

**National Competition Policy  
Submission to Productivity  
Commission**

**June 2004**

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# 1. Summary

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Community views on National Competition Policy (NCP) are widely divergent – at the two extremes, some people think:

- NCP has been a negative for local communities and small business, and has been foisted on a public who don't want or need it by purist theorists who don't know how the real world works; or
- NCP is a vital component of Australia's microeconomic reform, which has underpinned Australia's growth performance. Many adverse changes to local communities have been blamed on NCP but could have been due other factors, such as technology or other Government reforms.

Clearly, this illustrates that there is confusion about the impact of NCP. This is why it is vital for communication about NCP to be improved:

- For the community: the benefits need to be highlighted and erroneous beliefs need to be rectified.
- For the NCC, other officials and Governments more generally: they need better understanding of local and industry issues, and they need to hear and take account of community concerns about NCP.

NFF supports the following reforms to NCP:

- The public interest test under NCP should be amended in line with the Government's policy of August 2001, to ensure the interests of rural and regional communities are fully and appropriately addressed.
- Governments and the NCC should ensure that benefits of NCP are provided to all and ensure that there is no part of the economy exempt from reform.
- Compensation should be paid to those facing adjustment costs as a result of NCP reforms. Governments should determine who receives compensation, how they receive it and how much they receive during the NCP review process, in parallel with the analysis of adjustment costs under the public interest test.
- The public interest test under NCP should explicitly take account of adjustment costs.
- The NCC must ensure that governments do not use NCP as an excuse to remove non-economic policy goals, such as Community Service Obligations (CSOs). If legislation that promotes a non-economic policy goal is removed, then an alternative means of supplying that goal should be found (such as Government or industry levy).
- The NCP amendments advocated by the Government in August 2001 should be implemented as a priority:
  - Require Governments, in undertaking reform commitments, to commit to public consultation where reform is proposed and public education where reform is implemented.
  - Require the NCC to assess whether jurisdictions have met their commitments on consultation and education.
- In addition, the NCC should set appropriate standards for this consultation and education to ensure that the quality of communication is improved.
- To the extent that NCP has influence over Government Business Enterprises (GBEs), NCP should not encourage excessive dividend payments to Governments.

- NCP reviews should take account of, but not duplicate, issues that are undergoing separate reviews.
- The Competition Principles Agreement should be amended to state that jurisdictions and the NCC will work towards harmonisation of regulations across States and Territories. In addition, the NCC should encourage the review processes in different jurisdictions to be harmonised if possible.
- The public interest test already adequately covers environmental concerns and does not need further amendment.
- NCP be extended to cover:
  - business inputs, including: labour markets, imports, financial capital and land; and
  - State taxes
- The Productivity Commission should examine whether NCP could or should be extended to education and health – ensuring that appropriate safeguards are put in place to address community concerns.

## 2. Importance of Farming to Australia

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Farming is a significant sector of the Australian economy. The following data shows the importance of agriculture prior to the 2002-03 drought.

- Agriculture made up 4 percent of Australia's GDP in 2001-02, with a value added of \$26.0bn<sup>1</sup>. The gross value of production was \$39.9bn. Forecast production for the current financial year (2003-04) is \$36.1bn.
- It provided 20.3 per cent (\$31 bn) of our goods and services exports in 2001-02 (an estimated 18.2 percent or \$27 bn in the 2002-03 drought year)<sup>2</sup>.
- Many rural communities depend upon agriculture for their prosperity. Agriculture directly contributes more than 30 per cent of employment in 66 per cent of small non-coastal towns<sup>3</sup>. Of course, farming indirectly provides a great many more jobs.
- Farmers are vital custodians of the land, with agricultural activities covering 60 percent of the Australian landmass<sup>4</sup>.
- Agriculture is one of the largest employers in Australia, providing more than 380,000 jobs in 2001-02 (or 4 percent of Australia's labour force) – the ninth highest industry subdivision out of 53. The employment level has increased in the past five years, even with substantial improvements in productivity over this timeframe<sup>5</sup>. Employment figures have partly recovered from the drought, to stand at 318,200 as at February 2004.
- Agricultural productivity increased by 3.3 per cent per year between 1988 and 2000, well above the average of 1.2 per cent and the second highest in the market sector (after communications)<sup>6</sup>.
  - This fact in particular should dispel the myth that the agricultural sector is 'old economy'. Farmers have been adopting new technologies and improving practices with fervour.
  - This productivity growth has been driven by declining farm terms of trade (prices received divided by prices paid). Since 1960, farmers' terms of trade have declined by more than 50 percent<sup>7</sup>.
- Agriculture also represents a significant input into many other industries, particularly the food processing industry, which had a value added of \$14.5 bn in 2002-03 (2.0 percent of GDP). Food processing is the second largest industry subdivision of total manufacturing by value added and employment, employing 188,000 people in 2001-02<sup>8</sup>.

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1. Source: ABS, *National Income, Expenditure and Product*, table 47.

2. Source: ABARE, *Australian Commodities*, tables 5 and 27. Exports are greater than value added, because export value includes value added in non-agricultural industries.

3. Agriculture contributes more than half of total employment in 28 per cent of small non-coastal towns. Source: ABARE (2001), *Country Australia*, p38

4. Source: ABS, *Agriculture* (Cat no 7113.0), table 5.1

5. Source: ABARE, *Australian Commodities*, table 10.

6. Source: OECD, *Economic Surveys – Australia 2000-01*, p82

7. Source: ABARE, *Australian Commodity Statistics*, table 17.

8. Source: ABARE, *Australian Commodities*, table 10

### 3. Background

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In 1995, Federal, State and Territory Governments agreed to a program of competition policy reforms, including:

- Applying competition rules to professional services;
- Requiring Government-owned businesses to operate on a more commercial footing, by being subject to competition rules, price regulation and taxation and separating regulation and commercial functions;
- Allowing wider access to infrastructure such as gas and rail; and
- Reviews and reforms of legislation restricting competition.

The Federal Government has paid around \$16bn over nine years to States and Territories as an incentive to implement National Competition Policy (NCP) reforms.

The Competition Principles Agreement (CPA) states on NCP legislation reforms:

(5)(1) The guiding principle is that legislation (including Act, 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 outweigh the cost; and
- (b) the objectives of the legislation can only be achieved by restricting competition.

The test under Clause 51(a) is commonly known as the public interest (or public benefit) test. The CPA states that this public interest test can take account of:

- laws and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- laws and policies relating to matters such as occupational health and safety, industrial relations, access and equity;
- economic and regional development including employment and investment growth;
- the interests of consumers generally or a class of consumers;
- the competitiveness of Australian business; and
- the efficient allocation of resources.

#### 3.1 Developments in NCP since 1995

NFF was originally a supporter of NCP when it was proposed in 1995. However, over time, many members of the community, including farmers, have become increasingly concerned about the effects of NCP. These concerns were highlighted in submissions from many organisations (including NFF) to the Productivity Commission's 1999 report *Impact of Competition Policy Reforms on Rural and Regional Australia*.

In response to concerns, the Government announced on 29 August 2001 that it would propose a number of changes to NCP, including<sup>9</sup>:

- The public interest test should be strengthened to specifically require that policies be assessed against the interests of rural and regional communities;
- Requiring governments, in undertaking reform commitments, to commit to public consultation where reform is proposed and public education where reform is implemented; and
- The National Competition Council (NCC), which assesses the implementation of NCP, should be required to assess whether jurisdictions have met their commitments on consultation and education.

It appears that these changes have not been implemented. NFF strongly supports these changes being made a priority (see Section 5 below).

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9. Source: Commonwealth of Australia (2001)



## 4. Benefits of National Competition Policy

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### 4.1 Microeconomic reform in Australia

There is evidence that microeconomic reform, including National Competition Policy (NCP) has assisted with Australia's recent economic performance. However, it is difficult to separate the effect of NCP from other economic reforms. These other reforms include:

- floating of the dollar,
- deregulation of many industries (including financial services, airlines, coastal shipping and telecommunication);
- reforms to labour markets (including enterprise bargaining and waterfront reforms),
- reforms to delivery of Government services at Federal and State Levels;
- reduced protection & tariffs, and
- tax reform.

NFF has been a strong supporter of these reforms.

There have also been external changes that have had a substantial impact on businesses and communities such as technological change, Asian economic growth, movements in commodity prices and geopolitics. Some of these changes are for the better, but some are for the worse. For example, the internet has increased access to many online services; but may have increased the withdrawal of face-to-face services.

It is likely that some of the adverse effects of other reforms and external changes have been blamed incorrectly on NCP. This is why better communication relating to NCP is required (See Section 5.4 below).

