Our Ref:

CL-7-5

Your Ref:

dae

enquiry@glenelg.vic.gov.au

PRODUCTIVITY COMMISSION – PUBLIC HEARINGS

to be held on Wednesday, 7 July 1999 at 1.30 pm at the All Seasons International Hotel, Bendigo

Glenelg Shire

Council Cr. Frank Zeigler

Represented by:

Member Municipal Association of Victoria (MAV)

Tax Reform Working Party

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POINTS FOR DISCUSSION

1. LACK OF COMPETITION

Costs to the community often outweigh the benefits - Councils are faced with significant infrastructure funding shortfalls and any non-efficient use of funds is not to be tolerated.

2. IMPACT OF SMALL TOWNSHIPS

Council historically are both major consumers and major employers in small Competition policy, combined with CCT & Council rural townships. amalgamation (in Victoria) has placed further pressure on the viability of small rural communities.

3. COMPLIANCE COSTS

In many instances the cost of compliance outweigh the actual benefits paid.

4. NCP - DIVIDEND

- **NCP** Dividend Shire Council 4.1 The Glenelg 1998/1999 = \$54,000.00 or \$499,000.00 over five years.
- The % share of the NCP dividend paid to Local Government is 4.2 too low.
- Local Government as an industry has accepted the challenges 4.3 presented by the legislation.

Draft point for your consideration Frank Need to fax them tomorrow.

"The Competitive Edge"

Competition Policy and Local Government in Rural Victoria

John Ernst & Kevin O'Toole



Centre for Regional Development

May 1999

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Introduction

Competition policy has become a pervasive instrument of public sector change in the late 1990s. In Victoria, the local government reform program - post-amalgamation - has been dominated by the application of competitive theory to the local government service system. This has been manifested in three primary forms: firstly, in the legislative requirement that the 78 Victorian councils subject a minimum of fifty percent of their operational expenditure to competitive tendering (*compulsory competitive tendering*), secondly, in the allocation of an increasing proportion of State government programmatic funding via a competitive process, and thirdly, in the National Competition Policy requirement that local government practice conform to the principles of *competitive neutrality* and Trades Practice Act compliance.

The extensive application of competition policy to the public sector represents a landmark change in the organisation and provision of public services. Relatively little is known, however, about where this major policy direction will lead and about its medium and long-term impacts. While most of the focus in competition policy thus far has been on the financial and economic outcomes of the reform process, there has been renewed interest, in recent times, in the broader impacts of competition policy initiatives. This is reflected in the Australian Senate's recent inquiry into the Socio-Economic Consequences of National Competition Policy and in the Productivity Commission's present inquiry into the *Impact of Competition Policy Reforms on Rural and Regional Australia*.

This report is based on the findings of a research project carried out in three municipalities in western Victoria, involving interviews with key figures in the councils in November and December 1998. The aim of the research was to explore how individual councils had prepared and positioned themselves to meet the challenges of competition policy, in particular the *competitive neutrality* and Part IV *Trade Practices Act* requirements of National Competition Policy. And to identify how these policy initiatives had impacted, thus far, and are likely to impact in the future, on the organisation and operation of the local authority, as well as on the local community. In addition, the researchers asked each of the councils for their assessment of any changes that had occurred in the provision of public infrastructure and essential services in their municipalities by other agencies as a result of competition policy.

The three selected Western Victorian municipalities represent different geographical, historical and structural conditions, and in effect, different economic micro-climates:

Council A: provincial centre/regional nub with a reasonable level of growth

(1-1.5% annually) and with relatively diverse commercial and

industrial sectors.

Council B: declining manufacturing sector and experiencing mixed

agricultural fortunes (eg. buoyant dairying sector in the south of the municipality contrasting with depressed wool production

sector in the north).

Council C: agricultural sector dominant and largely composed of wool and

beef production (with the attendant vagaries of these industries), and centred around a declining sub-regional

service centre.

Summary of Major Findings

Research has shown that the metropolitan experience of competition policy differs, in a number of significant respects, from the non-metropolitan experience (eg. Ernst, Glanville & Murfitt, *Breaking the Contract?*, 1997). From this study it is clear that the encounter with competition policy varies <u>between</u> individual non-metropolitan councils as well. Most notably the experience of the provincial city municipality is different - in a number of important ways - from the experience of the other two largely rural municipalities.

