they are in a position to achieve 'equilibrium', these lower costs can 'guarantee optimality' (Baumol 1982a: 2). Apart from the fact that this presumption is an empirical proposition that

[98] Hilmer's references cited Baumol (1982) and Gilbert (1989) (Hilmer *et al.* 1993: 2).

needs to be tested, there was no discussion regarding how such corporations were likely to treat their suppliers.

Since the application of contestability theory is itself contestable, and this has been a major theoretical basis for the treatment of markets under NCP, both the mainstream market theory guidelines and the basic preconditions for contestability should have been carefully assessed in sectors such as retail after NCP-driven changes had been implemented. As already mentioned, Hilmer himself admitted that NCP was not been based on 'proven principles':

> Many of the areas of competition policy are **not amenable** to simple answers based on **proven principles**. The economic logic on which competition policy is based is still being formulated (Hilmer, 1994: xiii; Emphasis added).[99]

Despite this admission of the lack of proven theoretical principles, the Hilmer Report's approach has been applied to almost every aspect of Australian society via a compulsory (and draconian) national legislative review. John Brätland has recently stated that 'contestability theory presumes that [market] inefficiency can be detected and that corrective regulatory sanctions can be imposed'. He adds that Baumol *et al*, in 1998, had presumed that regulators could 'empirically detect situations in which no schedule of prices would be available to the incumbent monopolist that would forestall entry of competitors and the loss of production economies' (Brätland 2004: 5). However, Brätland considers that such 'objective' information on opportunity costs never exists (Brätland 2004: 26). These types of contestability assumptions and challenges to these assumptions make a systematic check of the outcomes of NCP-driven changes even more vital.

What Changes Did NCP Make to the Australian Retail Industry? What Role Did the NCC Play?

In addition to the overall NCP legislative review, the Hilmer Report recommended that NCP changes should be introduced via amendments to the TPA. This included recommending removal of the Prices Discrimination Provision (s.49). As shall be seen later in this chapter, this recommendation had the potential to take on greater

[99] This statement was repeated by Hilmer in 1995 at the Higgins Memorial Lecture (Hilmer 1995a), and in the *Economic Analysis and Policy* journal that same year (Hilmer 1995b: 24).

significance after other NCP changes increased the market power of corporate retailers and diminished the market power of many in their supply sector (Margetts 2009). The NCP Legislative Review required all Local, State and Federal legislation to be reviewed and repealed or amended if a case could not be brought to gain the acceptance of the NCC and the Federal Treasurer that retaining certain laws and regulations was:

- in the public interest; and
- could not be replaced by a more market-based alternative.

For the retail sector, in addition to the move towards further deregulation of liquor licensing and trading regulations (which attracted considerable public interest debate), one of the most obvious targets pursued by the NCC, then under Graeme Samuel as President, was to push heavily for further deregulation of retail trading hours. Even though Samuel admitted that NCP agreements did not *mandate* the removal of retail trading hours' regulations, he described them as 'anti-competitive restrictions' (Samuel 1998: 7). The NCC also produced a Shop Trading Hours leaflet, which said:

> In 1995 all governments agreed to work together in a co-ordinated manner towards introducing greater competition into our economy where it benefited the overall community (NCC, 2000).

This statement is challengeable in two ways. First, as we have seen, NCP was based on 'contestability' theory, rather than on the currently dominant competitive market theory. This means that 'contestability' does not necessarily mean greater competition, especially if it is used to support market domination and/or oligopsonistic buying power. Secondly, there is a fundamental asymmetry in the prescriptions. Those seeking to retain existing regulations were required to convince the NCC that they were in the public interest. There was no requirement for the removal of regulations to be proven to 'benefit the overall community' (NCC 2000). Moreover, the NCC has shown itself to be a biased judge of what constitutes the public interest.

Even though Hilmer himself in 1995 had clearly stated that the recommended processes and institutions of NCP leave much of the competition policy squarely in the political domain (Hilmer 1995b: 19), in areas such as trading hours deregulation, the NCC only accepted State Government political judgements of public interest if they coincided with the NCC's own decisions. An example of this inbuilt prejudice is that, when the majority of the WA electorate voted in the 2005 Referendum that urban retail trading

hours deregulation would not be in the public interest, the NCC chose to ignore the result, despite having promoted the results of a 'non-compulsory referendum' in Bendigo on their 'Shop Trading Hours' leaflet (NCC 2000).

WA Trading Hours Surveys

In 2008, on behalf of the WA Department of Premier and Cabinet, Luscombe and Associates published a Retail Trading Hours Survey Preliminary Report, three years after the WA Retail Trading Referendum. Respondents were asked 'Are there any changes that you would like to see to the hours that shops are open at the moment?' Forty-nine point eight per cent said they would like to see changes, 48.8 per cent said they did not have changes they would like to see and 1.4 per cent were unsure. However, 53 per cent of respondents agreed that 'Protecting smaller shops from bigger retailers is more important than allowing people a wider choice of shopping hours' (Luscombe and Associates Pty Ltd 2008).

The community opinions on retail trading hours tend to depend on how survey questions are asked. In recent years, major supermarket chains have conducted a range of surveys or petitions asking whether their customers wanted increased shop trading hours. For instance, in 2009, Coles said that, four years after the WA Retail Trading Hours Referendum, public feeling had changed. However, they only surveyed suburban residents. Their press release said 'two thirds of Perth residents support longer shopping hours on weekdays and Sundays'. However, Coles did not provide any information about how the questions were asked (Palmer 2009).

There has been considerable criticism over the years from small or independent retail competitors and suppliers, as well as from many consumers, regarding the impacts of further deregulation on the market power of Australia's major supermarket chains. For instance, 285 of the 332 submissions to the Joint Select Committee on the Retail Trading Sector (JSCRTS) Inquiry expressed opposition to the increasing market power of the corporate retail sector, while only 22 were supportive of further retail deregulation. The remainder were unclear or did not specify (JSCRTS 1999; see Table 6.1 below). A major incentive for corporate retailers to push for further retail trading hours deregulation would have been the labour cost advantages gained through changes to Federal employment relations laws.

Changes to Corporate Employment Relations Laws

In October 1997, Professor Hilmer was asked by the Business Council of Australia to head a major research project to recommend reforms to Australia's labour markets.[100] The Keating Government had already introduced enterprise bargaining when the newly elected Howard Government in 1996 introduced major changes to Australia's employment relations laws via the *Workplace Relations Act (1996)*, which enabled large corporate employers to offer individual contracts (AWAs) to their employees (Bray, Waring & Cooper 2009: 279). As corporate market power had already been enhanced by changes such as the removal of the Prices Discrimination Provision of the TPA, these Federal Government legislative changes may have provided even greater potential for large retail corporations to improve their market share and profit margins. David Peetz (2005) has argued that individual contracts increased flexibility in how employers pay for working hours. Peetz referred to the works of Cole, Callus and Van Barneveld (2001), Mitchell and Fetter (2003) and Rasmussen and Deeks (1997) to highlight that AWAs focus on reducing or abolishing overtime pay, increasing the standard hours per week, and reducing or abolishing penalty rates for working at nights or on weekend (Peetz 2005: 47).

AWAs could be used by corporations such as the major supermarket chains throughout Australia and by any businesses in Victoria or the Territories. AWAs would have created considerably more incentive for the major corporate supermarket chains at that time to push for extended trading hours. This was because the Federal employment relations legislation could be applied to corporations, while small businesses in States other than Victoria and the Territories were still under State employment relations laws and therefore could not necessarily force AWAs on their employees. This division meant that the major supermarket chains could prepare for a situation in which longer trading hours did not require them to pay penalty rates, thereby facilitating enhanced profit margins from after-hours trade, compared to the conditions facing their independent retail competitors.

[100] In 1995, Bill Scales, who at that time was the IC Chairman, stated that the major waves of reform of traded goods and deregulation of financial markets provided the impetus for reform in the 'non-traded' sectors such as labour markets (Scales 1995: 41).

The Sources of Trading Hours Changes

Although some consumer bodies support longer trading hours, after NCP was introduced, the push to remove existing retail trading hours' regulations tended not to come from the community or State governments themselves, but from the NCC, the corporate retail sector and bodies such as the States' Chambers of Commerce and Industry. Table 6.1 provides a summary of the 22 submissions to the 1999 Committee Inquiry into the Retail Trading Sector that expressed support for further retail deregulation, such as deregulated trading hours.

Table 6.1: Submissions in Support of Further Retail Deregulation to the JSCRTS Inquiry, 1999

Sub. No.	Submission Source	Description	Additional Submission/s
19	Stapledon, G Dr (Oxford, UK)	Visiting Law Academic invited by the Committee secretariat to critique the NARGA submission	
20	Pengilley, W Prof (NSW)	Visiting Law Academic invited by the Committee secretariat to critique the NARGA submission	
57	Australian Retailers Association, Sydney (NSW)	(Dominated by the corporate retail sector)	
99	7-Eleven Stores (Vic)	Convenience Stores	

104	Baxt, B Mr (Vic)	Former Chair of the TPC (Predecessor of the ACCC) Freehills partner and long-time supporter of corporate interests	
168	Coles Supermarkets (Vic)	MSC	168A, 168B, 168C, 168D
181	NT Chamber of Commerce & Industry	Chamber of Commerce	
191	ACCC (ACT)	Competition Commission	
197	Convenience Stores Australia (NSW)	Convenience Stores	
200	Franklins Ltd (NSW)	MSC	200B
228	Jebb Holland Dimasi, Melbourne (Vic)	Economists and Property Advisor (Report Commissioned by Woolworths)	228A
229A	Woolworths, Sydney (NSW)	MSC	229C, 229E
235	MC Australia (NSW)	Wholesale Distributors to Convenience Stores & Mini Supermarkets	
245	Australian Consumers Ass'n, Marrickville (NSW)	Consumers Association	
281	Australian Chamber of Commerce & Industry, Barton (ACT)	Business (mostly big business) Representatives	
283	Law Council of Australia, Braddon (ACT)	Long-time supporter of corporate interests	
284	Barbara Maidment, Margaret River (WA)	Small Business Advisor	
291	Country Wide Retail Management Ltd, Sydney (NSW)	Owners of Supermarket Centres	291A
299	Howard Smith Ltd, Sydney (NSW)	Major Hardware Distributors	
308	Visitor Information Services, Bendigo (Vic)	Visitor Centre	308A
309	Sandhurst Trustees, Bendigo (Vic)	Financiers	
310	Bendigo Trust (Vic)	Financiers	

Source: JSCRTS 1999

Some basic questions regarding the retail sector that should be answered include the following:

- What impacts (such as prices, choice, convenience and service) have NCP changes been having on consumers?
- What impacts have NCP changes been having on the grocery supply sector?
- If there are problems either arising or not improving, what might be the causes of the problems, and what needs to be changed?

Since these have not been answered appropriately, it is important to explain the manner in which the ACCC dealt with submissions and the data, which they should have assessed properly in regards to Australia's retail grocery sector.

The ACCC Grocery Price Inquiry

As mentioned early in this chapter, in the lead up to the 2007 Federal Election, Opposition Leader Kevin Rudd responded to growing media attention regarding rising grocery prices by promising that, should Labor be elected to office, the new Labor Government would commission an inquiry into Australian grocery prices. A few months after the Rudd Government took office, in his news conference announcing the commissioning of the ACCC inquiry, the Minister for Competition Policy, Chris Bowen, stated the main reason behind the inquiry:

> While inflation has been low in Australia over the last few years, food inflation has been higher than the average. And there's considerable evidence to suggest that … Australian food inflation has been higher than the world average. And of course, that affects working families and all Australians everyday as they go to the supermarket (Bowen, 2008).

Deserving of examination is the manner in which the ACCC handled the grocery prices inquiry and how its inquiry methods relate to testing the theories of market competition and contestability. Of relevance is that the ACCC avoided checking the impacts on NCP on Australia's grocery and grocery supply sectors.

The Grocery Prices Inquiry Announcement commenced on 30 January 2008. However, the Issues Paper, upon which the submissions to the Inquiry were to be based was not

published until 11February, at which time the deadline for submissions was also announced for just four weeks later (5pm on 11 March).

ACCC Inquiry Issues Paper

The release of the ACCC Issues Paper indicated some serious problems in the manner in which the Inquiry was likely to be undertaken. Apart from the short deadline, two obvious indicators that the ACCC might prevent the presentation of detailed evidence on what had been occurring in the retail and retail supply sectors since the introduction of NCP were:

- the warning/threat that protection for vulnerable witnesses via evidence confidentiality would be restricted to some specific and limited commercial in confidence criteria, and
- the limited years for which the ACCC was requesting data and evidence.

Lack of Confidentiality Protection

The ACCC thus appears to have been unwilling to provide any reasonable protection for those who may have been affected by market power abuse (such as market competitors, grocery suppliers, manufacturers or primary producers) or who were vulnerable to abuse, such as by having their contracts cut because of any evidence they provided to the inquiry. This would indicate that there was an unwillingness to find out what was really happening in Australia's grocery supply sector. Anyone wishing to present submissions to the Inquiry was required to call their submission a 'public submission' and include their name, and only then apply for a 'confidential annexure', approval for which was limited to 'trade secrets' and 'costs of manufacturing'. Confidentiality did not include detailed reports of market abuse, and the ACCC said it would decide if such requests for confidentiality were in the public interest, as opposed to the risks to those most vulnerable in the sector (ACCC 2008a: 3). With no protection for evidence from vulnerable grocery sector suppliers or competitors, at the very least, the inquiry should have made sure that widespread confidential surveys were undertaken so that whatever evidence they received regarding vulnerable suppliers or competitions could be properly assessed. This did not happen.

The ACCC Issues Paper contained 83 questions covering a wide range of examples of potential retail grocery and supply market problems. However, the lack of protection for vulnerable competitors and suppliers could have put them at serious risk from parties with sufficient market power to damage them for speaking out to provide evidence that such behaviour had been taking place (ACCC 2008d).

On the ACCC website, only two of the 250 submissions were stated as 'confidential'.[101] Clearly, although the discussions within the Issues Paper mentioned a wide range of potential market power abuse problems within the supermarket supply sector, the ACCC inquiry did not encourage the confidential submissions that could provide them with detailed evidence of such behaviour. The significance of this stance can be seen months later from the ACCC Report's Overview:

> In scrutinising the information before the inquiry, it has become clear that some industry participants, representative groups and commentators have made unsupported claims to the inquiry and in the media. These claims were based on generalisations and **there was a failure to provide facts to support these claims** (ACCC 2008d: xiv; emphasis added).

During the Inquiry, 39 of the 78 sets of witnesses attending public hearings for the Inquiry were summonsed, all of whom, with the exception of Westfield and Colonial First State, were grocery suppliers. Thirty-five of the total 78 sets of witnesses gave some of their evidence as 'transcript-in-confidence', and 20 of those 35 had been summonsed. As the major supermarket chains (MSCs) would have been aware both of who these witnesses were and the general nature of the questions asked, it is unlikely that those witnesses would have felt comfortable in providing evidence of market power abuse in specific circumstances. However, the submissions and evidence from the wide range of supplier representative bodies did provide frequent claims of the abuse of market power by the MSCs, despite the fact that the time pressure for their evidence to be submitted made it difficult for them to conduct surveys of their members to support their claims (ACCC 2008b, 2008c).

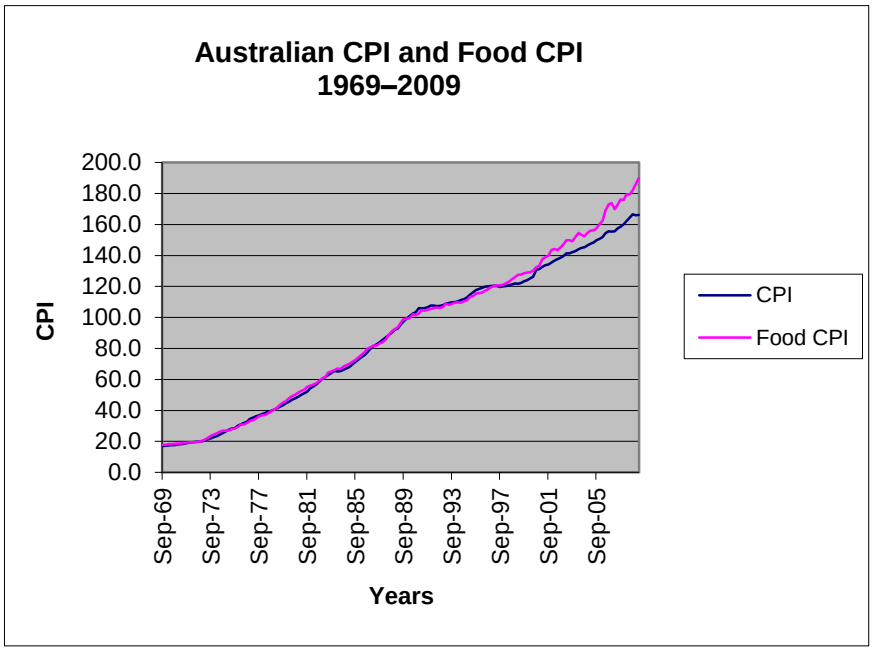
[101]Compare this to the 1997 Reid Committee Report, which accepted 83 of its 198 Submissions as confidential and another 3 as 'name withheld'. It had received disturbing evidence of market power abuse in the retail sector and called for the ACCC to investigate such complaints and enforce the law in relation to the misuse of marketing light of the high degree of concentration in the retail sector (House of Representatives Standing Committee on Industry, Science and Technology 1997: 135).

Limits on Data and Evidence Requested

Moreover, the Issues Paper only asked for data going back '5 to 10 years', which made the ACCC unable to assess whether changes affecting the grocery retail sector were a result of the introduction and implementation of aspects of NCP, which had been introduced in 1995. Such data would need to go back at least 15 to 20 years. Appendix A of the Issues Paper provided a list of public reviews of grocery mergers and acquisitions going back less than 4 years. This means that they did not collect the data on the mergers and acquisitions by the major corporate supermarket chains before and after the introduction of NCP.

This limited data request, along with the restrictions on confidentiality, could be seen to coincide with the ACCC's claims that the evidence provided failed to support many of the claims within submissions by representative groups. However, data and evidence in a timeline of up to only 5 years cannot provide a clear picture of the nature and major causes of current grocery market problems in Australia, as the graphs below indicate.

Figure 6.1: Australian CPI and Food CPI, 1969–2009



Source: Reserve Bank 2012

In 1969, the general CPI (17.0) and the Food CPI (17.7) were very similar, and by the introduction of NCP in 1995, the general CPI (116.2) was slightly lower than the Food CPI (113.7). Figure 6.1 above indicates that it was in the mid-1990s that the index of food price began to rise at a higher rate than the overall CPI. By 1997, the Food CPI

(120.8) was increasing at a greater rate than the general CPI (120.2) and by 2009, the Food CPI had increased to 188.1, compared to 167.0 for the general CPI (Margetts 2011a: 83). The years during which CPI and food price inflation appear to have become more disconnected indicate that the 5 to 10 years of data requested by the ACCC for their retail price inquiry does not give a full picture of what food (and overall grocery) price trends.