### 4.2 Effects of microeconomic reform

Overall, it is argued that microeconomic reform (including NCP) has delivered:

- Greater competition between companies, which has driven:
  - reduced inflation due to the reduced ability for companies to seek high profits;
  - higher productivity growth;
  - improved use of technologies; and
  - improved quality of services (eg telecommunications)
- Has raised the 'speed limit' on growth (or has increased the maximum growth rate before inflation takes off).
- Greater flexibility to cope with crises, such as the Asian economic crisis and drought
- Recent improvements in Australia's terms of trade and international ranking of GDP per capita.
- Reductions in cross subsidies (usually from businesses to consumers) that were reducing efficiency while providing poor equity and efficiency results.
- Price reductions for goods and services that were previously priced above cost; and price increases for goods and services that were once priced below cost.

- However, NFF specifically rejects the assertion that increases in road charges have enabled the costs of transport to reflect the costs of supply more closely. At the moment, the costs of road use (particularly outside of cities) are far too high because of excessively high fuel taxes<sup>10</sup>. The costs of using transport should be reduced, particularly in non-urban areas, to more closely reflect costs and level of service.

The attachment is an annotated bibliography of some articles indicating that microeconomic reform has been beneficial to growth – in Australia and elsewhere.

### 4.3 Future of National Competition Policy

There are strong concerns about NCP, particularly in rural and regional areas. However, NFF does not consider that NCP is unredeemable – instead it should continue with significant changes to ensure it meets its original goals without causing collateral damage to communities or other policy goals.

National Competition Policy (NCP) should continue.
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10. For more details of this argument, see NFF's submission to AusLink, available at: <http://www.nff.org.au/pages/sub/AusLink%20Green%20Paper%20-%20NFF%20submission.pdf>

## 5. Problems with National Competition Policy

Many regional communities have expressed strong concerns with NCP. While some of these concerns may be misplaced (See Section 5.4 below) there are many legitimate concerns.

### 5.1 Uneven distribution of costs and benefits

There is a perception and some evidence that the distribution of costs and benefits of NCP has been uneven – greater costs have been imposed on rural communities, while greater benefits have resulted for cities.

- Significantly, the Productivity Commission found in its 1999 report *Impact of Competition Policy Reforms on Rural and Regional Australia* that “the early effects [of NCP] have favoured metropolitan areas more than rural and regional areas” (p xxii)

A clear solution to this problem is to explicitly include the effects on rural and regional communities in the public interest test. It would also address some of the image problems of NCP. It is possible that Governments will include these issues under the current public interest test, but NFF considers that they should be explicitly included.

The Government has already announced its support for such a change in the Stronger Regions, A Stronger Australia statement of 29 August 2001<sup>11</sup>. NFF therefore argues that:

The public interest test under NCP should be amended in line with the Government’s policy of August 2001, to ensure the interests of rural and regional communities are fully and appropriately addressed.

There is a related concern that farmers have had to face more reforms than other sectors, so they have not received the benefits of reforms to these other sectors. For example, while many statutory marketing authorities have been deregulated, other reforms that would benefit farmers have been slow to occur. Examples include slow reductions in protection for the car and textile clothing and footwear (TCF) industries.

Governments and the NCC should ensure that benefits of NCP are provided to all and ensure that there is no part of the economy exempt from reform.

### 5.2 Inadequate Compensation

In many cases, inadequate (or no) compensation has been paid to those facing adjustment costs under NCP, as NCP tranche payments are not targeted and do not have to be spent on those who suffer adjustment costs from deregulation

#### 5.2.1 The arguments for improved compensation

The standard test under NCP is for legislation to be reformed in order to meet a public benefit test. It naturally follows that changes will have a net public benefit – simplistically, the winners will outweigh the losers. So the winners could compensate those who lose and the winners could still be better off. Compensation would ensure that everyone either wins or doesn’t lose in net terms from a reform. This improves the equity of reforms.

In addition, compensation should increase the acceptability of reform. If all those facing costs are adequately compensated, their concerns with the reform will be abated. Meanwhile, it is very unlikely that the winners of a reform will be critical of their benefits being reduced because of the payment of compensation. Compensation will ensure there

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11. Macdonald (2001)

is long-term support for reform, which at the moment appears lacking for many reforms, particularly NCP.

It is vital that farmers have security over their land and water resources so that they can have greater security over investment decisions and banks are more likely to lend. The Council of Australian Government is currently examining these issues.

The same argument applies to assets that may be affected by NCP reviews. An example could include farms that produce a particular commodity that has a statutory marketing authority (SMA). Any uncertainty over the continuity of the SMA could devalue the farm and decrease investment.

Lastly, the requirement to pay compensation makes it more likely that changes clearly have a public benefit. If a legislative change has no cost to the Government, then they are less likely to *ensure* it has a public benefit. On the other hand, making change costly to the Government will ensure that these changes undergo greater scrutiny.

### **5.2.2 Details of compensation**

Governments should determine who receives compensation, how they receive it and how much they receive during the NCP review process. This links compensation with an analysis of adjustment costs under the public interest test, as proposed in Section 5.2.3 below.

States receive significant funds for completing NCP reforms. Perhaps compensation should be paid from these funds; although it has been suggested that requiring States to pay compensation may reduce the willingness of States to undertake reforms. On the other hand, the National Competition Council and Federal Government have stated that State Government should spend their NCP payments on assistance for those industries undergoing structural adjustment as a result of NCP. This is not occurring in part because these funds are not specifically targeted for this purpose.

Compensation should be paid to those facing adjustment costs as a result of NCP reforms. Governments should determine who receives compensation, how they receive it and how much they receive during the NCP review process, in parallel with the analysis of adjustment costs under the public interest test.

### **5.2.3 Public interest test, adjustment costs and compensation**

In considering whether a reform meets the public interest test, Governments should deduct the adjustment costs from the benefits of the reform. For example, if a reform has a benefit of \$100m, then it should not go ahead if the adjustment costs are greater than \$100m.

It is possible that Governments will include these issues under the current public interest test, but NFF considers that they should be explicitly included. Explicitly requiring examination of adjustment costs fits with the recommendation for compensation to be paid – see Section 5.2.2 above.

The public interest test under NCP should explicitly take account of adjustment costs.

## **5.3 Removal of other policy goals**

Often regulations that are reviewed under NCP have non-economic policy goals, such as providing Community Service Obligations (CSOs) or improving the bargaining power of small business. These other policy goals are usually very important to particular communities or industries. However, NCP has sometimes meant the removal of legislation that supported these other policy goals. Sometimes, the Government maintained these goals through different means – for example by having CSOs directly funded by the industry or from general Government revenue.

However, in other cases, the other policy goals were abandoned when NCP reforms were implemented. As a result, NCP was sometimes incorrectly blamed for the abandonment of these other policy goals – when this was in fact a separate decision by Governments to discard these goals. Some Governments may have actually promoted these erroneous views, in order to escape the criticism of removing CSOs.

Removal of other policy goals is a prime reason for the community concerns felt over NCP. Yet NCP does not require this! Therefore, NFF argues that:

The NCC must ensure that governments do not use NCP as an excuse to remove non-economic policy goals, such as Community Service Obligations (CSOs). If legislation that promotes a non-economic policy goal is removed, then an alternative means of supplying that goal should be found (such as Government or industry levy).

## 5.4 Inadequate communication

As outlined repeatedly in this submission, there is inadequate communication relating to NCP. There has been poor consultation with communities during reviews, and poor explanation of the outcomes of NCP reviews after they are completed. As a result:

- NCP has been incorrectly blamed for many things. Some examples include bank branch closures, outsourcing and privatisation.
- NCP is used as a political football between jurisdictions – with each jurisdiction blaming the other for making poor decisions or being too rigid.
- Communities have not felt empowered during NCP reviews, even if the effects on these communities were taken into consideration.

These concerns were recognised by the Government in its August 2001 statement *Stronger Regions, A Stronger Australia*, but it appears that the proposed reforms to NCP resulting from this statement have not been implemented. Therefore NFF argues that:

The NCP amendments advocated by the Government in August 2001 should be implemented as a priority:

- Require Governments, in undertaking reform commitments, to commit to public consultation where reform is proposed and public education where reform is implemented.
- Require the NCC to assess whether jurisdictions have met their commitments on consultation and education.

In addition, the NCC should set appropriate standards for this consultation and education to ensure that the quality of communication is improved.