While all three municipalities are meeting their competitive targets (under the CCT legislation), they could be seen to represent different positions on a continuum of commitment to competition policy and in their structural response to it:

High	Medium	Low
Council B declining manf. & mixed ag. separate provider unit (established late 1996)	Council C declining agriculture/service centre separate provider unit (established early 1998)	Council A provincial centre no clear c/p split

Major Findings on Competition Policy & Rural Local Government

- . Same legislative framework, but different models and operating philosophies adopted. This was exemplified in the different approaches adopted across the three councils to the client/provider split.
- . Different experiences of the application of competition policy, particularly along the regional centre-rural municipalities divide. However, the absence of competition in many service areas was a common phenomenon. Rural municipalities in Western Victoria are in this sense on the competitive edge.
- Different responses to the impacts of competition policy eg. Council C has increasingly focused on defending local employment, even at the expense of competition if necessary; whereas Council B has emphasised the need for greater competitiveness.
- . Specific outcomes: both positive and negative outcomes. Competition policy has sharpened and improved local government practice in several respects. However, all three councils expressed the view that the standardised approach of the Victorian CCT model is inappropriate, that compliance costs are high and that substantial net savings from competitive tendering are elusive.
- . General outcomes of competition policy: Although competition policy was seen to have merit, each of the councils argued that it is likely to have adverse impacts on rural communities, over both the short and long-term.

1. Implementing Competition Policy

The introduction of competition policy has been accompanied by a number of major changes to the traditional structures and processes of local government. These changes include organisational restructuring aimed at separating the policy-making and purchasing (client) functions of local government from service provision (provider) functions, and the establishment of new financial costing and accounting mechanisms designed to ensure probity and competitive neutrality in the awarding of council contracts.

A series of measures have been introduced over the past four years in all three study councils to meet the structural and procedural requirements of competition policy. Compulsory competitive tendering has been the primary driver of these changes, although meeting the requirements of National Competition Policy has become more important over time and has produced its own demands for change, notably in financial costing and accounting.

A common complaint of Victorian local government is that compulsory competitive tendering has been introduced uniformly and according to a common template across Victoria, regardless of the obvious economic, social, historical, cultural and geographical differences that exist between many of the 78 municipalities in the state. The three municipalities in this study reiterated these concerns. Interestingly, however, the standardisation characteristic of the model of CCT adopted in Victoria has not necessarily produced a "standard" response to the structural and process-related challenges of CCT. This is reflected in the restructuring measures introduced in the three study councils.

All three councils have a form of client/provider split (as required by the Victorian Office of Local Government), but in two of the councils modifications have been introduced to the "pure" client/provider split. Council A has explicitly eschewed a full split and the division of the organisation into *client* and service *provider* sub-parts. Although Council C has formally restructured its organisation along client-provider lines, its operationalisation of the split is more fluid and pragmatic than its organisational chart - and indeed the textbooks - seem to suggest. Council B, in contrast, has adopted fairly literal and strict approach to the client-provider split.

The major reason for not implementing a full client-provider split, according to the two councils concerned, was that they *did not want to lose control* of a vital part of council operations. This view was captured by the Chief Executive Officer in Council A who stated that, *in the pure client/provider split, you have all the responsibility but none of the right to intervene.*

Other comments on the separation of the client and provider functions of council included:

the client/provider split is necessary, but it needs to be very carefully managed as there is real potential for division. (Council C)

the split caused difficulties..the "them" & "us" consequences are harder to manage. (Council C)

we are a small council and there is only one accountant in the organisation, but on client side..there is a lack of financial skills on the provider side, so we have to be practical about how we manage the divide and deploy our resources. (Council C)

we resisted a pure split..years of experience have been built up in planning services and in managing specialist staff and we didn't believe that the business logic was there to support multi-functional business units. (Council A)

the community has the expectation that we are one organisation..also under the full split you start to develop competing territories. (Council A)

In contrast to the other two councils, in Council B there is an explicit commitment to all staff being on one side or other of the client-provider divide (the only person who plays both client and provider roles is CEO). The split was effected with a clear purpose in mind: we wanted to create a cultural split as well as a physical split..want Council B Services to develop a culture of its own and it was achieved with a minimum of tension. And the commitment to the new organisational model is likely to be enduring: even if Labor won the next election we might retain our split, there are advantages in clearer job functions and in working to a contract at fixed cost. At Council B, the client side carries out its work also under a form of "contract" (ie. work agreements are reviewed every two years and are "contestable" in that costs are benchmarked against other councils) and the provider manager is involved in reviewing these client service "contracts".

