

Submission

**to the Productivity Commission of the Australian Government
regarding the**

Review of National Competition Policy Arrangements

Submitted by the

South Australian Farmers' Federation

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11 June 2004

1. Executive summary

- The Federation believes that most South Australian Farmers accept the *principles* of competition theory, and strive to work according to the *spirit* of competition policy;
- However, this assumes that the *practical implementation* of policy genuinely takes into account the principle of *public interest*. Fair application of the “Public Interest Test” allows flexibility under NCP to consider *social, environmental* and *regional* objectives as well as purely economic imperatives;
- This has *not* been the case. NCP has been applied to farm production according to the strictest definition of “public interest”, with no real acknowledgement of the 2 important non-economic components of the “triple bottom line”. This has resulted in the withholding of competition payments to the State, to the further detriment of public interest;
- By its very nature, agriculture is *rural* industry. Rural and regional locations unavoidably entail issues and costs related to distance, infrastructure and small, heavily interdependent local populations. Relocation to better-serviced and populated locations is not a “competitive” option;
- In South Australia particularly, the *viability* of agricultural business is closely related to *export and import*. Farmers face dwindling export incomes and greater import competition from *countries not bound* by rigid NCP-style deregulation;
- The resultant reduction in farm income has immediate implications for regional communities, which in turn impact on local population. Such impacts are disproportionately damaging in regional *as opposed to metropolitan* economies;
- True competition requires a “critical mass” of population as a realistic market enabling a genuine choice between a plethora of suppliers. Smaller markets such as in South Australia tend towards duopolies (if not monopolies) contrary to the spirit of NCP, keeping consumer prices high and restricting profit options for the primary producer.

The key to making competition policy work is to accept and apply the wide definition of Public Interest as stated in the April 2004 Productivity Commission Issues Paper, to acknowledge:

- That the public interest “test” applies within states, regions and sectors – the relevant Community of Interest, not some hypothetical Australian population;
- The inevitable link between rural issues and the farming economy, and the consequent fundamental differences between agricultural and city/metropolitan business management;
- The inequity that applies in export/import arrangements for certain commodities with certain countries which provide explicit or implicit protection to their producers, while Australian producers are bound by NCP;
- That any economy that appears to “work” in theory but does not enhance the social and environmental aspects of the triple bottom line is not a viable economy...

...and to allow exclusion from rigid NCP principles to those industries, products and regions where it can be shown that the community’s interest is not served, according to the true definition of public interest.

2. The South Australian Farmers' Federation

SAFF is the major peak body representing farmers in South Australia, with a history of support for agricultural and horticultural business dating back more than 100 years.

Its aim is to assist South Australians achieve sustainable profitability by providing representation, leadership and services to members, and provide a unified voice to promote farming interests. SAFF works in partnership with Federal and State Government departments, statutory authorities, businesses, the media and, most importantly, its members to assist in the development of the rural sector.

The Federation represents approximately 4,500 individual and business members.

Resources:

The work of its annually-elected Board is informed by a range of committees drawn from SAFF membership, which focus on commodities and issues including: Livestock, Horticulture, Grains, Intensive Industries, Wine Grapes, Agribusiness, Community Services, Natural Resources, the Industrial Association, Future Leaders Group, GM Task Force and a range of special projects.

To implement the directions of the Board and committees, SAFF appoints specialist staff with extensive knowledge in areas as diverse as industrial relations, natural resource management, communications, education and training, farm profitability, finance, debt mediation and trade.

The Federation's contact details are:

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3. Primary industry in South Australia

Agriculture and Horticulture contribute more than \$4 billion annually to Gross State Production and account for around 55% of the State's export revenue. The Centre for International Economics has forecast that over the next decade these industries have the potential to contribute an additional \$1 billion to the State economy.

This is in the context of a State with the smallest mainland population, and the reality of a declining rural population.

Our farmers have entered a challenging period. Agricultural and horticultural markets have become more global with fewer restrictions and increased opportunities. This new landscape has brought about many changes which farmers and their families must manage in order to survive and prosper. Through these changes the business of farming has become more sophisticated and the demands on the farm manager greater than ever. The ability of farmers to deal with these changes is strongly linked to their willingness to embrace change and ability to tap the resources required to succeed. This is not an easy task and one in which SAFF has an essential role to play.

