



KATHERINE TOWN COUNCIL

P.O. Box 1071, KATHERINE, N.T. 0851

File 50/2/14 : KG/kp

13th January, 1999

Impact of Competition Policy Reforms
Inquiry
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

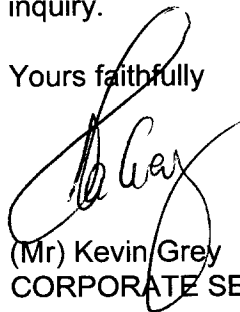
Dear Sir

**RE: SUBMISSIONS FOR INQUIRY INTO THE IMPACT OF COMPETITION
POLICY REFORMS ON RURAL AND REGIONAL AUSTRALIA**

Please find enclosed a copy of a research assignment produced by myself and others titled 'Competition Policy' and its Impact on Small Rural Communities" completed during a Senior Management Course at the Australian Centre for Rural and Local Government Studies in Canberra.

I believe that the issues raised in this assignment are pertinent to the town of Katherine and ask that you accept this work as Council's submission into the above inquiry.

Yours faithfully



(Mr) Kevin Grey
CORPORATE SERVICES MANAGEMENT

Enc.

COMPETITION POLICY
and
ITS IMPACT ON SMALLER RURAL COMMUNITIES



PROJECT GROUP

Roger Bailey
John Brown
Kevin Grey
Ken Minge

Shire of Bland (New South Wales)
Break O'Day Council (Tasmania)
Snowy River Shire (New South Wales)
District Council of Northern Yorke
(South Australia)

ACKNOWLEDGEMENT

The Project Group would like to acknowledge the guidance and support provided by Chris Aulich (Associate) and the administration staff of the Australian Centre for Regional and Local Government Studies, Faculty of Management, University of Canberra.

COMPETITION POLICY AND ITS IMPACT ON SMALLER RURAL COMMUNITIES

INTRODUCTION

Competition policy in Australia has been brought to the forefront within the past few years. The reason for this has been the handing down of the Hilmer Report. In October 1992 the Federal Government set up a Committee of Inquiry under Professor Fred Hilmer. The terms of reference for the Committee were:-

- To investigate and monitor how competition policy is applied in practice;
- To identify how broader economic, social and community obligations are introduced and acknowledged in the application of Competition Policy;
- To monitor the impact of the application of Competition Policy in Federal, State and Local Government agencies on employees and consumers; and
- To investigate and recommend best practice amongst States in applying key elements of Competition Policy.

During August 1993 the report by the Committee was released and was to be known as the Hilmer Report.

In February of 1994 The Council of Australian Governments (COAG) endorsed the principles enunciated in the Hilmer Report. COAG was later in, April 1995, to endorse three agreements, a Conduct Code, Competition Related Reforms and Competition Principles.

The effect of these agreements was to create national structures. The Australian Competition and Consumer Commission (ACCC) was created from the former Trade Practices Commission and the Prices Surveillance Authority. The National Competition Council was created to oversee the introduction of the National Competition Policy agenda and the Trade Practices Tribunal was renamed the Australian Competition Tribunal (ACT).

The Commonwealth Trade Practice Act was amended in June 1995 and each State Government agreed to amend their Trade Practices Legislation so that the requirements were universal.

This report sets out to demystify the hype around the National Competition Policy and in a 'plain English' approach explain what it is all about and how it may affect rural communities.

What is Competition Policy?

The National Competition Policy provides a framework for the basic reform of the Australian public sector into the next century. The main argument behind the Policy is that it will promote greater efficiency and economic growth. The Policy is seen as targetting the public sector, however some aspects apply to areas not previously covered by the Trade Practices Act, smaller businesses, sole operators and to professional groups such as doctors and lawyers.

What has not been recognised to any great degree is that local government has been applying competition policy for a considerable number of years. Many Councils already compare their work practices and efficiencies to private enterprise and in many instances contract their services out. Though contracting out is not an integral part of competition policy.

Competition in local government is about:-

The act or process of competing or being compared with others for the right to directly conduct specific services, projects or works at the right quality and cost.