Figure 6.2. Australian Packaged Grocery Market Share, 1975–2002

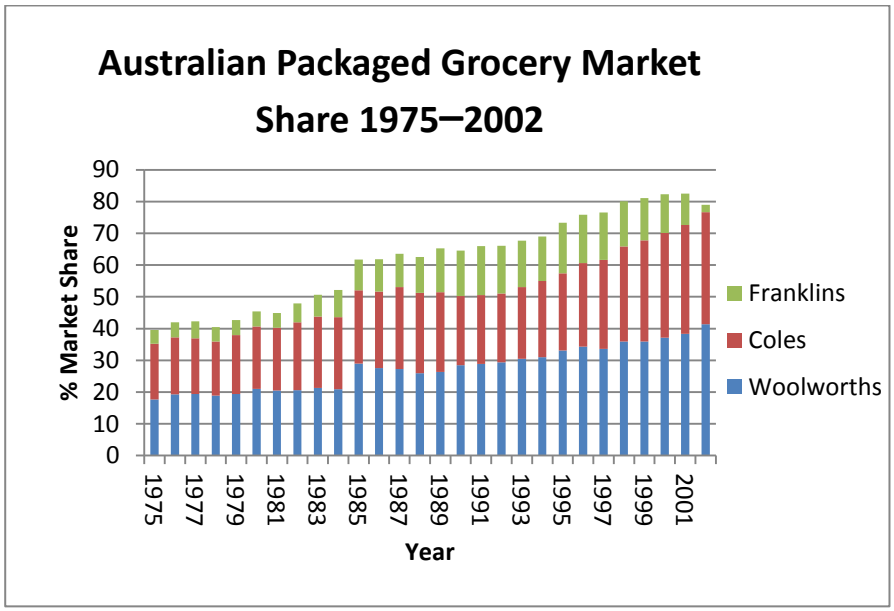
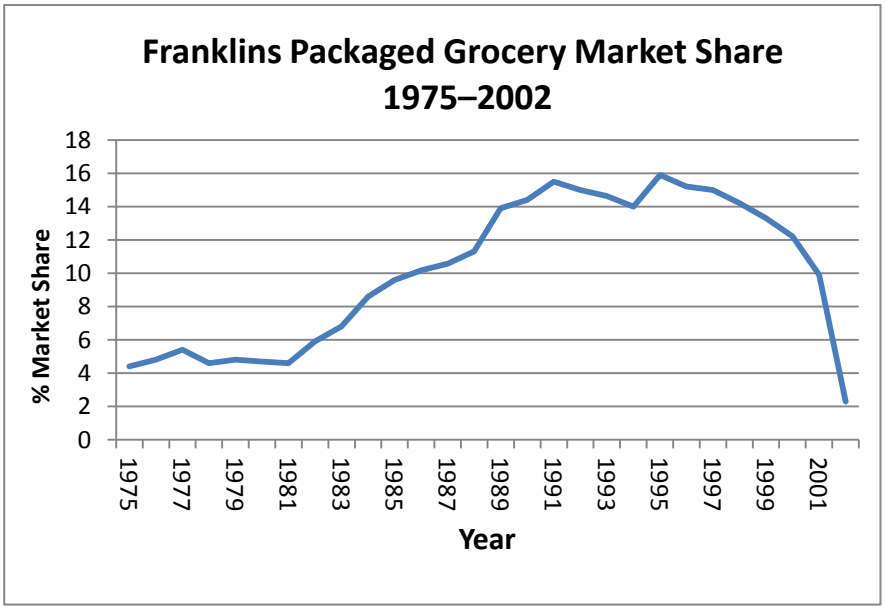


Figure 6.3. Franklins Packaged Grocery Market Share, 1975–2002



Sources: Retail World Annual Reports (1975–1992), Australian Grocery Industry Marketing Guides (1992–2002)

Figure 6.2 illustrates the published dry packaged grocery market shares of Coles, Woolworths and Franklins. In 1975, their combined market share was 39.6 per cent

(Woolworths 17.7, Coles 17.5 and Franklins 4.4). By 1995, their combined published market share had grown to 73.3 per cent (Woolworths 33.1, Coles 24.3 and Franklins 15.9). However, as Figure 6.3 shows, from 1995, Franklins discount grocery chain began dropping from its highest market share to insignificance. By 2002, Coles and Woolworths' combined dry packaged market shares had reached 76.7 per cent, with Franklins holding just 2.3 per cent. From then on, the dry packaged market shares of each major supermarket chain ceased to be annually published. This begs the question of how much impact NCP legislative changes, such as the removal of the Prices Discrimination Provision, have had on market dominance and what impact such growing market dominance has had on retail competitors, consumers and suppliers over the last 15 to 20 years.

Timing of the Inquiry

As the time available between the release of the Issues Paper in February 2008 and the official deadline for submissions was only four weeks, the number of submissions accepted after the official deadline (129) exceeded the number accepted before the deadline (119, with one number missing). As noted, four weeks would have been insufficient time for most representative groups to survey their members effectively to then respond to the ACCC. However, there would have been time during the inquiry for the ACCC to conduct confidential surveys of those sectors whose members would have been reluctant to provide public evidence to those questions in the ACCC Issues Paper, which may have made them vulnerable for abuse by those with greater market power in the sector. The ACCC chose not to undertake such surveys. The public hearings were held between 1 April and 30 May 2008, and the reporting date was 31 July 2008

How Did the ACCC Handle It?

When Graeme Samuel was President of the NCC, he had played a significant role in the push for retail trading hours deregulation in all States and Territories. The decision to appoint Samuel to head the ACCC Grocery Prices Inquiry should therefore be questioned. Under his leadership, the NCC had threatened to hold back NCP tranche payments for any State that did not agree to full trading hours deregulation. It is unlikely that he would encourage the inquiry to assess whether he had been right or wrong in his previous behaviour as head of the NCC.

To put the ACCC Report in some context, the structure of NCP was 'not about the pursuit of competition *per se*' (Hilmer *et al.* 1993: xvi), but rather was to enable the businesses in the nation's corporate sector to find ways to reduce their costs (Margetts, 2007b: 19). As noted, NCP was based on the Baumol theory of 'contestability' (rather than basic market theory and its application in trade practices decisions). This explains the policy's heavy emphasis on deregulation rather than market power, competition or avoiding market failures.

If the ACCC were interested in whether the Australian grocery retail sector was 'contestable', it would be necessary to assess whether and to what extent the sector fitted within the following Baumol-based guidelines:

- A perfectly contestable market must have free entry and costless market exit;
- Contestable market prices must not be greater than marginal costs; and
- Incumbent firms in contestable markets must have zero or negative economic profit (never above normal) (Baumol 1982a).

Did the ACCC inquiry assess the level of competition in terms of market domination in Australia's grocery sector, and if so, what did it conclude? The ACCC admitted that the Australian grocery retail market was criticised as being too concentrated and that the 'regular statements' being made by industry commentators were that the two largest grocery retailers, Coles and Woolworths, accounted for 80 per cent of grocery retail sales[102] (ACCC 2008d: 54). However, the ACCC took the following view:[103]

[102] The MSC grocery market share of around 78 per cent was based on the ACNielsen published data of packaged grocery market share (ACCC 2008d: 59).

> Based on the information available to it, the ACCC's view is that the MSC's account for between 55 to 60 per cent of consumer expenditure on grocery items. Woolworths accounts for at least 30 per cent and Coles around 25 per cent. Although each of these shares of retail grocery sales are large for a single company, to say that the MSC's enjoy an 80 per cent share of the grocery sales exaggerates the position of the retailer (ACCC 2008d: 58).

The ACCC's conclusion was that, even though the MSC's maintained a large share of the sales of packaged groceries and this 'may raise concerns', this position needed to be assessed in conjunction with other factors such as 'barriers to entry and expansion before any conclusions are drawn' (ACCC 2008d: 80). That means that the ACCC was dependent on establishing that the grocery sector could be considered 'contestable', which it manifestly failed to do. The main interests at play here are that, as NCP was based in support of market dominance, the ACCC's (2008d) retail inquiry was therefore not critical of the impacts of retail duopoly and the impacts of oligopoly to the retail supply sector. These issues have been in need of adequate assessment since NCP was introduced. The supposed preconditions of market 'contestability' should also have been tested to assess whether the Australian grocery market was operating in the manner the Hilmer inquiry assumed (Hilmer *et al*. 1993). This is vital as, has been mentioned earlier in this chapter, Shepherd (1984) found that the preconditions of 'contestability' were not observable in any markets. This means that, if this was also the case in Australia, where the whole of the country's legislation was tested and changed to be in support of NCP 'theory', the 'theory' in Australia should have been properly assessed. The 'contestability' guidelines in the retail grocery sector are therefore checked below in relation to the ACCC retail inquiry report (ACCC 2008d).

[103] This was based largely on the argued position of Woolworths, that grocery market share should be based on the 'share of stomach', which included all food retailers, specialty food markets, take-away foods, cafes and restaurants (ACCC 2008d: 56).

Free Entry and Costless Market Exit?

The ACCC admitted that there was 'limited room for more major grocery retailers' and that to enter the market effectively, it was necessary to obtain competitive wholesale grocery prices (ACCC 2008d: 217). It had already accepted that access to such levels of wholesale marketing in the current grocery market situation would be extremely difficult, as Metcash had increased in size considerably to survive competition from the MSCs.

An article from Carmel Egan ('Aldi slams competitors') from The Sydney Morning Herald, in June 29 2008 explained that the Aldi supermarket chain had accused Coles and Woolworths of 'striking deals that stop competitors getting access to suburban shopping centres ... ' (Egan 2008: 1) which included lease clauses which restricted competitors from the major supermarkets. In Chapter 9 of the ACCC's report, they stated that 'The ACCC considers that there are several barriers to entry that potential new entrants to grocery retailing face, as well as barriers to expansion for smaller players ... [which included] ... access to suitable sites for supermarkets ... [and they admitted that] ... Aldi has raised concerns in relation to the barriers to entry it has faced' (ACCC 2008d: 218). But instead of making any major recommendations to prevent Coles and Woolworths from requiring the owners of the shopping centres to behave in this manner to prevent effective competition, the ACCC instead recommended that 'cost savings can be achieved by expanding the operations of a wholesaling business' (ACCC 2008c: 219).[104]

Ironically, the ACCC had admitted before that the entry of a new and competitive wholesaler operation would be very hard to achieve:

> The implication of another large-scale wholesaler entering the market are unclear. As the only national wholesaler to the independent sector, Metcash can take advantage of significant economies of scale. If there were two large-scale wholesalers it is possible that neither would achieve the same economies of scale that Metcash has achieved (ACCC 2008d: 153).

[104] It is significant to note that in 2011, the Productivity Commission's Inquiry report on the '*Economics Structure and Performance of the Australian Retail Industry*' admitted that there was still a 'Large gap between rents of anchor tenants and smaller specialty retailers in shopping centres' and there is a 'Lack of publically available information relating to shopping centre rents' (PC 2011b: 262).

The ACCC Report stated that they considered that a wholesaler would need to have guaranteed annual sales of at least $800 million to be viable (ACCC 2008d: 193). Cost barriers to entry were therefore substantial given the nature of the retail and wholesale grocery market dominance, making this precondition to contestability highly challengeable.

Contestable Market Prices Must Not be Greater than Market Costs

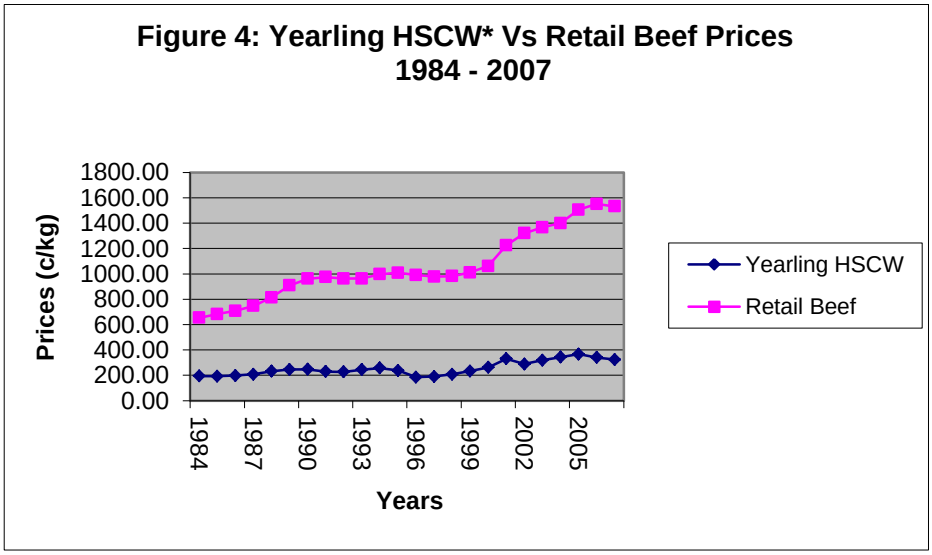
The ACCC tended to assess market costs on the average margins of the MSCs, claimed to be small.[105] However, given the substantial profit levels of the two major MSCs, this emphasis ignores the fact that vertically integrated MSCs can make their retail margins look smaller than they really are, as they can create their own wholesale margins by retaining a higher percentage of their profits from their wholesale rather than their retail sector.

An example of this phenomenon is found in beef retailing. The ACCC states that the 'average decline in the gross margins of meat was 1.5 percentage points from 2002–03 to 2006–07' (ACCC 2008d: 143). However, while there were strong criticisms regarding the gaps between costs and supermarket prices, the ACCC avoided providing data to show comparisons between retail prices, farmgate prices and marginal costs. Their explanation for leaving it out was as follows:

> The supply chain for beef is long and complex with the farm gate price of livestock only one of the numerous inputs into the eventual cost of a cut of beef. As such, direct comparisons between farmgate and retail prices are difficult and not necessarily instructive (ACCC 2008d: 355).

[105] The ACCC cited Woolworths' average supermarket (pre-tax) margins as around 6 per cent and Coles' at around 3.5 per cent (ACCC 2008b: 125).

Figure 6.4: Yearling HSCW v Retail Beef Prices, 1984–2007



Source: Australian Beef Association

* HSCW = Hot standard carcass weight

However, as Figure 6.4 above clearly shows, in recent years there has been a growing gap between 'hot standard carcass weight' (HSCW) farmgate yearling prices and retail beef prices. The trend in the data provided by the Australian Beef Association for yearling beef was similar to that produced by the ACCC itself on beef in its 2007 report to the Minister for Agriculture, Fisheries and Forestry, which examined the difference between farmgate and retail prices (ACCC 2007: 13). The ACCC's response in 2007 was that:

> The supply of fresh meat involves a long and complex supply chain. The cost of livestock is only one component of the total cost incurred by supermarkets (and other retailers) in providing fresh meat to consumers (ACCC 2007).

However, the serious concerns expressed in the Australian Beef Association's submission to the ACCC's 2008 Grocery Price Inquiry regarding the growing gap between farmgate and retail pricing were far from unique (Australian Beef Association 2008). Of the 38 primary producers' organisations that made submissions to the Grocery Price Inquiry (covering virtually all of Australia's primary production), the majority (30) specifically point to a growing gap between farmgate and retail pricing (ACCC 2008c, 2008d).

Strong arguments were also put up in the submissions of organisations such as the South Australian peak body for vegetable growers and stakeholders (GrowSA):

> There is a clear trend of these (MSCs) using their market power to push costs, risks and responsibilities down the supply chain. Anecdotally, ten years ago growers worked on a rule of thumb of farm gate return being about 50 per cent of retail price. Today this margin is generally less than 20 per cent. Growers' profit margins continue to decrease, while the profit margins of the major retailers remain at record highs (GrowSA 2008: 5).

The WA Department of Agriculture reported similar concerns:

> The disconnect between their costs of production and the prices being offered is rapidly approaching a point where many small and medium sized food producers claim they are becoming unviable, or where alternative uses to agriculture become increasingly attractive because of better returns on investment … In addition, local consumers are becoming increasingly concerned about the high cost of food on top of other rising pressures on household incomes. Producers of our agricultural raw materials are also reaching a point where they are unable to see the basis for the large differentials between what they are being paid for their produce, and the prices being charged by the large retailers (WA Department of Agriculture and Food 2008: 1).

These quotations from these important submissions show how the concentration of market dominance is damaging Australia's primary production and food security in major sectors such as dairy (Margetts 2007a, 2007b), groceries and beef (Margetts 2011a). It can therefore be clearly stated that, for Australian primary produce, if 'contestable market prices must not be greater than market costs**',** the evidence strongly challenges the precondition that grocery retailing of primary produce in Australia is in a 'contestable market'.

Profit Levels of Incumbent Firms

The ACCC Report admitted that Woolworths was currently achieving one of the highest earnings before interest (EBIT) margins in the world and that Coles' EBIT margin was lower but similar to the average EBIT margins of major overseas grocery retailers. Nevertheless, in keeping with the ACCC's conclusions about the impacts of the other contestability preconditions, it avoided assessing contestability on this basis, saying:

> ... the size of MSC profits in recent years have been cited in public discussion as evidence of a lack of competition in grocery retailing. However, profits in simply dollar terms alone are rarely instructive about the level of competition in a market (ACCC 2008d: 125–126).

To Summarise

Market dominance, according to classical market theory, means that market prices can be manipulated and controlled. The level of market dominance of the MSCs in Australia's grocery sector is substantial. AC Nielsen's 'ScanTrak' data shows that the MSC's market share of the dry packaged grocery market was 78 per cent (ACCC 2008d: 75). Even Woolworths' argument that MSC's market share was 55 to 60 per cent of the 'share of stomach' (ACCC 2008d: 56–58) confirms the existence of market dominance.

NCP is based on 'contestability theory', which accepts corporate market domination in 'contestable markets'. However, the three basic preconditions of 'contestability theory', as set out by Baumol *et al*, did not apply to the Australia's grocery sector at the time of the Grocery Price Inquiry. Whether the retail grocery sector was 'non-contestable' and/or market dominated, the impacts of NCP on corporate power abuse in Australia's grocery supply sector were not adequately assessed.

This chapter has focussed on the theoretical model driving NCP and its consequences in the Australian retail sector, the impacts of the ACCC's targeting of the retail sector and the improper assessment of market competition and contestability in the *Report of the ACCC Inquiry into the Competitiveness of Retail Prices for Standard Groceries* (ACCC 2008d). However, there are many other aspects to how the ACCC's Inquiry was conducted that need to be investigated. In particular, key unresolved questions are the impact that NCP has had on retail and wholesale market dominance and the impact that market dominance is having on Australia's grocery supply sector. There is a broader public interest at stake.

