REPORT TO THE NATIONAL COMPETITION COUNCIL

IMPLEMENTATION OF NATIONAL COMPETITION POLICY AND RELATED REFORMS

IN

SOUTH AUSTRALIA

MARCH 2001

ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
ANZMEC	Australia and New Zealand Mines and Energy Council
ARMCANZ	Agriculture & Resource Management Council of Australia and New Zealand
CCA	Conduct Code Agreement
COAG	Council of Australian Governments
CPA	Competition Principles Agreement
GBE	Government Business Enterprise
GBE Act	Government Business Enterprises (Competition) Act 1996
GRIG	Gas Reform Implementation Group
LGA	Local Government Association
NCC	National Competition Council
NCP	National Competition Policy
NEM	National Electricity Market
NRTC	National Road Transport Commission
OLG	Office of Local Government
SAIPAR	South Australian Independent Pricing and Access Regulator
TPA	Trade Practices Act 1974

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1. INTRODUCTION

This report summarises progress during calendar year 2000 by the South Australian Government in implementing the obligations contained in the three Intergovernmental Agreements (National Competition Policy Agreements) endorsed by the Council of Australian Governments (CoAG) on 11 April 1995 -

- Conduct Code Agreement;
- Competition Principles Agreement;
- Agreement to Implement the National Competition Policy and Related Reforms.

The report fulfils the formal requirements of the Competition Principles Agreement (CPA) to publish an annual report concerning implementation of competitive neutrality requirements (CPA, Clause 3.(10)) and legislation review requirements (CPA, Clause 5.(10)). Other aspects of competition policy are also covered.

It can be read in conjunction with the SA Government's five previous annual reports to the National Competition Council (NCC) covering calendar years 1996, 1997, 1998, 1999 and 2000. Also relevant are the NCC's first and second tranche assessment reports, and supplementary reports on those assessments.

This report is structured under the broad headings of Conduct Code Agreement, Competition Principles Agreement, and Related Reforms. A small bibliography provides details of relevant publications.

The report has been prepared by the Department of the Premier and Cabinet, in consultation with other agencies of the SA Government, including particularly the Departments of Treasury and Finance, Justice, Environment & Heritage, Water Resources, Administrative & Information Services and Transport, Urban Planning & the Arts.

Inquiries about the report may be directed to the Strategic Policy Division, Department of the Premier & Cabinet, telephone (08) 8226 1931.

2. CONDUCT CODE AGREEMENT

The Conduct Code Agreement (CCA) obliges the South Australian Government to enact Application of Laws legislation to apply the Competition Code, without modification, in South Australia. The Competition Code (effectively the restrictive business practice provisions of Part IV of the *Trade Practices Act, 1974 (C/wth)*) is applied to all persons in South Australia, including the Crown in so far as it carries on a business.

Clause 2.(1) of the CCA requires that written notice of all exemptions made by State law, in reliance on section 51.(1) of the *Trade Practices Act*, will be given to the Australian Competition and Consumer Commission (ACCC) within 30 days of enactment. Clause 2.(3) requires written notice to be given to the ACCC by 20 July 1998 of section 51.(1) exemptions in existence at the commencement of the CCA and which will continue to have effect after 20 July 1998.

Section 51(1) Exemptions

The *Competition Policy Reform (South Australia) Act, 1996 (SA)* and the *Competition Policy Reform (South Australia) Savings and Transitional Regulations, 1996 (SA)* came into force on 21 July 1996, and have continued in operation unaltered since that date. This legislation satisfies the obligations contained in clause 5 of the CCA. It applies the Competition Code to all persons coming within South Australia's jurisdictional reach, including those unincorporated persons, not engaged in interstate or foreign trade or commerce, to whom Part IV of the *Trade Practices Act* does not apply for constitutional reasons.

On 21 December 2000, the Authorised Betting Operations Act, 2000 received the Royal Assent. Subsections 12(12), 13(8) and section 81 of the Act provide for a section 51 exemption from the application of the Trade Practices Act, 1974 for a range of activities associated with the setting up of agreements between the licensee under the Act and licensed racing clubs. These sections came into operation on 25 January 2001. The ACCC has been notified.

As part of the South Australian Governments obligation to review its legislation under clause 5 of the CPA, the South Australian Department of Primary Industries and Resources has undertaken a legislation review of the *Dairy Industry Act 1992*. The review recommended, that the provisions dealing with price equalisation and regulation, which included a section 51 exemption, should be removed from the *Dairy Industry Act.* In accordance with the Commonwealth deregulation and industry restructuring package, which took effect on the 1 July 2000, the section 51 exemption was removed from the *Dairy Industry Act 1992*. The ACCC has been notified.

Compliance

Over the last five and a half years South Australian Government business agencies have become more familiar with the requirements of the competition laws and consequently there have been no allegations of contraventions by them during the reporting period. Nevertheless, the government is aware of the requirement for its agencies to put compliance programs in place, and to maintain compliance awareness. The Crown Solicitor's Office maintains a Competition Law Unit that can assist agencies with Trade Practices compliance and risk management. The Competition Law Unit maintains contact with the ACCC Adelaide Regional Office on issues that concern both the Government and the ACCC, including substantive trade practices matters and matters of mutual policy interest.

In August 2000 the Competition Unit released a Crown Solicitor's Bulletin to all Chief Executive Officers within the South Australian Government. The Bulletin highlighted the Government's obligations under the *Trade Practices Act,* provided an overview of the application of Part IV of the Act to Government activities as well as offering assistance with the development of compliance programs. The Competition Unit received a strong response to the Bulletin and the development of agency specific compliance programs is currently underway.

3. COMPETITION PRINCIPLES AGREEMENT

The Competition Principles Agreement puts in place policy elements additional to those contained in the Conduct Code which are considered essential for a comprehensive National Competition Policy. These additional policy elements are:

- independent oversight of prices charged by monopoly Government businesses;
- competitive neutrality, to ensure significant Government businesses do not enjoy any net competitive advantage simply as a result of public sector ownership;
- structural reform of public monopolies prior to privatisation or introducing competition to the market supplied by the monopoly;
- review of legislation which restricts competition;
- third party access to services provided by means of significant infrastructure facilities;
- application of these principles to Local Government.

3.1 PRICES OVERSIGHT

The *Government Business Enterprises (Competition) Act 1996* came into operation on 15 August 1996. The Act establishes an independent prices oversight mechanism by a Competition Commissioner for monopoly or near monopoly Government Business Enterprises (GBEs) and provides for public consultation as part of the mechanism. SA Water Corporation was declared to be subject to prices oversight under this Act in October 1996. The declaration was for a period until 21 November 1999. During 1999 no other GBEs were declared to be subject to prices oversight.

The *Independent Industry Regulator Act 1999* created the SA Independent Industry Regulator. The electricity supply industry is covered by the SA Independent Industry Regulator at present. The Act allows other industries to be brought within scope in future and these will be progressively brought into the scope of SAIIR (subject to Parliamentary approval).

The Government released a discussion paper on water pricing on 8 December 1999, and a discussion paper on sewerage pricing on 7 March 2000. Comments were invited by 15 February and 28 April 2000 respectively. The Government has subsequently announced pricing reforms which satisfied second tranche obligations.

The Maritime Services (Access) Act 2000 provides for the regulation of prices in respect to certain essential maritime services provided by the private port operator. Under the terms of the pricing regulation, the Minister (presently the Minister for Government Enterprises) will issue an initial pricing determination which will establish a price cap for three years. Following this initial three year period, the SA Independent Industry Regulator (SAIIR) will conduct a general review of port services and prices and will establish the on-going pricing regulation.

SECTION 3.2 COMPETITIVE NEUTRALITY

This section provides the Government's annual report for the 12 months to December 2000 on the implementation of the competitive neutrality policy and principles, as required by Clause 3(10) of the CPA.

3.2.1 Amendments to the *Government Business Enterprises (Competition) Act 1996*

As foreshadowed in last year's report a number of amendments to the competitive neutrality provisions of the *Government Business Enterprises (Competition) Act 1996* ('the GBE Act') were passed by the South Australian Parliament in 2000.

The major goals of the amendments are to:

- provide additional clarification on the application of competitive neutrality to significant government business activities, and

- refine the complaints mechanism and process.

(a) Clarification:

Clarification is provided in amendments which refine the definition of "government agency" and insert definitions for "local government agency" and "confidential information".

The amendments make it explicit that competitive neutrality applies to State government agencies which are 'subject to control and direction' by a Minister. South Australia's Universities will not fall within this definition.

Provision for proclamation by the Governor of competitive neutrality principles has also been removed and replaced with reference to policies published by the Minister from time to time. This will reduce duplication and potential confusion.

(b) Refinement of the complaints mechanism and processes.

The amendments make it explicit that a complaint will not be assigned to the Competition Commissioner for investigation:

- unless it is clear that the matter cannot be resolved between the complainant and the government or local government agency involved; or

- where there has been a previous investigation by the Commissioner, and the government or local government business activity was found to be complying with competitive neutrality principles, and its circumstances have not changed.

The Act has also been amended to require the Commissioner to provide a summary of the investigation which is suitable to be made publicly available.

Further refinement to the confidentiality provisions have been made to ensure that confidential information obtained as part of an investigation, including an investigation by the government or local government agency, is not disclosed or used, except as authorised, for any purpose unrelated to the making or resolution of the complaint.

These amendments were proclaimed to take effect from 25 May 2000.

New SA Government Competitive Neutrality Policy Statement

Reflecting the changes to the GBE Act, a revised SA Government Competitive Neutrality Policy Statement was released in May 2000 to replace the previous 1996 policy statement. The new statement provides greater definition and guidance on the meaning of "business" and "significant" for the purposes of competitive neutrality policy. The policy statement also updates the complaints mechanism and revises the implementation timetable. The new statement also includes an updated, consolidated list of the gazetted Category 1 and 2 significant government business activities.

A new Local Government Competitive Neutrality Policy Statement was released at the same time. (refer to section 3.6).

3.2.2 Significant businesses

South Australia's approach to competitive neutrality, as documented in the Competitive Neutrality Policy Statement, is compatible with the Council's view that "significant businesses should be identified on the basis of their effect or potential effect on their relevant market(s)". The Policy Statement says "Whether a business is significant depends upon its size and influence in the relevant market". Business size thresholds have not been used except to categorise businesses (Category 1 or 2) to facilitate prioritisation of businesses in implementation of competitive neutrality.

The approach adopted to implementation of competitive neutrality generally differs between Category 1 and Category 2 businesses, depending on assessment of net benefits. Category 1 businesses are generally either corporatised or commercialised although a few businesses have adopted cost reflective pricing after an assessment of the implementation costs of the other two options. Category 2 businesses are not precluded from adopting either corporatisation or commercialisation, as appropriate, although it is expected that generally costs would outweigh the benefits of implementation and thus cost reflective pricing would usually be adopted for these smaller businesses.

