

SUBMISSION

to

Productivity Commission

on

Review of National Competition Policy Reforms

by

**The Canberra Taxi Proprietors Association
and
Canberra Cabs**

**in consultation
with**

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1. Introduction

The Discussion Draft of the Review of National Competition Policy Reforms addresses passenger transport, and in particular taxis, in the section on the priority infrastructure sectors in chapter 8 – Further infrastructure reform and legislation reviews.

In this submission, the Canberra Taxi Proprietors Association and Canberra Cabs (CC) note that the taxi industry, both within Australia and overseas, has been subjected to many reviews relating to deregulation (and other issues) to make the industry more competitive. The Productivity Commission (PC) has observed that, while reviews have taken place in all states and Territories, ‘progress in implementing review outcomes has been slow¹.’ In many cases this has been as a result of state/territory governments having trouble with many of the recommendations of reviews, including those relating to deregulation of entry and its impact. Reviews have generally given little consideration to the impact of entry deregulation on public benefit issues.

While this submission has been developed by CC, many of the comments made will not necessarily apply simply to the ACT but to other jurisdictions as well.

2. Specific Comments on the Discussion Draft.

It is of interest to note that the thrust of individual state/territory reviews were directed towards deregulation of entry into the industry. Little weight was given to public benefit issues which could/would be affected as a result of deregulation of entry into the market. The Draft Discussion report indicates, quite correctly, that in the National Competition Council (NCC) 2003 assessment the only jurisdiction deemed to have complied with National Competition Policy (NCP) obligations was Victoria. This state introduced a package of reforms to be phased in over a 12 year period. As the NCC reports, these reforms should increase the total number of taxi licences in Victoria by 46% over this period, from 3273 in 2002 to 4773 in 2014. Given the overseas experiences, it is difficult to see how public benefit issues and productivity/profitably won’t be seriously affected by this approach. Indeed there is some evidence that this is already happening.

A newspaper (Herald Sun) investigation and report of the Melbourne taxi industry on 10 March 2004 indicated that a chronic driver shortage is keeping hundreds of taxis off the road at peak times with up to 15% of taxis off the road at any one time. Industry leaders have described the service as being in its worst state in living memory. The full report appears as Attachment 1.

¹ Productivity Commission (2004): *Review of NCP Reforms. Discussion Draft*. page 190

The Herald Sun report indicates that the Melbourne taxi industry is experiencing similar problems to those experienced in the Northern Territory (and in many overseas countries) as a result of deregulation of entry into the industry. For an overview of the impact of deregulation of the taxi industry in the Northern Territory see Nicholls (2003)².

The Discussion Draft identifies the main barrier to removing regulatory restrictions on competition as being the value of taxi licences and the need to find acceptable ways of dealing with the losses that would be incurred by licence holders in a less regulated environment. This was not the case in the Northern Territory but it has been so in the case of the ACT.

Upon deregulating entry into the taxi market in the Northern Territory, the Government paid compensation to plate owners of full market value (\$228,361 in the case of licences in Darwin). The cost of deregulation to the Government was approximately \$25m, to be repaid through an annual licence fee of \$16,000 for taxis in Darwin, and less in other centres. Once deregulation of entry took place the number of licences issued rose from 138 in January 1999 to 186 in November 2001, an increase of 35%.

As a result of the deregulation of entry and the dramatic increase in the supply of taxis, without a corresponding increase in demand, as identified in Nicholls (2003) productivity and profitability declined dramatically. This led to major problems relating to public benefit issues which have been documented in the Nicholls research. It was these issues which led to the Northern Territory Government reintroducing restrictions on the number of licences to be released.

CC, and indeed the Australian taxi industry, has always argued that the NCC, in its deliberations and its annual assessments of reforms in the taxi industry, has not paid sufficient weight to public benefit issues. This is despite the fact that in 1999 the Senate Select Committee on the Socio Economic Consequences of the NCP identified significant problems with interpreting and understanding the public interest/public benefit test. This Committee's view was that there is a predominantly economic rather than multi-disciplinary approach involved in the implementation of NCP and in particular the public interest/public benefit test.