## 5.5 Dividend payments to Governments

The Productivity Commission Issues Paper (2004) notes that dividend payments to Governments from publicly owned businesses have increased substantially. This should not be seen necessarily as a benefit – these businesses may be used as a hidden taxation source by overcharging customers. In any case, the long-term return to owners is from return on equity rather than dividends.

To the extent that NCP has influence over Government Business Enterprises (GBEs), NCP should not encourage excessive dividend payments to Governments.

## 5.6 Market power imbalance

Of particular concern to farmers is the imbalance in market power between growers and their customers. Often, farmers sell into highly concentrated markets, where they would have little or no market power on their own. As a consequence, there are strong and frequent concerns expressed that farmers are getting a 'raw deal'.

In the past, the imbalance in market power in agricultural industries through the powers of statutory marketing authorities (SMAs), for example in poultry meat, eggs, dairy and some horticulture products. These SMAs have been largely dismantled, mostly due to NCP, leaving not only an imbalance in market power between market participants but also less information about the market, which increases information asymmetries. These problems have only partly been addressed by other means:

- Farmers can seek authorisation for collective negotiation from the ACCC, but this can be costly, slow and provides much less protection than SMAs. In May 2003, the Government announced changes to this process to make it cheaper and quicker but legislation to implement this is yet to be introduced.
- The Retail Grocery Industry Code of Conduct was established in 2000 to encourage better business practices between growers and their customers. However, the Code has been largely unsuccessful in improving business practices. For further details, please see NFF's submission to the Review of the Code, available at: [http://www.nff.org.au/pages/sub/RGIC\\_review.pdf](http://www.nff.org.au/pages/sub/RGIC_review.pdf)
- As a result of the Dawson Inquiry and Senate Inquiry into the Trade Practices Act, it is likely that there will be some important improvements to the protections for small business against unfair competition. However, NFF considers the improvements to collective negotiation and the Retail Grocery Industry Code of Conduct to be of higher priority.

These changes to address market power will be complemented by NFF's proposed changes to NCP, to require better consultation, better accounting for effects on rural and regional communities and payment of compensation.

## 5.7 Process concerns

### 5.7.1 Coordination with other work

There is some concern that NCP is trying to duplicate work being undertaken by other organisations. A case in point is the National Water Initiative, being developed by a working group of the Council of Australian Governments. However, the NCC has simultaneously been examining jurisdictions' work against the NCP guidelines. This work is unnecessary and confusing. Therefore, NFF recommends:

NCP reviews should take account of, but not duplicate, issues that are undergoing separate reviews.

### 5.7.2 Coordination with other jurisdictions

NFF considers that NCP should encourage consistency between States and Territories in NCP reviews and outcomes where possible. Inconsistencies can cause various problems, including:

- It is a major cost on businesses that operate in more than one jurisdiction (including some farmers).
- Different registration requirements discourage movement of people between jurisdictions.
- It can impede interstate commerce – such as in water trading.

- It can create confusion over reforms.
- It discourages interstate competition – which runs against the original reason for NCP.

The Competition Principles Agreement should be amended to state that jurisdictions and the NCC will work towards harmonisation of regulations across States and Territories. In addition, the NCC should encourage the review processes in different jurisdictions to be harmonised if possible.

## 6. Specific Examples

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This section includes some examples from NFF's member organisations about the effects of NCP – both positive and negative.

### 6.1 Sugar

Since 1988, the sugar industry has been significantly deregulated. One change that is directly connected to NCP is the requirement that the statutory marketing authority, Queensland Sugar, is required to sell on the domestic market at export parity price. This Ministerial Directive costs the industry between \$4m and \$8m per year.

### 6.2 Impact of NCP water reforms on cane industry

In 1994, COAG introduced a set of water reforms aimed at reforming and improving the water sector in Australia as part of NCP. These NCP reforms were meant to have substantial benefits for agricultural water users but unfortunately this has not been the case. The impact of water reforms have been substantial on cane growers and has added significantly to the cost of growing cane.

#### 6.2.1 What water reforms have taken place

The key aspects of the 1994 COAG water reforms are pricing, investment and institutional reforms as well as water property rights trading.

- Pricing reform – consumption based pricing and full cost recovery (including, where practical, a return on the written down replacement cost of assets); the reduction or elimination of cross-subsidies; and making remaining subsidies transparent.
- Investment reform – investment in new rural water supply schemes, or in the extension of existing schemes, to proceed only if an appraisal indicates that it is economically viable and ecologically sustainable.
- Institutional reform – the adoption of an integrated water catchment approach; separating the roles of water resource management, standard setting and regulatory enforcement by 1998; and further development of interagency performance comparisons.
- Water property rights and trading – implementation of comprehensive systems of water allocations or entitlements which secure allocations of water for the environment. Also, separate water property rights from land title and clearly specify these entitlements in terms of ownership, volume, reliability, transferability and if appropriate quality. Finally, allow trading in water entitlements including interstate trading where feasible.

#### 6.2.2 Impact of water reform

Generally, there has been inadequate assessment of the economic and community costs and benefits of the water reforms. Also, there has not been sufficient effort at the local level to implement the reforms so as to minimise adverse impacts and encourage adoption. Consequently, the impact of water reform on cane growers in Queensland has been significant. NCP water reform has led to much higher water charges but many of the positive elements have not been fully implemented yet, including water trading.

#### 6.2.3 Water prices much higher

New water prices were implemented in 2000 for all state run irrigation schemes that would cover the period up until 2005. This resulted in substantially higher prices in most cane growing irrigation schemes with prices rising by as much as around 70 percent but



did not deliver any genuine efficiency gains. The higher water prices have directly threatened the viability of many cane farms throughout Queensland.

The new water prices for water may not reflect efficient costs of delivering water in each scheme. Some schemes, such as the Burdekin, are paying prices that are above the cost of operating and maintaining the scheme. They include a rate of return on sunk assets which is inconsistent with what is happening elsewhere in Australia including in NSW and Victoria. In a number of irrigation schemes, irrigators will not have the capacity to pay the increased charges.

Water pricing policies are currently in the process of being reviewed. Subsequently, new water prices are due to be developed in 2005 and it is unclear at this stage what the policies and prices will be. However, prices may increase substantially if government implements policies such as charging a rate of return in all schemes and charging for environmental externalities.

#### **6.2.4 Local Management not allowed to occur**

Water customers have not been given the opportunity to locally manage their own irrigation schemes or have any effective input into management of their scheme. This is inconsistent with NCP and has meant that water price rises have been higher than they needed to be. Local management has occurred in most irrigation schemes throughout Australia and has led to a substantial reduction in the costs of delivering water in most schemes. It would be expected that cost reductions in the order of 15 percent could be achievable under local management.

#### **6.2.5 Increased uncertainty over water entitlements**

The ten-year guaranteed access right given to growers is not adequate for investment planning given the long-term nature of farm development and has increased planning uncertainty. Also, the review of the entitlements within 10 years will reopen the debate over environmental needs and could mean a claw back of water entitlements without compensation.

The scientific investigations used to determine water requirements for the environment have not been sufficiently detailed to assess environmental water allocations.

Consequently, the precautionary principle has been applied and the amount of water allocated to the environment has often been far in excess of actual requirements.

#### **6.2.6 Stifled Water Resource Development**

There is no commitment by government to plan and assist with further water resource development in Queensland to underpin regional development and diversification. This, along with over allocating water to the environment in many catchments has led to a stifling of regional economic development in many areas such as Bundaberg, Isis, Atherton Tablelands and Mackay due to stalling and preventing many water infrastructure developments.

### **6.3 Impact of NCP electricity reforms on cane industry**

Reforms have taken place in the electricity industry as part of the NCP reforms. Similar to water, this has led to higher electricity charges as a result of pricing reforms that have included commercial rates of return being charged for all capital. For many cane farmers, these price increases have more than outweighed any price reductions that have occurred from increased competition.

Generally, only cane growers that irrigate use substantial amounts of electricity. Irrigation cane growers generally use electricity in high amounts to run their water pumps, water winches and other irrigators. In many cases, the cost of electricity is actually higher than the cost of water charges.

Consequently, irrigated cane growers have been hit hard twice by NCP from higher water and electricity charges. This has had a large impact on the profitability of their farm. And in addition to the reduction in the sugar price, has made cane growing unprofitable for many growers.

Unfortunately, NCP has not lead to the competition from suppliers that would have been hoped for in rural areas and thus prices have not come down as they should have under NCP. With more competition, prices should fall and growers will see some benefit from NCP.

## 6.4 Lamb Marketing Board in Western Australia

### 6.4.1 Background

In 1971 the WA State Government passed the Marketing of Lamb Act, which created WA Lamb Marketing Board as the statutory marketing body for both domestic and international lamb sales in Western Australia.