(Making Choices in Competitive Times, L Boyd, 1993, Pg 1)

The Background

You may well ask 'Why is Competition Policy being pursued?'

The answer is not simple, a number of factors are influencing the change:-

Better value for the Dollar

- Quality emphasis, the customers are seeking higher standards of service;
- Performance measures are being used to monitor and report on Council performance;
- Customer service improvement is being pursued;
- Needs are being targeted according to priority;
- Delivery methods are being varied to achieve cost savings.

The changing view of the Public Sector

- Smaller government is an international trend;
- Traditional business techniques are being used in public services;
- Competitive practices are being used in competition with the private sector;

Government policy direction

- Roles are being reviewed between the spheres of government;
- Needs are being targeted directly by policy and funding according to priority;
- Competition legislation and policy is being introduced for Councils;
- Public accountability of Councils is being increased

Funding arrangements

- Reducing funds from government grants is forcing Councils to rely more heavily on the property tax base whilst restraining rate increases;
- Government funding is being directed at target areas which meet national and state priorities;
- User pays is being pursued increasingly.

Overseas trends and influences

- Reform in New Zealand and Britain has influenced Australian reforms;
- U.S.A has always had a large amount of competition in local government;

Reform of Local Government

- Legislation is changing from prescription to enabling providing broader scope;
- Roles and responsibilities are changing during this period of time;
- Amalgamations are occurring or threatening in every state;
- Accountability to the community and transparency has greater emphasis;

Workplace reforms

- Enterprise bargaining is an issue for every Council;
 - Employment conditions within the workplace are being freed up;
 - Performance and productivity increases are being pursued;
 - Work and job redesign are leading to job changes
-

THE FRAMEWORK AND HOW IT APPLIES TO LOCAL GOVERNMENT

The national competition policy recommended a framework which contained the following key elements:-

1. Extension of the Trade Practices Act
2. Instigating a Regulation Review
3. Structural reform of public monopolies
4. Applying the principle of competitive neutrality
5. Introducing Access Rules
6. Extending monopoly pricing and price surveillance
7. Establishing a new institutional structure

1. Trade Practices Act

Amendments were made to the Trade Practices Act (TPA) in June 1995. The affect of these amendments is that the TPA will apply to Councils from 1st July 1996 and deals with uncompetitive acts and outlaws a wide variety of actions that reduce competition. Some examples are price fixing, exclusive dealing, and misuse of market power.

No study has yet been made of the possible effects the June 1995 amendments will have on Councils. It does appear however that it could have a major effect upon any areas of Council activities where they may be competing with private enterprise.

EXAMPLE

Two swimming pool complexes one privately owned, one Council owned, where the Council owned pool levied charges 1/3 of those the privately owned pool levied. The Council owned pool lost a substantial amount each year because the Council wants the pool to be accessible to low income earners. The private owner may complain and the Council will need to demonstrate that there is a net benefit to the community.

Exemptions will be available, for which a \$7,500 fee is required and where there is a demonstrable net public benefit. Uncertainty will remain until there is case history on the subject.

2. Regulation Review

What will it mean to local government bearing in mind the intention is to review and reform regulations that unjustifiably restrict competition?

It will involve the review of the administration of regulations by Councils as well as the review of state Local Government Acts and existing By-Laws to ensure that competition is not unjustifiably restricted.

3. Structural Reform

What will it mean to Councils bearing in mind the intention is to separate potentially competitive elements of government business activities from natural monopoly operations and also to separate regulatory from commercial functions?

EXAMPLE

Returning to the swimming pool example, it would be necessary to separate the regulatory aspects of swimming pool health and safety monitoring from the community service obligation and the commercial operational side of the business activity.

There is likely to be some potential impact on Council trading enterprises.

The competition principles agreements state:-

- substantial business activities are expected to be corporatised;
- significant business activities are expected to develop pricing policies which equalise net competitive advantage;

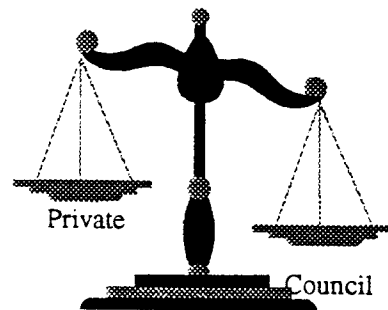
It is important to note that these principles are only to be implemented where the benefits outweigh the costs.