Former Greens Senator Dee Margetts, in an article in the Sydney Morning Herald in October 2003, has given an overview of the operations of the NCC, including a report on the handling of the Senate Committee report after it was tabled in 2000³. This appears as Attachment 2. She states:

‘... Governments were asked to "document the public interest reasons supporting a decision or assessment and make them available to interested parties and the public". They were also asked to "give consideration to explicitly identifying the likely impact of reform

² Nicholls (2003): *The Impact of Deregulation on the Northern Territory Commercial Passenger Vehicle Industry*. Research Report prepared for the Australian Taxi Industry Association.

³ www.smh.com.au/articles/2003/10/06/1065292527382.html?oneclick=true

measures on specific industry sectors and communities, including expected costs in adjusting to change".

So why are our Ministers still standing up in State Parliament announcing NCP "reforms" even when the existing arrangements have been found to be in the public interest?"

While some reviews have recommended deregulation of entry into the taxi industry, the relevant Government has had trouble accepting such recommendations because of the potential for flow-on effects relating to compensation and public benefit issues, even though they are aware that there were financial penalties attached to failure to comply with Clause 5 of the Competition Principles Agreement (CPA). Such reviews have given little attention to Clause 1(3) of the CPA which allows for public benefit issues to be taken into account in making recommendations.

As the Discussion Draft recognises, other countries have also experienced difficulties in reforming taxi services. The OECD quote reported in the Discussion Draft states:

‘...These studies therefore emphasise the importance of paying particular attention to the characteristics of the taxi market in each city and tailoring regulatory reform to the context.’

In relation to this quote, Dempsey⁴ (1996) has presented an overview and analysis of the ‘collision of economic theory and ideology with empirical reality’ in the taxi industry. Rather than rely on theoretical assumptions of what unlimited entry will produce, Dempsey has analysed empirical results to assess outcomes as a result of deregulation (and, in most case, the subsequent reregulation) of the taxicab industry in 21 US cities. He concluded:

‘The fundamental question is not whether taxis should be regulated but how they might best be regulated. In the final analysis, the suitability of taxicab service and pricing is a peculiarly local issue, best tailored by local governments based on their unique populations, spatial densities, road congestion, air pollution, and airport and hotel traffic. In this area, the state and local governments should be left alone to foster the unique local public and private transportation system that suits it best.’

Dempsey also noted that:

“In an economic environment of declining productivity created by excessive entry and stable or declining demand, taxi operators can survive only if they can increase the revenue derived from each trip, which places upward pressure on fares...The increase in taxicab fares produces a particularly bitter impact on low-income persons. A major

⁴ Dempsey, P. S. (1996) *Taxi Industry regulation, deregulation and reregulation: an analysis of taxi markets*. Transportation Law Journal 24(1), 73-120

and increasing proportion of taxicab business originates in low-income or minority neighbourhoods...Increasing fares to residential areas means that the impact of more taxicabs is borne disproportionately by low-income persons. In other words, those who can least afford to pay would be charged the most...Those who follow the academic argument of 'letting the market decide' taxicab fares are really 'letting the poor pay more'."

The post-deregulation experience in Ireland had a particularly adverse impact on the availability of wheelchair taxis (WATs), as described by Nicholls. More recently, a study⁵ developed by a consortium of Irish disability representative organisations confirmed that WAT service is still deteriorating:

"This study highlights serious problems in relation to the provision of taxi transport to people with disabilities in Ireland. There is a marked and continuing decline in the number of wheelchair taxis; in some areas there is no service."

In the UK the Government response to the Department of Transport's Office of Fair Trading (OFT) report 'The regulation of licenced taxi and PHV services in the UK' was in the form of a written statement to Parliament⁶ on 18 March 2004. In that statement the Government, while acknowledging that consumers should enjoy the benefits of competition in the taxi market, stated:

'...Restrictions should only be retained if there is a strong justification that removal of the restrictions would lead to a significant consumer detriment as a result of local conditions. The Government believes that local authorities should be given the opportunity to assess their own needs, in the light of the OFT findings, rather than moving to a legislative solution.'

That is, the UK Government feels that local authorities remain best placed to determine local transport needs and to make the decisions about them in the light of local circumstances. Rather than impose a legislative solution, the statement sets out a number of steps to encourage local authorities to remove restrictions unless they can show that they deliver benefits to consumers. Where local authorities feel restrictions should be retained, they should publish and justify their reasons. This is in keeping with the development of Local Transport Plans, where decisions on transport needs are made locally.

As Dempsey identified from his research in the US, and what has become evident from other overseas studies, it is clear from the above references from the OECD, the US and the UK that the regulation of taxi services has been recognised as a local issue which should be handled at the state/territory level in the case of Australia.