In 1972 when the statutory marketing authority was introduced about one million lambs were being processed in WA. In 1985/86 a slaughter tax of \$6-\$10 per lamb was imposed at processor level. This tax subsidised the WA Lamb Board's predecessor, WA Meat Marketing Corporation (WAMMCO), to the tune of around \$3-\$4 million and saw domestic production plummet to drastically low levels of 460,000 (1985/86). That same year saw 400,000 lambs imported from the eastern states as the cost of transporting the lamb was cheaper than the WA tax. With these imports to compete with WA lambs were forced to be exported at very low prices clearly indicating The WA Lamb Board was severely distorting the market signals for producers. WA lamb producers were the lowest paid in Australia and faced consistently lower prices of \$0.60 - \$1.00/kg compared to the eastern states. From the late seventies to the early nineties lamb consumption in WA per head of population dropped by about half and was at an all time low.

In July 1994, the domestic lamb market was de-regulated. From this date lambs slaughtered for domestic consumption were exempt from the provisions of the Marketing Meat act and WAMMCO had to compete with the domestic processors and butchers for supplies but still maintained single desk on all exported lambs. In 1998 the State Government announced its intention to abolish the acquisition powers for export lamb and to privatise WAMMCO. The single desk for exported lambs was abolished in January 2000.

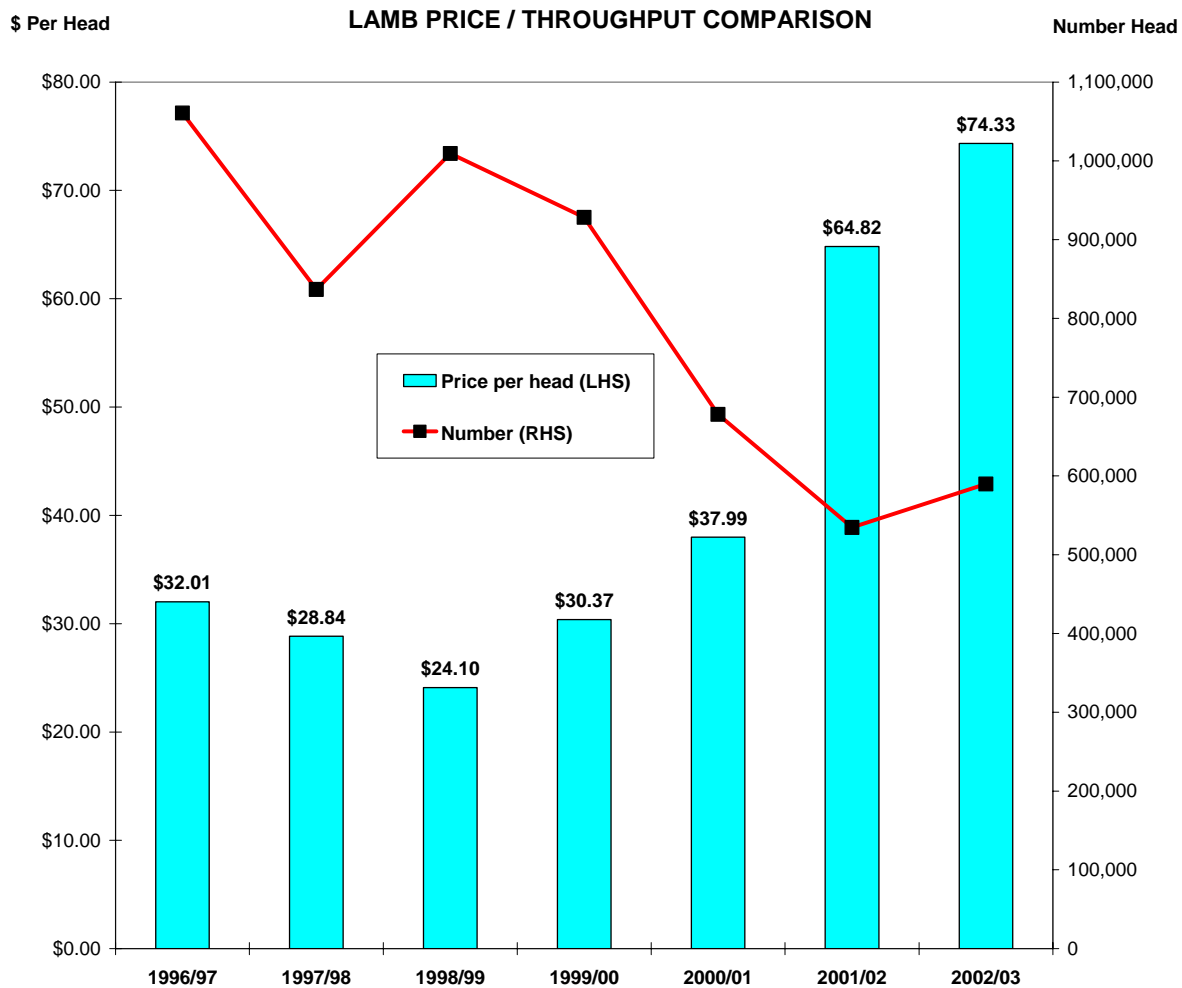
Since abolishment of the single desk for domestic and export lamb marketing the WA Lamb industry has thrived along with the rural communities that support the industry.

### 6.4.2 Positive Impact on Rural Communities and WA Lamb Industry

- **Better market signals to producers** – There is now no cross subsidisation of the market, and farmers are getting clear and undistorted signals about what export and domestic market wants. The open market has seen producers become much more professional. Many farmers now lot-feed lambs to finish them and get them into the right weight range. There is no need for a receiver of last resort as when under-weight lambs do come onto the market, someone buys them and puts them into a feedlot. Breeders are also focussing more heavily on genetics to increase weight gain, lambing percentages and meat yield.
- **Better prices to producers** – as indicated in Figure 1 there has been a significant increase in the returns to WA lamb producers due to an increase per head in value of lambs. Prior to export deregulation producers received an average \$24.10/h (1998/99) and this has increased steadily since to be \$74.33/h last year (2002/03). This is due to receiving the correct market signals, producing better and more consistent lambs and entering new lucrative markets.

- Given Farmers freedom to choose whom they sell lambs to

**Figure 1. Average WA Lamb Price per head compared to volume (throughput)**



Source: WAMMCO

- **More innovation** - The deregulation of the industry has seen innovation flourish to improve the WA Lamb industry. One example of this innovation is Q Lamb. WA Q Lamb is an alliance between a group of more than 170 dedicated lamb producers from the state's South West and North East regions, Hillside Meats Abattoir, Action Supermarkets and Andrews Meat, NSW. WA Q Lamb has become one of Australia's most successful lamb alliances and is recognised as an excellent model for the industry. All producers in the alliance aim to produce larger, leaner lambs for economies of size and yield in the production and processing sectors. This means consistent returns to all stakeholders as well as less waste. All WA Q Lamb product is traceable from plate to farm gate. The Q-Lamb alliance was able to emerge due to farmers getting the right market signals and being rewarded for the quality lambs they produced.
- **Investment in industry** – Deregulating the industry has seen significant investment in the industry. One example is Fletchers International which opened up a \$30million state of the art abattoir in Narrikup in 1998. Since then this facility has grown to cater for the lamb market. It is a major employer in the Great Southern region and they are constantly seeking workers to meet demand. Currently this facility has the capacity to process 10,000 lambs and sheep per day and the company exports to about 70 overseas countries. WAMMCO has moved to a cooperative structure and bought the abattoir assets of Metro Meats (two abattoirs) and have since upgraded the Katanning plant. V & V Walsh (WA) Pty. Ltd own and operate an abattoir in Bunbury which

was once a small cattle abattoir but now kills lambs for domestic and export market. The positive impact of the abattoirs on local and regional communities has been significant. They supply good employment opportunities for local people and help keep the community viable by maintaining critical mass.

- **Improved and effective WAMMCO** – the former statutory body is still the largest exporter out of WA and has maintained this mantle by restructuring and adapting to the competitive environment. It has changed its policy considerably from the single desk days and has been fundamental in developing the lucrative US market. When WAMMCO had the single desk they did not pursue this market and favoured the lighter weight lambs for their established Middle East market.
- **New Export markets have been developed** – the USA market has now been developed primarily by WAMMCO, which takes large premium lambs. WAMMCO have since been able to offer forward contracts to producers.
- **Increased production and consumption of lamb in WA** – Since the deregulation of the domestic market WA lamb consumption has increased to rival the levels reached in the Eastern States.
- **Reduced costs for producers and processors** – Processors no longer have the tax imposed by WA Lamb Board and growers have reduced costs for producers who own the WAMMCO cooperative. In 2000 WAMMCO International reported it had cut labour costs and upgraded its two facilities which created efficiencies and cost savings for growers. WAMMCO has also started returning equity to growers by issuing shares to producers.

