

The Chairman
Productivity Commission
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**Liquor Stores Association of Victoria Appearance
Before Productivity Commission Review inquiry
Melbourne, 7 December 2004**

Introduction

The Liquor Stores Association of Victorian Inc made a submission to the Productivity Commission's Review [No. 66] in June 2004 and a supplementary submission [No. 122] in July of this year. We stand by those position papers.

The main focus of our appearance today is to point out the inconsistency of the application of National Competition Policy (NCP) as implemented across the packaged liquor industry in Australia. Further, we believe that the application of NCP has seen an increased concentration of economic and financial power into the hands of the two dominant and potential duopoly retailers Coles/Myer and Woolworths/Safeway, which will lessen competition in the areas of food, petrol, and liquor retailing in the near future.

National Policy

Our understanding of policy is that it is 'a course or line of action adopted and pursued by a government...'.¹ The word national suggests a policy applied nationally as distinct from only one state or territory. In the area of liquor reform for off-premises businesses such implementation or reform has not occurred. This is not to say the LSAV supported the National Competition Council's policy in liquor reform; rather we declare the reform as it currently stands failed the test of 'national policy' and was more counter-revolutionary than reformist. There has been a failure of the various governments to act nationally and a failure of policy. What is apparent to the LSAV is that there is a lack of will by the federal government and the NCC to bring about an even handed reform in states such as Queensland.

NCP Aim

We understand the *raison d'être* for National Competition Policy reform was to ensure;

- an increase in competition;
- a removing of artificial barriers to entry to an industry;
- that where reform did not occur the public interest test would prevail [though what constituted public interest in some states seemed to be the mere untested invocation of a mantra 'not in the public interest']

¹ *The Macquarie Dictionary*, Macquarie University, NSW, 1990, p. 1317.

Application of NCP

The NCP objective was actioned by the various states and territories carrying out a program of consistent legislative reforms. There was a package of NCP dollars made available to the states and territories to compensate those industries impacted by the application of NCP. Those major beneficiaries of a restructure would assist with the restructure of a given industry.

What has occurred to date is a hotch-potch system of legislative liquor reform carried out by some states and territories; while others have refused to act.

In Victoria, the small independent liquor retailers were the major casualty of deregulation and the beneficiaries were the chains and the state government. In Queensland the so called reform denied the small independent entry into that market yet allowed the preponderant chains a mechanism to acquire a percentage of that market to the exclusion of small independents. Queensland's lack of liquor reform to protect one player, permitted the back-door entrance of the duopoly players to the total exclusion of would be small business independents who would bring with them a diversification of choice and wider product range for Queensland consumers.

Wider Implications of NCP

National Competition Policy envisaged a wide diversification of competitors offering a diverse range of product and services to consumers. Small business expected a sustainable role under the NCP liquor reforms; but in reality small business was excluded from the deal in several states. In Victoria, the small business liquor retailers were dismembered and fed to the duopoly.

How is it possible for the ACCC to identify an emerging duopoly on the waterfront and not grasp that the same forces are at work in food and groceries where the chains now control some 80% of that market and are now seeking to control petrol retailing and off-premise liquor retailing? At what point does market power become preponderant? How is possible to ignore the duopoly's activities in destroying farm-gate milk prices with those savings denied to consumers and conclude such is not the road map for the future of petrol and liquor retailing? How is it possible to accept that so many small independent dairy farmers were forced off the land in the name of fair competition, productivity increases and deregulation and fail to comprehend that the same fate awaits petrol and off-premise liquor retailers? At least there is an argument that these wonderful productivity gains are/were achieved at the expense of others' livelihoods and unemployment.

NCP reform as implemented is so flawed that consequential reform of the *Trade Practices Act* is urgently needed to ensue the small business and independent sector is not further decimated in the name of competition. We believe that NCP restructure was a two-headed coin and the reverse and often ignored side is *Trade Practices Act* reform of S. 46, S.50, S. 51AC and Collective Bargaining.

Conclusion

We believe that National Competition Policy as implemented has allowed the emerging duopoly to become preponderant, is nationally inconsistent as to how it was applied, with those small enterprises who were forcibly restructured left prostrate. Now it appears that the National Competition Policy is almost a dead letter. Small

independent packaged liquor retailers in Victoria were gifted a poison chalice and some were consumed by the two chains. On the other hand, NCP gifted the two chains milk and honey for a pittance. In Queensland, small would be independent liquor retailers were denied entry into that market, while the chains disguised in the sheep clothing of hoteliers gained entry into the most protected off-premise liquor market in Australia.

Yours faithfully

Antony O'Brien
Secretary

3 December 2004