⁵ Disability Federation of Ireland (2004): *Towards an accessible taxi service for all*. www.disability-federation.ie/publications/execsummarytaxireport0704.pdf

⁶ www.dti.gov.uk/ccp/topics2/pdf2/taxiresponse.pdf

3. The Structure of the Taxi Industry in Australia

Unlike most other industries (eg electricity, water) which have been reviewed under NCP, the taxi industry in each jurisdiction is composed of a large number of small business people, who are owners/operators and/or drivers. These small business people are completely dependent on market demand, with such demand varying dramatically from jurisdiction to jurisdiction. The industry is completely dependent on the quality and quantity of drivers. If there is insufficient demand for taxi services drivers will not work in the industry.

In jurisdictions where deregulation has taken place, the large increase in taxi numbers has not been balanced with a corresponding increase in demand. With significant drops in productivity/profitability, owners/operators have great difficulty in obtaining drivers. Both the quantity and quality of drivers decline, leading to problems relating to public benefit issues, as has been demonstrated in the Northern Territory. As the press report in Attachment 1 indicates, Melbourne is commencing to experience similar problems as a result of demand failing to increase with supply of taxis, and drivers being unable to earn sufficient income to keep taxis on the road. Similar outcomes have also been experienced in many overseas locations.

Few, if any, of the reviews in Australian jurisdictions have made any recommendations relating to increased demand for taxi services. The Northern Territory experience has been a classic example of the clash of economic theory and empirical reality. It is quite clear that unless demand increases to match supply that productivity/profitability will drop. The initial impact of such a scenario is on the drivers. A decline in driver income results in a reduction in driver quality/skills, leading to problems relating to public benefit issues, as discussed in Nicholls (2003).

4. Improving Taxi Services

The Discussion Draft states that ‘more cost effective, accessible and environmentally sustainable’ passenger transport services will require a variety of initiatives, and proposes a menu of reform options which might be encompassed. Unfortunately this menu does not directly refer to public benefit issues. As we have stated, the taxi industry is composed of a large number of small businesses, which is quite different to public transport systems such as state/territory run, and heavily subsidised, bus services. In the taxi industry the financial burden relating to public benefit issues cannot be absorbed by small business if there is a significant change to the industry, such as deregulation of entry. Corresponding reductions in profitability/productivity will obviously impact on public benefit issues.

In the case of taxis, the Discussion Draft proposes reform of the taxi sector, drawing on experiences domestically and in overseas countries to avoid ‘unintended consequences’. We agree with this approach, such reform should

avoid such unintended consequences as those experienced in the Northern Territory, and elsewhere, where deregulation of entry has been attempted with undesirable outcomes.

The draft proposal for CoAG to conduct an independent national review of the passenger transport sector to assess the impacts of recent reforms and determine what is now required to deliver further performance improvements is, we believe, unnecessary in the case of the taxi industry. Each state/territory has conducted extensive reviewing processes of their taxi industries over the last 5 years and has adopted reforms seen as appropriate to their individual markets. As will be shown below, the ACT taxi industry has been almost continuously reviewed during the past 5 years.

One major problem in conducting these reviews and implementing selected recommendations has been that state/territory governments have, in many cases, done so in an attempt to balance negative impacts resulting from the adoption of such recommendations while at the same time attempting to avoid a monetary penalty from the Federal Government. This 'lemon and stick' approach is unfortunate, and has led to disastrous outcomes in the case of the Northern Territory and more recently Melbourne.

CC is strongly of the opinion that, as the overseas research and the OECD has recognised, issues relating to taxi reform are very much a local (to the individual state/territory and indeed city) issue and should be left to the local authorities to tailor reform to suit their individual specific needs. As we shall argue, this has happened, and continues to do so, in the case of the ACT.

5. The ACT Taxi Industry

The ACT taxi industry is unique in Australia, due to the size and nature of the National Capital. Demand for taxi services is extremely cyclical, not just during a 24 hour period but on a weekly and monthly basis. Being an inland city, in summer a migration of the population to the coastal seaside resorts results in a decline in demand for taxi services in the order of 25% during January. More significant is the impact on demand from the operation of the Federal parliament. During those weeks when parliament is not sitting there is a significant decline in the demand for taxi services.