One other point worth noting is that WA received \$5 million NCP payment for the dismantling of the statutory authority which was given to the industry as compensation. This money was used by WAMMCO to buy the two Metro Meats abattoirs. This has proved an essential and beneficial move for a former statutory body as it kept the abattoirs in WA ownership and allowed WAMMCO to further their value adding activities, which now play an important part in their overall operation.

## 6.5 Western Australia's Grain Licensing Authority

### 6.5.1 Background

The Grain Marketing Act of 1975 was reviewed by WA State Government in light of the National Competition Policy and while it stopped short of totally deregulating the barley, canola and lupin market they decided to implement a grain licensing system which was seen as part deregulation. The Grain Marketing Act 2002 was passed in November 2002, the legislation has the Grain Pool (now a subsidiary of the grower-owned Cooperative Bulk Handling Ltd), as the main export licence for barley, narrow leafed lupins and canola and established the Grain Licensing Authority (GLA). The GLA had the authority to grant special export licences to persons other than the main export licence provided that licence would not undermine the premium the Grain Pool extracts from the excise of market power. This legislation also allowed unrestricted export of these grains in bags and containers.

### 6.5.2 Implementation

The first of these special licenses was issued by the GLA in November 2003 for barley. 12 licenses were granted in the 2003-04 season which totalled 968,000t tones of various grains, all destined for export. Please see Section 6.5.7 below for GLA licenses statistics for 2003/04 season. The licensees were all experienced grain traders and there has been no report of growers having problems with their contacts.

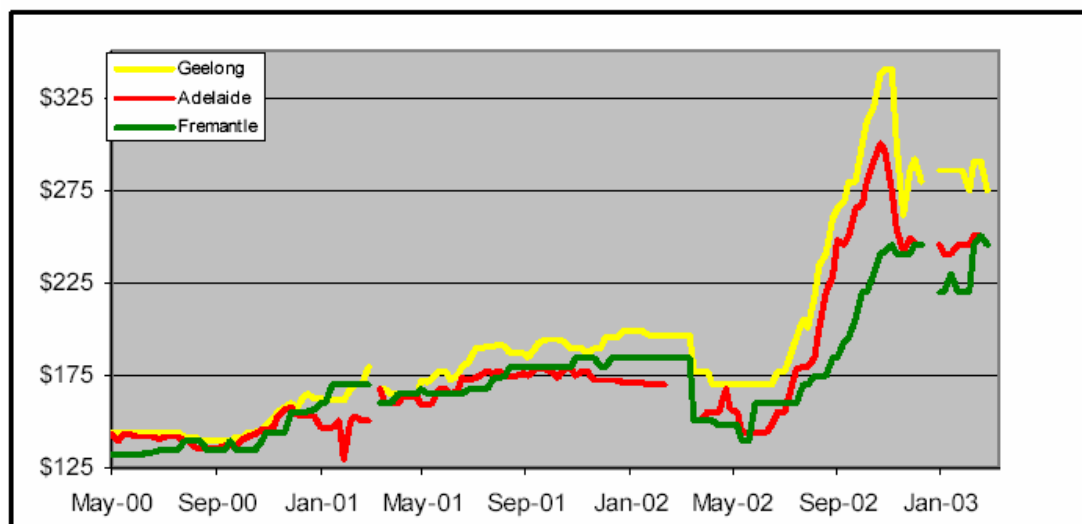
### 6.5.3 Feed Barley Growers

Under the licenses, 702 WA growers sold barley to marketers. Once the special licences were offered to WA barley growers the prices for cash feed barley increased \$10-\$15 over existing Agracorp prices. The extra competition for feed barley created by the special licence holder extracted a \$10-\$15 premium for every one of the 702 WA farmers and their families.

Figure 1 charts the weekly spot feed barley price for Fremantle, Geelong and Adelaide and it is evident from this chart that Geelong values have increased relative to Adelaide and Fremantle from July 2001, coinciding with deregulation of the Victorian market. These prices, gathered by Farm Horizons, were issues as cash bid prices by relevant marketers.

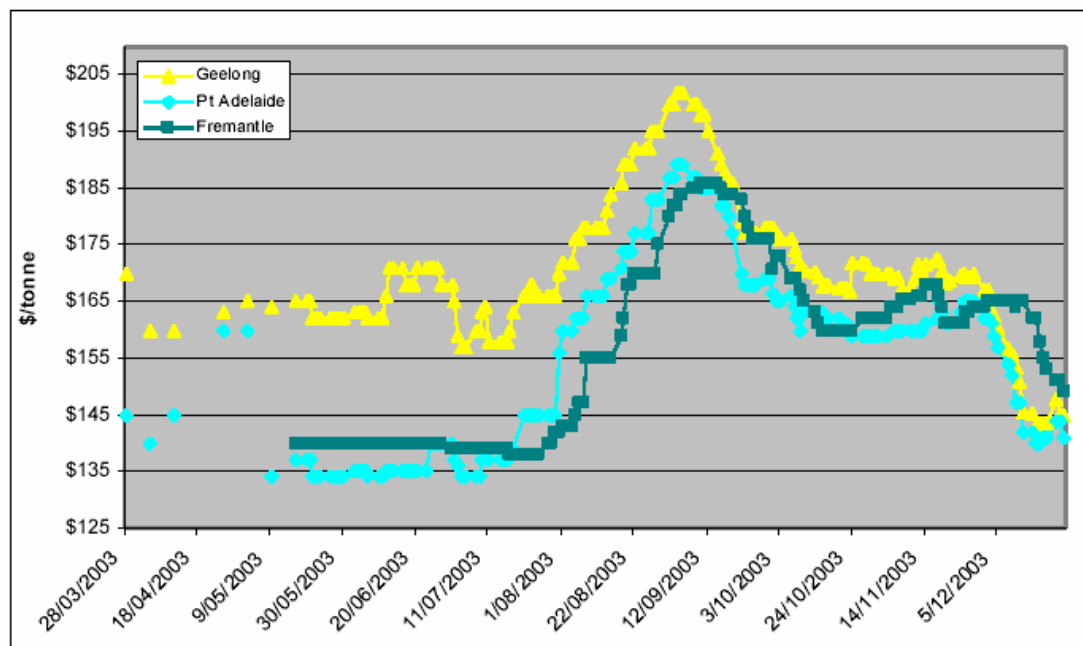
Figure 2 shows feed barley bids delivered to the three different ports. It is evident in this figure that Geelong outbid Fremantle for most of the season up until December which saw the introduction of the GLA licences and various licence holders start to compete for feed barley. WA growers, for the first time since Victoria deregulated their domestic barley market (2001), received a premium on feed barley over their Victorian counterparts. In August 2003 WA Agracorp's<sup>12</sup> cash prices were \$45/t under Victorian cash price bids. At the beginning of December 2003 the average WA feed barley prices rose from a \$10/t discount up to a \$4/t premium over Victorian feed barley, indicating that competition in the WA market generating a premium for local growers. Once the special licences were filled the Agracorp cash barley price immediately dropped back to \$148 (Kwinana) on 30 December – a far cry from the \$165 offered by Agracorp on 13 December while competing with the special licence holders.

**Figure 1: Delivered Port Feed Barley Prices Weekly Bids May 2000 to January 2003**



<sup>12</sup> AgraCorp Pty Ltd is a wholly owned subsidiary of the Grain Pool

**Figure 2 2003 Feed Barley Daily Prices Delivered Port**



Source for Fig 1&2: Farm Horizons for Australian Grain Exporters Assn

#### 6.5.4 Canola

Traditionally Agracorp's cash prices are at least \$20/t (port delivered) behind Victorian prices, this disparity occurs even though WA enjoys a freight and handling advantage. Rational for this disparity has been that Victoria enjoys a stronger domestic market and that WA's canola quality is inferior. This season saw this disparity reduced to \$6-\$7/tonne due to the special licences introducing extra competition into the WA market. In addition to this with up to ten different exporters bidding for inventory every day, the Victorians have a multitude of contracting options for their bulk canola. Contract options range from complicated, with you managing futures and currency exposure, to the very simple cash at harvest for set tonnages. WA growers still only have limited range of contracting options.