Subsequent to the departure of Samuel from the ACCC in mid-2011, there has been a resurgence of interest by the ACCC in the impacts of the market dominance of major corporate retailers, in particular in regards to whether suppliers are being treated unfairly by major retailers. For instance, the ACCC noted that 'suppliers to Australia's two top supermarket chains have lodged complaints about unconscionable conduct by the retailers' and the ACCC Chair suggested that the ACCC 'investigating ways to protect suppliers if they find either supermarket has a case to answer' (ABC News 2012). The Senate Select Committee on Australia's Food Processing Sector has

subsequently 'joined the Australian Competition and Consumer Commission (ACCC) in offering protection to anyone who comes forward with details about their dealings with the big supermarket chains' (O'Neill 2012).

As seen in Figure 6.1 above, the Food CPI began to increase at a higher rate than the general CPI only one year after the introduction of NCP. In March 1996, the Food CPI sat at -3.1 per cent, below the general CPI. However, by March 2009, this had risen to 23.7 per cent higher than the general CPI, falling slightly but then rising again to 24.1 per cent higher than the general CPI by June 2011. This can be explained by items such as the retail prices of dairy products rising higher than the general CPI (Margetts 2011b: 19). With the start of Coles' 'Down, Down, Prices are Down' campaign in January 2011, the Food CPI fell slightly, down to 19.5 per cent higher than the general CPI in December 2011. As the two MSCs (that is, Coles and Woolworths) reduced other primary product prices, current ABS data (for March 2012) shows that the Food CPI remains higher than the general CPI, albeit at the lower rate of 15.2 per cent higher than the general CPI (Reserve Bank 2012). The limited drop in the gap between the Food CPI and general CPI would indicate that the prices of a range of other retail grocery were higher than necessary to mitigate the loss to the major retailers' profit margins.[106]

As discussed above, in response to the significant stress being caused among Australian primary producers as a result of the growing gap between farmgate and retail prices, the two MSCs reduced the retail prices of popular primary produce such as milk, meat, fruit and vegetables but did not necessarily reduce their already low farmgate pricing. This strategy enabled these retailers to maintain popular items at a lower price for a longer period. However, this status quo has had detrimental effects on the primary *raison d'etre* of NCP—to promote competition. Thus, while NCP policies have not only adversely affected the public interest by detrimentally influencing the ability of suppliers to remain competitive, these policies have also detrimentally affected the ability of other retailers—namely, independent grocers—to remain competitive in the market place. Although the media has tended to assume that the 'competition' is between the two MSCs, their smaller, independent retail competitors are more seriously

[106] Helen Wellings from Channel 7 in Perth had stated that due to the 'discount wars' between Coles and Woolworths, while there 'might be a good deal in specials, industry observers say overall we're being forced to pay far too much at the supermarket checkout' (Wellings, H 2009: 1, **http://www.7perth.com.au/view/today-tonight-articles/20090826191332 accessed 18/04/14**) so they compared prices from brand names only and they were considerably higher in price than in the four major supermarkets in the UK..

affected. Using the WA example, as a State that was pushed into retail trading hours' deregulation, the price reductions on a range of primary products will increase the loss of independent grocers. This is especially the case now that the WA State Government has agreed to deregulate trading hours further (despite the lack of adequate changes to the adverse effects of NCP in Australia's retail sector).

The flow-on effect of NCP in the retail sector is thus not limited to the suppliers, but affects the very nature of competition in the sector. The result is a reduction in competition because the actions of the major retailers made the price uncompetitive for the smaller retailers and unfair for suppliers.

Conclusion

This Retail Case Study confirms that the basis of NCP in the retail sector was not to improve 'competition', but to support corporate market dominance, based on the neo-liberalist assumption that 'contestability theory' would be in the public interest. This chapter identifies serious problems stemming from the ability of major corporate retailers to use legislative changes from NCP, such as 'price discrimination', to the detriment of grocery suppliers and retail competitors. As competition is reduced, consumers suffer. As was seen in the Dairy Case Study in Chapter 5, major primary producers such as dairy farmers and beef wholesalers are already being seriously affected by NCP's support of corporate market dominance in the retail sector.

Chapter 7: NCP and the Privatisation of Water in Australia

Introduction

The Water Case Study was chosen because water is an essential resource and is considered by many in the world as 'an intuitive last bastion against privatisation' (Morgan 2004: 10) and Maude Barlow, who had been the Senior Advisor on Water to the President of the United Nations General Assembly (October 2008 to 2009) has explained the links between water privatisation and international climate change to the impacts of the global 'water crisis' (Barlow & Clark 2002, Barlow 2007 & Barlow 2009). In Australia, the development of the NCP Water Resource Policy 'agreement' during the Hawke/Keating Labor Government occurred before the main NCP 'agreement', enabling it to be left out of the Hilmer report, to avoid any significant critique of NCP.[105] Australia's Water Resource Policy Agreement, forged under the umbrella of NCP, was promoted as being economically efficient, productive and environmentally sustainable. However, the policy was formulated in the absence of an adequate informational base, thus raising questions about its efficacy. The aim of this case study is to discuss the significance of this tension in reference to issues of climate change, by describing the interconnection between the development by the Working Group on National Water Resource Policy (WGWRP 1994), the links to NCP and the latter government reports to explain whether there had been any adequate assessment of NCP Water Policy.

The provision of water to citizens is an essential service, the quality of which directly affects the health status of persons, while price determines the structure of family budgets. The application of NCP in Australia has led to a continuing process of privatisation of this precious resource, by opening up this 'market' to global corporations. Webster *et al.* (2008: 79) argue that the restructuring of essential services is not simply a question of technical service delivery; nor can outcomes be evaluated narrowly on price. Acquisitions of essential services reflect market-driven politics, characterised by the penetration of corporate power into the activities of the state, which erodes democracy, households and the public interest. This chapter analyses these contradictions with regard to the application of NCP to the provision of water in Australia.

The NCP transformation of water policy was advanced through a signed agreement between the Commonwealth, State and Territory Governments in 1995. Preceding chapters have shown how NCP policy prescriptions were driven by Keating, who claimed that competition policy removed barriers to competition, which was in the public interest. However, throughout this 'reform' process, privatisations were never measured against any public interest test. This is despite the fact that, in the Hilmer Inquiry Terms of Reference, Keating demanded that any conduct with an 'anti-competitive potential' needed to be proven to be in the public interest, with provision for review of public costs and benefits (Hilmer *et al.* 1993: 361). The hidden assumption was that deregulation to promote 'competition' was a positive good for society, as markets and money are assumed more effective at meeting society's needs than are government bureaucracies (Whitwell 1998). This assumption is untested (Neville 1997: 5).

The necessity to assess the public interest within NCP policy and legislative changes was argued in my analysis of NCP policy (see Chapter 3) and the Australian dairy (Margetts 2007a, 2007b) and retail sectors (Margetts 2011a) (see Chapters 5 and 6). As part of this discussion, the veracity of NCP contestability theory, which underpinned NCP, was challenged through evaluation of such policy prescriptions in terms of actual outcomes. This chapter reveals the manner in which this theory of 'competition' has led to a concentration of economic power, which has been applied to the provision of water.

The Water Policy Debate

NCP supporter Bronwen Morgan acknowledged that NCP was sponsored and promoted by a coalition of business interests and technocratic officials (Morgan 2003: 50), and that it is driven politically by the right faction of the Australian Labor Party (Morgan 2003: 64). Despite being a keen supporter of water privatisation, Morgan later acknowledged that, for many citizens, water was an intuitive last bastion against privatisation, and that advancing the private profit potential of water raised political hackles and 'moral sensitivities' (Morgan 2004, 2005).

As I have already argued, the Hawke/Keating Labor Governments (1983–1996) were completely captured by the neo-liberal market model of globalisation, which promoted the freedom of global corporations as the best pathway to achieving society's basic

needs. However, they too were mindful that water privatisation and/or deregulation represented one of the major points of opposition to NCP. They attempted to pre-empt opposition by confronting the issue of water a full year before the presentation of the full agenda of NCP reforms. In doing so, they sought to promote the economic and environmental benefits of reform in the sphere of water provision.

The Australian Industry Commission as a major promoter of NCP (Margetts 2011a) played a key role in policy development on water. Table 7.1 summarises the key phases of NCP water policy.

The Development of the NCP Water Policy Agreement

Table 7.1: NCP and the Water Policy Agreement

Date	Inquiry/Report
January 1990	Amendments to the *Industry Commission Act 1989* commenced for the purpose of holding inquiries into matters related to industry to encourage the growth and international competitiveness of Australia industries to help facilitate structural changes to the economy as well as reducing industry regulations, consistent with the social and economic goals of the Commonwealth Government. The Act also required Government to inquire into and report the social and environmental consequences of their recommendations
July 1991	The IC commenced an inquiry into Water Resources and Waste Water Disposal
July 1992	The IC published a 355-page report on Water Resources and Waste Water Disposal
October 1992	Prime Minister Keating commissioned the Hilmer Inquiry into National Competition Policy
December 1992	COAG noted the IC's focus on water reform issues and agreed to the preparation of a report for their next meeting on the existing state of play in urban and rural water use (NCC 1997: 72)
June 1993	Having received a report by officials on the existing state of play in urban and rural water use, COAG asked that a Working Group on Water Resource Policy (WGWRP) prepare a report on water reform (NCC 1997: 72)
August 1993	The Hilmer Inquiry Report on National Competition Policy was published without specific recommendations on water reform
February 1994	The WGWRP produced the report commissioned in the previous year by COAG on Water Resource Policy

February 1994	COAG asked the WGWRP to prepare a further report for its first meeting in 1995 on the implementation of water policy reform
February 1994	COAG agreed that an Expert Group be established to assess asset evaluations and cost-recovery definitions for the Australian water industry
February 1995	The Expert Group published their report on the Asset Evaluation as Cost-Recovery Definitions for the Australian Water Industry
February 1995	The WGWRP published its Second Report on Water Resources Policy to COAG
April 1995	In the lead up to the April 1995 COAG meeting, the Council agreed to initiatives on water resource policy and regulatory reform (NCC 1997: 82) At its meeting in April 1995, COAG agreed to implement NCP and related reforms, including the Water Resource Policy Reforms (NCC 1997)

At their December 1992 meeting, COAG discussed economic and water reform, which had been a focus of the IC micro-economic reform promotion strategy (NCC 1997: 72). In June 1993, COAG asked that a Working Group on Water Resource Policy (WGWRP) develop a strategic framework addressing questions of efficiency and sustainability in the context of the technical and policy diversity of Australia's States and Territories, for their future consideration (WGWRP 1994: 1).

The subsequent 1994 report of the working group stated that any new water resource policy needed to be seen as part of Australia's wider process of micro-economic reform (WGWRP 1994: 1). While acknowledging the influence of different jurisdictions responsible for the management of water resources, the working group asserted that a key driver of reform was the wider micro-economic reform agenda that was being pursued to increase efficiency within government business enterprises and authorities (WGWRP 1994: 6). Further, the working group claimed that the reform program aimed to increase the value of the nation's agricultural output because there were limitations on water being employed by higher value users in a situation in which there were only limited opportunities to trade water entitlements (WGWRP 1994: 1).

However, the WGWRP report did not refer to the potential impacts of climate change on Australia's water resources. This was despite the release in 1991 of the Draft Agriculture Report from the Ecologically Sustainable Development Working Groups, which had recognised the impacts on agricultural industries of climate change, such as in temperatures and rainfall (Commonwealth of Australia 1991: 71). A later

Commonwealth Scientific and Industrial Research Organisation (CSIRO) Publication, *El Niño: Southern Oscillation and Climate Variability*, included in one of its reference lists from the early to late 1980s, publications on the impacts of El Niño on rainfall and drought, particularly in South Eastern Australia (Allan, Lindesay & Parker 1996: 91–116). My own research from my Dairy Case Study also showed that Australia's El Niño data from the Bureau of Meteorology from the 1880s were becoming more frequent from the 1980s (Margetts 2007a: 110-1). Australia's Water NCP agreements have been significantly impacted by climate change, which has affected allocations and prompted the need to try to maintain the health of the surface and groundwater systems. However, it could also be argued that making such a major water policy change without taking into consideration the strong likelihood of more frequent and serious drought conditions creates a serious doubt about whether the impacts of the NCP water privatisation agreements were introduced and enforced 'in the public interest'. Public interest could also be seriously challenged if the knowledge of water availability and water use is limited when water licence allocations come to be owned by licensees. This is especially the case if water trading creates financial incentives for water licensees to 'milk dry' their water allocation, even if their regional water supplies are fully or over-allocated.

The WGWRP stated that growing water demand would need additional supplies of water and emphasised the potential to increase water productivity (WGWRP 1994: 6). Thus, it may be assumed that they understood that water trading was likely to increase water demand, especially if it could be used for higher value production. However, in reaching this view, two key issues were overlooked: that in some areas of Australia, water rights had already been over-allocated (WGWRP 1994: 7), and secondly, a range of ecological water problems already existed (and were growing) in regions such as the Murray-Darling Basin, the South West of WA or parts of Tasmania (WGWRP 1994: 2).

The process of the marketisation of water through trade assumed higher productivity, higher value uses and maximum contribution to the national income: all of which should have been properly assessed. However, the contradiction is that water is not a commodity like any other, as it is part of nature.[107] Therefore, water policy should

[107] Maude Barlow explained that as a 'commodity', water was 'the wrong prescription' as there was the 'urgent nature of the water crisis facing the world' (Barlow 2001: 1, **http://www.foodfirst.org/en/node/57**)

provide an emphasis on ecological balance and the protection of nature, which should also have been properly assessed in the water NCP reports on water privatisation.

The policy framework subsequently developed by WGWRP was in accordance with the following principles:

- water resource policy being seen as delivering on the agenda for ecologically sustainable development;
- an integrated catchment management approach to water resource management;
- pricing that reflects the costs of supply and service (including environmental costs) with all government subsidies or community service obligation payments made transparent;
- water being employed in higher value uses, within the social, physical and ecological constraints of catchments;
- consistent approaches to pricing, property rights/entitlements, trading and environmental allocations across jurisdictions;
- institutional arrangements and responsibilities that are clearly defined;
- measures to address the structural and social impact of reform; and
- community involvement in the water reform process (WGWRP 1994: 2).

However, stated water reform objectives by COAG were said to help bring about what they considered 'a more competitive and efficient, integrated national market' (COAG 1994: 1). These objectives included separating water property rights from land titles, that water be used to maximise its contribution to national income (within the social, physical and ecological constraints of catchments) via water trading, and that trading arrangements in water allocations or entitlements should occur no later than 1998 (COAG 1994: 4–5). It is therefore significant to note that in February 1994, 'in the lead up to the [1995] meeting of the Council of Australian Governments, Heads of Governments "agreed" to initiatives in the areas of water resource policy and regulatory reform' (COAG 1995b).

The Water Resource Policy Agreement, which later became part of the NCP agreements, acknowledged the necessity to 'arrest widespread natural resource degradation' (NCC 1997: 75). Social, physical and environmental constraints were

therefore meant to be a precondition to 'allow water to flow to higher value uses', and it was agreed that the environmental requirements needed to be determined by the best scientific information available (NCC 1997: 74). However, as will be noted, that does not mean that adequate water resource data was available before water privatisation occurred (and water trading did not necessarily require an environmental approval). The NCC was given the role to 'assess the progress of States and Territories' (NCC 1999: 267) on the basis of their adjustments to the NCP water 'agreement'. They stated that the NCP water 'strategic framework' included the following commitments:

> - pricing reform based on the principles of consumption-based pricing, full-cost recovery and removal or publication of subsidies and cross-subsidies. For urban water services, the achievement of this reform is to be achieved by 1998 and for rural water by 2001;
> - implementation of water allocations or entitlements, including allocations for the environment as a legitimate water user, separated from land title. This will facilitate trade of water and its reallocation to higher value uses. The strategic framework originally envisaged that arrangements would be in place and considerable progress made by 1998. Environmental allocations for over-allocated or stressed rivers are now required by 2001. Substantial completion of agreed implementation programs is required by 2005. The Council has published State's implementation programs in the assessments;
> - by 1998, the structural separation of the roles of service provision from water resource management, standard setting and regulatory enforcement;
> - future investment in new rural schemes or extensions to existing schemes being undertaken only after appraisal indicates it is economically viable and ecologically sustainable;
> - the implementation of integrated catchment management and water quality guidelines; and
> - educating Australians about the need for water reform and consulting about the way reforms will be implemented (NCC 1999: 267–268).

NCP tranche payments to Australia's States and Territories were to commence in 1997/98, with the second tranche payments to commence in 1999/2000 and the third tranche payment to commence in 2001/02, and from then onwards to 'be made each year' (NCC 1998: 41). This meant that States and Territories could be financially punished on an ongoing basis if they did not push for substantial water trading/privatisation. As shall be seen below, the NCC's 1999 'Tranche Assessment' Water Report and the NWC's *2005 National Competition Policy Assessment Of Water Reform Progress* (2006) pushed heavily for water trading/privatisation by threatening further loss of NCP payments to those States and Territories not performing in this respect. No consideration was made regarding whether the respective governments had

sufficient accurate water use and availability data at the time (or planned for the future) to do so. In regards to 'water entitlements' to provide for NCP-based water trading, the NCC stated:

> There must be comprehensive systems of water entitlements backed by separation of water property rights from land title and clear specification of entitlements in terms of ownership, volume, reliability, transferability and, if appropriate, quality (NCC 1999: 313, 397, 487, 546, 608, 655, 696, 730).

In 1999, the NCC summarised the 'Comprehensive system of water entitlements':

> Victoria, South Australia and the ACT have implemented legislation separating water rights from land title. New South Wales has arrangements that provide for separation in large part, although some water entitlements remain linked to the land; a comprehensive review of water legislation will take place this year. Western Australia has drafted and Tasmania has introduced into Parliament legislation to implement reforms. Queensland has consulted regarding its water law reform proposals and is presently preparing legislation to update existing systems. The Northern Territory has undertaken to amend relevant regulation (NCC 1999: 275).

To encourage water trading/privatisation, in 1999, the NCC stated that 'Arrangements for trading in water entitlements [were required] to be in place by 1998. Water should be used to maximise its contribution to national **income and welfare***'* (NCC 1999: 331, 411, 498, 558, 616, 663, 701, 736, 755; emphasis added).

Tables 7.2 and 7.3 below provide summaries of the NCC (1999) and NWC's (2006) assessments of water privatisation in the Australian States and Territories. It shows how much water privatisation was being pushed.