The geographical layout of Canberra with its large amounts of low density residential housing has resulted in Canberra taxis having a proportionally very high 'dead running time'. Indeed surveys conducted by Canberra Cabs in recent years indicate that approximately 48% of the total kilometres travelled by Canberra taxis are not metered.

The ACT Taxi industry has, since 1999, been under almost constant review. In March 2000 the Freehills regulatory Group issued its report recommending, amongst other things, the removal of licence restrictions. In 2001 the Independent Competition and Regulatory Commission (ICRC) conducted a review on the competition implications for the provision of wheelchair taxi

(WAT) services by a single network in the ACT. The ACT Government then commissioned a further review of the future direction of the ACT taxi and hire car industry by the ICRC who produced their report in June 2002. This report also recommended deregulation of entry into the ACT market. Following the Government response to this report the Government produced the Road Transport (Public Passenger Services) Amendment Bill 2003; which could be interpreted as a piece of legislation designed to establish the administrative and legislative framework to deregulate the ACT taxi industry over a period of time rather than at a particular date.

This legislation was referred to the Planning and Environment Standing Committee of the ACT Legislative Assembly. Following hearings in late 2003 its report recommended, amongst other things, a buy-back scheme for taxi licences at market value (as at 1 January 1997). The ACT Government effectively rejected that report and proceeded to table the original Bill. Following debate the Government was defeated in its attempt to pass the Bill.

As a result of this almost continuous review process since 1999, there has been significant change take place in the ACT taxi and hire car industries. One of the outcomes of the review process was the claim that CC, as the only taxi operator in the ACT, had a monopoly and this was a detriment to the efficient operation of the taxi service in the ACT. In the past there have been up to three taxi networks operating at any one time in the ACT but this has proved uneconomic. With approximately 241 licences on issue in the ACT it is not cost effective to have more than one network, given the capital outlay and running cost required to run a taxi network. What was not acknowledged was the benefits of a single taxi network operating in the ACT, particularly those relating to the dealing with complaints from the public as well as the supply of information and data to both the Government and the ICRC.

Following a 1999 review of WAT services the Government issued an additional 20 WAT licences (taking the total to 26). It should be noted that WATs can operate as standard taxis when they are not servicing the disabled. A survey conducted by CC for the WAT enquiry showed that the demand for WATs from the disabled community averaged less than 2 services per WAT per day. Consequently WATs spend the majority of their time operating as standard taxis. Concurrent with the decision to increase the number of WATs, the ACT Government allowed Queanbeyan taxis (a total of 16 taxis) to operate in the ACT.

These actual and effective increases in taxi numbers operating in the ACT should be viewed against a background of persistent declining demand for taxi services. As has been reported by the ICRC⁷ (page 13):

‘The industry reports that demand (measured by meter activations) has fallen 14.3% over the past 6 years, from 2.90 million in 1996 to 2.48

⁷ ICRC (2004): *Determination of taxi fares for the period 1 July 2004 to 30 June 2007*. Report 11 of 2004.

million in 2003, while the increase in taxi numbers has resulted in a larger fall in the number of meter activations per ACT taxi of 21.3%.’

This report then lists 10 reasons for the decline in demand, including increased competition from

- chauffeured hire cars,
- rental cars (from the airport)
- the introduction of additional WATs,
- expansion of the Comcar fleet,
- competition from mini-bus operators and courtesy vehicles provided by hotels and tour operators, and
- the long term structural shift from public transport (buses and taxis) to private car use.

The ICRC report also notes (page 54) that Queanbeyan cabs have a different fare structure than ACT taxis. As a result ACT taxis are 1-2% more expensive for an average 8km fare than Queanbeyan cabs, but ‘Queanbeyan taxis are typically 8-14% more expensive than ACT taxis for an average 8 km fare, depending on the time of day and day of week.

With respect to competition, it is also notable that while Queanbeyan taxis can operate in the ACT, Canberra cabs can operate in Queanbeyan but not elsewhere in NSW, including the coastal resort of Batemans Bay. During January the movement of the ACT population to the coast, including Batemans Bay, results in an approximate 25% decline in demand for ACT taxi services, but CC is not given the opportunity to follow the demand.

A market where there is potential for CC is that currently serviced by COMCAR. It is notable that this monopoly has not been addressed by the NCC. This is surprising when it is noted in the Department of Finance and Administration’s annual report for 2002-2003⁸ that there were 54,127 COMCAR reservations made and the cost was \$16,563,000, corresponding to an average cost of \$306 per trip. With its massive subsidies CC see COMCAR as a real competitor, if COMCAR were not supported with these subsidies this would be a market in which CC could also compete.