#### 6.5.5 Benefits to Grains Industry and WA Growers

##### 6.5.5.1 Increased Grower Choice

- Opportunity to increase cash component of crop.** The existence of the special licenses has greatly expanded the choices available to WA growers. The cash contracts being offered by licence holders enabled growers to price a larger percentage of their crop for cash to allow immediate cash flow. Many farm advisors recommend their clients seek to cash price a percentage of their expected production. Being able to sell at harvest time is particularly valuable as actual production is known so no production risk is involved.
- Opportunity for flexibility in borrowing program.** Having the option to price to cash at true market value is extremely important as it gives growers flexibility when selling their wheat. In previous years most people have been locked into the pools for local grains and hence forced to finance more of their wheat through harvest loans. With better access to cash prices for barley, lupins and canola growers can reduce their borrowing exposure, by not having to finance all of their wheat crop through harvest loans. It gives growers far greater flexibility in their borrowing programs.
- Opportunity for great choice of products.** With deeper liquidity in the market from forward competition, many types of contract (as described earlier in Victorian

Canola market) will become available that address farmers production and pricing risk needs.

#### *6.5.5.2 Opportunity for all growers to received export parity prices*

- The existence of the special licences have given growers outside Kwinana port zone the opportunity to avail themselves of export parity prices. Price discounts that have always existed in Geraldton, Albany and Esperance Ports relative to Fremantle disappeared during the time of special licences and all ports were priced at even money.

#### *6.5.5.3 New Market Opportunities*

- The special licences have meant an increasing attraction to the Western Australian grains industry from outside organisations who have access and knowledge of new market opportunities and also have established relationships with companies that can reduce costs in the supply chain. An example of this is Brooks Grain (a 2003/04 licence holder) who have a close relationship with Glencor International Ltd.<sup>13</sup>

### **6.5.6 Benefits to WA Rural Communities**

Conservatively it can be said that at a \$10 per tonne premium added an additional \$3.5-\$6million into growers pockets and the WA rural economy. A much needed boost after the poor season in 2002-03. Further to this the Grain Pool of WA (GPPL) was forced to raise its cash bids in order to compete with special export license holders during this time. It has not been released as to how many tonnes GPPL accumulated during this time but it too should be counted as a benefit to WA growers and was clearly a response to the increased competition.

According to the Agriculture Department of WA, the grains industry, is regarded as the mainstay of the State's agricultural sector and many Rural communities in the WA wheat belt region rely on the grains industry as the primary source of employments and plus a large percentage of small businesses exist in rural towns service the grain farmers needs. The impact of these premiums would have been felt on all parts of rural communities as the wealth created trickled through to the businesses and employee's. The social effect on rural communities of this trickle down effect should also be taken very seriously, especially given the depressed atmosphere that existed in the 2002/03 season. The impact of more opportunities for investment in the WA grains industry is likely to have a positive impact on farm and business confidence.

### **6.5.7 GLA License Statistics - For 2003/04 season**

#### *6.5.7.1 Approved - July 2003 to date - 12 Licences Issued*

Grain	Region	Tonnage	Shipped To Date	Status
Feed Barley	Middle East	433,000	339,791	
Canola	Subcontinent	48,000	Nil	
Lupins	East Asia	20,000	Nil	
Malting Barley	Asia	35,000	Nil	Approval through Appeal, Extended to 04/05

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<sup>13</sup> Glencor International Ltd is the largest diversified physical commodity trading group in the world

#### 6.5.7.2 Declined - July 2003 to date

Grain	Region	Tonnage	Status
Canola	Asia	40,000	Unsuccessful Appeal
Canola	Subcontinent	45,000	
Feed Barley	Middle East	318,000	

Source: GLA 2004

## 6.6 Poultry meat example

The poultry meat industry is characterised by a severe market power imbalance between processors and growers and for this reason legislation was introduced in all states to provide countervailing market power. However, NCP has resulted in the removal of most of this legislation and a negligible impact upon consumer prices.

### 6.6.1 Characteristics of the poultry meat industry

The poultry meat industry has unique characteristics and deserves special consideration under NCP, but this has not occurred so far. Processors exert a significant degree of control over poultry production, because:

- They are large vertically integrated firms, significantly larger than growers.
- Growers do not own the birds they rear. Processors provide the main inputs in the growing process – chickens, feed and medications. Processors pay chicken growers on a per bird basis (around 50c per bird) to raise the chickens in accordance with contracts signed between processors and growers.
- Growers contribute approximately 40% of the capital investment in the industry through ownership of land, sheds and other facilities yet receive only 6% of the retail price. The average contract farm consists of 3-4 growing sheds costing anywhere between \$320,000-\$450,000 each; upgrades require over 20 years to pay off; yet growers only receive 5 year contracts when such investments. These sheds are becoming larger and more expensive as growers take advantage of economies of scale and new technology to counter declining profit margins.
- The costs of infrastructure are high, debt levels are often high and sheds are non-portable and have no alternate uses. As a result, processors can deliberately offer unsatisfactory contract terms and growing fees because they know that growers cannot afford to decline such offers in the face of rising debt repayments. Further, many growers are located in areas where urban encroachment has meant that these sheds are not able to be upgraded or expanded due to land use conflict issues. This has meant that growers cannot sell this expensive infrastructure at a profit to enable them to exit the industry easily.
- Processors expect growers to undertake investments prior to receiving a contract, without any assurances from the processor about income security into the future. On top of this, contracts actually do not have any monetary value attached and do not even offer any assurances regarding expected throughput of birds through the facilities. The situation is analogous to the owner of an industrial property having a tenant that only pays rent on the days that the premises are occupied. For example the equivalent to the occupancy rate for poultry growers is the “batch rate”, which has been only 83% in NSW over the past year.
- There is major information asymmetry in the market. Processors are private companies and therefore are not obligated to publicly disclose market information. . They also do not pass on key information to other supply chain participants such as



growers despite the efficiency advantages that such disclosure could provide the industry as a whole. As a result, growers operate in isolation relying on anecdotal information passed on from the processor when making significant investment decisions. For instance, while there is minimal information available from ABARE, there is no market signal available to growers indicating future consumer demand trends, future processor plans relating to relocation, importation and future shed technologies. Instead processors require growers to upgrade shed type and increase farm size without any knowledge of the very things that will impact upon their future income.

- The decisions growers make on price negotiations, contracts signed and loans taken for farm improvements rely on their own assessment that they will be able to operate their farm at full capacity<sup>14</sup>. This asymmetry of information encourages individual growers to expand their operations over time to take advantage of economies of scale, and increase their market share as a supplier. In the absence of increased consumer demand, average income per grower across the sector falls.

For these reasons, industry specific legislation was introduced to protect growers from processor market power.

### **6.6.2 Impact of National Competition Policy**

NCP has seen the removal of poultry meat legislation or conversion to legislation which has been ineffective in the protection of growers from market power abuse. The problems with this process include:

#### *6.6.2.1 Inconsistency between states*

- In Qld where there is effectively a comfortable processor duopoly with a moderate degree of market power abuse, there is weak legislation that has been approved by the NCC. In WA where there is an absolute processor duopoly with relatively appropriate business behaviours and little market power abuse, there is extremely powerful legislation that has been approved by the NCC. In NSW, where there is an oligopoly and very significant market abuse, the NCC has rejected very weak countervailing power legislation.
- NCC guidelines have been poorly understood (deliberately or accidentally) by the state instrumentalities that have carried out the ancillary legislation reviews. The NCC has failed to provide adequate guidelines and training for reviews and in its own reviews has failed to assess the public benefit tests against its own guidelines.
- As a result, there has been no consistency of review between states, even when the market situation for a particular industry has been essentially identical. For those industries operating nationally, this has actually created barriers to national trade rather than enhancing it, and is biasing investment decisions. This works against national harmonisation.

#### *6.6.2.2 Lack of quality assurance*

- The lack of quality assurance by the NCC has resulted in unpredictable decision making, confusion and an ad hoc approach to assessment which has confused the state reviewers and the industry which has been admitted by the NCC. For example, the amended WA legislation was approved with effective arbitration allowance for

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<sup>14</sup> The incentive for processors lies in their need for economies of scale, savings in cost of production and a desire to increase grower competition for contracts and contract terms. There is no incentive for processors to avoid an oversupply of sheds in the market apart from complying with relevant terms written into contracts.

disputes, whereas the amended SA legislation was refused and the SA government fined for achieving less in similar legislation.