Table 7.2: NCC's 1999 Assessments of Water Trading/Privatisation

State/Territory/MDBC	Summary of NCC's Comments
New South Wales	Part 2, Division C of the NSW Water Act provides for temporary or unlimited transfer of water allocations where these are measured volumetrically. Part 5 of the Water Act permits temporary and permanent transfer of licences on approval of the Minister. However, the NCC was not yet satisfied that current trading arrangements met the COAG's NCP framework commitments (331–335).
Victoria	For some time, Victoria's Water Act had provided permanent or temporary trading of bulk entitlement between authorities via such means as auction or tender. The Act also permits permanent or temporary interstate transfer of water rights, including the trading of groundwater. There was a prohibition on water trades from high-impact zone areas to non-high-impact zone areas. The NCC continues to monitor developments in Victoria to identify weaknesses and to further the development of interstate trade (411–416).
Queensland	Queensland's *Water Resources Act 1989* permitted temporary water transfers for approximately 10 years, and their draft policy paper proposes enabling water holders to transfer or lease their water to any other persons in accordance with the proposed water transfer rules. Permanent trading arrangements are implemented across larger irrigation districts. The NCC was not satisfied with Queensland's current legislation and undertook an assessment in June 2000 (498 –499).
Western Australia	The proposed amendments to WA's *Rights in Water and Irrigation Act* were to permit the transfer of water licences on transfer of land and/or where there was inadequate water supply to satisfy user requirements. This would require the WA Water and Rivers Commission's approval. However, local rules could prohibit permanent water licence transfer, and the legislative power to transfer licences was not available until 1999. The NCC noted that there was little water trade occurring in WA, but WA explained that water allocation was generally not scarce.[108] Cross-border trading was currently not possible, but the NCC suggested that the proposed trading regime for the Ord project should not impede cross-border trading (558–560).

[108] In 1996, the WA Water Authority, which managed the State's water, was split into the Water Corporation, mostly managing Government water supply, and the Water and Rivers Commission, whose role was to manage non-government water supply. During my period as a WA State Upper House Agricultural Region Member of Parliament with a Water portfolio (2001–2005), the WA Water and Rivers Commission had insufficient funding to fully assess groundwater use and water availability. However, to enable water trading from water licence holders, the Commission encouraged more people to apply for water licences so that the assumed full water 'allocations' could be traded/privatised.

South Australia	The SA 1999 Annual Report states that water trading has been possible since the early 1980s and that their *Water Resources Act 1997* has made clearer the legal basis for water allocations and inter- and intra-state water trading. The Act requires the Minister to permit a water licence transfer once an assessment has taken place. The NCC stated that, consistent with the NCP tranche payment requirements, SA had removed all of their legal or institutional barriers to water trading in prescribed areas. The NCC also noted that more trading was unlikely to occur until water demand increased and the resources became fully allocated (616–617).
Tasmania	At the time of the report, Tasmania's water property rights had not yet been separated from land tenure, but their Water Management Bill provided for all or part of water allocation to be transferred on a temporary or permanent basis, as long as it was consistent with the water management plan at the time. The Minister could also modify or refuse to approve a water transfer if it were to have the potential for a significant impact on the environment. The NCC stated that Tasmania's approach appeared to be consistent with COAG's NCP water policy agreement, but as there was at that time no effective means of trading unregulated water rights and the NCC wanted to ensure the water trades were sustainable, they would conduct an interim report by June 2000 (663–664).
Australian Capital Territory	Section 31 of the ACT's *Water Resources Act 1998* permits the holder of the water allocation to transfer in whole, in part, for a limited time or permanently. However, the approval of the ACT's Environmental Management Authority (EMA) is required. EMA's refusals can be reviewed by the ACT's Administrative Appeals Tribunal. The NCC was satisfied with the ACT's Water Resources Act, but no water trades were taking place at the time of assessment, as the ACT's water resource is not sufficiently scarce. The NCC considered that the ACT's model of water trading met its reform commitments, but it considered that the water trading rules should go beyond the EMA approval prior to the NCP's third tranche payment assessment. A final point is that the NCC wanted further water trade development with NSW (701–702).
Northern Territory	In 1998, the NT's Natural Resources Division of the Department of Lands, Planning and Environment, to ensure an integrated approach to natural resource management and sustainable development, indicated that a Mary River Integrated Catchment Management Plan under a Government-appointed wetlands task force was needed to make beneficial use and water allocation plans. The NCC stated that they would check on how these approaches had been implemented, was satisfied that the NT's second NCP tranche commitments had been met, but would look for continued progress in that area in the third NCP tranche assessment (738–740).

Murray-Darling Basin Commission (MDBC)	The MDBC supported the development of interstate water trade, which first occurred in September 1998. By February 1999, 248 ML had been transferred from NSW to Victoria, 600 ML from Victoria to SA and 528 ML from NSW to SA. The Ministerial Council had agreed in May 1999 to extend their water project to include high-security water entitlements within the pumped districts below Nylah. The NCC stated that they were satisfied with this level of water trading reform, but that they would review the report of the MDBC's project prior to the third NCP tranche payment assessment process (755–756).

Source: NCC 1999

Table 7.3: The NWC's 2005 Assessments of Water Markets and Trading

State/Territory/MDBC	Summary of NWC's Comments
New South Wales	NSW was considered to have steps to build an 'effective' legislative and administrative framework to enable water trading, but the COAG commitment required them to immediately remove all institutional barriers to temporary and permanent trade of water entitlements that were not applied to protect the environment or ensure 'practical' management of trading. Therefore, to meet the COAG commitments, NSW was required to ensure any water trading rules that presented potential barriers be removed or amended, unless they could provide a 'robust' public benefit case for their continuance (iv).
Victoria	Victoria's legislation to facilitate inter- and intra-state water trading was in place, but the legislative reforms would not be implemented until 2007. The NWC claimed that Victoria was introducing a new and potentially entrenched barrier to trade, despite the COAG commitments to 'remove trade barriers'. The NWC urged Victoria to remove the barriers (ix).
Queensland	Queensland was considered to have made some progress towards COAG's commitments on water trading, but although having established a legislative regime to enable permanent intra-state trading, Queensland remained in the early stages of implementing administrative arrangements for water trading. The NWC stated that they were seriously concerned that the continued delays limited permanent water trading in the State to meet its COAG commitments (xiii).
Western Australia	WA was considered to have not completed its water-planning program as 'agreed' in 1999 and updated for the 2004 NCP assessment. However, NWC considered that WA had made some progress towards meeting its commitments to water markets and trading, as it had removed some restrictions to water trade via amendments in the *Rights in Water and Irrigation Act 1914* in 2001. However, the NWC expressed concern that a response not to separate water from land would be inconsistent to WA's COAG commitments and they also expressed concern about the level of Government intervention in the market where approval/disapproval was considered to be based on grounds other than environmental or third-party concerns (xvi-xvii).

South Australia	SA was considered to have made satisfactory progress towards its COAG commitments and had taken steps to build an effective legislative and administrative framework to enable water trading. The State had also removed institutional barriers to intra-state water trading. However, SA's continued 20 per cent reduction factor to water allocations in the North Adelaide Plains was considered a reduction in water trade, so the NWC considered that SA needed to complete an assessment in water extraction limits as soon as possible (xviii-xix).
Tasmania	Tasmania was a late signatory to the COAG water commitments and was considered by the NWC to be making significant progress to meeting its COAG water trading commitments, having established legislative and administrative arrangements for water trading. However, the approval of registered third parties was considered to be required before a trade could proceed (xxiii).
Australian Capital Territory	The ACT was considered to have made satisfactory progress towards its COAG water commitments. However, the NWC stated that the ACT had not developed specific trading rules to manage the potential impacts of trade on the environment, so they considered that specific arrangements needed to be developed (xxv-xxvi).
Northern Territory	The NT was considered to have made satisfactory progress to meet its COAG commitments in water trading and NWC considered that 'effective legislative arrangements for temporary and permanent intra-territory water trading had been established (xxix).
Murray-Darling Basin Commission	The MDBC had continued to promote the expansion of permanent interstate trade in the southern Murray-Darling Basin, and a pilot project had enabled some trading between NSW, Victoria and SA. The NWC indicated it was concerned that inconsistencies in the 'Principles for the Development of Access and Exit Fees' could lead to significant differences in outcomes in the size and impacts of exit fees. The MDBC also indicated that it was close to finalising amendments to the Murray-Darling Basin agreement, which was required from the COAG agreement (xxxi).

Source: NWC 2006

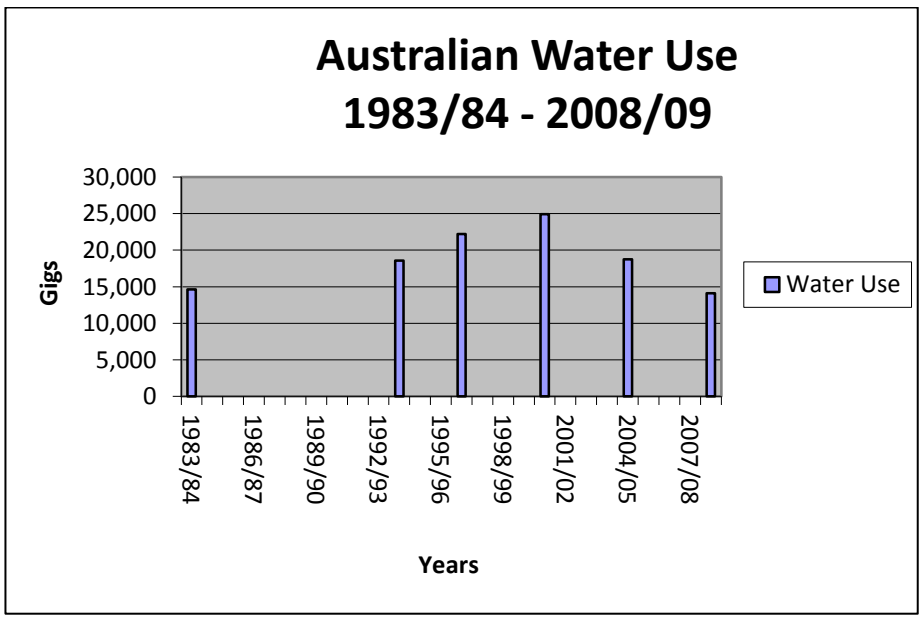
It is important to note that neither the NCC nor the NWC (which took over water assessment from the NCC from March 2005) mentioned the word 'privatisation', but rather required water allocations to be separated from the ownership of land to enable the highest levels of water sales and trading. Tracking the reasons behind the development of water privatisation illustrates the required debates and assessments between water as another facet of NCP as part of corporate globalisation, and assessing the public interests of climate change and the availability of quality water resulting from this major policy change. As discussed in the next section, this debate is even more evident when considering the development of this policy in the absence of adequate information about water usage and supply. Earlier in this section, the 1995 split between WA's Water Corporation and the Water and Rivers Commission was mentioned. It should also be noted that the NCP pushed for

corporatisation/privatisation of public sectors in all of the other States. In January 1995, Sydney Water was corporatized and Melbourne Water was split into a head works corporation and three retail businesses. Both the SA Water and the 'body running' ACT Water was corporatized in July that same year and in January 1996 'Adelaide's water and wastewater services were outsourced to a private consortium' (Fullerton 2001: 40 quoting from Don Blackmore's speech at the 1996 World Bank Conference).

Australian Water Use Data

Prior to the implementation of Australia's NCP Water Policy agreement between the Commonwealth and the States and Territories in 1994 (the main principles of which are summarised above, in the first section of this chapter), the national assessment of Australia's water use had been limited. In 1998 (the year by which the NCP Water Agreement had aimed to have completely nationalised water trading), an international biennial report on the world's water resources showed that Australia's freshwater data dated to 1985. Of the 161 listed nations in the report, the water use data from only six (less developed) countries (Swaziland 1980, Mauritius 1974, Mauritania 1985, Madagascar 1984 and Djibouti 1973) were as out-dated as, or worse than, the available data for Australia (Gleick 1998: 244).

Figure 7.1: Gaps in Water Use Data



Sources: Fullerton 2001: 5, ABS 2012a

The ABS Australia water use data, as can be seen above, was not annually available, and the lack of clear updated data on water availability and water use makes it difficult

to allocate water to enable private future water ownership and water trading. As can be noted from Figure 7.1, according to the Commonwealth Water Resources Assessment 2000, Australia's water use had increased from 14,642 gigalitres in 1983/84 to 24,000 gigalitres by 1996/97 (Fullerton 2001: 5). Water use continued to grow, reaching 24,909 gigalitres in 2000/01. However, by 2004/05, it had dropped to 18,767 gigalitres, and had dropped further in 2008/09 to 14,101 gigalitres (ABS, 1998, 2004, 2006, 2010).

Data recorded up to 30 November 2010 for secured water purchases in the Murray-Darling Basin aiming to restore the river balance show that there were 937.3 gigalitres purchased, of which 656.6 gigalitres was expected to be available for the environment (Australian Government Department of Sustainability, Environment, Water, Population and Communities 2010). The Murray-Darling Basin is by far the largest irrigation source in Australia and affects Queensland, New South Wales, Victoria and South Australia. The Sustainable Rivers Audit by the Murray-Darling Basin Commission (MDBC) health ratings for the Murray-Darling Basin were realised in May 2008. As shown in Table 7.4 below, the ratings were serious.

Table 7.4: Murray-Darling Basin Health Ratings

Catchment	**MDBC Sustainable Rivers Audit Health Rating**
Queensland	
Queensland Border Rivers	Moderate
New South Wales	
Gwydir	Poor
Barwon-Darling	Poor
Warrego	Poor
Namoi	Poor
Macquarie	Very Poor
Lachlan	Very Poor
Murrumbidgee	Very Poor
Murray	Poor, Very Poor
Victoria	
Campaspe	Very Poor
Goulburn - Broken	Very Poor
Loddon	Very Poor
Ovens	Poor
Murray	Poor, Very Poor
South Australia	
Murray	Poor, Very Poor

Source: Australian Government Department of Sustainability, Environment, Water, Population and Communities 2011

In addition to annually published data on water use and water availability, other data critical to assess water use is the amount of water disposed of or wasted by sectors such as the mining industry. Mining water use is only around 2 per cent of Australia's water usage (NWC 2010). However, mining water disposal and the impacts of mining industry water disposal/wastage were not referred to in the Water NCP Agreement.

The delivery of the agenda for the Water NCP Agreement claimed to include 'ecologically sustainable development' and maintaining 'the viability of river systems and groundwater basins' (COAG 1994: 2). However, in helping to develop the NCP Water Agreements, the WGWRP claimed that, for rural water services, the institutional roles and responsibilities for the operational responsibility and control of irrigation services could be devolved (WGWRP 1994: 4). They subsequently advocated greater commercialisation and corporatisation on the basis that corporations were able to operate at 'arm's length' from direct government control (WGWRP 1994: 12). However, to attempt to be mutually effective and/or sustainable, allocating water for rivers and groundwater systems during a period of growing water shortage, at the same time as privatising water through licence allocations, requires strong regulatory control rather than just free-market conditions. This is especially true in the absence of effective annual data on water resources and water use by licensees at the time regional water trading was allowed. Generally, if water in a region is considered fully allocated by water licensing, once land ownership and water licensing are separated, water trading/privatisation generally became possible, unless there are approved and significant environmental problems to be considered, as mentioned above.

However, it is important to note that in COAG's 1994 NCP Water Resources Policy 'agreement', in relation to water allocations, in determining allocations, 'reliable water use' and 'legitimate use of water' were required to guarantee the entitlement of water licence holders (COAG 1994: 1). The significance of this is that water licence allocations were not fully used by many licence holders, and a range of those with land/water licences were not using their water allocations. Thus, for those who wished to trade all of their water allocations and/or to have the ability to make money by trading their water allocations in the future, they felt the need to use most of their licence allocations to avoid having any of their water allocations removed. Over-extraction was noted as a serious issue for the Murray-Darling water system in New

South Wales, Victoria and South Australia, where, from 1994, 'the amount of water being extracted from the system was increasing at an alarming rate (Fullerton 2001: 89).

However, following privatisation and the permitting of water trading, water license allocations have generally needed to be temporarily reduced across regions during drought conditions for the survival of river and groundwater systems. The Department of Sustainability, Environment, Water, Population and Communities has been offering taxpayers' money to more permanently reduce water over-allocations through purchasing water allocations from those licensees struggling to survive or otherwise prepared to sell all or part of their water allocations. For example, the Federal Government has so far committed $3.1 billion over 10 years to purchase water in the Murray-Darling Basin. This means that the public have to provide funds for the Federal Government to purchase overused water licence allocations, which were not originally purchased from the Government but were allocated to land holders in districts with available water. This provides a serious challenge to the assumed 'ecological and economic objectives' (NCC 1999: 266) of NCP water trading/privatisation.

In summary, the development of water policy was determined in the absence of an effective repository of data about water usage, water wastage (especially by critical industries sectors such as the mining industry) and water availability. Yet, despite the lack of adequate data on water usage and availability, the separation of water property rights from land to enable water trading also required 'legitimate use of water' (COAG 1994: 1). This resulted in those who were using less than their allocations to increase their water use to keep their level of water licence allocations in major water regions of the Murray-Darling Basin. They did so to protect their right to trade their allocation in the future, despite the fact that the overall water licence resources were 'over-allocated' (Fullerton 2001: 142) prior to the NCP Water Agreement that supported water trading. This raises questions about the efficacy and viability of the water policy that was subsequently developed, especially with regard to whether the 'public interest' test could ever be met in real terms.

Evaluating the Impact

As summarised earlier in this chapter, in 2005, the NCP assessment of water reform progress by the NWC concluded that the MDBC, NSW and WA were not meeting their

COAG commitments. Specifically, the NWC was dissatisfied with the failure to meet specific COAG commitments in the southern Murray-Darling Basin in parts of New South Wales, Victoria and South Australia; the manner in which New South Wales was dealing with its water planning, addressing over-allocated and/or unused water systems; and the limitations of WA's compliance with its COAG commitments in relation to water planning and addressing over-allocated and/or overused water systems (NWC 2006: ii). WA's COAG environmental commitments were not assessed, as the State had not met its overall COAG water trading commitments. This says much more about the inadequate environmental goals of the COAG water agreements than it does about their public benefits, as both the NCC (1999) and the NWC (2006) assessments of the NCO 'water reform progress' were pushing for NCP/COAG water policy directions, but neither was assessing whether the NCP water policy impacts were in the public interest.

A serious intent by the Australian Government to ensure the ecological sustainability of water policy would be reflected in their making sure that Federal, State and Territory governments were adequately informed of the quality and quantity of Australia's water resources. In addition, the Government would guarantee the metering of water use by regional water licensees by regional water authorities. Such data is critical in informing ongoing assessments of the impacts of water trading in fully (or over) allocated water regions.