The Policy Statement lists those businesses subject to competitive neutrality and notes that the lists "are not intended to exclude further activities being identified as significant business activities, and may be subject to revision."

All portfolios have recently reviewed a range of smaller activities against the definition of significant government business activity in the Policy Statement and a further three Category 2 businesses have been identified and will be gazetted in due course. In addition, activities not identified as either Category 1 or 2 businesses are still potentially subject to complaint and subsequent investigation as to the applicability of competitive neutrality.

There have been no significant business activities identified as exceptions to the requirement to implement competitive neutrality.

There is full coverage of significant business activities under the South Australian Competitive Neutrality Policy framework and implementation of competitive neutrality has been undertaken progressively and is now substantially complete.

Implementation Progress

Competitive neutrality principles have been progressively applied to the Government's significant business activities. The timetable for implementation was outlined in the Government's original competitive neutrality statement of June 1996 and was updated in a revised policy statement published in May 2000.

The principles of competitive neutrality under section 16 of the *Government Business Enterprises (Competition) Act 1996* were proclaimed on 12 June 1997. The basic competitive neutrality principles are corporatisation, tax equivalent payments, debt guarantee fees and private sector equivalent regulation. Where application of these four principles is inappropriate, the CPA specifies that prices charged by significant Government business activities should reflect full cost attribution. The mechanism chosen to achieve competitive neutrality depends on the extent to which potential benefits outweigh the costs.

A total of 27 Category 1 Government Businesses are now formally recognised as significant business activities in accordance with the *Government Business Enterprises (Competition) Act*. There are currently 18 Category 2 significant business activities gazetted.

A Guide to the Implementation of Competitive Neutrality was prepared in March 1998 to assist agencies responsible for implementing the principles of competitive neutrality. In addition, *A Guide to the Implementation of Cost Reflective Pricing* was prepared and distributed during the year. This guide provides businesses with guidance in the implementation of cost reflective pricing.

In August 2000 Cabinet approved two Submissions for the further implementation of competitive neutrality reforms. For Category 1 businesses, 6 business activities were required to implement specific competitive neutrality measures and 2 organisations were required to undertake further reviews of the most appropriate competitive neutrality measure. For Category 2 businesses, 18 business activities were required to implement cost reflective pricing.

Category 1 Significant Business Activities

During the 2000 calendar year the following competitive neutrality reforms have been undertaken for Category 1 businesses:-

- Completion of the lease/sale of electricity businesses;
- Continued implementation of corporatisation reforms for Public Trustee and Forestry SA;
- Commercialisation of West Beach Trust, Enfield Cemetery Trust and Police Security Services Branch is at an advanced stage
- Implementation reviews for Medvet Science, the Institute of Medical and Veterinary Science, Homestart Finance, the Adelaide Entertainment Centre and the Adelaide Convention Centre have also been completed with implementation programs underway;

- The South Australian TAB is currently in the process of being privatised by way of a trade sale;
- The proposed sale of the South Australian Lotteries Commission was not approved by Parliament but Government intends to implement restructure reforms over the next twelve months;
- The Department of Education, Training and Employment has commenced a Governance Reform program that will implement certain commercialisation reforms in TAFE Institutes.
- Parliament passed three Acts to facilitate the divestment of Ports Corp.

Public Trustee

The Public Trustee was established as a body corporate by statute in 1881. Currently, the Public Trustee Office, an instrumentality of the Crown, operates as a statutory corporation sole under the control and direction of the Minister.

Whilst the enactment of the new Public Trustee Act in 1995 did not fundamentally change the functions of the Public Trustee or its role as an administrator, executor or manager of last resort, it did open the common funds to approved classes of investors. Public Trustee would operate with a commercial focus and pay dividend and taxation equivalents.

As part of the requirements of NCP, an inter-agency steering committee undertook a scoping study of the entity and recommended the corporatisation of the Public Trustee.

Following Government approval, a Corporatisation Implementation Committee was established with the objective of setting up an appropriate corporate governance structure including the recruitment of members for the Business Advisory Board, reviewing the scope of Public Trustee operations, developing a Charter and a Performance Statement and examining the Community Service Obligations of the Public Trustee for the purpose of transparency of funding. A number of sub-committees have been established to determine the capital structure and financial arrangements appropriate for a corporatised Public Trustee and to manage and resolve the industrial relations issues relating to the corporatisation of Public Trustee.

A competition policy review of the Public Trustee Act was completed in August 2000 following consultation with key stakeholders including industry, consumer and community groups. An issues paper was prepared in May 2000 and circulated amongst these stakeholders for comment. Submissions were considered and incorporated into a report finalised in August 2000 for consideration by the Government. As a result, work is now in progress towards a Bill to amend the Public Trustee Act.

Forestry SA

On 1 January 2001 the South Australian Forestry Corporatisation Act 2000 came into effect. The Act established the SA Forestry Corporation (known as ForestrySA) as a government business enterprise and applied the full provisions of the *Public Corporations Act 1993*. The Corporatisation Steering Committee has addressed the corporatisation criteria as outlined in the Competitive Neutrality Guide, in particular, the identification of a preferred capital structure, development of a dividend policy, establishment of a Charter and Performance Statement. Interim arrangements for CSOs were put in place. ForestrySA operates within tax equivalent regime

arrangements but enabling legislation includes a requirement for the payment of local government rates directly to Councils.

Medvet Science Pty Ltd
Medvet has operated under a corporate structure (Corporations Law company) for a number of years and seeks to generate commercial returns on its commercial activities. All retained earnings are used to fund Medvet's research activities. Medvet and the Department of Human Services have undertaken a preliminary review of their current operations to assess whether they meet the commercialisation criteria as specified in the Competitive Neutrality Guide. Most of the elements of a commercialised entity are already in place and a detailed assessment is currently being finalised.

Contestable Legal Services
Contestable Legal Services (CLS) represents those services provided by the Crown Solicitor's Office that are contestable (work for clients who have authority to engage private firms). The Crown Solicitor's Office formed a cost reflective pricing implementation group that reviewed current pricing policies and costing methodologies. The working group followed the Treasury and Finance Cost Reflective Pricing Guide that included consideration of advantages/disadvantages from Government ownership and cost of capital requirements. From this review the working group concluded that the current hourly rates charged for contestable work exceeded the competitively neutral cost per hour.

Vocational Education & Training Programs Implemented by Tender and Fee for Service Courses
In the latter part of 2000 the Minister for Education and Children's Services established Advisory Committees under Section 10A of the TAFE Act 1975 to pilot new governance arrangements for TAFE Institutes using a corporatised model.

As part of this process, the Advisory Committees are responsible to the Minister for compliance with the SA Government's Competitive Neutrality Policy through the application of commercial pricing principles when implementing tendering, fee for service delivery, course delivery and consultancy services.

The pilot Advisory Committee structures will continue until the TAFE (Governance Reform) Amendment Act 2001 becomes operational.

Adelaide Entertainment Centre
The Adelaide Entertainment Centre (AEC) has undertaken an analysis of its business operations to identify the segments that are providing commercial (contestable) services. The AEC has examined its business as a whole and then considered individual business units (events – hire of auditorium, corporate suites and functions). The events segment and the associate corporate suite business do not have a competitor in the Adelaide market and provides a service or facility to the community that is not provided by the private sector. The costs of implementing competitive neutrality reforms to the event segment outweigh any potential benefits as Adelaide would miss out on major touring performances if full cost attribution (that would require a significant capital charge on the building) was implemented. The function business is in direct competition with the private sector, is significant in the market and operates to generate commercial returns. Cost reflective pricing principles are

currently being applied but the AEC is undertaking a pricing review to ensure full compliance.

Institute of Medical and Veterinary Science
IMVS and the Department of Human Services prepared a paper outlining the application of competitive neutrality principles to IMVS that proposes adoption of cost reflective pricing rather than commercialisation or corporatisation.

IMVS is a significant provider of pathology services in South Australia. It provides comprehensive pathology services to both the public and private sectors as well as undertaking research, teaching and public health testing. Due to the unique nature of IMVS and aspects of the pathology market, selection of an appropriate competitive neutrality measure has not been clear.

Certain aspects of IMVS's operations would tend to support full corporatisation or commercialisation (large market share of the South Australian pathology market, significant revenues and private sector providers that could perform many of the services IMVS delivers). However, it could equally be argued that these measures are not appropriate given that a major part of IMVS's operations are focused on providing public health services (research, public hospital pathology services, teaching and public health testing). In addition, due to the current policy position, IMVS does not operate in a competitive market for public hospital pathology services (a significant part of its revenues that is funded by the State Government) as all public hospitals (except Modbury Hospital) are required to use IMVS. For its private patient work, IMVS has limited ability to set its own price for its pathology services as the Commonwealth Government's Medical Benefits Scheme (MBS) and the in principle agreement which limits fees to the CMB fee levels effectively restricts price flexibility. It should also be noted that patients usually have no effective choice of pathology provider (and often make no direct financial contribution for the service) as this depends on the preferred provider of individual medical practitioners. IMVS does not have the flexibility to market its services to medical practitioners in the same manner as its competitors.

Adoption of cost reflective pricing can not be implemented in the usual or recommended manner due to the lack of pricing flexibility. However, if IMVS ensures that the revenues it receives from private patient work exceeds the competitively neutral cost of providing those services, cost reflective pricing (and competitive neutrality) objectives will be achieved. IMVS has demonstrated that the cost of providing private patient pathology services is covered by the revenues (Commonwealth Government - MBS determined fees). Further work may be required to ensure that returns on capital employed and any other net competitive advantages from Government ownership are removed. However, the inability of government agencies (including IMVS) to access the "Patient Episode Initiation Fee" (PEI), available to all private providers for the provision of services to patients outside the public hospital setting needs to be considered in relation to this issue. The revenue from the PEI that would accrue is in excess of any capital funding received.

HomeStart
During the year HomeStart undertook extensive analysis of their operations to arrive at the conclusion that commercialisation was the most appropriate competitive neutrality measure. HomeStart now satisfies the conditions of commercialisation prescribed in the Competitive Neutrality Guide.

HomeStart has the following measures in place: - commercial activities defined through a business plan; defined commercial activities; defined non-commercial activities that have been costed (taken into account in performance measures); no regulatory functions; assets that have been valued in accordance with Australian Accounting Standards; appropriate commercial gearing; defined performance targets and measures; defined reporting requirements; application of the tax equivalent regime; payment of debt guarantee fees; ring fenced accounts from the Department of Human Services and an agreed dividend policy with the Minister for Human Services.