The trend towards fewer farming businesses has ramifications for all rural service industries and communities. SAFF and other organisations must look increasingly for innovative ways to combine our resources to better service rural communities.

Policy document:

SAFF has commissioned a policy document, *Rural South Australia Policy for the Future – a Triple Bottom Line for the Bush* by Professor Richard Blandy, to recommend such innovations and resources to deliver essential *economic, social and environmental* outcomes.

Copies of the full *Triple Bottom Line* document can be provided on request (telephone 08 8232 5555), or downloaded from the website **www.saff.com.au**

4. Reviewing initial and ongoing impacts:

National Competition Policy and the Public Interest

The test of any policy is whether, in its practical implementation, it genuinely takes into account the principle of public interest. NCP does not require blanket deregulation, and specifically recognises a need for government intervention in markets where this is justified. Fair application of the “Public Interest Test” allows flexibility under NCP to consider social, environmental and regional objectives as well as purely economic imperatives.

This has not been the case in South Australia, particularly when NCP has been applied to farm production according to the strictest definition of “public interest”, with no real acknowledgement of the 2 important non-economic components of the “triple bottom line” – social and environmental considerations.

State issues:

Significantly, this has resulted in the withholding of competition payments to the State, to the further detriment of public interest. At the time of writing, there is a dispute between the SA and Federal governments over \$8 million not paid because of perceived failure on the State’s part to sufficiently “deregulate” barley marketing, liquor licensing, and the chicken meat industry. The SA Government, (supported by SAFF over the barley and poultry issues) put a “compelling” case for retention on appeal in October 2003. The NCC appears to have ignored totally the social impact aspects of the South Australian case - which calls into question its sincerity in applying the public interest analysis.

The Farmers’ Federation of Western Australia, like SA a major exporter of primary produce, has recommended that its State Government consider the decision to retain the Single Desk Export Marketing legislation based on the evidence that it serves the wider public interest, and therefore does not need to be subject to review by the NCC. In separate statements, the NCC has placed the responsibility directly upon State Governments, stating that: “*State and territory governments are in control of how they reform their...laws and can ensure they continue to retain controls that serve the public interest*” and “*The requirement to review anti-competition regulation is balanced by an acceptance that such regulation can be retained when it serves the general public interests.*” (The Australian Financial Review, 18 February 2004).

Effect of population distribution:

True competition requires a “critical mass” of population as a realistic market enabling a genuine choice between a plethora of suppliers.

Regional Australia is the main source of Australian export earnings, but governments seem preoccupied with the dense populations in the metropolitan areas of the major cities, and the history of NCP to date reinforces this.

Smaller markets such as in South Australia tend towards duopolies (if not monopolies) contrary to the spirit of NCP, keeping consumer prices high and restricting profit options for the primary producer. This easily leads to the appearance of “Clayton’s” competition, in which neither free market forces nor regulation exist to provide fair market outcomes. (The example of a select few major retailers taking a major role in petrol sales is one disturbing example, with the capacity to affect rural residents).

In SA during the NCC state reviews, chicken meat processors approached politicians and threatened to remove all their investment from the State if they did not agree to withdraw countervailing power legislation. The fact that they were able to even contemplate such a threat is a sign of the weakness of competition theory to deliver fairness when numbers are low.

Administration and transparency of NCP:

SAFF committee members have expressed concern that those responsible for monitoring and enforcing NCP are unelected and hence largely unaccountable, despite the potential commercial, environmental and social impact of their decisions.

Even at this stage, there appear to be unanswered questions: Who assesses the assessor? Is the appeal process transparent? Who can ensure due diligence by the NCC when performing its role?

NCP and farming issues

South Australian Farmers are tough, as witnessed by their resilience during the recent drought, showing great reluctance to accept subsidised assistance. Most would have no fear of genuine competition, accepting the *principles* of competition theory, and striving to work according to the *spirit* of competition policy.