The study of the world's fresh water resources is becoming more widespread. In 2002, Canadians Maude Barlow and Tony Clarke highlighted that, prior to the 1990s, the international study of fresh water was left to highly specialised groups of experts (such as hydrologists, engineers, scientists, city planners and weather forecasters and others with niche interests). They also noted that, in the following decade, a growing number of groups, such as the Worldwatch Institute, the World Resources Institute, the UN Environment Program, International Rivers Network, Greenpeace, the Clean Water Network, Sierra Club and Friends of the Earth, were emphasising the dire nature of the global fresh water crisis, as a threat to the survival of the planet (Barlow & Clark 2002: xii). Barlow and Clark further noted that Australia's per capita water consumption was similar to that of Europe (694 cubic metres of water per year), and that the developed countries in both the northern hemisphere and Australia were responsible for a disproportional amount of 'water depleting consumerism' (Barlow & Clark 2002: 57).

In 2004, the Australian Government introduced a new NWI, which was described by the NWC as Australia's enduring blueprint for water reform, to endeavour to improve and nationalise the manner in which Australia managed, measured, planned for, priced and traded water (NWC 2004).

The stated Government commitments of the NWI were to:

- prepare water plans with provision for the environment
- deal with over-allocated or stressed water systems
- introduce registers of water rights and standards for water accounting
- expand the trade in water
- improve pricing for water storage and delivery
- meet and manage urban water demands (NWC 2004a)

The NWI also acknowledged the necessity to return the existing over-allocated or overused systems to environmentally sustainable levels of extraction (NWC 2004b). This agreement, which was largely based on the Murray-Darling Basin, was agreed by the Australian Commonwealth and the Governments of New South Wales, Victoria, Queensland, South Australia, the ACT and NT on 25 June 2004 (PC 2006: iii) and was only signed by Tasmania in 2005 and WA in 2006. It aimed to complete the return of all currently over-allocated or overused systems to environmentally sustainable levels of extraction, and called for 'substantial progress in that direction by 2010'. However, the agreement advocated further water trading, without adequately assessing past impacts of water trading.

In 2009, the NWC reported that water metering for Australian irrigators was still very limited and that, although new metering plans were being developed, 'resource constraints' were likely to reduce the NWC's ability to 'deliver expanded and accurate metering' to achieve their assumed planned benefits. Thus, the knowledge of how much water was being used at certain times by individual irrigators remained quite limited (NWC 2009: vii).

The Australian Water Reform report further stated that:

> Progress towards achieving [the objective of ensuring the health of river and groundwater systems] has been disappointing. Moreover, the risk of irreversible environmental damage has intensified as a result of drought and ongoing climate

> change … [and]…On the basis of this Biennial Assessment, the Commission is disappointed to conclude that this central requirement of water reform will not be met. All reviewed water plans that identify over-allocated or overused systems included pathways to return those systems environmentally sustainable levels of extraction, but very few, if any, such systems have been successfully transitioned to within sustainable extraction limits (NWC 2009: viii-ix).

Although the NCP Water Agreement was signed in 1994, it was not until the passing of the *Federal Water Act 2007* that moneys were budgeted to assess and enable the publication of national data on Australia's water resources and water use. The Federal Bureau of Meteorology was funded to assess Australia's water resources and water use. Due to the lack of proper water assessment across Australia for so many years, the Bureau's first Australian Water Resources Assessment Report provides data primarily from 2009 and 2010, which makes it difficult to assess the impacts of water privatisation adequately. The Bureau of Meteorology admits that 'National coverage of groundwater status in all major groundwater management units was not possible in the report due to the limited amount of quality controlled data available in a suitable form at Bureau' (Australian Government Bureau of Meteorology 2010: 5). There has been no assessment of the impacts of mining water loss at all. This is quite significant as the aim of the NCP Water Agreement, to remove all barriers to water trading by 1998, was devised without adequate research having been done on water availability and water use. Clearly, this aim is yet to be reached.

In summary, the NCP assessments on 'Water Reform Progress' were not public interest assessments of the NCP water reform, or the impacts of water availability and water use. Rather, they were mostly assessments of whether the States and Territories had met the COAG goals for water trading.

Conclusion

Water trading was not introduced in WA until late 2010. Even at this time, available data on the impacts of water trading were limited. Data from other Australian States and regions, regularly published to show the impacts of water trading and the significance of 'use-it-or-lose it' water licence conditions, would have been useful in allowing for a more informed and vibrant public debate about the impacts of water privatisation and water trading. This would have led to a more grounded decision as to whether water trading was in the public interest.

NCP supporter Bronwen Morgan has been arguing for worldwide water privatisation to help encourage wider international support for domestic corporate globalisation policies such as NCP for years. Maude Barlow, former Senior Advisor on Water to the United Nations General Assembly, has been very outspoken in her critique of the joint impacts of water privatisation and climate change in Australia (Barlow 2009). Barlow's critique includes:

- Australia, the driest continent on earth, is facing a severe shortage of water in all of its major cities;
- The impacts of climate change include both accelerated drought and freak storms;
- Annual rainfall is declining, and salinity and desertification are spreading rapidly;
- Rivers are being drained at an unsustainable rate;
- More than one quarter of all water management regions now exceed sustainable limits (Barlow 2007: 3–4);
- Groundwater extraction is being over pumped (Barlow 2007: 13); and
- Australian politicians have been in denial about the seriousness of the water crisis (Barlow 2007: 114)

It appears that 'the Council of Canadians', which Barlow Chairs, is fighting for a contrary position based on the struggle for social justice against the logic of corporate dominated globalisation, free trade and major issues such as water privatisation. However, in Australia, there has been virtually no public explanation or assessment of the impacts of the 1994 Water NCP agreement. Accurate, annually published water data over the last two decades would have enabled ongoing and regular assessments of the impacts of water privatisation and water trading in Australian regions.

However, as the Australian Senate Economics Committee noted in 2010, there is an absence of adequate data; it is upon this flawed data that decisions continue to be made within Government. In their Dairy Inquiry report, the Committee recommended that an assessment of the impacts of NCP be commissioned by the Federal Government (Senate Economics Committee 2010). If Australia's Water NCP Agreement is found to have decisions that are contrary to the public interest, it will provide an even stronger

incentive for a broad assessment of the impacts of NCP in Australia and may enable a better global assessment of the impacts of water privatisation.

Chapter 8: Conclusion

Through empirically testing the claims of NCP over actual outcomes, the thesis has sought to de-legitimize those ideological assertions of the public interest being represented in the restructuring of dairy, retail and water. Contrary to the Federal Government's claims that the changes are a response to society's needs, quite the opposite is occurring. Society – families and local communities – are being destroyed in a Polanyian sense. Every dairy farmer who is forced off the land, every family farm which is broken by the power of the corporate retail chains, can make it more difficult for the survival of small towns and communities, hence the thesis contentions are not abstract politics – they represent an attempt to make visible what has to date remained invisible and absent in the discourse.

The empirical analysis underpinning the Case Studies also brings into sharp focus diverse conceptions of freedom. As a result of NCP and the radical deregulation of trade, investment and finance, Australia is ranked third on the Heritage Foundation's 'Freedom Index'. In 1995, the conservative Washington-based Heritage Foundation and the Wall Street Journal began publishing an 'Index of Economic Freedom'. The Heritage Foundation, founded in 1973, claims as its mission to 'formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defence' (Heritage Foundation 2012a). Their neo-liberal assessment of 'Economic Freedom' was based on: 'Business Freedom', 'Trade Freedom', 'Fiscal Freedom', 'Government Spending', Monetary Freedom', 'Investment Freedom', 'Financial Freedom', 'Property Rights', Freedom from Corruption' and 'Labour Freedom'. This right wing think tank ranks Australia as the third most economically free country in the world.

In Chapter 3, Hayek's individualist notion of freedom was not only to oppose the socialist tradition but to oppose the economic interventions of John Maynard Keynes. In contrast to the Hayek conception, like Harvey, freedom in this work is defined as human emancipation, which is grounded on the right to economic security.

The overarching aim of this thesis is to challenge the veracity of NCP sectoral restructuring, presented under the guise of economic freedom when in reality all that

they represented was the freedom of corporations to enter new spheres of activity unimpeded by state regulation. Chapter 2 outlines how the methodology underpinning the analysis was shaped by Anderson's (2004: 142) guidelines on the use of Political Economy as a method of critique. Anderson stressed the importance of deferring judgements, explaining the historical and institutional context, applying group or class interest analysis, identifying the argument (including ideologically charged concepts), and critically analysing the theory claims. He also emphasised the importance of analysing the value distribution by identifying any distributional issue embedded in social relationships and explaining the impacts on effective groups and classes. I have attempted to apply this orientation to my case study research judgement by applying the above considerations to form a conclusion.

Chapter 3 explained the basis of the Political Economy of NCP. In summarising the development of NCP in Australia, a critical stance to this particular form of market driven micro restructuring of particular sectors was embraced. The chapter seeks to demonstrate how the critique is grounded in the theoretical interventions of Marx, Polanyi, Harvey, Keynes and JK Galbraith, whose diverse contributions threw light on different facets of NCP restructuring. This diverse range of critiques, some at odds with the other, nevertheless has offered something of a counter point to the narrowness of neo-classical market theory formulated by neoliberal theorists von Hayek and Milton Friedman who led the deregulation charge in the name of economic freedom which aimed at masking the freedom of raw corporate market power. In the final sections of this chapter these theoretical interventions are grounded in the Australian reality. Pusey (1992) demonstrates how a growing number of Australia's senior bureaucrats pushed for 'economic rationalism' during the Hawke/Keating Labor Government (1983-1996). This represents a radical embrace of the free market (free trade/investment/finance). I seek to demonstrate that Hilmer, a major architect of NCP, aimed at grounding these big changes at the micro level of sectors of NCP.

Chapter 4 then considered how these micro-micro-economic market changes were rationalized as representing the 'public interest'. This had been a cornerstone in the ideological justification of NCP without being represented by, or fairly explained to the public (society) but by large corporate interests in the name of freedom. In Chapter 5, the deregulation of the dairy industry in Australia is analysed as having been placed under the blow torch of competition policy. Hilmer is Australia's Milton Friedman in

his almost messianic commitment to market restructuring. He stated there should be no 'regulatory restriction on competition unless clearly demonstrated to be in the public interest (Hilmer *et al*. 1993:190) but the vaguely defined public interest was never a defence against a determined neoliberal government. The state--based Statutory Marketing Authorities in dairy were abolished in the year 2000, which removed the ability of the states to effectively negotiate prices for market milk to ensure reliable dairy supply. The farmgate milk prices began to disconnect with the retail milk pricing (ABS, ABARE 2005c). The farmgate market milk prices were seriously reduced. I concluded that the NCP public interest test should have taken into account legislation and policies relating to ecologically sustainable development, social welfare and equity considerations, the impacts on economic and regional development, the interest of consumers the competitiveness of Australian business and the efficient allocations resources (Margetts (2001: 56). The Senate Economics References Committee report (2010) took my submission and my Dairy Case Study publications (Margetts 2007a, 2007b) seriously once the major Australian supermarkets began significantly reducing their homebrand milk products without providing fair farmgate prices to dairy farmers not only because of the removal of the Statutory Marketing Authority.

Chapter 6 noted former Labor Prime Minister Kevin Rudd criticised 'neo-liberalism' and 'anti-regulation' (Rudd 2009: 25, 28, 29) without acknowledging the role played by the Hawke/Keating Labor Government in producing NCP. Despite the increased corporate market dominance, the NCC had done all they could to force the Australian States and Territories to deregulate retail trading hours, which with greater market dominance has resulted in growing damage to small and independent retail competitors and retail suppliers as the major retailers can use price discrimination to force suppliers to reduce their prices in an unfair manner. The ACCC avoided assessing the impacts of NCP on the Australian retail sector and did all they could to avoid proper assessment of the impacts of the market dominance of the major retail sector.

Chapter 7 explained why the NCP Water Policy 'Agreement' was made before the 1995 NCP COAG 'Agreement' in order to avoid a major public critique of NCP. WGWRP (1994) wrongly assumed that privatisation (of over allocated water) would provide higher productivity and did not explain how the impacts of climate change would be exacerbated by water trading/privatisation. Australia's water resource data was more outdated than most other developed countries in the world (Gleik 1998: 244). Western

Australia had been more reluctant than most Australian States and Territories to sign the NCP water 'Agreement' but as they were continually threatened with the loss of their NCP 'tranche payments', they finally signed the 'Agreement' in 2006 despite the increasing water shortage in WA. Maude Barlow, the Former Senior Advisor on Water to the United Nations General Assembly explained that Australian politicians have been in denial over the seriousness of Australia's water crisis (Barlow 2007: 114). Following the three Case Studies, Chapter 8 provided examples of the necessity for proper assessment of how NCP accelerated the outsourcing/privatisation of public services in Australia.

In conclusion, this thesis has tried to expose the flawed nature of NCP in Australia, which claimed to create conditions for 'contestability', thereby promoting competition between companies so as to secure the public interest, as the Case Studies demonstrate, quite the opposite has occurred. The policies have in fact favoured the large corporations and undermined smaller businesses such as family farms, and family businesses in the retail sector. A genuine NCP would need to be based on an understanding of the way in which the process of capital accumulation leads to a concentration of corporate power over economic sectors and hence over society itself. This thesis hopes that by demonstrating the gap between the claims of NCP and the actual negative impacts of the policy, the centralizing, anti-democratic process of capital accumulation might be recognised as a destructive social force that needs a genuine state intervention on the side of society. It is important to recall that for many years JK Galbraith advised the world that economic deregulation and corporate market dominance was not in the public interest. This thesis therefore hopes to stimulate debate and political action to reintegrate social justice into policy intervention in ways which recognise how environmental impacts and economic assets can be better protected and how society can be more properly defended against the market power of corporate globalisation.

References

ABARE, 2000, *Australian Food Statistics 2000*, Australian Government Department Agriculture, Fisheries and Forestry, Commonwealth of Australia.

ABARE, 2001, *Australian Food Statistics 2001*, Australian Government Department Agriculture, Fisheries and Forestry, Commonwealth of Australia.

ABARE, 2002, *Australian Food Statistics 2002*, Australian Government Department Agriculture, Fisheries and Forestry, Commonwealth of Australia.

ABARE, 2003a, *Australian Dairy Industry 03.1, Productivity and Profit*, December, viewed 5 November 2011, <http://adl.brs.gov.au/data/warehouse/pe_abarebrs99001027/PC12658.pdf>.

ABARE, 2003b, *Australian Food Statistics 2003*, Australian Government Department Agriculture, Fisheries and Forestry, Commonwealth of Australia.

ABARE, 2004a, *Australian Dairy 04.1, Production Systems, Productivity and Profit*, September, viewed 5 November 2011, http://adl.brs.gov.au/data/warehouse/pe_abarebrs99001099/PC12807.pdf>.

ABARE, 2005a, *Australian Dairy 05.1, P*r*oduction Systems, Productivity and Profit*, December, viewed 5 November 2011, http://adl.brs.gov.au/data/warehouse/pe_abarebrs99001219/pc13318.pdf>.

ABARE, 2005b, *Australian Food Statistics 2004*, Australian Government Department Agriculture, Fisheries and Forestry, Commonwealth of Australia.

ABARE, 2005c, *Australian Food Statistics 2005*, Australian Government Department Agriculture, Fisheries and Forestry, Commonwealth of Australia.

ABARE, 2010, *Australian Commodities, March quarter 2010, vol. 17, no. 1*, Commonwealth of Australia, Canberra, ACT.

ABARES, 2012, *Agricultural commodities, March quarter 2012, vol. 2, no. 1*, Commonwealth of Australia, Canberra, ACT.

ABC, 2010, viewed at <http://www.abc.net.au/rural/news/content/2010007/s2967922.htm>.

ABC News, 2007, 'Rudd promises grocery prices inquiry', 11 July, viewed 6 May 2010, <http://www.abc.net.au/news/stories/2007/07/11/1975344.htm>.

ABC News, 2012, 'ACCC urges grocery suppliers to speak out', 8 March, viewed 4 May 2012, <http://www.abc.net.au/news/2012-03-08/accc-urges-supermarket-suppliers-to-speak-out/3876234>.

ABS, 2004, *4430.0—Disability, ageing and carers, Australia: summary of findings*, viewed 10 June 2010, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4430.02003?OpenDocument>.

ABS, 2006, *4618.0—Water Use on Australian Farms, 2004-05,* viewed at, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4618.02004-05?OpenDocument>.

ABS, 2007, *5260.0.55.002—Experimental Estimates of Industry Multifactor Productivity, 2007-08,* viewed 9 June 2009 and 20 November 2011, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5260.0.55.0022007-08?OpenDocument>.

ABS, 2012a, *4610.0—Water Account, Australia, 2009-10,* viewed 2 December 2012, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4610.02009-10?OpenDocument>.

ABS 2012b, 5206.0—Australian National Accounts: National income, expenditure and product, viewed at http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5206.0Mar%202012.

ACCC, 2001, *Impact of farmgate deregulation on the Australian milk industry: Study of prices, costs and profits,* viewed 16 January 2007, <http://www.accc.gov.au/content/index.phtml/itemId/306304>.

ACCC, 2007, *Examination of the prices paid to farmers for livestock and the prices paid by Australian consumers for red meat: A report to the Minster for Agriculture, Fisheries and Forestry*, viewed at <http://www.accc.gov.au/content/index.phtml/itemId/780673>.

ACCC, 2008a, *ACCC inquiry into the competitiveness of retail prices for standard groceries: issues paper*, 11 February, viewed February 2008, <http://www.accc.gov.au/content/item.phtml?itemId=810188&nodeId=dc1ce5afe79a385b16a192cd7bb3c300&fn=Issues%20paper%E2%80%9411%20Feb%2008.pdf>.

ACCC, 2008b, 'Submissions received by the ACCC', viewed at <http://www.accc.gov.au/content/index.phtml/itemId/810417>.

ACCC, 2008c, *Late submissions received by the ACCC*, viewed at <http://www.accc.gov.au/content/index.phtml/itemId/812748>.

ACCC, 2008d, *Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries*, viewed August 2008, <www.accc.gov.au/content/index.phtml?itemId=838251>.

Administrative Review Council, 1997, *The contracting out of government services: issues paper*, February, AGPS, Canberra.

Allan, R, Lindesay, J & Parker D 1996, *El Niño: Southern Oscillation and Climate Variability*, CSIRO, Collingwood, Victoria.

Anderson, J 2004, *Kin, cows and capital: dairy industry deregulation and the maintenance of farming traditions in the Atherton Tableland, Australia*, PhD Thesis, University of Western Australia.