Adelaide Convention Centre

The Adelaide Convention Centre (ACC) has been incorporated as a subsidiary of the Minister for Tourism under the *Public Corporations Act 1993*. This reform was undertaken for reasons other than competitive neutrality. In relation to the ACC's main activity, accommodating large conventions, in SA there are no other facilities for holding large conventions.

As commercialisation is only appropriate for entities with a clear commercial focus, the ACC is implementing cost reflective pricing to its contestable, commercial activities (eg catering and carparks).

West Beach Trust

A Steering Committee was formed to coordinate the implementation of commercialisation of the West Beach Trust (WBT). The work of the Steering Committee has been completed with the majority of commercialisation requirements being implemented. Its report confirmed that commercialisation reforms have largely been implemented and recommended the drafting of a Bill to amend the *West Beach Recreation Reserve Act* to strengthen accountability between the Minister and the Trust and to update the Act. Cabinet approved the drafting of this Bill in March 2001.

Enfield General Cemetery Trust

A Steering Committee was formed to coordinate the commercialisation implementation of Enfield General Cemetery Trust (EGCT). The Steering Committee submitted its final report to the Minister for Transport, Urban Planning and the Arts recommending:-

- That, EGCT be corporatised; and
- That, the *Enfield General Cemetery Act 1944* and the *West Terrace Cemetery Act 1976* be repealed and replaced with new legislation, emphasising the commercial nature of the Trust's operations and making it subject to the full provisions of the *Public Corporations Act 1993*.

These recommendations were endorsed by Cabinet and consequently, the Adelaide Cemeteries Authority Bill has been introduced into Parliament and is expected to be debated in the first session of 2001.

Police Security Services Branch (PSSB)

The South Australian Police Department (SAPOL) formed a Steering Committee to coordinate the commercialisation of PSSB. The work of this committee is now complete with the majority of commercialisation requirements in place. SAPOL and PSSD are still considering the future role of the Branch.

Category 2 Significant Business Activities

A list of Category 2 significant business activities (ie those significant business activities which have revenues of $2 million or less per annum and assets valued at $20 million or less), was approved by Cabinet in March 1999 and gazetted later in the year. Due to the size of their operations and revenue full corporatisation or commercialisation is not considered cost effective. In August 2000, Cabinet approved the implementation of cost reflective pricing to this list of business activities with responsible Ministers retaining the right to implement more comprehensive reforms (ie commercialisation or corporatisation). The majority of these businesses have now either completed implementation of cost reflective pricing or their implementation processes are at an advanced stage.

In addition, in August 2000 Cabinet identified a further three Category 2 significant business activities. Two other activities which could potentially qualify as a significant business activity were in the process of being divested from Government and so have not been included on the Category 2 business list.

3.2.3 Community Service Obligations

The South Australian Government's policy in relation to CSOs is set out in the CSO Policy Framework document dated December 1996. CSO policy is also reflected in the Competitive Neutrality Policy Statement, *A Guide to Implementation of Competitive Neutrality Policy* and the *Public Corporations Act*.

The CSO Policy Statement states that:

> *A Community Service Obligation (CSO) is defined to arise when a government specifically requires a government business enterprise to provide a concession, a service or to carry out an activity which the enterprise would not elect to do on a commercial basis, and which the government does not require other businesses in the public or private sectors generally to undertake, or, which the government business enterprise would only do commercially at higher prices.*[1]
>
> *The defining characteristic of a CSO is that it meets a specified public policy objective, benefiting the community rather than fulfilment of the business's commercial objectives.*

And further that:

> *A key objective of the CSO policy is enhanced accountability and transparency in the delivery of government social and economic policy outcomes.*

The policy also deals with costing and funding of CSOs, with the preferred costing methodology being avoidable cost and "the preferred approach is for CSOs to be

[1] The definition has been derived from the definition developed by the Steering Committee on National Performance Monitoring of Government Trading Enterprises.

explicitly funded with funding arrangements in place to create pressure for greater efficiency in delivering CSOs".

The *Public Corporations Act* requires that the provision of CSOs will be set out in the charter of a public corporation, including their nature and scope and the arrangements for their costing and funding. The Act requires that any non-commercial operations must be performed in "an efficient and effective manner" consistent with the requirements of the charter. A performance statement setting performance targets for a public corporation is also required to be prepared in conjunction with the charter.

Similarly competitive neutrality guidelines require that CSOs are identified and costed for commercialised entities.

In relation to entities subject to cost reflective pricing, in general the preference is for direct budget funding of any non-commercial functions or objectives. It is expected that generally non-commercial functions would be separated from commercial activities in defining the scope of smaller government business activities (eg Category 2 businesses).

As indicated above, CSOs are provided in relation to government businesses that are classified to the commercial sector ie non-budget sector. There has been a program of asset sales over recent years, which has resulted in reduction in the number of major government businesses. Currently, CSOs are provided for SA Water for country water services and some other minor activities such as pensioner concessions, emergency services and exemptions to churches and charities. For SA Water's CSOs there has been substantial ongoing consultation with the NCC as part of broad discussion on water reforms. No further change in water CSO arrangements are proposed, noting NCC acceptance of present arrangements in relation to second tranche obligations.

The provision of CSOs to Forestry SA was recently approved, under interim arrangements, following its corporatisation.

CSOs were previously paid in relation to ETSA, which has now been privatised.

The Government's policy is to explicitly fund CSOs to Government businesses that are in the non-budget sector, but due to recent asset sales the businesses to which CSOs applies are currently limited to SA Water, ForestrySA and the Public Trustee, with other concessions being provided in relation to service provision by private sector entities eg energy rebates.

A CSO Working Group has been tasked to improve some of the procedural aspects of the CSO policy arrangements.

The Working Group will be involved in looking at the appropriateness of the CSO arrangements for the entities that have either been recently corporatised or are in the process of being corporatised. The Group will be reviewing the processes relating to CSO arrangements with a view to improving the purchaser-provider arrangements and the provision of better and more timely information to Cabinet to assist with decisions on the approval and funding of CSOs.

3.2.4 Competitive Neutrality Complaints

The GBE Act came into operation in August 1996. The Act provides for the appointment of Competition Commissioners who can be assigned to investigate complaints of infringement of competitive neutrality principles. In August 1997, a Commissioner was appointed by the Governor to investigate complaints referred to him by the Premier.

The Department of the Premier and Cabinet provides a secretariat for the complaints mechanism. It responds to enquiries from potential complainants. A package of information relevant to competitive neutrality complaints has been compiled and is available to persons seeking further information.

Upon receipt of a written complaint against a State or local government business activity, and subject to being within the scope of the GBE Act, the complaint is referred to the State agency or local government concerned for investigation, response and possible resolution. Where the complaint cannot be satisfactorily resolved at this stage, consideration is given to its assignment to the Competition Commissioner.

Two complaints within the scope of GBE Act were received during 2000. One, against the Passenger Transport Board, has been referred to the Competition Commissioner for investigation. The other complaint has been referred to the agencies concerned (TAFE, SA Lotteries and the South Australian Totalizator Agency Board) for initial investigation and possible resolution.

In addition, a complaint was received in 2000 by the Commonwealth Competitive Neutrality Complaints Office ('the CCNCO') against ARRB Transport Research Pty Ltd, whose stakeholders include the transport portfolio department of each of the Commonwealth, State and Territory Governments. Given the multi-jurisdictional nature of the complaint and that the complainant wrote directly to the Commonwealth, South Australia has considered it appropriate for the CCNCO to conduct the investigation of the complaint.

Three investigations were incomplete at the end of 1999. Two of those complaints were resolved in 2000 when the agencies ceased the activities which were the subject of complaint (the South Australian Totalizator Agency Board and the Domiciliary Equipment Services, a unit of the North Western Adelaide Health Service). The remaining investigation has been suspended pending sale of the government business activity (State Flora).

A summary of complaint statistics and formal complaint information appear in tables 1 and 2 below.

TABLE 1

SUMMARY OF COMPLAINT STATISTICS FOR 2000

	Complaints investigated	Completed investigations				Incomplete investigations			
		Upheld		Dismissed		In progress	Terminated – Trivial/ vexatious/ mala fide	Terminated – Complaint withdrawn	Other
	Number	Number	Av. time to recommend	Number	Av. Time to recommend	Number	Number	Number	Number
State	5	2*	--	0	--	2	0	0	1**
Local Government	0	0	--	0	--	0	0	0	0
Total	5	2	--	0	--	2	0	0	1

On hand 1/1/00 - 3. Add complaints received – 2. Less complaints completed – 2. On hand 31/12/00 - 3
*Both complaints were resolved by the agency ceasing the activities which were subject of complaint without referral to the Competition Commissioner.
**One investigation has been suspended pending sale of the government business activity.

In addition, a multi-jurisdictional complaint which was received by the Commonwealth Competitive Neutrality Complaints Office and includes a South Australian department is being investigated by the Commonwealth office.

TABLE 2
FORMAL COMPLAINTS FINALISED IN 2000

Date of receipt of complaint	*Target of complaint*	*Nature of complaint* [1]	*Findings of investigation and recommendation*	*Date of formal advice to complainant*	*Date of formal advice to target of complainant*	*Action taken or proposed following recommend-ation* [2]	*Other relevant information*[3]
30/9/99	South Australian Totalizator Agency Board	Hiring out of call centre to other organisations.	None – the matter was resolved without referral of the matter to, or findings and recommendations from, the Competition Commissioner. SATAB advised that, as a result of internal consideration of the matter, it would not be conducting the activity which was subject of complaint.	11/7/00	11/7/00		SATAB had ceased the activity whilst it considered the matter internally.
16/12/99	Domiciliary Equipment Services.	DES' exemption from paying taxes, fees and private sector equivalent regulation. Non-commercial rates charged for hire and sale of equipment.	None - the matter was resolved without referral of the matter to, or findings and recommendations from, the Competition Commissioner. Following an internal investigation DES ceased the activities which were subject of complaint.	2/6/00			

(1) brief description including any issues peculiar to the complaint
(2) including action by : Minister, target of complaint and dissatisfied complainants
(3) including reason for delay in resolving complaint where applicable

3.3 STRUCTURAL REFORM

Electricity

The electricity sector was the subject of considerable structural reform in 1998 and 1999. Developments during 2000 are reported in section 4.1.

SA Lotteries Commission

SA Lotteries Commission (SALC) already meets all Competitive Neutrality requirements in line with Clause 3 of the CPA.

In November 2000, legislation to prepare the SALC for sale was defeated in Parliament. The Government has now decided to restructure SALC to establish an ownership structure which allows for clear separation of policy, regulation and management of the business.