In two of the three councils, structurally separate provider businesses have been created, whereas in the provincial city council (Council A) the traditional unitary structure of local government has been essentially retained. While both Council B and Council C have set up separate provider entities, there are some interesting differences in the operating philosophies and approaches of the two provider arms. These are summarised in the chart below.

Contrasting Styles of Provider Business in Local Government

Approach to client/provider split: instituted because committed to the principle & theory (Council B) vs. introduced (belatedly) because it was a State government requirement (Council C).

Degree of separation: clear and full separation (Council B) vs. provider unit separate structurally but not conceptually (Council C).

Identity: separate identity (eg. logos & livery) & culture (Council B) vs. retaining common council identity; we're still part of the same organisation (Council C).

General approach to competition: positive challenge to meet (eg. external bids seen as driver/benchmark for efficiency) (Council B) vs. negative challenge to counter (Council C)

Competition test: competing on <u>price</u> (Council B) vs. competing on <u>price plus</u> (ie. using any other advantage to support in-house bid including, if necessary, political lobbying) (Council C).

Local employment local capacity/employment irrelevant consideration (Council B) vs. local capacity/employment increasingly important consideration (Council C).

Provider business board composition: 2 Councillors, CEO, 2 Managers from provider unit, 2 external experts (Council B) vs. all Councillors & CEO (Council C).

Rate of return required: 10% (Council B) and 8% (Council C).

It was acknowledged by both councils that the present composition of the provider unit boards created the potential for conflicts of interest to occur (although clearly this is more likely to be a problem in Council C than Council B). However, as long as the provider entities remain **council businesses** (with the council ultimately being responsible for their commercial and practice behaviour), elected councils will

necessarily wish to have a role in their major business decisions. As one councillor stated councillors are on both sides of the client/provider divide and we have a role in both camps.

With the advent of National Competition Policy, local government in Victoria has been confronted with an overlay of requirements and accountabilities, in addition to those that attended the introduction of CCT in 1994. Every in-house tender bid is now required to conform to the *competitive neutrality* provisions of National Competition Policy and this has meant that councils have been required to achieve new levels of financial accounting sophistication and precision, particularly in respect to the calculation of rates of return on assets and tax equivalents. All three councils believed that they were *still up-skilling* themselves to meet the challenges of these new requirements.

Fulfilling the provisions of *competitive neutrality* has added 6-10 percent to the cost of in-house bids. This has had the immediate effect of making external bids "more competitive" with in-house bids for service contracts. Although the councils could see the benefit of the *competitive neutrality* test, in that it revealed a closer approximate to the true cost of in-house provision, they all complained that local government was hamstrung to an extent in fully competing with the private sector:

how much flexibility does the in-house provider have to compete with the private sector?..there is a capacity in private sector tenders to bid tactically & to bury their prices. (Council C)

the rules prevent us from operating as a business, for example it is normal business practice to wear a loss on some jobs..if we are going to be hamstrung then we should strategically be moving to outsourcing. (Council A)

we have none of the flexibility of private businesses..we can't loss lead and we can't apply for Commonwealth R&D grants, for example. (Council B)

The structures and systems put in place in the three councils to meet the obligations of CCT have been developed and driven by senior management, with the elected councillors playing, at best, a marginal and supporting role. It was suggested in one council (and partly affirmed in the other two) that a latent tension exists between senior council officers and elected councillors over the management of the tendering process and the implementation of competition policy:

the tender panels [made up of senior officers and usually at least one external expert] use the criteria of price and performance quality in forming their recommendations about the winning bid, whereas councillors are applying a broader set of criteria...what hasn't been tested is whether Council should apply a broader test or simply stick to the competitive test of price, performance and quality..councillors now wear two clear distinct hats and they can't come to grips with having to make those tough decisions. (Senior Manager)