Anderson, T 2004, 'Some Thoughts on Methods in Political Economy', *Journal of Australian Political Economy*, vol. 54, pp. 135–145.

Aus Food News, 2011, *Milk wars kick Parmalat prices down* – viewed 5 March 2012 - **http://www.ausfoodnews.com.au/2011/06/16/milk-wars-kick-parmalat-farmgate-prices-down.html**

Australian Beef Association, 2008, *Public submission to ACCC grocery inquiry*, Submission No 146, viewed 5 November 2009, <http://www.accc.gov.au/content/item.phtml?itemId=813748&nodeId=d88ecdcd4d3c24233ac11b2d91c501c9&fn=146%20%28late%2019%20Mar%29%20-%20Australian%20Beef%20Association%20%2813%20pages%29.pdf>.

Australian Dairy Industry Council, 1992, *Submission to the Independent Inquiry into National Competition Policy*, ADIC Melbourne.

Australian Government Bureau of Meteorology, 2010, *Australian Water Resources Assessment: Summary Report*, Bureau of Meteorology, Melbourne.

Australian Government Bureau of Meteorology, n.d., *The long El Nino—1991 through 1995*, viewed 11 August 2006, <http://www.bom.gov.au/lam/climate/levelthree/c20thc/drought5.htm>.

Australian Government Bureau of Meteorology, n.d., *S.O.I. (Southern Oscillation Index) archives—1876 to* present, viewed 11 August 2006, <http://www.bom.gov.au/climate/current/soihtm1.shtml>.

Australian Government Department of Sustainability, Environment, Water, Population and Communities, 2011, *Fact sheet: environmental water recovery*, viewed 4 February 2011, <http://www.environment.gov.au/water/policy-programs/entitlement-purchasing/pubs/irrigator-recovery.pdf>.

Australian Government Department of Sustainability, Environment, Water, Population and Communities, 2010, *Progress of water recovery under the restoring the balance in the Murray-Darling basin program*, viewed 13 December 2010, <http://www.environment.gov.au/water/policy-programs/entitlement-purchasing/2008-09.htm>.

Bade, R & Parkin, M 2001, *Foundations of microeconomics*, Addison Paperback, Wesley.

Baker, RGV 2002, 'The Impact of the Deregulation of Retail Hours on Shopping Trip Patterns in a Mall Hierarchy: An application of the RASTT model to the Sydney Project (1980–1998) and the global vacant shop problem', *Journal of Retailing and Consumer Services*, vol. 9, no. 3, pp. 155–171.

Baker, RGV & Marshall, DC 1998, 'The Hilmer Paradox: Evidence from the Australian retail grocery industry', *Urban Policy and Research*, vol. 16, no. 4.

Bankwest, 2011, 'Bankwest financial fitness index', viewed 5 April 2011, <http://www.bankwest.com.au/media-centre/financial-indicator-series/bankwest-financial-fitness-index-1292482641354#>.

Barlow, M & Clark, T 2002, *Blue Gold—The Fight to Stop Corporate Theft of the World's Water*, The New Press, New York.

Barlow, M 2007, *Blue Covenant—The Global Water Crisis and the Coming Battle for the Right to Water*, The New Press, New York.

Barlow, M 2009, *Notes for opening keynote Australian water summit, 1 April 2009*, viewed 25 November 2010, <http://blogs.abc.net.au/sa/files/KEYNOTE-AWS2009.pdf>.

Baumol, W 1977, 'On the Proper Cost Tests for Natural Monopoly', *Bell Journal of Economics*, vol. 8, no. 1, pp. 1–22.

Baumol, W 1982a, 'Contestable Markets: An Uprising Theory of Industry Structure', *American Economic Review*, vol. 72, no. 1, pp. 1–15.

Baumol, W & Bradford D 1970, 'Optimal Departures from Marginal Cost Pricing', *American Economic Review*, vol. 60, no. 3, pp. 265–283.

Baumol, W, Panzar, J & Willig, R 1982b, *Contestable Markets and the Theory of Industry Structure*, Harcourt Brace Jovanovich, Inc, New York.

Bouman, J 2011, Principles of Microeconomics, viewed 19 April 2011, <http://www.inflateourmind.com>.

Bowen, C 2008, *News conference: ACCC inquiry into grocery prices, inflation*, viewed 22 January 2008,

<http://www.treasurer.gov.au/DisplayDocs.aspx?doc=transcripts/2008/002.htm&pageID=0048min=ceb&Year&DocType=2>.

Beare, S & Heaney, A 2001, *Irrigation, Water Quality and Water Rights in the Murray-Darling Basin, Australia*, ABARE, Conference Paper 2001.15.

Brätland, J 2004, 'Contestable Market Theory as a Regulatory Framework: An Austrian Post-mortem', *Quarterly Journal of Austrian Economics*, vol. 7, no. 3, pp. 3–28.

Bray, M, Waring, P & Cooper, R 2009, *Employment Relations: Theory and Practice*, McGraw-Hill, Sydney.

Bryan, D & Rafferty M 1999, *The Global Economy in Australia—Global Integration and National Economic Policy*, Allen & Unwin, St Leonards, NSW.

Burdick, J, Oxhorn, P & Roberts, KM (eds.) 2009, *Beyond Neoliberalism in Latin America*, Palgrave MacMillan, New York.

Burgess J & MacDonald, D 1999, 'Outsourcing, Employment and Industrial Relations in the Public Sector', *Economic and Labour Relations Review*, vol. 10, no. 1, pp. 36–55.

Callinicos, A 2003, *Anti-Capitalist Manifesto*, Polity Press, Cambridge, UK.

Cameron, M 1996, 'Growing gap between rich and poor', *Green Left*, viewed 5 April 2011, <http://www.greenleft.org.au/node/11170>.

Capling, A 2001, *Australia and the Global Trade System: from Havana to Seattle*, Cambridge University Press, Cambridge, UK.

Capling, A & Galligan B 1992, *Beyond the Protective State: The Political Economy of Australia's Manufacturing and Industry Policy*, Press Syndicate of the University of Cambridge, Cambridge, UK.

Cater, M (ed) 1998, *Public Interest in the National Competition Policy Implementation Issues – Getting it Right*, Public Sector Research Centre Seminar Paper No 23, The University of New South Wales

Catley, Robert 1996, *Globalising Australian Capitalism*, Press Syndicate of the University of Cambridge, Cambridge, UK.

Churchman, Susan 1996, 'National Competition Policy—Its Evolution and Implementation: A Study in Intergovernmental Relations', *Australian Journal of Public Administration*, vol. 55, no. 2, pp. 97–99.

Clark, Gregory 2008, 'Reconsiderations; 'The Great Transformation' by Karl Polanyi'. *The New York Sun*, - **http://www.nysun.com/arts/reconsiderations-the-great-transformation-by-karl/79250/** - viewed 26/09/2012

Cleary, P, 2011, *Too Much Luck: The Mining Boom and Australia's Future*, Black Inc., Collingwood, Vic.

Cockett, R 1995, *Thinking the Unthinkable: Think-tanks and the Economic Counter-revolution, 1931-1983*, Fontana Press, London.

Cocklin, Chris & Dibden, Jaqui 2002, Taking Stock: Farmers' Reflections on the Deregulation of Australian Dairying, *Australian GeoFigureer*, vol. 33, no. 1, pp. 29–42.

Commonwealth of Australia, 1991, *Ecological Sustainable Development Working Groups Draft Report—Agriculture*, Australian Government Publishing Service, Canberra.

Congress of the United States, Congressional Budget Office, 1998, *Budgetary Effects of the Cairns GATT Proposal*, Staff Memorandum, viewed 13 September 2006, <http://www.cbo.gov/ftpdocs/49xx/doc4957/doc15.pdf>.

Costello, P 2005, *Release of the Productivity Commission Report into National Competition Policy*, Media Release No 32, 14 April, viewed 26 February 2012, <http://www.treasurer.gov.au/DisplayDocs.aspx?pageID=&doc=pressreleases/2005/032.htm&min=phc&PageID=001>.

COAG, 1994, *The Council of Australian Governments' Water Reform Framework*, viewed 22 November 2010, <http://www.environment.gov.au/water/australia/coag.html>.

COAG, 1995a, *Competition Principles Agreement*, viewed 11 August 2012, <http://www.coag.gov.au/node/52>.

COAG, 1995b, viewed 7 July 2012, <http://www.coag.gov.au/coag_meeting_outcomes/1995-04-11/docs/attachment_e.cfm>.

COAG, 2010, *About COAG*, viewed 17 December 2010, <http://www/coag.gov.au/about_coag/index.cfm>.

Coles, 2011, 'Coles brand milk prices to stay Down Down', Coles Media Release, viewed 4 April 2012, <http://www.coles.com.au/Portals/0/content/pdf/News/Coles%20milk%20prices%20staying%20down%20July%202011.pdf – accessed 4/4/2012>.

Commission of Investigation into the Banking Sector in Ireland 2011, *Misjudging Risk: Causes of the Systematic Banking Crisis in Ireland*, March, The Commission of Investigation into the banking Sector in Ireland, viewed 20 September 2012 –

<**http://www.scribd.com/doc/53343447/Misjudging-Risk-Causes-of-the-Systematic-Banking-System-in-Ireland**>

Costello, P 2002, 'Peter Costello', *Treasury Portfolio Ministers*, viewed 15 April 2012, <http://www.treasurer.gov.au/DisplayDocs.aspx?pageID=&doc=pressreleases/2002/023.htm&min=phc>.

Crosland, CAR 1959, 'The Private and Public Corporation in Great Britain', in Edward S Mason (ed.) *The Corporation in Modern Society*, Harvard University Press, Cambridge, Massachusetts.

Crossthwaite, J, MacLeod, N & Malcolm, B 1997, 'Case Studies: Theory and Practice in Natural Resource Management', in F Vanclay & L Mesiti (eds.), *Sustainability and Social Research*, Centre for Rural Social Research, Charles Sturt University, Wagga Wagga.

Crough, G & Wheelwright, T 1982, *Australia: A Client State*, Pelican Books, Ringwood, Victoria.

CUSCBO—see Congress of the United States, Congressional Budget Office.

Dairy Australia, 2003, *A history of dairy industry regulation in Australia*, viewed at http:www.dairyaustralia.com.au/?option=com_remository&func=download&id=389chk=4537d8eef5312bb53ca6c075287b67f3

Dairy Australia, 2005a, *Australian Dairy Industry in Focus 2005*, viewed at <http://www.dairyaustralia.com.au>.

Dairy Australia, 2005b, *Dairy 2005: Situation & Outlook*, September Update, viewed at <www.dairymovingforward.org.au/News%20and%20Reports/dairy_outlook_2005.htm>.

Dairy Australia, 2006a, *Australian Dairy Industry in Focus 2006*, viewed 20 June 2007, <http://www.dairyaustralia.com.au/content/view/38/48/>.

Dairy Australia, 2006b, *Dairy 2006: Situation & Outlook, Report to the Australian Dairy Industry*, viewed at <www.dairyaustralia.com.au/index.php/option=com_content&task=view&id=278>.

Davidson, B 2011, 'Contestability in Human Services Markets', *Journal of Australian Political Economy*, no 68, June, pp. 213-239.

Department of Mines and Petroleum 2012, *Varanus Island Incident* - viewed 20 August 2011- www.dmp.wa.gov.au/7202.aspx

Department of the Treasury, 1993, *Treasury submission to the National Competition Policy review*, Treasury Economic Paper No. 16, Commonwealth of Australia, AGPS, Canberra.

Drazen, A 2008, 'Political Business Cycles', in *The new Palgrave dictionary of economics*, 2nd edn, Abstract, viewed 15 May 2012, <http://www.dictionaryofeconomics.com/article?q=allan%20drazen&topicid=&result_number+2 >.

Dyer, G & Wilkins, A 1991, 'Better Stories, not Better Constructs, to Generate Better Theory: A rejoinder to Eisenhardt', *Academy of Management Review*, Vol 16, no 3, pp 613-619.

Edwards, Geoffrey 2007, *Defining the 'Public Interest'*, PhD, Griffith University Business School, Department of Politics and Public Policy, Griffith University, Queensland.

Egan, Carmel 2008, 'Aldi slams competitors', *Sydney Morning Herald*, June 29, http://www.smh.com.au/news/national/aldi-slams-competitors/2008/06/28/1214472834905.html

Eisenhardt, K 1991, 'Better Stories and Better Constructs: The Case for Rigour and Comparative Logic', *Academy of Management Review*, vol. 16, pp. 620–627.

Eisenhardt, K 1989, 'Building Theories from Case Study Research', *The Academy of Management Review*, vol. 14, no. 4, pp. 532– 550.

European Commission 2004, *EU Competition Policy and the Consumer*, viewed 13 December 2011, <ec.europa.eu/competition/publications/consumer_en.pdf>.

Fear, Josh & Denniss, Richard 2009, *Something for Nothing: Unpaid Overtime in Australia*, Policy Brief No. 7, The Australian Institute, Canberra.

Fedbrain, 2011, *Economic Indicators & Real Time Economic Data at FedBrain*, <http://www.webstatsdomain.com/domains/www.fedbrain.com/>.

Federal Government Treasury, 1997, *The Benefits of Microeconomic Reform*, Australian Government, Canberra, viewed 20 November 2011, <http://www.budget.gov.au/1997-98/bp1st3th.asp>.

Foster, J B, McChesney, R W & Jonna, R J, 2011, *Monopoly and Competition in Twenty-First Century Capitalism*, Monthly Review 62 (11)

Fraser, I & Graham, M 2005, 'Efficiency Measurement of Australian Dairy Farms: National and Regional Performance' *Australian Agribusiness Review*, vol. 13, pp. 1–18.

Freed, Jamie 2005, 'Bonlac bid just start for Fonterra', *Sydney Morning Herald*, <http://www.smh.com.au/news/Business/Bonlac-bid-just-start-for-Fonterra/2005/06/07/1118123838263.html>.

Friedman, M 1962, *Capitalism and Freedom*, University of Chicago Press, London.

Friedman, M 1980, *Free to choose*, Penguin Books, Harmondsworth, Middlesex, England.

Fullerton, T 2001, *Watershed: Deciding our Water Future. Juggling the interests of farmers, politicians, big business, ordinary people and nature*, Australian Broadcasting Corporation, Sydney.

Galbraith, JK 1972 [1967], *The New Industrial State*, Andre Deutsch Limited, London, England.

Galbraith, JK 1999 [1958], *The Affluent Society*, Penguin Books, London.

Galligan, B, Roberts, W & Trifiletti, G 2001, Australians and Globalisation: The Experience of Two Centuries, Cambridge University Press, Cambridge, UK.

Gamble, Andrew 1996, *Hayek: The Iron Cage of Liberty*, Westview Press, Boulder, Colorado, USA.

Gleik, Peter H 1998, *The World's Water—The Biennial Report on Freshwater Resources*, Island Press, Washington, DC.

Gray, EM, Sheng, Y, Oss-Emer, M & Davidson, A 2012, 'Agricultural Productivity: Trends and Policies for Growth', *Agricultural Commodities*, vol. 2, no. 1, pp. 166–179.

GrowSA, 2008, *Submission to the Australian Competition and Consumer Commission: on the inquiry into the competitiveness of retail prices for standard groceries*, Submission no 112, viewed at *<http://www.accc.gov.au/content/item.phtml?itemId=813054&nodeId=309d5fe9ef079f2c76502324a29cdb7e&fn=112%20-%20Grow%20SA%20(10%20pages).pdf>*.

Hansard, 1995a, Senate Standing Committees, Estimates, Reference of Bills, 12 May–27 June, Volume 2.

Hansard, 1995b, Parliamentary Debates Senate, Volume S 172, 19 June–30 June.

Harvey, David 2003, *The New Imperialism*, Oxford University Press, Oxford, UK.

Harvey, David 2005, *A Brief History of Neo-liberalism*, Oxford University Press, Oxford, UK.

Harvey, David 2006, *Spaces of Global Capitalism: Towards a Theory of Uneven Geographical Development*, Verso, London, UK.

Harvey, David 2010, *The Enigma of Capital: And the Crisis of Capitalism*, Oxford University Press, New York

Hayek, FA (ed.), Pierson, NG, von Mises, L, Halm, G & Barone, E 1935, *Collectivist Economic Planning: Critical Studies on the Possibilities of Socialism*, George Routledge and Sons Ltd, London.

Hayek, FA 1960, *The Constitution of Liberty*, The University of Chicago Press, Chicago.

Heritage Foundation, 2012a, 'About Heritage', viewed 2 January 2012, <http://www.heritage.org/about>.

Heritage Foundation, 2012b, viewed 29 August 2012, http://www.heritage.org/index/images/charts-combined/2012.jpg.

Heritage Foundation & The Wall Street Journal, 2008, *2008 Index of Economic Freedom*, viewed 2 January 2012, <http://cubasindical.org/docs/Indexofeconomicfreedom2008.pdf>.

Heritage Foundation & The Wall Street Journal, 2011, *2011 Index of Economic Freedom*, viewed 2 January 2012, <www.heritage.org/index>.

Herreria, E, Magpantay, C & Aslin, H 2004, *Social Profile of Australian Dairy Regions*, Rural Industries Research and Development Corporation Publication No. 04/107, viewed at <www.rirdc.gov.au/reports/HCC/04-107.pdf>.

Hilmer, F 1990, 'Introduction and Overview', in I Marsh (ed.) *Internationalising Australia's Economy* (pp. 1–9), Australian Graduate School of Management, Sydney.

Hilmer, F, Rayner, M, & Taperell, G 1993, *National Competition Policy:* R*eport by the Independent Committee of Inquiry*, AGPS, Canberra.

Hilmer, F 1994, 'The Basis of Competition Policy', *University of NSW Law Journal*, vol. 17, no. 1, pp. ix–xiv.

Hilmer, FG 1995a, 'The Rocky Road to Reform, Higgins Memorial Lecture', *Economic Round-up*, Spring, pp. 23–32, viewed 16 February 2010, *<https://www.unsw.edu.au/about/pad/VC/vc_publications.html>*.

Hilmer, FG 1995b, 'The Bases and Impact of Competition Policy', *Economic Analysis and Polic*y, vol. 25, no. 1, p. 24.

Ho, Karen 2009, *Liquidated: An Ethnography of Wall St*, Duke University Press, Durham, NC, US.

Hodge, Graeme 1996, *Contracting out Government Services: A Review of International Evidence*, Montech Pty Ltd, Melbourne.

House of Representatives Standing Committee on Financial Institutions and Public Administration 1997, *Cultivating Competition: Report of the Inquiry into Aspects of the National Competition Policy Reform Package*, Australian Government Publishing Service, Canberra

House of Representatives Standing Committee on Industry, Science and Technology 1997, *Finding a Balance: Towards Fair Trading*, viewed 21 March 2008, <*http://www.aph.gov.au/house/committee/isr/Fairtrad/report/CHAP4.pdf*>.

