

Supplementary Submission
to
the Productivity Commission's Review
of
National Competition Policy Arrangements
August 2004

The Farmers-Generals ... were a state within a state. Half business and half finance corporation, half a government, with personnel that ran at least thirty thousand, they were the largest employer in France... In the major commodities with which they were concerned – they were producers, manufacturers, refiners warehouse keepers, wholesalers, price regulators and monopoly retailers as well.

From the beginning to the end of the process the commodity was captive of the Farmer's right to exercise iron-clad regulation. Everything hinged on their control over pricing. [T]he producers of salt from the marshes west of Nantes were required to sell their produce to the Farmers at prices fixed after one-sided negotiation.

At a local level it provided an extraordinary mixture of corporate paternalism and no-holds-barred commercialism, regulation and enterprise, efficient administration and ponderous bureaucracy, elaborate procedure and haphazard military brutality. At the centre ...it presented quite another face: polished, urbane, technocratic and, above all, overpoweringly rich. However much public abuse they were subjected to... [they] knew they were the cynosure of all eyes.

Simon Schama, *Citizens:
A Chronicle of the French Revolution*,
Penguin, 1989, pp. 73-76.

**Liquor Stores Association of Victoria's
Supplementary Submission
to
the Productivity Commission's Review
of
National Competition Policy Arrangements**

Why an additional submission

Since the Liquor Stores Association of Victoria (LSAV) made its original submission to the Review on 18 June 2004, two emerging issues highlight our concerns over the inconsistent application of National Competition Policy across the nation. These two liquor related issues are:

- The New South Wales *National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004* and subsequent regulations, and
- The proposed take-over of the ALH chain of hotels in Australia by the Bruce Matheson/Woolworths *Bruandwo* vehicle.

The inconsistencies mean that independent liquor stores, in Victoria, were deregulated to the point where the major beneficiaries were the two chains Coles/Myer and Woolworths. The NCP deregulation program in this state was never the 'perfect outcome', rather given the circumstances it was the best achievable. When we met with the NCC Chairman, Graeme Samuel (2002) indicated the Victorian liquor reform was [in words to the effect] 'an exemplary outcome, a model for the liquor industry in other states and for other industries.'

However, that deregulation model was never applied to the mainland states' reform.

In NSW the recent deregulation process saw the legislated 'needs test' abolished and a re-regulation mechanism cobbled together which gives even greater protection to those already protected. In short, the NSW outcome will enable the chains to comply with the *Act* (for a cost) while debarring, the lower-capitalised small independents from entering the industry, because of inflated SIA imposts.

So exclusive is the NSW SIA program against small business, that one is left wondering if there is not an attempt to reinstate that wonderful NSW historical precedent of the Rum Corps, wherein only an elite group can participate in the sale and control of liquor in that state. There was a failure in the process of the NSW review. It was an exercise in heavy-handed *bureaucratic despotism*¹ delivering an outcome opposing the very National Competition Policy concept it was supposed to achieve: the easing of the right of entry into the already proscriptive and over regulated liquor market. This is the reverse of what occurred with the Victorian liquor deregulation 'model'. In fact if the NSW outcome appears somewhat inconsistent with NCP; the QLD outcome was a sham.

In Queensland, only those with massive capital resources can obtain a hotel licence with the three detached bottle-shops (DBS); hence the *Bruandwo* proposed hotel acquisitions. The ALH takeover bid encapsulates the NCP inconsistency; as both major supermarket chains appreciate that the only way they can gain entry into the highly-protected liquor market in Queensland is to acquire hotels. While the LSAV is not holding the torch for the chains it exemplifies that the small independent liquor retailers lack such financial resources and are denied access to that market on the basis of cost. In fact, the whole of the independent packaged liquor industry as it exists in other states is denied entry into the Queensland market and that state therefore is anti-competitive and is denying the consumer a choice and a diverse competitive market.

The National Competition Council submission of June 2004 to the Productivity Commission Review, demonstrated at Table 2, p. 15, that most states in 2003 failed to comply with liquor deregulation. That Victoria was sacrificed in the name of deregulation, while other states re-regulated or remained regulated is inconsistent. If Victoria is the only state to be so treated there must be further compensation available for those Victorian liquor licence holders who had to sell to the major chains. However, if the determinant was to ensure the two major chains were to be the beneficiaries and a duopoly created in the Australian economy reflecting that of the Farmers-General in the dying days of Louis XVI's *ancien regime*, then NCC policy applications were extremely successful.

¹ Schama, *Citizens*, p. 63.

Conclusion

The National Competition Council has failed to deliver a consistent and even handed approach to deregulation in the area of liquor reform throughout Australia. The LSAV has every right to feel aggrieved by the NCP process, particularly as our Victorian packaged liquor retailers received not one cent of the NCP dollar payments from the state. We did receive some monies from Coles and Woolworths. Our state industry members were sacrificed and their carcasses thrown to others to feed off. At the same time in Queensland, independent package liquor retailers were denied entry into that exclusive market. In NSW that state, using a system of smoke and mirrors restricts, the ability of new starters and independent packaged liquor retailers to enter that state. Those who have gained by National Competition Policy reform in packaged liquor are the two chains; the losers are independent small business men and women.

Forwarded for your consideration.

Yours faithfully

Peter Wilkinson
President

6 August 2004