Councillors are increasingly mindful of the social implications of contracts going elsewhere..we are just starting to see the need for this as up until recently it has been relatively straightforward..the importance of local knowledge - and the possible loss of this - is critical and needs to be factored into tender decision making. (Councillor)

There is scope under National Competition Policy for governments, including local councils, to apply a *public benefit test* (based on a form of cost-benefit analysis and utilising social, environmental and other non-economic criteria) to decisions on competitive tendering; although the value and potential of the *public benefit test* is not well understood in Victorian local government. None of the councils under study have formally used - or even apparently countenanced the use - of the *public benefit test* thus far in their decision-making on competitive tendering. Nevertheless, it appears that elected councils are in some instances adopting an approach to the awarding of service contracts that consciously, or unconsciously, incorporates elements of the *public benefit test* (as the inset case study below illustrates).

Case Study - Applying a form of public benefit testbased on local employment, local economy and retaining local capacity

\$500,000 road works contract: competition from a number of large metro-based firms, one of whom submitted a tender \$30,000 lower than the in-house team, yet the contract was awarded to the in-house team [12 men working 13 weeks of the year - represents an important component of this team's work & it was suggested that if the team went without two seasons of this particular job then the unit would have to be scrapped]. The reasons for awarding the contract to the in-house team (a decision made by Council against the recommendation of the tender evaluation panel) were: (i) the retention of local expertise & resources, (ii) the maintenance of a competitive situation (ie. concern about possible private monopoly in the future with the loss of in-house capacity & benchmark), & (iii) the retention of economic activity within local community

But concern was expressed by senior management that this sort of decision might result in private bidders staying away in the future and a denuding of what is already limited competition (ie. private firms might conclude that it is not worth putting the work into preparing a tender in light of this case) with, as a consequence, adverse outcomes for ratepayer value-for-money.

2. Competition.between the idea and the reality

A central premise of the theory of competition policy and competitive tendering, as applied to the public sector, is that the **advent of competitive forces** in hitherto public service monopolies will raise efficiency to new levels and drive down the cost of service provision. However, the realisation of these policy goals is likely to be inhibited if, for whatever reason, there are defects in the mechanics of competition. In the view of most of the respondents in this study, there are clear defects in the mechanism of competition in rural municipalities in Victoria: *rural and regional municipalities have traditionally had a fair degree of contracting, but there was not a lot of competition..in rural areas there is relatively little competition and most contracts have been awarded in-house.*

While there were some differences in perception about the actual level of competition for local government contracts in rural areas, depending on which side of the purchaser/provider divide the respondent worked (ie. senior staff from the provider side had a sense that external competition was stronger than senior staff from the client side of the organisation), a number of common trends was evident across the three municipalities. These general trends in competition at the local level were expressed by respondents in the following terms:

- reasonable levels of competition exist in the area of procurement (eg. plant & machinery, liquid fuels), but there has been little if any competition in areas such as road maintenance works, waste disposal and community services.
- the degree of competition that exists seems to be related to the complexity of task involved the greater the complexity, the less local competition there is likely to be.
- the further the service contract work is from a regional centre, the less competition one is likely to encounter.

Opinion was divided about whether **substantially** greater levels of competition will exist in country municipalities in the future, although there was agreement that each successive round of competitive tendering is likely to bring new competitive challenges, as private contractors become more interested and more familiar with the competitive tendering process: potential tenderers are starting to ask smarter questions..it is going to be much harder next time around (Council A). Two of the

councils expressed concern about the danger of loss-leader bids to get foot under the table and a real potential for private service monopolies to develop in the future.

All three councils gave competitive tendering, and competition policy more generally, a mixed "report card". Each of the councils acknowledged that there had been gains to the organisation as a result of CCT, although competition *per se* had rarely been the driver of these positive changes. Conversely, the councils identified a clear downside of CCT. In weighing up the benefits and costs of CCT and its complementary structural changes, only one of the councils concluded that on balance thus far that the benefits outweighed the costs. The specific views of the councils are set out in the two charts below.