#### *6.6.2.3 A lack of understanding of industry issues*

- The NCC admitted in a meeting with the Australian Chicken Growers' Council (ACGC) in March 2004 that they had managed to review 5 states assessments of poultry meat countervailing power legislation without being aware that the farmers at no stage own the livestock that they farm – surely a critical issue in the assessment of negotiating strength by a market player and a critical issue behind the original introduction of the state countervailing power legislature.
- Likewise NCC appeared to be unaware of the concentration of market power held by the three major processing companies. They admitted to having met with the processors, but had not either notified the growers (who after all are the topic of the assessment) nor had met with growers prior to completing 5 State reviews of countervailing power legislation.
- NCC was also apparently unaware of the extent to which farmers are engaged in active competition within the countervailing power structure – by competing for a share of a pool payment or being part of a Performance Incentive System (PIF) within the context of an industry assisted or statutory price structure

#### *6.6.2.4 The alternatives do not address the industry's issues*

- The Trade Practices Act has not protected growers from market power abuse. Authorisation for poultry growers has not proven effective in other states (South Australia has since reintroduced legislation). The Dawson review may go some way to improving this situation.
- The unconscionable conduct provisions of the TPA have not proven helpful. There has only been one successful case under the Act despite over 450 complaints lodged with the ACCC every year since 1998. This is not surprising given the lack of clarity regarding what is unconscionable, growers' fear of commercial retaliation, the onus of proof being with the grower (when processors have the evidence that is required to convict it) and the high cost of legal action. Therefore, 'take it or leave it' price and contract terms will still remain to the detriment of farmers and their livelihoods.
- It is impossible for farmers (for cost and coercion reasons) to take their own action under the TPA.

#### *6.6.2.5 The lack of structural adjustment*

- There has been a lack of assistance to growers who have experienced structural adjustment costs because of deregulation. This has caused major problems not only for growers and their communities but also for biosecurity and food safety as these farmers attempt to cut costs to survive.
- In contrast, some other agricultural industries facing structural adjustment have received compensation – including dairy and sugar.

## **6.7 Farm Debt Mediation Act**

The Farm Debt Mediation Act 1994 (NSW) is designed to provide mandatory mediation of farm debt disputes before a creditor can take enforcement action against farm property under a mortgage. The objective of the Act was to allow the creditors and the debtor to try and come to an agreement through alternative dispute resolution. This would then save time and money for the creditor, debtor and the government.

The NSW Government Reviewed the Act in 2000 and made amendments in 2002.

The 2003 assessment of Governments' progress in implementing National Competition Policy and related reforms, found that "New South Wales has not met its CPA clause 5 obligations arising from the Farm Debt Mediation Act." (NCC, 2003, Ch. 1, p1.126). The NCC found three key areas of concern. The principle restriction was the mandatory nature of the mediation. The other restrictions were a twelve month penalty for creditors that did not participate in mediation in good faith (Section 11(3)) and the review of decisions of the Rural Assistance Authority (RAA) by the Administrative Decisions Tribunal (Section 29A(1)).

The NSW Government eventually repealed the sections that applied a twelve month penalty on creditors, and the review of the decisions by the Administrative Decisions Tribunal. This was enough to satisfy the NCC that the legislation was allowed to stay in place.

The problem with this review was that the Act has a clear private and public benefit. In this case the benefit is that the Act allows the creditors and the debtor to try and come to an agreement through alternative dispute resolution, without limiting their rights to go to court. This would then save time and money for the creditor, debtor and the Government. The Act had also proven to be very effective. As at the 31st of October 2003 there were 947 satisfactory mediations and 112 cases where the parties failed to reach an agreement. This means that in 89 percent of mediations the parties reached an agreement that both parties were presumably satisfied with. It also means that 947 cases of enforcement action were avoided thus saving time, effort and expense.

The other problem of the NCP process that is highlighted by this example is that there would have been a negligible, if any, gain for the economy as a whole if the legislation was repealed. On the other hand there would have been a massive increase in costs and effort for the 947 cases that were able to avoid going to court thanks to the legislation.

## 7. Contribution of National Competition Policy to other policy goals

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The contribution of NCP to other policy goals has been mixed. However, generally NCP was not designed to meet these other policy goals. As noted in Section 5.2.2 above, generally NCP has not required changes to these goals – it requires reviews to ensure that these goals are met in the most effective way.

### 7.1 Environmental effects

Microeconomic reforms have improved Australia's productivity. Improved productivity means the economy can produce more output for the same inputs, or produce the same output for the same inputs. Counting the environment as an input into production, it follows that productivity improvements (including from NCP) on their own would produce environmental benefits.

As noted by the Productivity Commission (2004 at p5), reforms to water have provided significant environmental benefits. Completion of a successful National Water Initiative also promote good environmental outcomes. The Australian Conservation Foundation (Fisher 2000) argued that the 1994 water reforms provided some benefits to the environment.

This argument has not been accepted by all. An example is Hamilton & Denniss (2000), who argue that microeconomic reforms to electricity have been detrimental to the environment because they greatly increased greenhouse gas emissions. But they ignore the fact that the Government has no emissions restrictions on electricity. So the official price of emissions from electricity is zero. Therefore, it would have been incorrect for microeconomic reforms (including NCP) to have taken account of the cost of electricity emissions – it would be inconsistent with wider Government policy.

If there were emissions restrictions or taxes on electricity, it would be entirely correct for reforms to take this into account – but it is very likely that the structural reforms to the market would have been *exactly* the same (though the results would have been different – prices may have fallen less and the mix of generation might have been different).

#### 7.1.1 Public interest test & the environment

The public interest test under NCP specifically requires examination of “laws and policies relating to ecologically sustainable development”. NFF considers that this is sufficient to address concerns relating to NCP and no further changes are required. Any environmental concerns that are not Government ‘laws and policies’ should *not* be taken into account, or this would mean that NCP is operating inconsistently with broader Government policy.

The public interest test already adequately covers environmental concerns and does not need further amendment.

### 7.2 Social and Regional Objectives

Many communities have felt that NCP has treated them badly. The reasons for these feelings were explored in Section 5 above and include poor communication about NCP reforms, inadequate consideration of the effect on communities of reforms and other unpopular changes have occurred at the same time as NCP reforms.

NFF considers the reforms to NCP outlined in Section 5 above will go some way to reducing these concerns.

## 8. Extension of NCP

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While NFF supports the continuation of NCP, we consider that there is a need to ensure that future reviews improve NCP for farmers and rural Australia. As noted in Section 5.1 above, there are legitimate concerns that rural areas have had less benefits from NCP so far. Therefore, NFF proposes a program of future reforms that should produce strong benefits to farmers.

As suggested by the Productivity Commission (2004 at p13) incorporating these reforms into an improved NCP framework will ensure that reform is more rigorously assessed, better promoted and more accepted<sup>15</sup>.

### 8.1 Business inputs

NFF supports the proposal to extend NCP into business inputs. Some very important areas include:

#### 8.1.1 Labour markets

NFF is a strong advocate of further deregulation of labour markets. Many restrictions on labour markets are anti-competitive, and it is not clear that they are in the public interest. Some examples include the exemption of labour from some prohibitions on restrictive trade practices.

#### 8.1.2 Import tariffs & protection

There is a need for a continuing reduction in tariffs and protection. The tariff ‘peaks’ on the motor vehicle and textile, clothing and footwear (TCF) industries should be reduced, along with the nuisance tariffs, which provide no protection to Australian industries. The general arguments against tariffs are:

- Tariffs are a tax on business inputs (Australia’s manufacturing industry tariffs added \$95 million to the costs of primary production inputs in 2001-02<sup>16</sup>);
- Protection increases the exchange rate, making exporters less competitive;
- Tariffs make domestic companies less competitive and productive, reducing Australia’s growth rate;
- Protection reduces Australia’s free trade credentials, harming our efforts to reduce farm support programs in other countries;
- Protection is a very poor way of achieving the stated goals of industry and regional development and increasing employment; and
- Tariffs often have poor equity effects (that is, they hurt poorer people more).

In addition, there are the following arguments against nuisance tariffs:

- The original reason for the tariff – to reduce the Budget deficit – no longer applies. According to the Financial Review, in 1996 the Government said the tariff concession was “temporary”, and would be lifted when it was “fiscally responsible”<sup>17</sup>.

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15. Conversely, if these reforms are not incorporated into NCP, there is a risk that the reforms may not be rigorously assessed, adequately promoted or accepted by the community.

16. Source: Productivity Commission *Trade and Assistance Review 2001-02*, table 3.2 page 3-12.

17. Peter Roberts (2004) *Another missed opportunity to kill off tariff scheme* Australian Financial Review, 12 May 2004.