Subject to the Parliamentary process, it is the intention of the Government that the ownership arrangements for SALC be restructured during 2001.

SA Totalizator Agency Board

SA TAB already meets all Competitive Neutrality requirements in line with Clause 3 of the CPA.

In announcing the Government's decision to sell SA TAB, the Government indicated that its aim was to introduce legislation into Parliament that set out the nature of industry reforms, including the regulatory environment post sale, and provided for the sale of the business. SA TAB sale legislation was passed by both Houses of Parliament in early December 2000. Following the passage of the TAB (Disposal) Bill and the associated Authorised Betting Operations Bill in late 2000, the formal sale process has commenced. It is anticipated that the sale of TAB will be finalised by mid to late 2001.

SA Ports Corporation

SA Ports Corp already meets all Competitive Neutrality requirements in line with Clause 3 of the CPA.

In May 2000, the Government announced its decision to dispose of the assets and business of Ports Corp. This is to occur through a combination of a 99-year lease of the land and a sale of the wharves, piers, buildings, plant and equipment, and the ongoing business. The three Bills to facilitate the divestment process were passed by the SA Parliament in late 2000. This new legislation comprises the *SA Ports (Disposal of Maritime Assets) Act*, the *Harbors and Navigation (Control of Harbors) Amendment* Act (both of which were proclaimed on 25 January 2001), and the *Maritime Services (Access) Act* (which will be proclaimed shortly).

Education and Training Services

The Department of Education, Training and Employment has identified a range of activities which have been determined as significant business activities and which will

be subject to competitive neutrality reform. The pricing structures of these activities, in particular, Curriculum Material Sales, Distribution Centre Services and the International Students Program are currently being reviewed in order to ensure compliance with the cost reflective pricing principles established by the South Australian government.

There are currently eight publicly owned TAFE Institutes responsible for the delivery of vocational education and training services in South Australia. These operate as units within the Department of Education, Training and Employment.

Recently, the South Australian Government endorsed an arrangement to pilot a new governing structure for the Institutes preceding the preparation of the TAFE (Governance Reform) Amendment Act 2001 which will incorporate TAFE Institutes as separate corporate entities operating under provisions of the Public Corporations Act 1993.

To achieve this, the Department of Education, Training and Employment has established the TAFE Governance Reform Steering Committee. The Steering Committee obtained Cabinet's endorsement for the pilot to establish Advisory Committees that will effectively govern each institute. This will result in the TAFE Institutes being corporate legal structures operating according to corporate principles and being charged with the responsibility for ensuring that appropriate management practises, costing structures and accountability mechanisms determine their operations.

3.4. LEGISLATION REVIEW

This section provides the Government's annual report for the 12 months to December 2000 on the review of legislation that restricts competition, as required by clause 5.(10) of the CPA.

3.4.1 Reviews completed by December 2000

Good progress continued to be made during 2000 with reviews of the 178 Acts containing restrictions on competition. The legislation review timetable was updated and re-published in December 1999. Attachment 1 shows the Acts listed for review and gives brief details, including whether the review has been completed. The reviews are grouped by portfolio.

During 1999, the *Criminal Law Consolidation Act 1935* was removed from the program by Cabinet. However the *Southern State Superannuation Act 1994*, which was reviewed at the request of the NCC, has been added meaning that the total number of Acts in the program remains at 178.

Currently 139 reviews have been completed, 38 are underway and 1 will commence in 2001.

3.4.2 Specific Reviews

Workers Rehabilitation and Compensation Act 1986
The legislative review of the *Workers Rehabilitation and Compensation Act (1986*) is almost complete and has involved an extensive consultation process. Prior to

finalising the Review Report, the Review Steering Committee is clarifying a number of points with various stakeholders who made submissions through the consultation process during 2000. These issues and stakeholder comments are currently being considered with a view to presenting a final report for the Government's consideration in the first half of 2001.

Shop Trading Hours Act 1977

Following extensive consultation, the South Australian Parliament amended the Shop Trading Hours Act in 1998. The amendments, which had widespread support, now allow City shops to trade until 9pm every weeknight and suburban shops to open until 7pm Monday-Wednesday and Friday.

These amendments reflect the extent of change supported by the Parliament. Further reforms may be considered at a later date following a reasonable period of operation of the recent amendments.

Gambling

The SA Government holds the view that the grant of exclusive licences results in an overall net public benefit – in a social and financial sense – in comparison with the proliferation of gambling licences. The Government has made a strong case for exclusivity of gambling licences in its submission to the Productivity Commission and its views remain unchanged. The exclusive licence proposed for SA TAB is consistent with arrangements already in place for privatised TABs around Australia.

Superannuation

In its Third Tranche Assessment Framework, the NCC indicates its view that legislation constraining the superannuation fund to which compulsory contributions are made by public sector employers under the Commonwealth superannuation guarantee "limits the options available to employees and prevents access by alternative providers to a significant component of the superannuation market." (page 20.20) It is further suggested that restriction of choice of fund has "few, if any, benefits" (page 20.21) and that the "main attribute" is that it allows continuation of an unfunded scheme.

The NCC has noted that South Australia's arrangements do not provide for employee choice as to the superannuation fund manager for the employer's superannuation guarantee charge nor "competitive challenge to the administration by the government monopoly provider".

The costs identified by the NCC are that contributors might be unable to take advantage of higher returns available elsewhere or be unable to amalgamate contributions from new and previous employment. It is asserted that a "few" government funds produce earnings markedly below the median.

However, the NCC acknowledges that decisions on the mode of delivery of superannuation administration services, either by a government body or by the private sector, is a matter of government policy.

South Australia has previously undertaken a "desktop review" of superannuation arrangements. The NCC states that South Australia has "not comprehensively examined these restrictions, stating that advice from the Crown Solicitor is that the

restriction in the legislation is trivial" (page 20.23). However, it omits to mention that this advice has been provided to the NCC.

Whilst the examination of the Act undertaken by the Crown Solicitor's Office (CSO) was not a full legislation review it used the same methodology as a Clause 5 review and the CSO considered that a full review would not form a different conclusion to that reached by the CSO ie that the restrictions in legislation are trivial. A summary of the rationale for that advice is provided below.

The analysis differentiated between superannuation guarantee payments by the State and payments in relation to superannuation benefits that are part of the Government's remuneration packages to employees. The latter are considered an internal matter of government and thus as stated in the report, "the provision of certain SA Government benefits to its employees through nominated superannuation schemes is not a restriction upon competition". Further analysis was undertaken of both the administration and funds management functions in relation to the superannuation guarantee charge that is required under Commonwealth legislation.

Currently, employees may not nominate another fund to manage the Government's superannuation guarantee charge payments, which under State legislation are controlled by Funds SA. Whilst Funds SA undertakes administration of the superannuation scheme, the funds management function is outsourced. It is argued that a single fund is the most efficient and cost-effective means of managing superannuation funds because of economies of scale across the Government's entire superannuation arrangements. This provides a benefit to members by minimising administrative costs.

The report argues that lack of consumer choice is not anti-competitive in terms of the market for funds management and therefore not relevant in the context of National Competition Policy.

In terms of administration of the superannuation scheme, it is argued that fees are very low in comparison with the market and that there is therefore "negligible, if any, anti-competitive effect", particularly as the volume of activity is relatively small.

The benefits for employees identified in relation to these arrangements are:

- An additional Government benefit (extra 1% contribution) is provided to employees who make voluntary personal contributions to the fund; and

- Death and disability insurance coverage is provide to employees at a very low charge to fund members – the same level of death cover is provided to all members, with the level of invalidity cover varying between contributors and non-contributors.

These additional benefits are provided at a lower cost than could be achieved if there were fund choice because of economies of scale and administrative simplicity.

In addition, there are benefits to the Government and thus taxpayers, due to lower administrative costs. (Note that in South Australia's case the scheme is fully funded and thus the point raised in the framework about continuation of unfunded schemes, is not relevant.).

The costs identified for members are the fees charged by the scheme – in this case, the costs are assessed as negligible as the fees are low relative to the market.

On balance, it is considered that the benefits outweigh the costs of the current arrangements for the superannuation guarantee charge.

In summary, the main issue appears to be the NCC's concern about member choice in relation to superannuation guarantee charge payments and whether there is a lack of competition in funds management, including the impact on returns earned. Administration of the scheme appears not to be an issue.

South Australia considers that there are net benefits to employees from current arrangements in relation to the superannuation guarantee charge through the additional cover provided at relatively low cost and reduced administration costs in general. In addition, the benefits of competition for returns are provided through the outsourcing of funds investment and management by Funds SA.

As previously advised, South Australia is prepared to discuss this matter further with the NCC to clarify the role of Funds SA as well as new developments.

Passenger transport, including taxis

The review of this Act was undertaken by consultants and the report was released by the Minister for Transport and Urban Planning on 8 November 2000. The report is published on the Passenger Transport Board website at:
http://www.adelaidemetro.com.au.
The Minister for Transport and Urban Planning will release the Government's response in the first half of 2001.

Barley

This area was reported on specifically in the 1998 Annual Report.

The SA Government confirms with the National Competition Council their intention to stand by the actions taken on 25 October 2000 to extend the single desk powers of ABB Grain Ltd indefinitely. The SA Government may be prepared to consider reviewing the barley legislation if there is a change to national wheat marketing arrangements.

Forestry

On 1 January 2001, the South Australian Forestry Corporation Act 2000 came into effect, establishing the South Australian Forestry Corporation.

There are currently three forestry Acts - the *Forestry Act 1950, SA Forestry Corporation Act 2000 and the Forestry Property Act 2000*.

The *Forestry Act 1950* authorises the SA Forestry Corporation to control and manage forestry reserves on Crown lands (whether a native forest reserve or otherwise). Its powers include the grant of licences or other interests in these reserves and also the planting, milling and sale of timber from them. The Act does not contain any restrictions on competition.

The *South Australian Forestry Corporation Act 2000* came into effect on 1 January 2001. It establishes the corporation as a public corporation. It does not contain any restrictions on competition.

The *Forest Property Act 2000* is yet to come into operation. The Act creates a category of agreement known as a "*forest property agreement*" to provide a secure mechanism for separating land and tree ownership, as a means of encouraging commercial investment in plantation forestry. While the Act contains a set of essential elements for a *"forest property agreement"*, these are minimum requirements to ensure a valid legal agreement exists. Such a mechanism is not intended to restrict competition, but to enhance competition by providing greater flexibility and increased opportunities for forestry investment.

The Act also seeks to remove uncertainty in relation to plantation harvesting rights by providing a secure right to harvest in the form of a "commercial forest plantation licence". While the Minister has discretionary powers in relation to the issue of such licences, these powers are specifically part of an administrative mechanism for their proper management and not the basis of any restrictive practice or compulsory licensing system.