Positive views of the competitive process

it has identified the true costs, driven down prices, and brought a whole new attitude about efficiency to local government (Council A)

it has been a driver of cultural change within the organisation..setting local government up to succeed in the future (Council B)

lots of bad practice has been removed (Council B)

it has resulted in a clearer understanding of the job (Council B)

forces people to be clearer., getting a harder edge..who really is the customer? (Council A)

far easier to focus on policy and direction now (Council A)

in some services its been the driver of positive change (more efficient, more effective etc.), but in others its been destructive (Council B)

CCT has done an awful lot to fix up abuses in the metro areas, but you are much more visible and accountable in country areas and hence we never had the inefficiencies of some of our metro counterparts (Council A)

some efficiencies have been gained, but wouldn't suggest that these have been overly significant (Council A)

we don't get over-budgeting anymore (Council B)

the State government has achieved what it really set out to achieve in local government..most of the deadwood went in the first round of restructuring (Council C)

it has created opportunities for "go get 'em" type people - but this greater opportunity needs to be balanced against the culture of insecurity (Council C)

in terms of working conditions, many staff are better off and there have been gains to the organisation in productivity & flexibility..Council hasn't saved much money but has achieved other changes (Council A)

downsizing (following amalgamations etc.) meant some loss in the skills base, but this is being progressively re-built - also staff now take on more responsibility and have less supervision (Council C)

under CT thus far we've managed to maintain standards..and the community is telling us that they don't want these standards compromised (Council A)

there is more community consultation now..as Councillors we're dealing more with policy and we have to go out to the community more. This also has the effect of complicating the decision making process (Council A)

there has been a remarkable acceptance of change by communities (in all areas of micro-economic reform).. 90% of the community accept the new model (Council A)

Negative views of the competitive process

it has been pretty messy..and been a big cost to councils..most business units have not had the business acumen and skills to mount bids without lots of help (Council A)

there are no savings out of CT if the costs of contract management are taken into account..savings can only be achieved at the expense of contract management (Council C)

it does end up costing more..we wouldn't have made enough out of CT-related savings and competition dividend to cover the compliance costs (Council B)

it has cost more in dollar terms than we have gained, but taking other things into account the outcomes are less clear (Council B)

sooner or later redundancies will be an issue...we've been lucky, there have been no redundancies as a direct result of CCT thus far (Council C)

staff are concerned about the loss of job security..there has always been a trade-off in local government in the past between less pay & greater security - the impact of the culture of insecurity is hard to assess because Councils never really measured outcomes before - generally people are stuck with it in rural areas as there are few alternative sources of employment (Council C)

there has been difficulty finding staff as a result of using time limited contracts (Council C)

we are losing the ability to manage staff and their workloads and there is reduced flexibility (Council A)

the lowest paid workers (eg. home carers) have had to reduce their wages (through changed classifications) in response to the potential threat of Silver Circle [described as the home care benchmark] (Council A)

it may create gaps in the information loop between the client and provider sides (Council B)

it uses standards to apply across the state, irrespective of size of job, location etc..this drive for uniformity ends up costing more (Council B)

there has been a real lack of competition in rural areas and a loss of service capacity within councils

we've lost some of our social capital..potentially there will be a big fall off in voluntary activity (Council A)

increased user charges have had a negative impact in terms of a drop off in participation eg. in child care (Council A)

it's okay when all are doing well, but when the costs come in it's the community that will pay for them (Council A)

it is a disaster for the bush..with the use of contracts, attracting quality people to the bush has become increasingly difficult and the flow-on effect that this has for property investment and community dynamics (eg. lack of infusion of new blood)..contracts lead to a lack of commitment to the local community, prohibit financial commitment, particularly in an environment of depressed property markets..people can't make investment decisions in lifestyle (Council A)

there's the flow-on effects of the general use of contracts in the public sector - no government staff are willing to buy a house in the area any longer and the impact of this on real estate businesses..money goes out of the area..reduced ability to maintain local community in terms of having assets in the town and the flow-on effect of losing these (Council C)

it has had real social ramifications..we're losing our youth because of the lack of jobs and local government has become a less attractive career option..losing loyalty as well as people; there is now no place for employing the poor bloke who didn't have much of a clue, but had a useful contribution to make (Council C)

there has been a growing tendency to use individual consultancies rather than sharing resources across a couple of municipalities and it has lead to less regional cooperation and resource sharing (Council A)

3. Competition policy and the future of rural communities

The extensive application of competition policy to the public sector represents a watershed change in the management and provision of public services and presents new and significant challenges to the practice of contemporary governance. All of the study councils alluded to the fundamental nature of the changes occurring in the structure and delivery of public services and they identified a number of key issues arising from this process of change. These issues were: the impact of competition policy on rural communities, the implications of the new model of governance for rural local government, and the effects of competition policy and restructuring in other service systems, particularly public utilities.