From the above it is clear that the ACT is a unique market for the operation of taxi services. It has experienced a proportionately significant increase in the number of cabs operating in the ACT during an extended period when demand for taxis has declined significantly. Dempsey’s research has determined that the suitability of taxicab service and pricing is a peculiarly local issue, best tailored by local governments based on their unique populations, spatial densities, road congestion, air pollution, and airport and hotel traffic. This has been confirmed by the UK Government in considering the Office of Fair Trading report recommendations. This phenomenon has also been recognised by the OECD quote given in the Discussion Draft (page191).

⁸ www.finance.gov.au/pubs/annualreport02-03/chapter05/08_performance.html

Canberra Cabs strongly supports the approach that the regulation of the taxi industry is a local issue which should be handled by each state/territory.

6. The Way Forward in the ACT

The ACT Government recently released its Sustainable Transport Plan (April 2004); which provides the direction and actions to achieve a more sustainable transport system over the next 25 years. The plan sets targets of percentages of trips by walking, cycling and public transport (journey to work trips).

In addition to the reforms and changes that have already taken place as a result of the review processes, in July 2004 the CEO of Canberra Cabs wrote to the Minister for Urban Services proposing further reforms to complement the ACT sustainable transport plan. In his covering letter the CEO stated:

‘Action buses are reported to recover less than 21% of total operating costs via fares. The taxi industry in the ACT has on average less than 84% of cars on the road over any weekly period and has increasing difficulty in attracting drivers to work in the industry.’

Taking this into account, Canberra Cabs has documented a set of proposals aimed at forging a closer working relationship between ACTION buses, Canberra airport and the ACT taxi and hire car industry. These proposals include discussions around the implementation of demand responsive transport (DRT) initiatives to implement efficiencies into the public transport sector.

DRT has received considerable attention overseas in recent times. A recent study in the UK⁹ was commissioned in 2002 and completed in June 2004. In essence, the purpose of this study was to look at the potential for DRT as an alternative public transport system in terms of market or demand niches, and from the viewpoint of the public authority and the commercial operator. It aims to determine how DRT might be developed to serve journeys that are not currently well served by public transport. CC sees DRT as playing a significant role in serving the needs of particular community groups (such as the disabled). In addition CC has proposed working with ACTION buses to service low patronage routes in ‘off-peak’ periods in a cost effective manner.

7. Conclusion

During the last 5 years Canberra has seen significant change in its taxi industry. The Government has significantly increased the number of WATs, which can operate as standard taxis, and allowed Queanbeyan cabs to operate in the ACT. This has all been during a period of significant decline in demand for taxi services. One reason for this is that between 1996 and 2003 the number of light motor vehicles per capita has risen 19%, from 0.52 to 0.62.

⁹ www.dft.gov.uk/stellent/groups/dft_localtrans/documents/downloadable/dft_localtrans_030325.pdf

The ACT population over the same period has risen by only 4.4% (ICRC (2004), page 12).

CC has argued that the ACT is a unique market and the operation of taxi services in that market should be left to the local government. This is in accord with the findings of overseas studies in the UK and the US, and has been confirmed by the OECD.

CC is currently working closely with the ACT Government to assist in the inclusion of taxi services as part of the Government's Sustainable Transport Plan. A number of different issues are currently being considered, including demand responsive transport.

Taking account of overseas and interstate experiences, CC has responded rationally and effectively to the impact of the NCC instigated reviews. It believes that it is taking a proactive approach in working with Government to assist in servicing the public transport needs of the ACT into the future in an efficient and cost effective manner.

Attachment 1

SPECIAL REPORT

Our taxi shame

Ashley Gardiner, transport reporter

10mar04

RUDE drivers, dirty cabs and long queues are driving passengers away from Melbourne's taxis.

Drivers battle image

How they rot the system

Customer numbers have dropped an alarming 15 per cent in the past 18 months. A chronic driver shortage is keeping hundreds of taxis off the road at peak times.

Industry leaders, who describe the service as being in its worst state in memory, admit an image problem is turning away customers.

Ten years after taxis were painted yellow, a Herald Sun investigation has found:

HUNDREDS of empty taxis sit in depots, while passengers wait in hour-long queues.