Health Professions

Reviews have been completed for most health professions and are being considered by the Minister. These comprise medical practitioners, occupational therapists, optometrists, osteopaths and chiropractors, physiotherapists, podiatrists and chiropodists and psychologists.

The Nurses Act 1999 replaced previous legislation following a review completed in 1998.

Amendments to the Dentists Act 1984, currently before Parliament, will provide for the removal of provisions preventing qualified specialised dentists from practicing general dentistry, enabling dental therapists to also practice in the private sector under the control of a dentist but limited to working on children, allowing the registration of dental technicians, enabling clinical dental technicians to fit partial dentures once competency has been demonstrated to the Dental Board, extending the membership of the Board and Professional Conduct Tribunal to include a dental prosthetist, dental technician, dental therapist, and another consumer representative to the Board and the Tribunal, removal of restrictions on advertising, requiring adequate professional indemnity insurance and prohibiting employers from unduly influencing employees to perform dentistry detrimental to consumer welfare. Ownership restrictions will be amended with the Minister having the power to make exemptions. There is already non-dentist ownership of dental practices and this is expected to increase.

A national review of the Pharmacy Act has been completed and a working party appointed by Senior Officials is considering its recommendations.

3.4.3 New legislation

Clause 5(5) of the Competition Principles Agreement requires proposals for new legislation containing restrictions on competition to be subject to an NCP review. The guidelines issued in February 1998 remind SA portfolio agencies of this obligation.

Protocols for approval of new legislation include a requirement that NCP principles have been addressed in the drafting of the legislation.

3.5. THIRD PARTY ACCESS

Port Facilities

As part of the Ports Corp divestment process, the SA Government intends to introduce a third party access scheme covering maritime services. The *Maritime Services (Access) Act 2000* provides for the regulation of prices in respect to certain essential maritime services provided by the private port operator and for third-party access to certain port assets. The access regime provides for third-party access to channels, defined common user berths, berths adjacent to grain handling facilities and the grain handling facilities (belts) themselves.

Under the terms of the pricing regulation, the Minister for Government Enterprises will issue an initial pricing determination which will establish a price cap for three years. Following this initial three year period, the SA Independent Industry Regulator (SAIIR) will conduct a general review of port services and prices and will establish the on-going pricing regulation. The SAIIR will also have the authority to review and amend the scope of the third-party access regime.

Rail Facilities

The SA and NT governments have legislated to create an access regime for the Tarcoola to Darwin railway. The existing railway line from Tarcoola to Alice Springs, currently owned and managed by the Australian Rail Track Corporation, will be transferred to the builders of the new line from Alice Springs to Darwin at the time construction commences, scheduled to be in mid-late 2003. The regime will be proclaimed to take effect from that time. Mirror legislation was passed by the SA and NT Parliaments in the first half of 1999. The Australasia Railway (Third Party Access) Act 1999 commenced in both jurisdictions on 2 September 1999.

In March 1999, the governments made a joint application to the NCC "asking the Council to recommend that the Commonwealth Minister decide that the regime is an effective access regime" (Section 44M of the Trade Practices Act). The NCC undertook public consultation on the regime during mid 1999, following which there were extensive discussions between the governments and the NCC on a range of matters. The governments agreed to a number of changes to the regime to meet the NCC's requirements, and in November 1999 the NCC prepared a draft recommendation that accepted all but one aspect of the regime. This draft recommendation was put to a second round of public consultation in December 1999. The outstanding matter related to the treatment of government asset and financial contributions within the methodology used for the valuation of assets. In February 2000 the outstanding issue was resolved and as the NCC recommended the certification of the access regime, the Federal Treasurer duly certified the regime on 23 March 2000.

SAIIR will undertake regulatory roles in this regime.

Gas Fields

The Petroleum Act 2000 was proclaimed in September 2000 and incorporates recommendations endorsed by the Gas Reform Implementation Group Upstream Issues Working Group to facilitate competition for exploration acreage.

Significant efforts have been directed at facilitating new explorers to take up opportunities in the Cooper Basin following expiry of the Santos joint venture's petroleum exploration licences in the area in early 1999.

The South Australian Government is continuing to encourage the Cooper Basin producers to establish a "Voluntary Industry Access Code" with regard to their production facilities.

3.6 LOCAL GOVERNMENT

Continued progress was made during 2000 with the application of competition principles to the Local Government sector in South Australia, consistent with the Statement on the Application of Competition Principles to Local Government (the so-called Clause 7 Statement).

New Clause 7 Statement

The original Clause 7 Statement was published in June 1996. A joint review of the effectiveness and implementation of the arrangements set out in the Clause 7 Statement was undertaken in 1998/1999. A revised Clause 7 Statement was published in May 2000, at the same time as publication of the new State Government Competitive Neutrality Policy Statement. This followed the passage of amendments to the *Government Business Enterprises (Competition) Act 1996* (see section 3.2.1 above). The new statement provides greater definition and guidance with respect to the meaning of "business" and "significant" for the purposes of competitive neutrality policy.

Significant Business Activities

It has been previously reported that councils have identified all significant business activities and determined which competitive neutrality principles to apply to them.

The pattern established since the commencement of NCP implementation and reporting in South Australian local government continued during the reporting period. Generally speaking, councils are only involved in small-scale business activities and cost reflective pricing is the most common principle being applied to achieve competitive neutrality.

There are now two councils conducting Category 1 business activities. The Adelaide City Council (the local governing body for the central business district in Adelaide) and the District Council of Mount Barker.

The five Category 1 business activities previously reported by the Adelaide City Council remain the same for this reporting period. (North Adelaide Golf Links, Central Market Authority, Off Street Parking (U-Park), Property Management and Wingfield

Waste Management Centre). An organisational structure has been implemented in the Adelaide City Council that separates its business activities from its other activities, and corporatisation, commercialisation and cost reflective pricing have all been implemented.

The District Council of Mount Barker conducts the Monarto Quarry which was classified as a category 1 business in the second year of its operation. Corporatisation is the competitive neutrality principle being applied.

The one other Category 1 business activity is a fully commercial cemetery operation run jointly by two councils via a separately incorporated subsidiary.

Councils reported on a total of 33 Category 2 business activities. These are almost exclusively small scale, with caravan parks occurring most frequently. Table 3 summarises the Category 2 activities and the principles being applied to them – cost reflective pricing (CRP), market value (MV), commercialisation (COM) or corporatisation (COR).

In the majority of cases, cost reflective pricing is the principle being employed to achieve competitive neutrality. For a number of the caravan park operations the small scale of the activity means that the cost of implementing a cost reflective pricing regime would outweigh the benefits. In these instances the councils ensure that they are charging at least the market price for the activity, on the assumption that this is a reasonable proxy for a cost reflective price.

TABLE 3 – Category 2 significant business activities

Nature of Activity	Number	CRP	MV*	COM	COR
Caravan Parks	18	6	9		3
Works/Development	3	3			
Recreation centres	3	3			
Waste management	3	3			
Function centres	1				1
Saleyards	1	1			
Small tourist facility	1	1			
Utilities	2	2			
Rural Transaction Centre	1	1			

*Activities are small scale and costs of implementing formal cost reflective pricing would outweigh the benefits. At least market prices are charged.

By-laws

As previously reported, each council has identified by-laws that may restrict competition and informed the State of its timetable for the review and, where appropriate, reform of the by-laws so identified before the end of the year 2000.

Council reports indicate that of the 68 councils in South Australia, 14 do not have any by-laws, 36 had completed their by-law review for NCP purposes prior to the current reporting period, and the remaining 18 councils completed their reviews by the end of 2000.

All by-laws in South Australia are subject to a sunset clause - after seven years of operation they lapse. Under the terms of the new Local Government Act 1999, any new by-laws made must not restrict competition to any significant degree unless there is evidence that the benefits of the restriction outweigh the costs and that the objectives of the by-law can only be reasonably achieved by the restriction.

All council by-laws are also examined by the Legislative Review Committee of Parliament, which must ensure that they are in accordance with the general objects and intent of the legislation under which they are made.

Competitive neutrality complaints

The State Government complaints mechanism in the Department of Premier and Cabinet was established to receive and consider complaints made about the implementation of national competition policy by both State and local governments.

The secretariat for the complaints mechanism provides information and advice about the implications of the policy. Formal complaints about competitive neutrality are referred to an independent Competition Commissioner, established under the Government Business Enterprises (Competition) Act 1996.

However, before a complaint is assigned to a Commissioner the matter must have been referred to the local government agency for investigation (or further investigation) and report, but not have been resolved by agreement between the parties during that process. The Clause 7 Statement advises councils to establish their own formal mechanism to handle complaints, and a draft model was prepared to provide guidance. If, after investigation by local government, the complainant is dissatisfied with the response the matter can be referred to the State Government and investigated under that process.

The establishment of complaints mechanisms or grievance procedures is not new to local government in this State and there are good examples operating which have assisted in the preparation of models and guidance for councils. This practice was recognised in the new Local Government Act 1999, which came into operation on 1 January 2000, and which mandates the establishment of formal grievance procedures for the review of decisions of the council with procedures designed to ensure independent assessment of the decision complained of.

Only one council reported a competition related complaint. This single complaint was received and resolved at the local level.

4. RELATED REFORMS

The Agreement to Implement National Competition Policy and Related Reforms makes provision of specified financial assistance by the Commonwealth conditional on the States making satisfactory progress with the implementation of the requirements of the Conduct Code Agreement and Competition Principles Agreement and also with implementation of related reforms which have been the subject of separate CoAG agreements. These related reforms include:

- establishment of a competitive national electricity market;
- national framework for free and fair trade in gas;
- strategic framework for the efficient and sustainable reform of the Australian water

industry;
_ road transport reforms.

4.1 ELECTRICITY

Under the *Agreement to Implement the National Competition Policy and Related Reforms*, the third tranche obligations for the relevant jurisdictions (New South Wales, Victoria, South Australia and the ACT) are to:

- have given full effect to, and continue to observe fully, the Competition Policy Inter-governmental Agreements;
- have fully implemented, and continue to observe fully, all COAG agreements with regard to electricity, gas, water and road transport.

With respect to electricity, this refers to aspects such as:

- the ability for customers to choose which supplier, including generators, retailers and traders, they will trade with;
- non-discriminatory access to the interconnected transmission and distribution network;
- no discriminatory legislative or regulatory barriers to entry for new participants in generation or retail supply; and
- no discriminatory legislative or regulatory barriers to interstate and/or intrastate trade.

Continued Structural Reform in South Australia

Since becoming a party to the National Competition Policy the South Australian Government has been pursuing a timetable of reform and restructuring of the electricity sector.