While it was recognised that competition policy was but one relatively recent input into the on-going process of rural restructuring in Australia, there was the view across the three councils that, on balance, competition policy is likely to have an adverse impact on rural municipalities and rural communities, unless it is mediated and moderated in some way. It was argued that a *centripetal force* was operating in rural areas, where larger regional centres were growing at the expense of everything around them - drawing in both people and services - and that this was being encouraged by State government policy. The extensive application of competition policy, especially over a period of time, could well accelerate this centripetal dynamic, as local jobs and local service centres are lost to regional centre competitors.

Economies of scale and scope are significant elements of modern competitiveness and local level service providers are at a distinct disadvantage in this regard compared to their regional centre (and metropolitan) counterparts. Two of the three municipalities have experienced substantial loss of employment - and population - over the past decade and there was concern that further reductions in the local employment market (and the workings of the *negative multiplier* effect) could push these communities below the threshold of economic and social sustainability.

Victoria has been in the vanguard of using competition policy as an instrument in the reform of local government practice. And although the councils readily identified the benefits of this reform process (as the previous section indicated), they also expressed caution about the value of these changes for the longer-term health of rural local government in the state. The following chart captures these views on the role and function of local government.

Implications of competition policy for the role of local government

Under full cost recovery, the support and developmental functions are no longer viable - historically Councils provided free administrative support & management to other agencies eg. regional waste management group.

Once we're out of service delivery we'll never go back into it.

Councillors are obselete..they have very little independent decision making capacity..the way things are going we could reduce it (ie. local government administration) to a dozen or so people.

Local government is not simply driven by commercial criteria: there are some things that you do deliver to the community because you are a community organisation..but there is a need to be selective about these, possibly in those areas where the community don't deliver it themselves..in the end local government has to ask who are we working for?

Councils in regional areas have to provide social and cultural infrastructure..in metro areas, there is much greater private provision of these, as well as State government provision (of central facilities).

Is local government there to run a business or not? No..it is there to advocate and facilitate.. is there the competition in the region to enable you to do it ie. to simply advocate and facilitate and to withdraw from service delivery?

As local government becomes more policy-oriented (ie. policy focus of Councillors and "client" in its focus), some of the community advisory committees (eg. the art gallery) are becoming irrelevant and disfranchised..this has an impact on volunteerism, which has always been strong in our municipality.

There is the unresolved issue of governance in all this...what is council's role?

The Victorian government and the architects of National Competition Policy identified public utilities (telecommunications, energy and water) as a high priority target for restructuring and the councils commented on aspects of the public utility reform program as experienced in their local communities. Two of the early trends which drew particular comment were (i) the loss of locally-based employment in the public utility sector as a result of rationalisation and retrenchment and (ii) the closure of local service depots and service outlets. This has had the consequence according to one council of adding impetus to rural decline, which results in the loss of people and leaders out of the area. In the view of another council, the centralisation of public utility operations, in the wake of the closure of local service centres, has made it more difficult for the council to liaise with public utility providers:

private and centrally-based utility companies don't really understand regions, distances and travel times..they are applying performance targets that aren't realistic and that have no sense of geographical reality..we find it increasingly difficult to deal with Powercor, you don't know anyone any more and anonymous telephone contact is unsatisfactory.

Interestingly, it was suggested by one council senior manager that the microeconomic reform program, which has been pursued particularly zealously in Victoria, has had a residual - and possibly long-term - impact on community attitudes:

there has been a hardening of community attitudes..there is less concern about and response to closing things down..indeed the current climate encourages some people to see retrenchment and closure as the "natural" response to problems..the opposition to microeconomic change has weakened and there is a readiness to accept the rationalisation of services.

Amongst the councils there was some anticipation that the tight reins of competitive tendering in local government would be relaxed by the Victorian government in the near future, with possibly greater emphasis being given to the more flexible concept of *best value*. Also significantly, none of the councils favoured the full corporatisation of their provider businesses in the future, with one of the councils arguing that *there* is no point in corporatising a public service.