Hyndes, J 1996, *Review of Trading Hours in the Australian Capital Territory*, Report prepared for the ACT Government, viewed at <http://ncp.ncc.gov.au/docs/ACT%20review%20trading%20hours%2C%201995.pdf>.

Inderst, Roman & Valletti, Tommasso 2011, 'Buyer Power and the "Waterbed Effect"', *The Journal of Industrial Economics*, vol. 59, no. 1, pp. 1–20.

IAC, 1989, *Government (Non-Tax) Charges*, vols. 1–4, Report No. 422, 29 September, AGPS, Canberra.

IC, 1991a, Report No. 10, *Statutory Marketing Arrangements for Primary Products*, 29 March.

IC, 1991b, Report No. 14, *Australian Dairy Industry*, September.

IC, 1995, *The Growth and Revenue Implications of Hilmer and Related Reforms—A Report by the Industry Commission to the Council of Australian Governments*, Commonwealth of Australia, Canberra.

JCIDRSA—see Joint Committee on the Impact of Dairy Deregulation in South Australia.

Joint Committee on the Impact of Dairy Deregulation in South Australia, 2003, *Final Report of the Joint Committee on the Impact of Dairy Deregulation in South Australia*, Parliament of South Australia, viewed at <http://www.parliament.sa.gov.au/committees/documents/Dairy/Dereg_50_2/public_doc>.

JSCRTS, 1999, *Fair Market or Market Failure*, Australian Government Publishing Service, Canberra.

Jones, A 1999, *State Agreement Acts Paper*, A paper prepared for a Parliamentary Internship for the Hon Christine Sharp

Jones, C & Knowles, G 2009, 'Death shows dangers of privatising government services: Coroner', *West Australian Newspaper*, 13 June.

Jones, E 2003, *The Effectiveness of the 1974 Trade Practices Act in Protecting Small Business*, Submission to the Senate Economics Reference Committee Inquiry.

Jones, E 2004, *Small Business – Corporate Business Relations: dimensions of structural subordination in Australia*, Working Papers, Discipline of Political Economy, Faculty of Economics and Business, The University of Sydney.

Jones, E 2005, 'Liquor retailing and the Coles/Woolworths Juggernaut', *Journal of Australian Political Economy*, Vol 55, pp 23-47.

Jones, E 2012, 'The Market Mechanism in Reality and Myth: Corporate Business Overlordship of Small Business', *Journal of Australian Political Economy*, Special Issue: Contesting Markets, no. 68, Summer 2011/12, pp. 62–85.

Kain, J, Kuruppu, I, Billing, R 2003, *Australia's National Competition Policy: Its Evolution and Operation*, Parliament of Australia, Parliamentary Library, viewed 27 April 2011, <http://www.aph.gov.au/library/INTGUIDE/econ/ncp_ebrief.htm>.

Kasper, W, Blandy, R, Freebairn, J, Hocking, D, O'Niel, R 1980, *Australia at the Crossroads*, Harcourt Brace Jovanovich Group, Sydney.

Katz, JM 2011, 'Wall street protest spreads globally', 9News, 15 October, viewed 16 October 2011, <http://finance.ninemsn.com.au/newsbusiness/aap/8360447/eviction-of-nyc-protestors-postponed>.

Kelly, Paul 1992, *The End of Certainty: The Story of the 1980s*, Allen & Unwin, St Leonards, NSW.

Kelsey, Jane 1999, *Reclaiming the Future: New Zealand and the Global Economy*, Bridget Williams Books, Wellington, NZ

Kennedy, A 2003, *The End of Shareholder Value: Corporations at the Crossroads*, Orion Business Books, London.

Kent, C & Simon, J 2007, *Productivity Growth: The Effect of Market Regulations*, RBA Discussion Papers, rdp 2007-04, Reserve Bank of Australia.

Kenyon, D & Lee, D 2006, *The Struggle for Trade Liberalisation in Agriculture: Australia and the Cairns Group in the Uruguay Round*, On behalf of the Australian Government Department of Foreign Affairs and Trade, Commonwealth of Australia, Canberra.

Keynes, JM 1973 [1936], *The General Theory of Employment, Interest and Money*, MacMillan, Cambridge University Press, London.

Krätke, M & Underhill, G 2006, 'Political Economy: The Revival of "Interdiscipline"', in R Stubbs & G Underhill (eds.), *Political Economy and the Changing Global Order*, Oxford University Press, Toronto, Canada.

Lambert, R Unpublished, Globalisation and the Rationalisation of Australian Whitegoods Manufacturing.

Laurie, K & McDonald, J 2008, *A Perspective on Trends in Australian Government Spending*, Australian Treasury, Canberra.

Leys, Colin 2001, *Market-Driven Politics: Neoliberal Democracy and the Public Interest*, Verso, London.

Lincoln, Y, & Guba, E 1985, *Naturalistic Inquiry*, Sage publications, Beverley Hills, California.

LTO Nederland, 2002, *International Comparison of Producer Prices for Milk, 2001 Milk. Prices*, July 2002, viewed at <www.milkprices.nl/Reports/PDF/2001milk prices.pdf>.

Luscombe and Associates Pty Ltd, 2008, *Shop Trading Hours Preliminary Report, August 2008*, viewed at *<http://www.dpc.wa.gov.au/Documents/ShopTradingHoursPreliminaryReport11-8-08.pdf>*.

Lyons, M 2005, 'Shopping Around: Extended Retail Trading Hours and the Retail Trade Industrial Tribunal in New South Wales in the 1980s', in *The past is before us: Proceedings of the Ninth Annual Labour History Conference*, University of Sydney, 30 June–2 July 2005.

Margetts, D 1993, Hansard, Volume S 159, 18 August.

Margetts, D 2001, *Competition Policy, State Agreement Acts and the Public Interest*, Masters' Thesis, Murdoch University.

Margetts, D 2003, *National Competition Policy and the theft of democracy*, Margo Kingston's SMH Web Diary, viewed at <www.smh.com.au/articles/2003/10/06/1065292527382.html>.

Margetts, D 2007a, *Competition Policy—What's that got to do with the price of milk?* Global Studies Research Centre, UWA, Crawley, WA.

Margetts, D 2007b, 'National Competition Policy and the Australian Dairy Industry', *Journal of Australian Political Economy*, no. 60, pp. 98–129.

Margetts, D 2011a, 'Does National Competition Policy Limit the Power of the Big Retailers?' *Australian Options*, no. 66, pp. 18–20.

Margetts, D 2011b, 'NCP and the Australian Retail Sector: The Lack of Proper Assessment', *Journal of Australian Political Economy*, no. 67, pp. 68–94.

Marsh, I 1990, 'Public Policy Forum', in I Marsh (ed.), *Internationalising Australia's Economy*, Australian Graduate School of Management, Sydney.

Masud, E 2000, *Corporate Globalization Threatens World's Poor*, Middle Class, The Wisdom Fund News and Views, viewed at <www.twf.org/News/News/Y2000/1010-Global.html>

Marx, Karl 1867, *Capital: A Critique of Political Economy, Volume I: The Process of Production of Capital*.

Marx, K 1977, 'Preface', in *A Contribution to the Critique of Political Economy*, Progress Publishers, Moscow, viewed at <http://www.marxists.org/archive/marx/works/1859/critique-pol-economy/preface.htm>.

Marx, Karl 1894, *Capital: A critique of Political Economy, Volume III: The Process of Capitalist Production*, International Publishers, NY.

McLachlan, R, Clark, C & Monday, I 2002, *Australia's Service Sector: A Study of Diversity*, Staff Research Paper, Productivity Commission, Ausinfo, Canberra.

McLean, I & McMillan, A 2003, *The Concise Oxford Dictionary of Politics*, Oxford University Press, New York.

Mikkelson, G 2005, *Niche-Based vs Neutral Models of Ecological Communities*, Department of Environment and School of Philosophy, McGill University, Quebec, Canada.

Miller, R.J & Shade, E.D 1982, *Foundations of Economics*, Longman Cheshire/Sapphire Books, Melbourne

Moore, Mike 2003, *A World Without Walls: Freedom, Development, Free Trade and Global Governance*, Cambridge University Press, Cambridge, UK

Morgan, Bronwen 2003, *Social Citizenship in the Shadow of Competition: The Bureaucratic Politics of Regulatory Justification*, Ashgate Publishing Limited, Aldershot, UK.

Morgan, B 2004, 'Water: Frontier Markets and Cosmopolitan Activism', *Soundings: A Journal of Politics and Culture*, vol. 27, pp. 10–24.

Morgan, Bronwen 2005, 'Social Protest Against Privatisation of Water: Forging Cosmopolitan Citizenship?' in M-C Cordinier-Seggier & Justice Weeramatry (eds.), *Sustainable Justice: Reconciling International Economic, Environmental and Social Law*, Martinus Nijhoff, Boston.

Munck, R 2006, *Globalization and Contestation: A Polanyian Problematic*, Taylor & Francis, Oxon, UK.

Munro, D 2004, 'Method in Political Economy: A Comment by Don Munro', *Journal of Australian Political Economy,* vol. 54, pp. 146–147.

NCC, 1996, *Considering the Public Interest under National Competition Policy*, Commonwealth of Australia, Canberra.

NCC, 1997, *Compendium of National Competition Policy Agreements*, Australian Government Publishing Services, Canberra.

NCC, 1998, *Compendium of National Competition Policy Agreements*, 2nd edn, Commonwealth of Australia, Canberra.

NCC, 1999, *Second Tranche Assessment of Governments' Progress with Implementing National Competition Policy and Related Reforms, Volume 2: Water Reform*, 30 June, Commonwealth of Australia, Melbourne.

NCC, 2000, *Shop Trading Hours*, Leaflet, viewed at *<http://ncp.ncc.gov.au/docs/CIComSh-001.pdf>*.

NCC, 2003a, *Assessment of Governments' Progress in Implementing National Competition Policy and Related Reforms 2003, Volume 1*, viewed 6 October 2006, <http://www.ncc.gov.au/pdf/AST50v-005.pdf>.

NCC, 2003b, *2003 NCP Assessment Outcomes*, Press Release, viewed at *<http://ncp.ncc.gov.au/docs/AST5PR-004.pdf>*.

National Foods, 2006, *Our History*, viewed 27 June 2006, <http://www.natfoods.com.au/about_nfl/history.stm>.

National Institute of Economic and Industry Research, 1996, *Subsidies to the use of Natural Resources*, Commonwealth Government, Canberra.

NBCNews, 2008, 'Study: gap growing between rich and poor', 21 October, viewed 17 October 2011, <http://www.msnbc.msn.com/id/27295405/ns/business-world_business/t/study-gap-growing-between-rich-poor/>.

NCC, n.d., 'NCP: Outcomes', viewed 21 January 2012, <http://ncp.ncc.gov.au/pages/outcomes>.

NCC, n.d., 'The Public Interest Test', viewed at <http://ncp.ncc.gov.au/docs/OINcpIm-006.pdf>.

Neville, JW 1997, *Economic Rationalism—Social Philosophy Masquerading as Economic Science*, Background Paper No. 7, The Australia Institute, Lyneham, ACT.

NPDCC, 2009, *Shut Out: The Experience of People with Disabilities and their Families in Australia*, Australian Government, Canberra.

NWC, 2004a, *National Water Initiative*, viewed 25 November 2010, <http://www.nwc.gov.au/www/html/117-national-water-initiative.asp>.

NWC, 2004b, *National Water Initiative Objectives*, viewed 25 November 2010, <http://www.nwc.gov.au/www/html/672-objectives-key-elements.asp?intSiteID=1>.

NWC, 2006, *2005 National Competition Policy Assessment of Water Reform Progress*, National Water Commission, Canberra.

NWC, 2009, *Australian Water Reform 2009*, viewed 15 September 2010, <http://www.nwc.gov.au/resources/documents/2009_BA_complete_report.pdf>.

NWC, 2010, *Water Use in Australia*, viewed 2 December 2010, <http://www.nwc.gov.au/www/html/236-water-use-in-australia.asp>.

O'Neill, M 2012, '"Climate of fear" thwarting supermarket inquiry', 22 March, viewed 4 May 2012, <http://www.abc.net.au/news/2012-03-22/climate-of-fear-thwarting-supermarket-inquiry/3905046>.

OECD, 2001, Glossary of Statistical Terms: Multi-Factor Productivity (MFP), viewed 20 March 2012, <http://stats.oecd.org/glossary/detail.asp?ID=1698>.

Paish, M 2012, 'Almost half Australia's food industry is owned by foreign investors, report shows', *Ausfoodnews*, viewed 31 May 2012, <http://www.ausfoodnews.com.au/2012/01/19/almost-half-australias-food-industry-is-owned-by-foreign-investors-report-shows.html>.

Palmer, Daniel, 2009, *Coles steps up campaign for extended trading hours in WA*, viewed 18 February 2010, <*http://www.ausfoodnews.com.au/2009/10/14/coles-steps-up-campaign-for-extended-trading-hours*>.

PC, 1999, *Impact of Competition Policy Reforms on Rural and Regional Australia*, Report No. 8, Ausinfo, Canberra.

PC, 2003, *From Industry Assistance to Productivity: 30 years of 'the Commission'*, Productivity Commission, Canberra, viewed 9 June 2006, <http://www.pc.gov.au/_data/assets/pdf_file/0019/7237/thirtyyearhistory.pdf>.

PC, 2005, *Review of National Competition Policy Reforms*, Report No. 33, Canberra.

PC, 2006, *Rural Water Use and the Environment: The Role of Market Mechanisms*, 11 August, Productivity Commission Media and Publications, Melbourne.

PC, 2011a, *Disability Care and Support*, Productivity Commission Inquiry Report No. 54, 31 July, Commonwealth of Australia, Melbourne.

PC, 2011b, *Economic Structure and Performance of the Australian Retail Industry*, Productivity Commission Inquiry Report No. 56. 4 November, Commonwealth of Australia, Melbourne

PC, 2012, viewed at <http://www.pc.gov.au/agcno/competitive-neutrality>.

Peetz, D 2005, 'Hollow Shells: The Alleged Link between Individual Contracting and Productivity Growth', *Journal of Australian Political Economy*, no. 56, pp. 32–55.

Polanyi, Karl 2001 [1944], *The Great Transformation*, Beacon Press, Boston.

Pusey, M 1992, *Economic Rationalism in Canberra*, Cambridge University Press, Cambridge, UK.

Queensland Dairy Farmers, n.d., Submission by Queensland Dairy Farmers Organisation and the Dairy Farmers Association of NSW to the Senate Select Committee Inquiry into the Socio-economic Consequences of the National Competition Policy v12: 2388.

Quiggin, J 1996, *Great Expectations—Microeconomic Reform and Australia,* Allen & Unwin St Leonards, NSW.

Quiggin, J 1999a, 'Globalisation, Neoliberalism and Inequality in Australia', *The Economic and Labour Relations Review*, vol. 10, no. 2, pp. 240–259.

Quiggin, J 1999b, *Submission to the Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy*, SSCOSCNCP Submissions, Parliament of the Commonwealth of Australia, Canberra.

Quiggin, J 2003, 'Economic Rationalism', *John Quiggin: Commentary on Australian & World Events from a Social-Democratic Perspective,* viewed 14 March 2012, <http://johnquiggin.com/2003/06/13/economic-rationalism/>.

Ranald, P 1995a, 'ACTU submission to the Industry Commission Inquiry into Contracting and Competitive Tendering in the Public Sector' in M Paddon & R. Thanki (eds.), *Australia's Contracting Public Services: Critical Views of Contracting out by the Public Sector* (pp. 83–202), Public Sector Research Centre, UNSW.

Ranald, P 1995b, 'National Competition Policy', *Journal of Australian Political Economy*, no. 36, pp. 1–25.

Ranald, P 1996, 'Redefinition of the Public Sector: Serving Citizens or Customers?' in A Farrer & J Inglis (eds.), *Keeping it Together: The State and Civil Society in Australia* (pp. 92–113), Pluto Press, ACOSS.

Ranald, P 1997a, *The Contracting Commonwealth: Serving Citizens or Customers? Public Accountability, Service Quality and Equity Issues in Competitive Tendering of Government Services*, Public Sector Research Centre Paper No. 47, University of New South Wales.

Ranald, P 1997b, *Competitive Nneutrality and Local Government Policies under National Competition Policy in Australia*, Public Sector Research Centre Paper No. 46, University of New South Wales.

Ranald, P 1998, *Disciplining Governments? What the Multilateral Agreement on Investment would mean for Australia*, Public Sector Research Centre and Evatt Foundation, University of New South Wales.

Ranald, P 2000, 'Privatising Water in the Driest State', *Labour and Industry*, vol. 11, no. 2, pp. 17–38.

Ranald, P 2002, 'Where are the Jobs in the Job Network? Competitive Tendering of Employment Services', in P. Fairbrother, J Teicher & P Paddon (eds.), *Privatisation, globalisation and labour: studies from Australia* (pp. 158–182), Federation Press, Melbourne.

Reserve Bank, 2012, viewed at <www.rba.gov.au/Statistics/Bulletin/G02hist.xls>.

Retail Media Pty Ltd, 1975–1988, *Retail World* A*nnual Report*, Retail Media Pty Ltd, Sydney, NSW.

Retail Media Pty Ltd, 1988–1992, *Retail World* A*nnual Report*, Retail Media Pty Ltd, Rozelle, NSW.

Retail Media Pty Ltd, 1993–1997, *Australian Grocery Industry Marketing Guide*, Retail Media Pty Ltd, Rozelle, NSW.

Retail Media Pty Ltd, 1998–2003, *Australian Grocery Industry Marketing Guide*, Retail Media Pty Ltd, North Parramatta, NSW.

Richards, L 2005, *Handling Qualitative Data: A Practical Guide*, Sage publications, London.

Rickard, L 2011, 'Another price hike for WA households', *WAtoday*, 30 March, viewed 26 July 2012, http://www.watoday.com.au/wa-news/another-price-hike-for-wa-households-20110330-1cfpc.html.

Roper, B & Rudd, C (eds.) 1993, *State & Economy in New Zealand*, Oxford University Press, Auckland, NZ.

Routh, G 1977, *The Origin of Economic Ideas*, The MacMillan Press Limited, London.

Rudd, C 1993, 'The New Zealand Welfare State', in B Roper & C Rudd (eds.), *State & Economy in New Zealand*, Oxford University Press, Auckland, NZ.

Rudd, Kevin 2009, 'The Global Financial Crisis', *The Monthly: Australian Politics, Society & Culture*, viewed 5 March 2009, <http://www.themonthly.com.au/monthly-essays-kevin-rudd-global-financial-crisis--1421>.