The disaggregation of the electricity sector was completed on the 12 October 1998. Since that time the Government has been continuing a program of transferring these entities to the private sector. This program was completed on 31 October 2000, with the sale of the transmission company, ElectraNet.

All seven electricity sector companies are now either owned or leased by private sector firms. The disaggregated structure has been strictly maintained. Each former government-owned generator is now owned by separate private sector interests. Generation is structurally separated from transmission and full 'ring-fencing' of the retail and distribution businesses has been achieved through separate private ownership of each entity.

The South Australian Government's Clause 4 review of the South Australian electricity supply industry made recommendations as to how best to introduce competition into the electricity industry by restructuring and selling South Australia's electricity assets. This report was assessed by the NCC as being "rigorous and independent" *(*Second Tranche Assessment, page 187).

Thus in South Australia the electricity market has been fully reformed, with a disaggregated and privatised structure put in place oversighted by a strong independent regulatory framework (see next section). This reform was introduced in

an open way under the close scrutiny and support of bodies such as the NCC and ACCC. Save for implementation of Full Retail Competition, South Australia has met its NCP obligations, with the structures now in place.

Consequently, it is unclear on what basis the NCC seeks to make jurisdictions accountable for the outcomes of the endorsed structures put in place, through statements such as:

> *A possible barrier to entry is the scarcity of uncontracted generation, or the difficulty of matching prices secured by incumbent retailers under vesting contracts. If there is evidence that these or other factors are impeding competition in supply, the Council would take this as evidence that commitments are not being fully met.* (Third Tranche Assessment Framework, p.6.12).

Taken to its logical conclusion, is the NCC suggesting that should a market potentially face initial problems, Governments should intervene to provide more capacity, eg through the commissioning of new generation plant? This could risk an outcome not consistent with NCP and would also appear to be inconsistent with statements made by the NCC in the Third Tranche Assessment Framework such as:

> *The Council would also be concerned at any increase in government intervention in market outcomes, particularly those dealing with the type or level of capacity*" (written in the context of addressing any proposal to reduce the number of generation companies) p6.8).

Intervention in either direction risks distorting the market, especially if it prevents the market from working through its own solutions.

Regulation

Pursuant to the COAG third tranche agreement the South Australian Government has put in place a regulatory structure to observe and maintain the pro-competitive structure of the electricity generation and retail businesses.

The South Australian Independent Industry Regulator (SAIIR) was established under the *Independent Industry Regulator Act 1999*. The South Australian Governor appointed Lewis W. Owens to this position, for a term of 6 years, which commenced on the 1 January 2000.

The *Independent Industry Regulator Act 1999*, ensures the independence of this position by requiring that the SAIIR is not subject to Ministerial direction. The SAIIR can only be removed from office under specific circumstances and is appointed for a fixed five-year term, with the first appointment being for six years.

The functions of the SAIIR are set out in the *Independent Industry Regulators Act*:

- Promote **competitive** and fair market conduct;
- Prevent misuse of **monopoly** or **market power;**
- Facilitate **entry** into relevant markets;
- Promote economic **efficiency**;
- Ensure consumers benefit from **competition** and **efficiency**;

- Protect the interests of consumers with respect to reliability, quality and safety of services and supply in regulated industries;
- Facilitate maintenance of the financial viability of regulated industries.

In addition to the SAIIR, the Government also created the Electricity Supply Industry Planning Council (ESIPC), under the *Electricity Act 1999*. The purpose of this Council is to provide advice to the government and SAIIR on the future development of the South Australian Power System.

ESIPC has responsibility for the continued obligations on network services providers in respect of inter-regional network planning. In addition to having a representative on the Inter-Regional Planning Council (IRPC), ESIPC also provides resources and information to facilitate inter-regional planning.

The South Australian Government has maintained the Office of the Technical Regulator. The Technical Regulator was established under the *Electricity Act 1996* and the *Gas Act 1997*. It has the principle functions of:

- monitoring and regulation of safety and technical standards in the electricity supply industry;
- monitoring and regulation of safety and technical standards with respect to electrical installations;
- administration of the provisions of the Act relating to the clearance of vegetation from powerlines;
- any other functions assigned to the Technical Regulator under the Act.

An independent Electricity Ombudsman Scheme has been established and commenced operations on the 4 January 2000. The Ombudsman is responsible for resolving disputes between the entities and customers.

An Electricity Pricing Order was issued on 11 October 1999. This order sets out:

- Prices charged by the transmission business until 2003;
- Prices charged by distribution business until 2005 and provides guidance for future regulatory periods; and
- Prices charged to franchise customers until 2003 and prices for small country customers beyond 2003.

These regulatory bodies are designed to ensure that the South Australian Electricity Supply Industry remains competitive, has the ability to plan into the future and that the safety and security of the power system remains a priority.

New Entrants

The South Australian Government has actively assisted new sources of generation into the South Australian region. The new 500MW Pelican Point gas-fired generation plant, as a public infrastructure project, received planning approval in accordance with section 49 of the *Development Act 1993*.

The South Australian Government has also been an active supporter of further electricity interconnection, in addition to the current significant (500MW) interconnection that exists with Victoria through Heywood.

The proposed Murraylink 200 MW non regulated interconnector has been endorsed as a public infrastructure project in accordance with section 49 of the *Development Act 1993*. Assistance provided to the proposed SNI interconnector includes:

- SNI being declared a Major Development by the Minister for Transport & Urban Planning on 27 January 2000;
- With the approval of the Treasurer, the Regulator (SAIIR) on 7 June 2000 issued a licence exemption enabling TransGrid to undertake various route and survey work to prepare its EIS for the proposed line.

In addition, since commencement of the NEM an 80MW gas-fired plant has been installed by Origin Energy at Ladbroke Gove in the South East.

The Third Tranche Assessment Framework (p6.9) seeks to make jurisdictions accountable for the outcome of evaluation processes for interconnects. Having established independent bodies to operate the NEM, a framework endorsed by the ACCC, it is contended that jurisdictions need to consider carefully any interference with due process. Jurisdictions do not have control over the analysis required, submissions received and the serious issues they may raise, noting that the SNI also had to contend with review of the assessment criteria. Jurisdictional interference would risk misinterpretation by the market.

Full Retail Competition

South Australia customers are continuing to become contestable consistent with the following timetable, which is laid out in Regulation (Regulation 5A, *Electricity (General) Regulations 1997*).

South Australian Contestability Timetable

Tranche	Contestability Date	Annual Electricity Consumption (GWh)	Customer Numbers (sites)	Annual Energy Consumed (GWh)
1 & 2	20 December 1998	≥ 4 GWh	147	3,406
3	1 July 1999	≥ 0.75 GWh	630	1,140
4	1 January 2000	≥ 0.16 GWh	2,329	790
5	1 January 2003	Remaining customers	730,677	5,089

South Australia is actively participating in the national FRC decision-making structure and is progressing jurisdictional issues associated with the implementation of FRC in South Australia from 1 January 2003.

4.2 GAS

COAG endorsed the Natural Gas Pipelines Access Agreement (the Agreement) in November 1997. The Agreement establishes the basis for a National Third Party Access Code (the Code) for Natural Gas Pipeline systems, both transmission and

distribution. The Agreement stipulated that the Code was to be given legal effect by a uniform Gas Pipelines Access Law, with South Australia as the lead legislator.

The *Gas Pipelines Access (South Australia) Act 1997* came into operation on 30 July 1998 was enacted by the South Australian Parliament and received the Governor's assent in December 1997. The Gas Pipelines Access Law and the Code are set out in schedules to that Act.

All jurisdictions have enacted their application or equivalent legislation, and it is operating in all these jurisdictions except Tasmania. This legislation will apply the Gas Pipelines Access Law or in the case of Western Australia legislation with identical effect, as a law of that jurisdiction.

The *Gas Pipelines Access (South Australia) Act 1997* came into operation after the Commonwealth legislation received the Governor-General's assent on 30 July 1998. The Commonwealth legislation is integral to the operation of the National Access Regime. South Australia as the lead legislator had its gas pipelines access regime certified by the Commonwealth Minister as "effective" on 8 December 1998. This prohibits the use of the "declaration" pathway within the *Trade Practices Act 1974* to obtain pipeline access. Other jurisdictions are following South Australia's lead.

The High Court handed down a decision on 17 June 1999, where it held that the Constitution prevented State legislation conferring jurisdiction on the Federal Court, even when Commonwealth legislation has purportedly consented to such conferral of jurisdiction. This decision has resulted in the access scheme described above being invalid in conferring such jurisdiction on the Federal Court, and requiring amendment. All Parties to the Agreement except the ACT have put forward changes to their legislation, which has been agreed by all Parties, and became operational in South Australia on 28 January 2001. Owing to this necessary amendment, the process of certification has been delayed.

In July 1997, the *Gas Act 1997* came into effect, establishing a new regulatory regime for the gas industry. The Act provides for separate licences to operate pipelines and to undertake gas retailing, thereby ensuring effective separation of these activities. Again, the Office of Energy Policy supports the Technical Regulator in carrying out these functions. In July 1997, the pipeline networks previously owned by Boral in South Australia (eg Adelaide, Mt Gambier, and Berri) were sold to Envestra Limited, an energy infrastructure company. This sale meant that the former pipeline and retail parts of Boral within South Australia had been legally separated. Both legal entities which own/operate gas pipelines within South Australia, namely Epic Energy and Envestra have not been issued with a licence to enable them to retail or sell natural gas. Origin Energy (formerly Boral) the main natural gas retailer in South Australia, along with other entities including Terra Gas trader have been issued with licences to retail natural gas, but not for the operation of gas pipelines. It is the South Australian government's view that such structural separation, along with the provisions of the South Australian Gas Access Regime ensures the continued separation of the natural monopoly element of the gas industry, namely the pipelines from the retailing part.

The above structural separation of the competitive retailing aspect of the gas industry from the natural monopoly pipeline element is seen as consistent with National Competition Policy. The 1997 COAG Natural Gas Pipelines Access Agreement says

that the access regime applies to both transmission and distribution pipelines, rather than just transmission pipelines as noted in the February 1994 COAG communique. It seems inconsistent with the seamless approach to pipeline access, that ownership of transmission pipelines should preclude ownership of distribution pipelines. From this it is concluded that clause 10 of the February 1994 agreement is satisfied as long as the above structural separation is maintained.

A contestability timetable has been established for the gas sector, similar to that for electricity, as follows:

Date	April 1998	1/7/99	1/7/2000	1/7/2001
Annual TJ	>100	10 –100	<10 (non domestic)	All customers

Development of a network code to deal with issues such as retail churn has commenced as part of the distribution operating licences in order to facilitate effective retail competition. A similar process is being undertaken in each State and Territory where access to gas pipelines has been established.