SOME drivers dress shabbily or cart passengers in grotty cabs with stained seats.

GREEN-TOP, peak-service cabs have done little to satisfy demand.

PRIVACY laws are keeping banned drivers on the road.

CAB drivers get just over a third of the money customers hand over.

MELBOURNE taxi licences are worth more than \$1 billion, mostly owned by investors.

Former premier Jeff Kennett, who introduced taxi reforms 10 years ago, said standards had slipped. "Some of the cab drivers are superbly wonderful and their cabs are meticulously maintained," Mr Kennett said.

"On the other hand . . . a lot of them do not."

Mr Kennett said: "Not only do they not maintain their cabs as cleanly as they should, but their standards of dress are very, very poor."

The crisis comes as Melbourne gets set for a tourist crush during the 2006 Commonwealth Games.

Victorian Taxi Operators Group president Geoff Bell said long-term cabbies had never seen it so bad.

"Associates of mine who have been in the industry for 40 years have never known it to be in such a critical state," said Mr Bell, who represents businesses that lease taxi licences.

Problems getting taxis during peak times were due to a shortage of drivers, not of taxis.

Industry chiefs claim several hundred extra drivers are needed.

Poor pay, long hours and offensive passengers also deter candidates.

Victorian Taxi Association chief executive Neil Sach said patronage had slumped by 15 per cent over the last 18 months.

He said a minority of slack drivers needed to be weeded out.

"Five per cent of drivers should get the a...," Mr Sach said.

"People who come across the 5 per cent will tell all their mates, friends and family.

"They'll say, 'Oh gee, I've had a terrible taxi ride. The guy couldn't drive, he was smoking . . . don't take taxis'.

"The industry has a very bad habit of white-anting itself by not complying with normal expectations. But it's from a minority. There is an image problem."

Mr Sach said up to 15 per cent of Melbourne's 3500 taxis were without a driver at any given time.

At 10pm on Saturday, just 1495 of a taxi company's fleet of 1700 were on the road. By 2am Sunday, this figure was 1406.

The government regulator, the Victorian Taxi Directorate, was failing to adequately police the industry, Mr Sach said.

A small number of taxis had unlicensed drivers.

"A taxi operator doesn't know if a driver has lost his licence," Mr Sach said.

"Under privacy rules, the owner of the cab can't find out."

Unlicensed drivers can log into the dispatch system using another driver's ID number and PIN.

One driver's number was recently logged on for more than 48 continuous hours, a source said.

Mr Kennett said the Government was not giving the industry the attention he gave it in the 1990s.

"Maybe that's understandable, because in one sense the cab changes represented a Kennettism."

But parliamentary secretary for infrastructure Carlo Carli, who heads the State Government's taxi reform working party, said the industry was moving out of its slump.

He said the industry had been flat after September 11 and the SARS alarm. "But all indications are it is picking up."

At \$334,000 each and rising, Melbourne taxi licences are a sought-after investment. With 3507 licences in Melbourne, nearly \$1.2 billion is tied up in licences and 60 per cent are owned by people not directly in the industry.

Mr Carli said too many licences were owned by investors who were driving up their price.

Mr Carli said the Government made no apologies for trying to drive down the value of licences with the new green-top licences.

There are 100 green-top cabs, which can operate only between 3pm and 7am and another 100 would be introduced soon, he said.

Attachment 2

National Competition Policy and the theft of democracy

by Dee Margetts

Competitive neutrality, tranche payments and anti-competitive restrictions. Welcome to the world of National Competition Policy (NCP).

Behind the un-sexy jargon hides one of the Australia's biggest political heists. We're talking about lies, bully tactics, threats and the leaders of the states and territories of Australia being played for fools.

So when did it all begin?

NCP was formally embodied in the Competition Policy Agreements signed by the Council of Australian Governments (COAG), and the Competition Policy Reform Act of 1995.

The Keating Labor Government managed to implement the mechanisms to bring about this major policy change with very little public debate. When some states expressed concern about the details of the agreements and the lack of time to properly consider what they were getting themselves into, the Keating Federal Government reportedly increased the amount of stepped compensation or "tranche" payments until they effectively bought consent.

As we saw with the GST, you should never stand between the states and a bucket of money.

By committing to NCP, governments have felt obliged to undertake substantial legislative reforms affecting the whole community in one way or another. This review process involved over 1700 pieces of legislation at a Federal, State and Local Government level in a new McCarthyism, seeking to root out "anti-competitive elements".