There is plenty of evidence that small farmers are struggling to compete against more “efficient” (larger) properties, further contributing to a decline in the rural population. Bigger farms mean a lower cost per unit of production.

NCP has been applied to farm production according to the strictest definition of “public interest”, with no real acknowledgement of the important non-economic components of the “triple bottom line”.

Case history - the chicken meat issue:

SAFF and South Australian Government identified that the SA Chicken Meat industry is an imperfect market situation requiring that growers be afforded countervailing power in their negotiations, combined with independent and affordable dispute resolution through regulatory intervention.

The NCC challenged the integrity of the South Australian Farmers Federation, the South Australian Government and the SA Chicken Meat Industry Act, preferring alterations which would make it ineffective and a sham.

The issue of market failure has been correctly identified and ACCC Authorisation has failed to provide equity for growers. Further more a study showing a net public benefit to society has been provided to the NCC.

Numerous growers provided evidence through accounts of personal experience of actual harms and unconscionable conduct by processors. This evidence was provided to the NCC for an in confidence citing which was flatly refused.

The NCC has disregarded all of this information, did not do adequate research in order to understand the national nature of industry from the perspective of the “captive contractor” and the SA legislation, nor does it appreciate the need for similar legislations in the other states. This head in the sand approach is a clear case of a lack of due diligence on the NCC’s behalf and changes to its charter must be effected to ensure it cannot continue.

The South Australian experience in dealing with the NCC has been that in practice their decision is binding and leaves no effective process for appeal as the Commonwealth Treasury is not an independent party.

Unique rural factors:

By its very nature, agriculture is *rural* industry. Rural and regional locations unavoidably entail issues and costs related to distance, infrastructure and small, heavily inter-dependent local populations. Relocation to a better-served or populated location is not an option for a farmer struggling to “compete”.

Reduction in farm income has immediate implications for regional communities, which in turn impact on local population. Such impacts are disproportionately damaging in regional as opposed to metropolitan economies. This is largely borne out by the Productivity Commission's 1999 public inquiry, *Impact of Competition Policy Reforms on Rural and Regional Australia* and the Treasurer's subsequent Government Response to the Productivity Commission Report.

The report acknowledged that to date, large users and metropolitan business users have been major beneficiaries of the reduced cost of infrastructure services, and direct costs of some reforms to date have tended to show up more in country areas than in the cities.

An alarming symptom significantly acknowledged in the report was the effect on housing and values, with displaced workers bearing the short-term costs of loss of income as they seek new employment, “more likely in country than metropolitan areas... in addition, there may be a private loss of capital if displaced workers have to sell their houses in a property market weakened by them all seeking to sell at the same time. In turn, the loss of people has an impact on the local providers of services such as shops, schools, banks, health facilities and councils, and on the general social diversity provided by larger communities”.

Other social and community service issues identified by SAFF committees include: access to power at competitive prices (new infrastructure supplied from grid across private land is extremely expensive); access to reliable telecommunication networks; limited access to telecommunication promotional packages limited (e.g. free local calls per month - in rural areas few calls are local, most are STD); lack of competition in air fares to rural communities; high transport costs; big business purchasing power. (e.g. big business can negotiate on a purchase of 1000 items. Small business have little negotiating power when they may only require 5 or 10 items); higher fuel prices in rural areas; difficulty attracting and retaining professionals to rural areas because of lack of services and social activities (education, medical and the arts).

There is no real sign that unregulated competition principles are about to address these matters. As NCP in the South Australian experience only considers economic indicators, then its review panel should understand and review the damages caused by such policy on the environment and on society.

Export competition:

It is not in the public interest for any sector of Australian industry to collapse in the face of competition from other countries working under a different competition regime. The public interest “test” must provide for exclusions for key economic benefits to the public in a state, territory or the nation.

In South Australia and West Australia particularly, the viability of agricultural business is closely related to export and import. Farmers face dwindling export incomes and greater import competition from countries not bound by rigid NCP-style deregulation.