The *Gas Pipelines Access (South Australia) Act 1997* establishes the South Australian Independent Access and Pricing Regulator (SAIPAR) for gas distribution pipelines in South Australia. SAIPAR released a draft decision in April 2000, on South Australia's distribution network as submitted by Envestra Limited. The ACCC will provide for national regulation of transmission pipelines. The provisions of the State-based *Natural Gas Pipelines Access Act 1995*, which apply to transmission pipelines, were revoked when the *Gas Pipelines Access (South Australia) Act 1997* commenced. However for transition purposes, those parts of the *Natural Gas Pipelines Access Act 1995* which overlap with the provisions of future Access Arrangements under the Code, remain in operation until the Commission has made its Access Arrangement decision regarding the South Australian transmission pipelines. The ACCC made its draft decision in August 2000, on the Moomba to Adelaide pipeline access arrangement.

Gas Reform - Supply

In respect of the longer gas supply situation, the Government has undertaken a Request for Submissions (RFS) process seeking proposals for new gas supply options into South Australia so as to improve the security and competitiveness of gas supply into South Australia whilst facilitating industry development. This process resulted in the selection of an alliance of demand side parties as the successful proponents, proposing to construct a 45 PJ per annum (compressible up to at least 60PJ per annum) pipeline from western Victoria to Adelaide by December 2003, subject to the conclusion of gas supply and haulage contracts.

4.3 WATER

With regard to water, COAG agreed to a Strategic Framework for the reform of the Australian Water Industry. The *Agreement to Implement the National Competition Policy and Related Reforms* deals with issues including:

- natural resource management
- pricing (including the treatment of cross subsidies)
- more rigorous approaches to future investment

- trading in water entitlements
- institutional reform
- improved public consultation

Water Reform in South Australia

South Australia has made significant progress in implementing the COAG strategic water reform framework.

In February 2000, a Ministerial Portfolio and a Department devoted to the efficient and effective management of water resources in South Australia was established. With the creation of the Ministry for Water Resources, and the Department for Water Resources, the South Australian Government has acknowledged the critical issues facing South Australia in relation to its water resources. The objectives of the Department are to:

- achieve a strong, consistent and collaborative focus on water issues for the benefit of South Australia (by drawing together the key water-related activities into this portfolio)
- at the State level, be the lead Government agency for the policy, management and administration of the State's water resources
- at a national level, ensure that South Australia's interests are recognised and protected in water reform initiatives and the key water resources shared with other States
- take a lead role at the national level in managing water resources in the important areas of the Murray-Darling Basin, Lake Eyre Basin and the Great Artesian Basin.

A strategically significant outcome of the reform process in 2000 in South Australia was the development and release of the State Water Plan 2000. The State Water Plan is a strategic plan for water for the whole of the South Australian Government. The purpose of the State Water Plan is to set out policies for achieving the object of the *Water Resources Act 1997* throughout the State. In addition, pursuant to sub-sections 90(3)(a)-(d) of the Act, the State Water Plan must:

(a) Assess the state and condition of the water resources of the State;
(b) Identify existing and future risks of damage to, or degradation of, the water resources of the State;
(c) Include proposals for the use and management of the water resources of the State to achieve the object of the Act; and
(d) Include an assessment of the monitoring changes in the state and condition of the water resources of the State and include proposals for monitoring those changes in the future

The State Water Plan 2000 provides a contemporary assessment of the state and condition of South Australia’s water resources and sets out the Government’s strategic policy directions for their sustainable use and management. The plan contains 47 action statements, most of which are the responsibility of the State Government, which will drive water resource management in South Australia.

The State Water Plan 2000 will be reviewed in 2005 to assess whether the policies have been successfully implemented and to ensure they continue to meet the objects of the Act, in light of new information and advance in technology and management.

Water Pricing

- In 1999, the Government initiated a review of future water and wastewater pricing options in relation to SA Water Corporation. A discussion paper on water pricing was released to the public in December 1999, and a further discussion paper was released on sewerage pricing in March 2000 with submissions being sought by 15 February 2000 and 28 April 2000 respectively.

- The Government has subsequently undertaken a review of the direction of both water and sewerage pricing, giving consideration to the comments received.

- In relation to pricing of water supply services, the Government has determined that it will not expand the use of property based charges beyond the charging that already applies to commercial water customers.

- The Government also decided to remove free water allowances that currently apply to commercial customers by phasing them out over 5 years from 2002/03, on a revenue neutral basis. Legislation to facilitate this will be introduced into Parliament later in 2001 and must be passed before December 2001 to facilitate the 2002/03 implementation.

- Consideration is still being given to a range of other options for the future direction of water supply pricing, having regard to the comments received and other policy objectives.

- In relation to sewerage pricing, the Government has decided to introduce a broader based trade waste charge to apply to major dischargers to the sewerage system. This is to be phased in over 5 years commencing 2002/03. Extensive consultation with relevant dischargers will occur before the full detail of these proposals is finalised.

- The *Water Resources Act 1997* provides for both water and land based levies to be raised to fund the operations of Catchment Water Management Boards (or Water Resource Planning Committee where boards have not been established). The Boards are responsible for a broad range of activities to ensure the sustainable use of the catchment's water resources. As such, they are the essential delivery vehicle for integrated natural resource management incorporating management of water, land, vegetation and biodiversity.

Water Allocations and Entitlements

- The *Water Resources Act 1997* provides for a comprehensive system of transferable property rights for water allocations in accordance with the COAG requirements.

- Formal recognition and protection of environmental water provisions for prescribed resources are provided under the *Water Resources Act 1997*. The main vehicle for achieving this is the relevant water allocation plan that must be prepared for all prescribed resources by either a catchment water management

board as a part of its catchment water management plan, or where a board does not exist, by the relevant water resources planning committee.

- The relevant board or committee is required to identify both environmental water requirements and provide for regular monitoring. Therefore, instead of issuing a water licence for environmental requirements (as in the case for consumptive use), environmental water provisions will be formally recognised and protected through the legally binding provisions of water allocation plans.

- An adaptive management approach is built into the regular, community-based review of these plans. If the results of monitoring indicate that the resource is over-allocated to consumptive use, then this can be addressed through making appropriate adjustments to the water allocation plan via the review process.

- Nine of the fifteen water allocation plans were completed by 2 January 2001 as required by Regulation. The remaining six, the River Murray and five in the South East of South Australia, are required to be completed by 2 July 2001.

- There are several water resources requiring management attention, which are not prescribed but which are located in catchment water management board areas. Although water allocation plans are not required in these cases, the management needs of these resources will be addressed in the relevant board's catchment water management plan.

- Six of the seven catchment water management boards that have been established to date are in various stages of developing their catchment water management plans under the Act. Two of the boards completed their plans by the end of 2000. Another three are expected to complete their plans by mid 2001. Of the other two, the South East Catchment Water Management Board has just commenced preparing its plan and the newly established Arid Areas Catchment Water Management Board is yet to commence preparation. The South East Board will continue to focus its attention in the short term on completing five water allocation plans and, as a result, the Board is unlikely to complete its comprehensive catchment water management plan until early 2002.

- These timelines reflect the fact that each water plan (ie catchment water management plan, water allocation plan or local water management plan) takes at least 18 months to develop because of the extensive community consultation requirements of the Act.

Environmental Allocations

- The State Water Plan 2000 established statewide policy for water for the environment with a framework of integrated policies for the management of all water-dependent ecosystems such as wetlands, riparian zones, estuaries and floodplains. This is a significant policy advance as previously the policy approach to the management of these ecosystems was fragmented and lacked focus.

- The policies on water for the environment in the State Water Plan 2000 establish principles and a process for determining and improving environmental water provisions. These policies are now being utilised in developing water allocation plans.

- In its 1999 report to the NCC, South Australia identified several key areas that required attention. One of these was improving current knowledge of environmental water needs. Currently there are many investigations and research activities occurring in South Australia in regard to this need. They are:

  - *Environmental flow requirements in Australian arid zone rivers* (Aridflo) project. This is a large-scale research project investigating the hydrology/ecology relationships in rivers of the Lake Eyre Basin. It will provide valuable knowledge and tools upon which to base water resources management decisions for arid zone rivers.
  - *Mid-North River Management Planning* project has completed assessments of environmental water requirements for the Wakefield and Broughton Rivers.
  - Onkaparinga Catchment Water Management Board is conducting a two-year study on environmental water requirements and environmental water provisions for the Onkaparinga River catchment. This study will integrate ecology, hydrology and socio-economic analyses.
  - River Murray Catchment Water Management Board is conducting two projects. The first is to determine environmental water requirements for the temporary streams of the eastern Mount Lofty Ranges. The second is to develop an environmental flow decision support system for the River Murray in South Australia.
  - South East Catchment Water Management Board is conducting a desktop study on environmental water requirements and provisions for groundwater-dependent ecosystems in the South East.

Trade in Water Entitlements

- The Murray-Darling Basin Commission (MDBC) is undertaking a trial for interstate trade in the Mallee area (Sunraysia and the Riverland) of the Murray-Darling Basin. The pilot project commenced on 1 January 1998 for a period of 2 years or until a net volume of 10 gigalitres has been traded from any jurisdiction. The trial will identify impediments to interstate trade of water entitlements. South Australia is participating in an MDBC review of the pilot trading scheme to ensure the principles, policies and administrative procedures are operating effectively and that the environment is adequately protected. Options are also being examined to expand the trial in terms of participants and geographical extent. To September 2000, there have been a total of 53 interstate trades representing a volume of 9.8GL. All but six of these trades were transferred into South Australia representing a net volume of 8.8GL being traded into South Australia. Strong intra-state trade in water allocations continued along the River Murray in South Australia. Both intra and interstate River Murray water allocations have been traded to irrigators within the Barossa Valley. Having purchased a River Murray allocation through the trading market, these Barossa irrigators have negotiated an arrangement with SA Water to transport their allocations to the Valley via surplus capacity in the Swan Reach – Stockwell pipeline.

- Although water allocations are being traded within the South East Region of South Australia, the water market is very thin. The community remains divided on the merits of water trading. A consultancy titled “Opportunities to improve water trading in the South East of South Australia” was undertaken by CSIRO Land and

Water Division. The final report was delivered in November 2000 and addresses the following:

- Identifies the issues currently constraining water trading
- Develops/identifies a range of processes for the establishment of an effective water market
- Identifies the critical success factors for water trading
- Identifies the experiences from elsewhere, which have proved to be unsuccessful or inappropriate for prudent resource management

- Policies supporting water trading have applied to the Mallee Prescribed Wells Area since 1997 but little trading activity has occurred due to community concern and uncertainty. However a recent substantial trade has generated significant interest in the district which may facilitate an increase in trading activity.