Samuel, G 1998, *NCP: Fact and Fiction*. National Competition Council, Melbourne, Victoria.

Samuelson, P & Nordhaus, W 1989 [1948], *Economics: An Introductory Analysis*, McGraw-Hill, New York.

Scales, Bill 1995, 'Competition Policy, Industry Policy and Deregulation of the Australian Economy', *Economic Analysis & Policy*, vol. 25, no. 1, pp. 41–51.

Schumpeter, J 1975, *Capitalism, Socialism and Democracy*, Harper Press, New York.

Senate Economics References Committee, 2010, *Milking for all it's worth—competition and pricing in the Australian dairy industry*, Commonwealth of Australia, Canberra.

Senate Rural and Regional Affairs and Transport References Committee, 1999, *Deregulation of the Australian dairy industry*, October, Parliament of the Commonwealth of Australia, Canberra.

SRRATC—see Senate Rural and Regional Affairs and Transport References Committee.

SSCSECNCP, 1999, *Competition Policy: Friend or Foe. Eeconomic Surplus, Social Deficit?* An Interim Report, August, Parliament of the Commonwealth of Australia, Canberra.

SSCSECNCP, 2000, *Riding the waves of change*, Parliament of the Commonwealth of Australia, Canberra.

Shepherd, William G 1984, '"Contestability" vs Competition' *The American Economic Review*, September, Vol 74, No 4: pp 572-587.

Shepherd, William G 1995, 'Contestability vs Competition—Once More', *Land Economics*, vol. 71, no. 3, pp. 299–309.

Smelcher, L 2007, 'Gap between rich and poor continues to grow', T*he University of Sydney News*, viewed 5 May 2011, <http://www.usyd.edu.au/news/84.html?newsstoryid=1875>.

Sonti, Chalpat 2008 *Alpache blamed for Varanus blast*, WA Today, viewed 10 November 2011 – **http://www.watoday.com.au/wa-news/apache-blamed-for-varanus-blast-20081010-4y3a.html**

Spencer, S (RidgePartners) 2004a, *Dairy 2004: Situation & Outlook*, June, Report to the Australian Dairy Industry, On behalf of Dairy Moving Forward, Published at http://www.dairymovingforward.org.au/News%20and%20Reports/dairy_outlook_2004.htm – Give details

Spencer, S (RidgePartners) 2004b, *Dairy: Now and Then: The Australian Dairy Industry Since Deregulation*, October, On behalf of the National Competition Council

Spencer, S (Whitehall Associates) 2004, *Price Determination in the Australian Food Industry, a Report*, Prepared for the Australian Government Department of Agriculture, Fisheries and Forestry, Canberra, www.daff.gov.au/corporate_docs/publications/pdf

Stebbins, R 2001, *Exploratory Research in the Social Sciences*, Sage Publications, Thousand Oaks, California.

Steketee, M 2008, 'Red tape will bind recalcitrant states, *The Australian*, 10 January, viewed 24 April 2009, <http://www.theaustralian.news.com.au/story/0,25197,23029268-7583,00.html>.

Stigler, George 1952, *The Theory of Price*, revised edn, Macmillan, New York.

Stilwell, FJB 2005, 'Teaching Political Economy: Curriculum and Pedagogy', *Proceedings of the Eleventh Australasian Teaching Economics Conference: Innovation for Student Engagement in Economics*, Sydney University, viewed 10 May 2012, <http://www.econ.usyd.edu.au/14265.html>.

Strangio, Paul 2002, *Keeper of the Faith: A Biography of Jim Cairns*, Melbourne University Press, Carlton South, Victoria.

Stubbs, R & Underhill, G (eds.), 2000, *Political Economy and the Changing Global Order*, 2nd edn, Oxford University Press, Canada.

Styles, A 2009, 'Government flicks on higher electricity prices, *WAtoday*, 24 February, viewed 26 July 2012, <http://www.watoday.com.au/action/printArticle?id=393708>.

Tellis, Winston 1997, 'Introduction to Case Study', *The Qualitative Report*, Vol 3 No 2, July, viewed 5 March 2012 (**http://www.nova.edu/ssss/QR/QR3-2/tellis1.html**)

The Australian, 2012, 'West Australian water and power prices to rise again', viewed 26 July 2012, <http://www.theaustralian.com.au/national-affairs/west-australian-water-and-power-prices-to-rise-again/story-fn59nix-12260592522805>.

The Irish Economy, 2011, The Irish Economy, viewed 25 October 2011, <http://www.irisheconomy.ie>.

Todd, Mark 2002, 'Kiwi dairy coup slices up choice cheeses', Sydney Morning Herald, <http://www.smh.com.au/articles/2002/07/01/1023864711183.html>.

Treasury, 2006, *Economic Roundup, Summer 2006*, viewed 4 February 2008, <http://archive.treasury.gov.au/contentitem.asp?NavId=016&ContentID=1087>.

UNCTAD, 2007, *UNCTAD Guidebook on Competition Systems*, United Nations, New York and Geneva.

UN Development Program, 1996, *Human Development Report 2006. Beyond Scarcity: Power, Poverty and the Global Water Crisis*, viewed 5 April 2011, <http://hdr.undp.org/en/reports/global/hdr2011/download/>.

University of New South Wales, *President and Vice Chancellor, Publications*, viewed 16 February 2010, <https://www.unsw.edu.au/about/pad/VC/vc_publications.html>.

WA Department of Agriculture and Food, 2008, *Public submission to ACCC Grocery Inquiry by the Hon Kim Chance MLC, Minister for Agriculture and Food, Western Australia on 26 March*, Submission No. 208, viewed at *http://www.acc.gov.au/content/item.phtml?itemId=828116&nodeId=ed4ea810a7a383975fc54d2cc&fn=208+(late%2012%20May)+-+Department+of+Agriculture+and+Food+(WA)+(91+pages).pdf*

Webster, E, Lambert, R & Bezuidenhout, A 2008, *Grounding Globalisation: Labour in the Age of Insecurity*, Blackwell Publishing, Carlton, Victoria.

Western Australian Auditor General, 2009, *Maintaining the State Road Network*, June, Office of the Auditor General, West Perth, WA.

WGWRP, 1994, *Report of the Working Group on Water Policy to the Council of Australian Governments, February 1994*, Commonwealth of Australia, Canberra.

Whitwell, Gregory 1998, 'Feature—What is Economic Rationalism?' *Money, Markets and the Economy*, Program Transcript, ABC, viewed 21 December 2010, <http://www.abc.net.au/money/currency/features/feat11.htm>.

Wilkes, G.A. & Krebs, W.A. (ed) 1991, *Collins Concise English Dictionary: Australian Edition*, Harper Collins Publishers, Sydney

World Bank, 2010, 'World Bank Search' viewed at <http://search.worldbank.org/data?qterm=manufacturing%2C%20vnationwide

dairy farmgate deregulation alue%20added&language=EN&format=html, Manufacturing, value added (% of GDP)>.

WTO, 2007, *Interaction between Trade and Competition Policy*, viewed 21 October 2010, <http://www.wto.org/english/tratop_e/comp_e/comp_e.htm>.

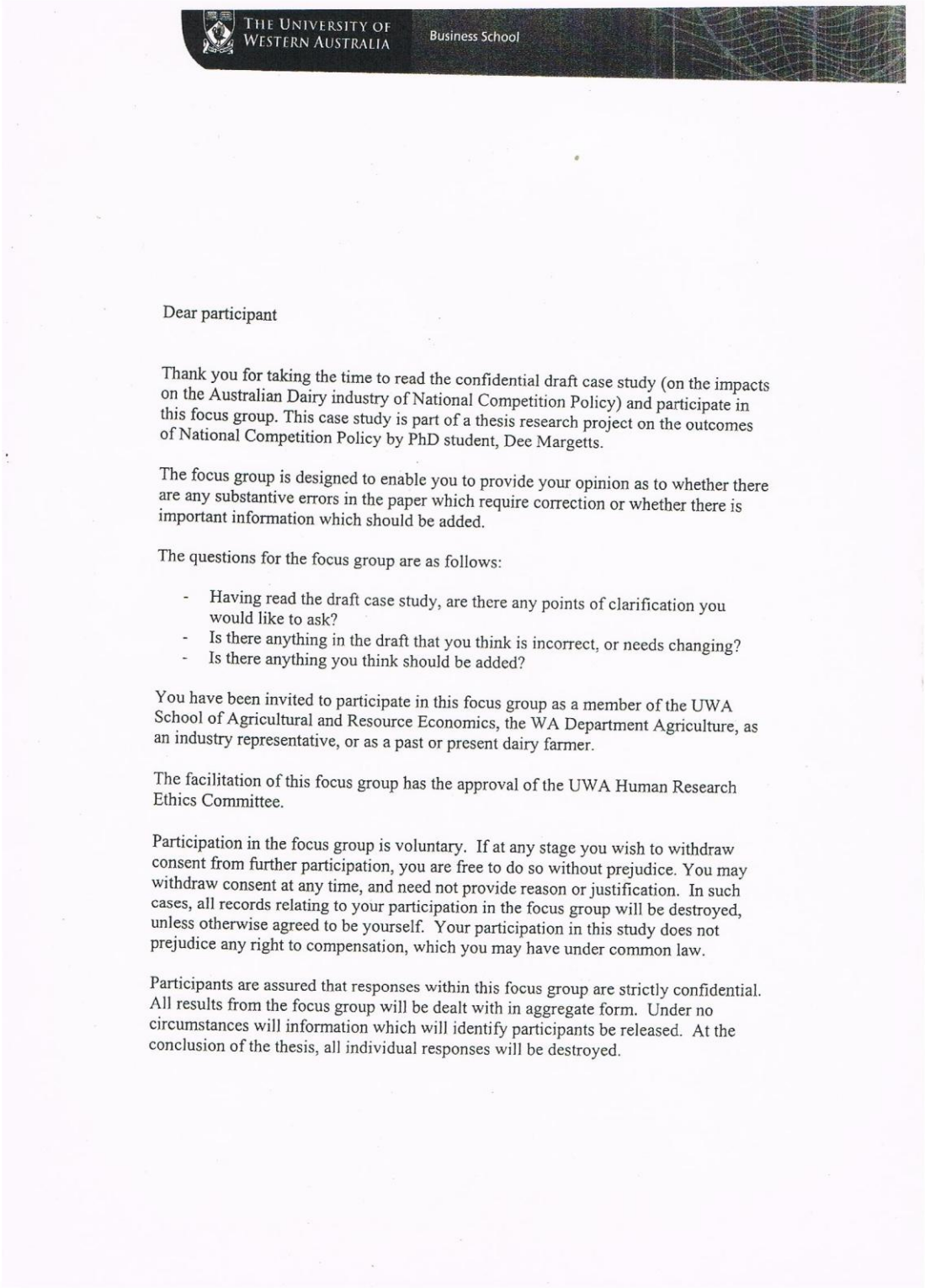
WTO, 2012, The Uruguay Round, viewed 29 February 2012, <http://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm>.

Yin, R 1981, 'The Case Study as a Serious Research Strategy', *Knowledge: Creation, Diffusion, Utilization*, vol. 3, pp. 97–114.

Yin, R 1984, *Case Study Research*, Beverly Hills CA: Sage Publications.

Appendices

Appendix A: List of Consent Forms from the Dairy Industry Meeting



THE UNIVERSITY OF WESTERN AUSTRALIA Business School

Dear participant

Thank you for taking the time to read the confidential draft case study (on the impacts on the Australian Dairy industry of National Competition Policy) and participate in this focus group. This case study is part of a thesis research project on the outcomes of National Competition Policy by PhD student, Dee Margetts.

The focus group is designed to enable you to provide your opinion as to whether there are any substantive errors in the paper which require correction or whether there is important information which should be added.

The questions for the focus group are as follows:

- Having read the draft case study, are there any points of clarification you would like to ask?
- Is there anything in the draft that you think is incorrect, or needs changing?
- Is there anything you think should be added?

You have been invited to participate in this focus group as a member of the UWA School of Agricultural and Resource Economics, the WA Department Agriculture, as an industry representative, or as a past or present dairy farmer.

The facilitation of this focus group has the approval of the UWA Human Research Ethics Committee.

Participation in the focus group is voluntary. If at any stage you wish to withdraw consent from further participation, you are free to do so without prejudice. You may withdraw consent at any time, and need not provide reason or justification. In such cases, all records relating to your participation in the focus group will be destroyed, unless otherwise agreed to be yourself. Your participation in this study does not prejudice any right to compensation, which you may have under common law.

Participants are assured that responses within this focus group are strictly confidential. All results from the focus group will be dealt with in aggregate form. Under no circumstances will information which will identify participants be released. At the conclusion of the thesis, all individual responses will be destroyed.

If you have any questions, please feel free to ask the person facilitating the focus group, or contact the researcher, Dee Margetts) or the Chief Investigator, A/Professor Rob Lambert. Their details are included below.

If you consent to participate in this focus group, please sign the consent form below.

At the conclusion of your participation in the focus group, please hand your confidential draft case study document back to the facilitator.

Thank you for taking the time to respond to the case study draft and participate in this focus group.

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The Human Research Ethics Committee at the University of Western Australia requires that all participants are informed that, if they have any complaint regarding the manner in which a research project ids conducted, it may be given to the researcher or, alternatively, to the Secretary, Human Research Ethics Committee, Registrar's Office, University of Western Australia, 35 Stirling Highway, Crawley, WA 6009 (PH: 6488 3007). All study participants will be provided with a copy of the information sheet and consent form for their personal records.

Consent Form

I.....(the participant), have read the information provided and any questions I have asked have been answered to my satisfaction. I agree to participate in this activity, realising that I may withdraw at any time without reason and without prejudice.

I understand that all information provided is treated as strictly confidential by law. I have been advised as to what information is being collected, what the purpose is and what will be done with that information upon completion of the research.

I agree to return the confidential draft research paper to the researcher or facilitator at the completion of my participation in this activity.

I agree that information gathered for the study may be published provided my name or other identifying information is not used.

....
Signature of participant Date

The Human Research Ethics Committee at the University of Western Australia requires that all participants are informed that, if they have any complaint regarding the manner in which a research project ids conducted, it may be given to the researcher or, alternatively, to the Secretary, Human Research Ethics Committee, Registrar's Office, University of Western Australia, 35 Stirling Highway, Crawley, WA 6009 (PH: 6488 3007). All study participants will be provided with a copy of the information sheet and consent form for their personal records.

Appendix B: Senate Economics Committee List of Dairy Inquiry Recommendations

Recommendations from the Senate Economics Committee's May 2010 Dairy Inquiry Report:

Milking it for all it's worth – competition and pricing in the Australian dairy industry

Recommendation 1

The Committee recommends that the Government requests that the National Competition Tribunal reviews the effectiveness of Section 46 of the Trade Practices Act in preventing price discrimination and considers reinstating anti-price discrimination provisions, particularly to protect those parties participating in industries dominated by multinational corporations

Recommendation 2

The Committee recommends that contracts with farmers should offer a clear, consistent formula for milk pricing with unambiguous conditions.

Recommendation 3

The Committee recommends that the Government request the Australian Competition and Consumer Commission to use its information gathering powers, and draw on its work for its recent report on grocery pricing, to provide more accurate estimates of the proportions of the retail price of milk that reflect i) the costs and ii) the profits, of farmers, processors and retailers and published the results of that review by 30 September 2010.

Recommendation 4

The Committee recommends that the Government requests the ACCC to undertake monitoring of the pricing practices within the dairy chain with a view to establishing whether predatory pricing or misuse of market power is occurring.

Recommendation 5

The Committee recommends that the Productivity Commission reviews and evaluates the effectiveness of the national competition policy and publish its report by 30 April 2011.

Recommendation 6

The Committee recommends a moratorium on further takeovers and mergers in the milk processing industry until the Productivity Commission has published its report on the effectiveness of the national competition policy.

Recommendation 7

The Committee recommends that the Trade Practices Act be amended to reinstate specific anti-price discrimination provisions and inhibit firms achieving market power through takeovers or abusing market power and that 'market power; be expressly defined so that it is less than market dominance and does not require a firm to have unfettered power to set prices. A specific market share, such as, for example, one third (set based on international practice), could be presumed to confer market power unless there is strong evidence to the contrary.

Recommendation 8

The Committee recommends that the ACCC conducts further study into the implications of increasing shares of the grocery market being taken by the generic products of the major supermarket chains. The Committee recommends that the terms of reference of any such inquiry include not just the current and future impact on prices paid by consumers but also the needs of Australia in terms of food security and economic and environmental sustainability, as well as the economic viability of farmers and processors. The Committee requests that the finding of these reviews be reported by 30 April 2011.

Recommendation 9

The Committee recommends that the Productivity Commission considers, in its review of national competition policy, the appropriateness of separating the functions and powers of the ACCC with the effect that separate agencies are responsible for the approval of mergers and the assessment of whether concentration is subsequently excessive.

Recommendation 10

The Committee recommends that the topic of competition and pricing in the dairy industry be again referred to the Senate Economics References Committee in May 2012 to assess whether progress has been made or whether tougher and more interventionist measures need to be adopted.

Recommendation 11

The Committee recommends that the Federal Government commissions an independent report into the main impediments to the establishment of new processors owned by farmer cooperatives and how these impediments could best be overcome and requests that the report be tabled by 30 April 2011.

Recommendation 12

The Committee recommends that the Government reviews the collective bargaining provisions of the Trade Practices Act with a view to strengthening that framework to create a more equitable balance of power between the negotiating parties and report by April 2011.

Recommendation 13

In reviewing the collective provisions the Committee requests that the Government considers the effectiveness of any existing alternative dispute resolution mechanisms and investigates:

- Allowing collective bargaining groups to merge to address imbalances in bargaining power;
- The introduction of a requirement that the ACCC facilitate the timely appointment of a mediator should a party to a negotiation require such assistance; and
- The introduction of a requirement that cooling off periods be mandatory in contracts between dairy farmers and processors.

Recommendation 14

The Committee recommends that the Government addresses the issues of food security and the future sustainability of the dairy industry at a federal level. The Committee suggests to the Government that this review be facilitated through the primary Industries Ministerial Council to ensure it receives the commitment and attention required. The Committee recommends that any review include the role of the ACCC and federal, state and territory agricultural departments in ensuring Australia's food security.

Recommendation 15

In light of the Tasmanian experience the Committee recommends that where industry bodies are encouraging increasing production, all agencies involved in these bodies have regard to issues of long term sustainability in the context of long term trends. They should identify the source of increased demand, adopt cautious language and indicate the degree of uncertainty around any projection.

Recommendation 16

The Committee recommends that the Australian and New Zealand Food Regulation Ministerial Council acts to ensure that labelling on dairy products adequately and accurately informs consumers about the provenance, manufacturer and contents of the product.