But what's this you say - there are other values than competition?

Each of these legislative reviews is meant to involve a "public interest test" which asks whether "the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the legislation can be achieved only by restricting competition".

However, underpinning NCP is the assumption that economic competition IS in the public interest, that is, that social goals equate with economic goals, except in very limited circumstances where it can be proved that those goals conflict. Therefore, unless otherwise proven, all anti-competitive arrangements are considered contrary to the public interest. (For an example of the circular logic of National Competition Policy, see Tim Dunlop's superb deconstruction of milk deregulation at Pull the udder one.)

As part of NCP, COAG established the National Competition Council (NCC) to oversee its implementation and to "promote competition policy as an economic tool for enhancing Australia's performance and productivity".

The NCC was given responsibility of assessing each state and territory's progress in implementing NCP. If a state or territory government was adjudged by the NCC to have failed to meet NCP obligations, the NCC could recommend that they all or part of their tranche payments from the Federal Government be withheld. This made the NCC arguably the most powerful body in Australia.

The ACCC under Professor Alan Fels may have seemed powerful but they were limited to enforcing the Trade Practices Act. The NCC enforced ideologically driven change. At least you generally knew what Alan Fels was doing!

The fact that NCP is causing immense problems to state and territory governments is nothing new. The impacts took a while to become obvious but from the late 1990s Australia is littered with the corpses of community or industry interests scrunched by the NCC, many because they did not know how to fight the juggernaut or lacked the resources to do so.

Many Australians, especially in the regions, grew increasingly angry and frustrated (Margo: Hence Hansonism - see my book extract at We're all poor lean people and we're bangin' on your gate). So in 1998 the ALP finally voted with the Greens and Democrats to set up a Senate Select Committee to review the socio-economic impacts of NCP. The final report from that inquiry was received in February 2000.

NCP was on the COAG agenda for the November 2000 meeting. What is not generally known is that - just days before the meeting - John Howard wrote to all the Premiers and Chief Ministers suggesting amendments to the NCP.

The Prime Minister said the amendments would address a number of community concerns regarding the application of NCP, as recommended by the Senate Select Committee report and the report of another inquiry by the Productivity Commission. This was grossly misleading, to say the least.

The Senate Select Committee had been inundated with submissions and evidence very critical of the lack of openness, accountability and balance in the NCP legislative reviews, a common theme being extreme anger at the way the so-called "public interest test" was being administered.

In response, the Senate Select Committee made a number of strong recommendations for greater accountability and transparency at all stages of the legislative review process.

I was shocked therefore, to recently discover that "Senior COAG Officials" drafted an amendment in those year 2000 changes to give themselves supervision of the forward work program of the NCC (rather than by COAG itself, which was the original agreement) and, whilst the states and territories had to detail all of their reasons for decisions, the Senior COAG Officials were not required to report back to COAG! They also slipped in amendments which required the reasons behind NCC assessments to be kept a secret until after final decisions about tranche payments were made!

The amendment:

The NCC will determine its forward work program in consultation with COAG Senior Officials; The NCC will provide a six monthly report to Senior COAG Officials detailing its draft forward work program and current activities, including its communications and future assessment activities; Senior Officials will continue to provide guidance to the NCC in relation to the interpretation of reform commitments, including appropriate assessment benchmarks, as required.

That's right, there was absolutely no requirement in the agreement for these faceless, nameless, unaccountable bureaucrats to report to ANYONE! Not to the Commonwealth, State or Territory Governments but more importantly, they were not accountable to the voting public of Australia or the many industries and communities that have been decimated by the worst economic, social and environmental injustices perpetrated in the name of NCP.

It's hardly surprising that regional Australia has so little faith in National Competition Policy.

A number of other recommendations from the Senate Select Committee called for a better balance in the way public interest tests were assessed. Amendments under the heading "Transparency" were a very watered down version of the Committee's recommendations.

Nevertheless, Governments were asked to "document the public interest reasons supporting a decision or assessment and make them available to interested parties and the public". They were also asked to "give consideration to explicitly identifying the likely impact of reform measures on specific industry sectors and communities, including expected costs in adjusting to change".

So why are our Ministers still standing up in State Parliament announcing NCP "reforms" even when the existing arrangements have been found to be in the public interest?

We are not allowed to know just yet - It's a secret!