- Water trading has continued in the Northern Adelaide Plains area. Reclaimed water from the Bolivar Sewage Treatment Works is progressively being allocated and some limited trade in this valuable resource is already being observed.

- The implementation of water trading policies in the Eyre Region is attracting strong community opposition. The Eyre Region Water Resources Planning Committee is working with the community and agency staff to resolve this issue.

Institutional Reform

- The Government has implemented policies and arrangements to devolve management responsibility for irrigation areas to the irrigators. Eight major irrigation areas that were formerly owned and operated by the Government have been established as Private Irrigation Trusts under the Irrigation Act 1994. The Loxton Irrigation District is one of the last major irrigation areas to be converted to self-management. All formal approvals and processes are now complete effectively clearing the way for the its establishment as a private irrigation district on 1 July 2001.

- In the Lower Murray Reclaimed Irrigation Area the Government owns and operates nine irrigation districts The Government is currently reviewing options for future management of these districts and to assist in this task it has appointed an Irrigation Advisory Board drawn from irrigators to provide advice. The Board is appointed under the Irrigation Act and reports to the Minister for Water Resources.

Environment and Water Quality

- The Environment Protection (Water Quality) Policy has undergone extensive internal review since 1999 and is now in a final draft form which has been released for Public consultation to 9 March 2001. The Policy, when adopted, will become subordinate legislation under the *Environment Protection Act 1993* and will further enhance the implementation of National Water Quality Management Strategy in South Australia. When it comes into effect the Policy will be a key regulatory instrument in South Australia for the protection of water quality in surface and underground waters.

- A State Water Monitoring Coordinating Committee was established in South Australia in 1998 with representation from key agencies involved in water quality and quantity monitoring. A document entitled "Roles, Responsibilities and Framework for Water Monitoring in South Australia" has been produced and endorsed by agencies. Further work to develop an integrated and efficient water monitoring program for the State is under way.

- The Environment Protection Agency has prepared a report looking at the issues associated with water quality in the Mount Lofty ranges watershed near Adelaide. The report entitled "The State of Health of the Mount Lofty Ranges Catchments: from a Water Quality Perspective" contains a number of important initiatives to reduce the risks to water supplies. The report has been endorsed by the South Australian government and is expected to be released soon.

- The Directions Statement “Managing Salinity in South Australia” was released in August 2000. This is an umbrella document to the more specific draft State Salinity Strategies. It aims to educate South Australians about salinity, highlight the seriousness of the problem, engender public support, and demonstrate the Government's commitment to act. The more specific strategies will include the River Murray Salinity Strategy and the Dryland Salinity Strategy. The River Murray Strategy outlined the following 5 goals:

    - salinity arising from irrigation will not impact on the River Valley
    - the health of the floodplain and wetlands will be protected and enhanced
    - regional groundwater discharge into the River Valley will be managed
    - salinity management will be delivered in partnership with an informed and involved community
    - actions will be based on scientific knowledge and principles and will embrace innovation and adaptation

Public Consultation and Education

The following programs are currently being undertaken in relation to consultation and public education in South Australia:

- The South Australian Department for Water Resources is currently reviewing education materials in conjunction with the Water Resource Council and Catchment Water Management Boards with a view to developing a comprehensive set of education materials for use in the school system, community groups and Local Action Planning groups. The materials will be badged under the ‘Watercare’ logo. The goal is to ensure correct, consistent, and complementary education is occurring throughout South Australia.

- ‘Waterwise’ is a community-based project funded through the National Heritage Trust and Murray Darling Association working with industry to develop best practice water conservation demonstration sites. The project incorporated a tour of key sites undertaken during National Water Week 2000.

- An Integrated Schools Package has been produced by the River Murray Urban Users Group which has also worked with teachers and advised them on educational material specific to the Murray Darling Basin.

- National Water Week was held between 15-21 October 2000 and involved hundreds of events and activities held throughout the State including environmental walks, media water saving campaigns, product displays, newspaper educational features, school activities and displays and many others. For instance, Marion/Mitcham Council produced a business water conservation video to be launched during National Water Week with funding support from the National Heritage Trust.

- The Water Conservation Partnership Project has been established. The project links local government and the community with state government departments in addressing the issue of water conservation for the benefit of the River Murray. The project will incorporate the production of educational material to be used with councils and residents.

- The Premier, Hon John Olsen MP FNIA, released the State Water Plan 2000, on 6 September 2000. The plan was widely distributed to agencies, catchment water management boards, planning committees, local councils and other relevant authorities and individuals in South Australia and interstate. Agencies and catchment water management boards have received multiple copies. CD versions of the plan are currently being distributed to all secondary schools in the State. The Plan has also been made available through the DWR web-site on *http://www.dwr.sa.gov.au.*

- Extensive consultation is an integral part of the establishment of catchment water management plans and water allocation plans being developed under the *Water Resources Act 1997* and as part of the review of water and sewerage pricing.

2001 and Beyond

The 47 action statements listed in the State Water Plan 2000 will drive South Australia's approach to water management over the next five years. Recognising the need for an adaptive management approach a review component has been included in the Plan.

4.4 ROAD TRANSPORT

The set of national road transport reforms considered under National Competition Policy originate from the Heavy Vehicles Agreement 1991 and Light Vehicles Agreement 1992. The reform programs envisaged under these agreements were subsequently included in the third of the three agreements underpinning NCP, the *Agreement to Implement the National Competition Policy and Related Reforms*.

The assessment framework for road transport reforms was subsequently refined to 19 specific reforms across six modules:

- Road transport charges;
- Dangerous goods;
- Vehicle operations;
- Heavy vehicle registration;
- Driver licensing;
- Compliance and enforcement.

The assessment framework of reforms was agreed by the Australian Transport Council (ATC) in December 1998 and endorsed by the Council of Australian Governments (COAG) in May 1999, as the framework for the second tranche assessment of road transport reform.

The 1999 NCP Second Tranche Assessment concluded that South Australia had implemented 14 of the 19 reforms in full, with the following five reforms expected to be completed in late 1999 onward:

- Reform 2 – Heavy vehicle registration scheme;
- Reform 3 – Driver licensing;
- Reform 4 – Vehicle operation;
- Reform 8 – Common mass and loading rules;
- Reform 13 – Safe carriage and restraint of loads.

By the time of the NCP Supplementary Second Tranche Assessment of Road Transport Reform in March 2000, South Australia had implemented three of the outstanding reforms in full (reforms 4, 8 and 13) and had passed the necessary legislation (the *Motor Vehicles (Miscellaneous) Amendment Act 1999*) to implement the remaining two. The NCP Supplementary Second Tranche Assessment report noted that full on-ground implementation of the registration scheme and driver licensing reforms was delayed by the need to complete computer system changes (scheduled for March 2001), and concluded that it was satisfied that South Australia had taken the necessary action to deliver the second tranche reforms.

As previously reported, South Australia has been implementing the *Motor Vehicles (Miscellaneous) Amendment Act 1999* section by section as computer system changes are made. The last of the system changes are due for completion in May 2001, and regulations for the full implementation of reforms 2 and 3 are currently being drafted.

In November 2000, ATC agreed to a framework for the third tranche NCP assessment. COAG is expected to endorse the assessment framework.

ATC has proposed six reforms as being assessable under the third tranche assessment:

- Combined vehicle standards;
- Australian Road Rules;
- Combined truck and bus driving hours;
- Consistent on-road enforcement for roadworthiness;
- Second heavy vehicle charges determination;
- Ultra-low floor bus axle mass increase.

In South Australia, implementation of these reforms is nearing completion. Reforms 1, 2, 3 and 5 were fully implemented on 1st December 1999 following passage of the *Road Traffic (Miscellaneous) Amendment Act 1999* and promulgation of the following regulations and rules:

- *Road Traffic (Driving Hours) Regulations 1999*;
- *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999*;

- *Road Traffic (Miscellaneous) Regulations 1999*;
- Road Traffic (Vehicle Standards) Rules 1999;
- Australian Road Rules.

In the case of reform 4, consistent on-road reform for roadworthiness, many of the measures have been implemented administratively. Full implementation is reliant on computer system changes associated with the *Motor Vehicles (Miscellaneous) Amendment Act 1999*, to be completed in May 2001.

Implementation of reform 6, ultra-low floor bus axle mass increase, will be completed in the early part of 2001. The South Australian Government has approved the drafting of the necessary regulations. Drafting is expected to be complete in late March 2001, for implementation in approximately April 2001.

5. BIBLIOGRAPHY

The following three Intergovernmental Agreements were endorsed by Heads of Government on 11 April 1995:

- *Conduct Code Agreement*
- *Competition Principles Agreement*
- *Agreement to Implement the National Competition Policy and Related Reforms*.

The following documents summarise the NCC's assessments for all jurisdictions:

- *Assessment of State and Territory Progress with Implementing National Competition Policy and Related Reforms* - June 1997
- *National Competition Policy and Related Reforms: Supplementary Assessment of First Tranche Progress* - June 1998
- *Second Tranche Assessment of Governments' Progress with Implementing National Competition Policy and Related Reforms* - June 1999
- *Supplementary Second Tranche Assessment Report* - December 1999

Copies of these and other documents on aspects of NCP are available from the National Competition Council in Melbourne, telephone (03) 9285 7474, and can be downloaded from the Council's website at:
http://www.ncc.gov.au

Relevant documents concerning NCP implementation in SA include:

- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA* - March 1997
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA* - April 1998
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA* - March 1999
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA* - March 2000

- *Review of Legislation which Restricts Competition - timetable*, June 1996 (updated May 1997, May 1998, December 1999, March 2001)
- *Guidelines Paper for Agencies conducting a Legislation Review under the CoAG Competition Principles Agreement* - February 1998
- *Clause 7 Statement on the Application of Competition Principles to Local Government - May 2000*

- *Structure of Government Business Activities,* March 1995
- *Community Service Obligations - Policy Framework*, December 1996

- *Water and Sewerage Pricing for SA Water Corporation*, December 1996
- *Water and Sewerage Pricing for SA Water Corporation - Final Report of investigation under the Government Business Enterprises (Competition) Act 1996* - June 1997

- *Competitive Neutrality Policy Statement,* May 2000

- *A Guide to the Implementation of Competitive Neutrality Policy* - March 1998
- *A Guide to the Implementation of Cost Reflective Pricing – A part of Competitive Neutrality Policy,* October 2000

Copies of each of these publications are available from the Strategic Policy Division, Department of the Premier and Cabinet, telephone (08) 8226 1931. Some can be downloaded from the Department's website at:
http://www.premcab.sa.gov.au/dpc/publications_competition_documents.html