As a small producer but a large exporter of grain, the underlying price levels for the Australian grains industry are set by world supply and demand. Consequently, the trade distorting policies of other governments have adversely affected, and continue to adversely affect, the prices received by growers for their grain. The recent barley subsidy activity of the European Union (EU), which is currently having a severe, adverse impact on barley returns for Australian growers, is an archetypal example of the effect that the corrupting practices of other countries in the world grain market can have on the incomes of Australian growers.

It must be recognised that the focus of NCP reviews is on arrangements which affect competition in the domestic market and, further, that such arrangements need to be distinguished from arrangements designed to maximise returns from the international market. Accordingly, providing they operate transparently and efficiently and confer a net public benefit to the Australian community, anti-competitive structures that have been established to assist industries to compete in the international market should not be discontinued as a result of the NCP review process.

In the case of the grains industry, it remains the largest of Australia's primary production industries. Grain production accounts for around one quarter of Australia's total farm gross value of production and around one quarter of the value of total Australian farm exports. Despite recent reforms international agricultural markets, and in particular the world grain market, are some of the most corrupted in the world. As Australia is a significant exporter of agricultural produce the incomes of rural communities can be considerably depressed because of these international market distortions. If NCP initiatives do not take account of the international competitiveness of Australian industry, these initiatives would have an adverse impact on those employed in these industries.

In the grains industry, this would not only include those directly employed in grain production, but also those involved in other aspects of the grains industry, including, for example, inputs into grain production, such as chemicals and machinery, research and development, bulk handling, storage and transport, grain marketing, and financial services. Increases in unemployment also increase dependency on social welfare and add to social dislocation.

The effect of dismantling structures such as the state single desk for barley would have a variable impact across the South Australian community and this needs to be taken into consideration when these structures are reviewed under NCP, in particular as the adverse effects of such an action would fall disproportionately on rural communities in comparison with any benefits which could accrue to largely metropolitan areas.

In the poultry sector, the majority of worldwide trade is from three countries: Brazil, the US and Thailand. In each case there is assistance to allow world competitiveness – government subsidy on plant, export or effective subsidy on labour as a result of minimal government costs of labour. World market dumping of product is not uncommon. All three of these countries are subject to pests and diseases not found in Australia, and these critical biosecurity issues are the reason why only cooked chicken is allowed import into Australia.

In Australia, the industry operates not only in an unsubsidised market, but a market with relatively high government infrastructure costs.

5. Opportunities for significant future gains:

The Triple Bottom Line

The SAFF policy document *Rural South Australia Policy for the Future – a Triple Bottom Line for the Bush* (Prof. Richard Blandy), recommends innovations and resources to deliver essential *economic, social and environmental* outcomes.

In particular, it calls for a joint SAFF-State taskforce to create a sustainable strategic plan involving farm personnel and rural residents in the delivery of regional services, raising rural family incomes in the process and hence local economic sustainability. The policy aims to increase regional populations and take pressure off metropolitan physical and social infrastructure.

Regional infrastructure could then be expected to catch up – opportunities for access to (three phase) power at competitive prices, reliable telecommunication networks, reasonably-priced air fares to rural communities, acceptable fuel prices in rural areas provision of services and social activities.

Such things are the objectives of competition policy, but are not being delivered by the deregulated market forces currently in place – but strict NCP theorists may argue that SAFF's *Triple Bottom Line* proposals run contrary to competition principles.

SAFF argues that a true interpretation of public interest must involve the triple bottom line factors: economy, society, environment. Public interest involves more than (the *possibility* of) lower prices. A healthy rural sector has nationwide benefits - security of supply, for example, as indicated by the economic impacts of the recent drought.

When an assessment is made during NCP reviews of the net aggregate community benefit accruing from increased competition, NCP reviews should also take into account the geographical distribution of the benefits and costs. For those communities bearing the costs of any change, an assessment needs to be made of their ability to adjust, the alternative opportunities available to them and the necessity for relevant governments to provide appropriate adjustment assistance.

The key to making competition policy work is to accept and apply the wide definition of Public Interest as stated in the April 2004 Productivity Commission Issues Paper, to acknowledge:

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