- While the efficiency effects of a tariff at a low rate are small, the administration and compliance costs would be high, compared to revenue received (in other words, the administration costs for a 3 percent tax are only a bit lower than for a 40 percent tax).
- Australian Business Limited argues that: “if you buy a fully built product from overseas it might come in duty-free, but if you import the same components and assemble them here they attract a duty of 3 per cent.”

### **8.1.3 Imports – Dumping**

There is also an important need for the examination of anti-dumping rules to ensure that they align with Australia’s strong commitment to trade liberalisation. While NFF does not support the removal of anti-dumping rules, we are concerned that the rules may imposing higher input costs on Australian farmers – particularly for farm chemicals. The *Customs Legislation Amendment Bill (No.2) 2002*, which threatened to classify China as a non-market economy, highlighted these concerns.

Essentially, NFF is concerned that anti-dumping rules are being treated as Government-approved restrictions on trade. This is against the general philosophy of NCP.

### **8.1.4 Financial Capital**

There has been very significant deregulation of capital markets in Australia over the past two decades (particularly floating of the dollar and opening up to foreign bank competition). There may be some scope for continued reforms, but the incremental benefits would be smaller than the benefits of the earlier reforms. Incorporating these reforms into NCP will also ensure that the effect of any further reforms on communities is more accurately assessed.

### **8.1.5 Land**

Land is an absolutely essential input for farming, but it is being increasingly regulated. Therefore, regulations applying to land are overdue for reform. The Productivity Commission (2003) recently found that inflexible rules for land management and inconsistent administration had imposed costs and hardships on farmers, which had prevented efficient farming practices and some blanket restrictions had led to perverse environmental outcomes.

NFF believes that these regulations should be reformed to meet the principle that landholders bear the costs of actions that provide private benefits, but the wider community should bear the costs of actions that are demanded by, and largely benefit, the wider community. Under this principle, Governments should provide structural adjustment (compensation) to landholders and affected communities where regulations reduce land value for environmental outcomes<sup>18</sup>. This is similar to NFF’s recommendations on NCP compensation in Section 5.2 above.

NFF supports an Intergovernmental Agreement (IGA) to implement these changes, including a timeline for reforms.

A separate Productivity Commission Research Paper (2002) found that pastoral leases were overly restrictive and less prescriptive and more ‘neutral’ leasing arrangements would be likely to lead to better long term management of Australia’s rangelands — economically, ecologically and socially. An extension of NCP to pastoral leases may address these problems.

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18. For more details see NFF’s resource security policy at:  
[http://www.nff.org.au/pages/policies\\_printfiles/NFF\\_policy\\_resource\\_security.pdf](http://www.nff.org.au/pages/policies_printfiles/NFF_policy_resource_security.pdf)

### 8.1.6 Recommendation

That NCP be extended to cover business inputs, including: labour markets, imports, financial capital and land.

## 8.2 State taxes

NFF's state member organisations have significant concerns over a number of State taxes, including:

- The tax bases and administration differ significantly between states, increasing costs for businesses (including farmers) that operate across state borders.
  - There is some value in interstate competition with taxes, but it would be better for this competition to occur on the tax rates, not tax bases.
- Some state taxes are very inefficient. A case in point is State taxes on insurance, which can be up to 90 percent in some cases. These taxes should be removed as a priority.
- There is some concern that States should be removing inefficient taxes more quickly, because of the GST.

Therefore, NFF recommends:

That NCP should be extended to cover State taxes.

## 8.3 Local Government

There have already been examinations of some local government services under NCP. These reviews should continue, to ensure that services are provided in the most efficient way. Most local government services should be market tested – but it would generally be inappropriate to force local governments to contract out services.

There may also be benefit in having NCP examine local government regulations, which can be poorly designed. However, this could be a very large task.

## 8.4 Infrastructure access

NCP should continue to work on access regimes for infrastructure. This is particularly important where there is some concentration of market power – for example in rail. A competitively neutral access system will ensure that there is little or no monopoly power for current infrastructure owners or operators.

## 8.5 Education and health

There may be value in extending NCP to education and health – however this would have to be managed carefully because these are sensitive services for many families and communities. The involvement of NCP in education and health may encourage greater quality and access to these services, and may constrain the rapidly increasing prices in these sectors. For example, reducing the licence restrictions on medical professionals could reduce price and improve access for regional communities (although the effect on quality would have to be closely monitored).

NFF suggests that the Productivity Commission should examine whether NCP could or should be extended to education and health – ensuring that appropriate safeguards are put in place to address community concerns.

## 9. Bibliography

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## 10. Studies of the effects of deregulation on growth

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Ahn (2002) *Competition, innovation and productivity growth - A review of theory and evidence* OECD Working Paper 317

- A large number of empirical studies confirm that the link between product market competition and productivity growth is positive and robust. An increasing number of empirical studies suggest that there exist considerable interactions between product market competition and competition in labour and capital markets.

Alesina, Ardagna, Nicoletti & Schiantarelli (2003) *Regulation & Investment* NBER Working Paper 9560

- This paper provides substantial evidence that various measures of regulation in the product market, concerning in particular entry barriers, are negatively related to investment. Regulatory reforms, especially those that liberalize entry, are very likely to spur investment.

Bassanini & Ernst (2002) *Labour market institutions, product market regulation, and innovation - Cross-country evidence* OECD Working Paper 316

- This paper provides some cross-country evidence that enhancing competition in the product market seems to have a positive impact on the innovation performance of a country.

Bertrand & Kramarz (2001) *Does Entry Regulation Hinder Job Creation? Evidence from the French Retail Industry* NBER Working Paper 8211

- This paper examines the effect of entry regulations in the French retail industry. It is shown that these barriers to entry weakened employment growth in the retail industry. Retail employment could have been more than 10% higher today had entry regulation not been introduced. Promoting product market competition may thus be a key reform for countries with poor employment performance.

Boylaud & Nicoletti (2000) *Regulation, market structure and performance in telecommunications* OECD Working Paper 237

- This study shows that prospective competition and effective competition both bring about productivity and quality improvements and reduce the prices of all the telecommunications services considered in the analysis. The study controls for technology developments and differences in economic structure. There was no clear evidence of the effect of ownership on performance.

Djankov, La Porta, de Silanes, Shleifer (2001) *The Regulation Of Entry* World Bank Working Paper 2661

- This paper presents new data on the regulation of entry of start-up firms in 85 countries. The official costs of entry are extremely high in most countries. Countries with heavier regulation of entry have higher corruption and larger unofficial economies, but not better quality of public or private goods.

Galson-Sanchez & Schmitz (2002) *Competitive Pressure & Labor Productivity* American Economic Review Vol 92 No 4

- This paper presents a case where an increase in competitive pressure faced by producers, resulting from the shrinking of the producers' market, led to large gains in the labour productivity of those producers.

Gonenc & Nicoletti (2000) *Regulation, market structure and performance in air passenger transportation* OECD Working Paper 254

- This paper shows that airline productive efficiency increases and fares decline when regulations and market structures become friendly to competition.

Gonenc, Maher & Nicoletti (2000) *The implementation and the effects of regulatory reform: Past experience and current issues* OECD Working Paper 251

- This paper contains a substantial survey of other studies into the effects of regulatory reform on various variables, including growth, efficiency, employment, prices and quality. The economy-wide findings are summarised in the table below.

Variable	Effect of reduced regulation on each variable
GDP	17 studies showing positive effect
Total productivity	2 studies showing positive effect
Labour productivity	1 study showing positive effect
Employment	6 studies showing positive effect (or reduced unemployment) 1 study showing negligible effect
Wages	1 study showing mixed, predominantly positive effect

The following table summarises the effect on specific industries<sup>19</sup>.

Variable	Effect of reduced regulation on each variable
Prices	32 studies show reduction 3 studies show unclear or mixed effect 1 study shows no effect
Efficiency	20 studies show improvement 2 study shows unclear effect
Quality	14 studies show improvement 2 studies unclear
Employment	6 studies show increase 1 study unclear 1 study shows zero effect 1 study shows negative effect
Welfare	2 studies show improvement

Nicoletti & Scarpetta – *Regulation, productivity and growth – OECD evidence* OECD WP 347

- They find evidence that reforms promoting private governance and competition (where these are viable) tend to boost productivity. Both privatisation and entry liberalisation are estimated to have a positive impact on productivity.

Parham, Dean (2004) *Sources of Australia's Productivity Revival* Economic Record

- “The Australian evidence supports the OECD conclusion that policy and institutional factors have been instrumental in driving and enabling improved productivity performance in the 1990s.”

19. This is collated with data from Boylaud (2000) *Regulatory reform in road freight and retail distribution* OECD Working Paper 255