

Mr Gary Banks Chairman
NCP Inquiry
Productivity Commission PO Box 80
BELCONNEN ACT 2616

Dear Mr Banks

The Territory provides the following submission to the Review of National Competition Policy (NCP). The submission seeks to outline the reforms being undertaken in the Territory; discuss the issues that arose during the reform process; and identify key areas for the future of NCP.

Legislation Review

After committing to NCP reforms in 1994, the Territory identified 117 pieces of legislation which contained restrictive provisions. These encompassed such areas as health and pharmaceutical services; childcare; planning; construction; legal professions and other occupations; real estate, business and travel agents; gambling; liquor; mining; and fisheries legislation. The Territory considers that any outstanding legislative reforms from the initial NCP process should be completed.

Competitive Neutrality

The Territory has completed the application of competitive neutrality principles through the establishment and commercialisation of Government Business Divisions (GBDs) under the *Financial Management Act*. The Territory has also established a formal mechanism to receive competitive neutrality complaints and to investigate allegations of non-compliance.

Reform of Public Monopolies

The Territory Government has introduced a range of reforms to the electricity supply industry. Previously, electricity was provided under a government owned statutory monopoly framework. The 1999 electricity supply industry reform program involved removing statutory barriers to competition in the electricity generation and retail sectors, the establishment of an independent economic regulator known as the Utilities Commission and the introduction of regulations permitting third party access to electricity networks. A share holder model of

Northern Territory Government

corporate governance has also been applied to the Power and Water Corporation, the Territory Government owned utility provider.

Water Reform

Water reform in the Territory has focused on implementing the 1994 Council of Australian Governments' (CoAG) Strategic Framework for Water Reform. The National Competition Council is satisfied that the Territory has complied with water allocation and trading reform and environmental and water quality commitments. This has involved the introduction of water allocation, licensing and trading arrangements and the institutional separation of service provision, water resource management and regulatory functions. The natural monopoly characteristics and economies of scale in this industry necessitated the retention of the single-supplier model. However, new arrangements involve the requirement for the supplier to hold a licence for an area of operation, which also specifies supply and service standards.

Road Transport

The Territory has met NCP requirements for road transport through the implementation of Australian road rules, vehicle roadworthiness standards and heavy vehicle charges. The Territory has been granted formal exemptions from driving hours regulation driver licence demerit points commitments.

Natural Gas

The Territory is a party to the national gas access regime. Currently, some 95% of natural gas sold in the Northern Territory is used by the Power and Water Corporation as its main fuel for electricity generation in the Territory's larger centres. The remainder is retailed, mainly to industrial users connected to limited reticulation systems. Given the limited customer base and network distribution systems in the Territory, full retail contestability for gas is not relevant at this point. While there are currently no significant NCP issues for gas, a greater focus will be necessary should Timor Sea developments proceed.

Impact of NCP Reforms in the Northern Territory to Date

The Territory is better placed for future development through the frameworks and disciplines that have been established during the implementation of NCP reforms. However, the majority of benefits from these reforms are yet to be realised (and may not be for some time) due to the relatively small size and isolation of the Territory's markets. This is particularly evident for major utilities, particularly the electricity market, where effective competition has yet to emerge.

The administrative costs associated with implementing NCP reforms have been high in relative terms. The per capita cost of drafting legislation, undertaking reviews, establishing new regulatory institutions, implementing reforms and conducting consultation processes is comparatively high in the Territory, based on the proposition that the absolute costs of performing these tasks is broadly similar across jurisdictions.

While the benefits of NCP reform are generally diffuse, the Territory has garnered positive results from legislative review. This is particularly prevalent in mining and fisheries legislation where reforms are ongoing but expected to deliver significant gains, as well as the review of profession's regulation. This may differ from other jurisdictions that may realise larger benefits in utilities and retail trade related reforms. The Territory did not receive any significant benefit in these areas due to the lack of inter-connection with the national electricity grid and the historical absence of retail trade restrictions.

Future Directions for NCP

Looking forward, the Territory considers that any outstanding reforms from the initial NCP process should be completed, particularly those pertaining to the legislative review. With each jurisdiction having completed reform to varying degrees, it appears sensible that reform be fully completed to ensure that no jurisdiction is advantaged or disadvantaged through being further advanced in the reform process, to fully realise the benefits envisaged at the outset of the reform program and in order to provide appropriate incentives for governments to meet nationally agreed reform commitments.

The institutional and incentive arrangements underpinning NCP warrant further consideration. In particular, existing competition payments should continue into perpetuity on the basis that the implementation of reforms has placed the nation on a higher growth path. Additionally, any expansion on existing reform commitments should be accompanied by additional competition payments in order to ensure that States and Territories receive an appropriate share of national productivity dividends.

There would appear to be scope for greater transparency and accountability in the assessment of State and Territory reform progress. This view is based on the Territory's experience with the National Competition Council's 2003 assessment. The Council imposed a 5% permanent deduction in the Territory's 2003-04 competition payments for failure to reform liquor regulations prior to 30 June 2003. In the Territory's view, the substantial and intractable social impacts associated with the consumption of alcohol in the Northern Territory, relative to other jurisdictions, and the comprehensive measures being developed by the Territory Government to ameliorate these effects, was not adequately recognised.

The Territory also contends that there is a degree of inconsistency in the Council's 2003 assessment of commercial passenger vehicle regulations, where reforms in the Territory have been significant and commensurate with changes introduced in other jurisdictions, which were assessed as complying with NCP principles.

On this basis, increased involvement by CoAG and, where appropriate, relevant Ministerial Councils, in the determination reform commitments and the assessment of reform compliance, could provide a greater deal of accountability

and recognition of jurisdiction specific factors in the application of national micro-economic reform processes.

Accordingly, the Territory also believes that any move towards greater prescription under the NCP arrangement would be seen as a negative development and hence general public benefit principles assessed at a jurisdictional level should continue to provide the overarching criteria when determining the degree of reform that is undertaken. It should be acknowledged that reform outcomes may necessarily differ between jurisdictions due to divergent market structures, demographic composition, population size and the degree of market fragmentation and isolation.

In summation, the costs of NCP reform have been significant in the Territory, while the resultant benefits have yet to be fully realised. However, it is the Territory's view that the implementation of open and efficient regulatory regimes that restrict competition only where a clear public benefit is demonstrated, are likely to prove beneficial in terms of the Territory's future development.

Finally, the Territory contends that a nationally coordinated and structured approach to microeconomic reform continues to have merit, given the piecemeal approach that was pursued during the 1980's and early 1990's.

Yours sincerely

SYD STIRLING