4. Competitive Neutrality

What does it mean for Councils bearing in mind the intention is that Council businesses do not enjoy any net financial advantage as a result of public sector ownership?

It means that Councils will be required to adopt certain pricing policies. It is expected that Council business activities will be required to pay state taxes and other charges which are borne by private businesses. The opposite side of the coin is that state businesses will be required to pay Council rates and charges. Dividend payments and tax equivalent payments must also be considered.

What is unresolved is Who will win?



5. Access Rule

This refers to the principle that there should be open access to facilities that are essential for competition and which are not easily duplicated.

EXAMPLE

The existing telephone and communications network within Australia was installed by Telecom over a large period of time and would be extremely difficult and costly to duplicate either by telecommunications competitors (e.g. Optus) or by firms downstream (e.g. mobile phone retailers).

If this issue is to affect Councils, it will be in the area of water and sewerage.

6. Prices oversight

What will it mean for Councils bearing in mind the intention is to provide for an independent assessment of prices charged by public monopolies?

This will vary on a state by state basis depending on whether it currently occurs, i.e. N.S.W.. The likely impact on Councils is likely as a whole of industry approach, not setting prices on a Council by Council basis. Rather it may prescribe principles which Councils would be required to follow. Water and sewerage charges are an example.

7. New Institutional Structure

A new national institutional body was established on 6th November 1995 known as the National Competition Council. In broad terms the Council has a range of functions to discharge relating to overseeing the implementation of the National Competition Policy by State and Territory Governments. Further details of the Council's functions are included in Appendix I.

How will Competition Policy impact on smaller rural communities?

The impact of competition policy on smaller rural communities can only be determined after examining and defining the dimensions of what that impact is likely to be and then placing it into the context of the Competition Policy framework. The dimensions identified include:-

- Contestability
- Crowding out of private enterprise
- Level playing field
- Local preference policy
- Organisational structure
- Workforce issues
- Transparency Vs Commercial-in-confidence
- Revenue raising

Contestability

Is the process of comparing the competitiveness of a service or project with another on a criteria of cost and quality. Contestability is often used as a force or even a threat to achieve competitiveness without the presence of real competitors.

EXAMPLE

The process of Benchmarking is a tool used as a comparison with others. A method of contesting where no real on the ground contestable environment exists.

Benchmarking is the process of comparing the cost of Council delivery of a service against industry standard benchmark costs for the delivery of the same service. The major issue with this approach is the need to ensure that like is being compared with like both in terms of level of service and factors such as geographic.

In small areas and communities Councils would most likely have a monopoly on the delivery of services, a lack of competition is going to mean there is no contest. Consequently other measures must be implemented to provide an environment where an artificial situation occurs. Such measures would include benchmarking against comparable services where a contestable environment exists.

If there is no contest it is unlikely that services would be contracted to the private sector as this would only be promoting the formation of private monopolies. There would be little impact on the community as no new business opportunities would arise and the Council would continue to provide the services, albeit at hopefully a cheaper price.

EXAMPLE

A Council may endeavour to create a contestable environment within the local community through the provision of specialist plant on a lease situation. This would enable Council to retain ownership of the plant and generate revenue from its hire and ensure that the Council was in a position to contest future tenders.

A Council that took this form of approach would give every opportunity to the private sector to take up the contest, whilst still retaining the opportunity to re-contest the provision of services in the future. A private monopoly situation could be avoided.

Crowding out of private enterprise

The concept of 'crowding out of private enterprise' involves a Council competing with private enterprise in areas that are normally outside the core activities of the Council with the intention of forcing businesses to leave the market place. It could be argued that this is quite a legitimate tactic on Council's behalf as businesses within the private sector attempt to do this to each other every day.

EXAMPLE

A recent example of this activity within the private sector involved Compass Airlines who endeavoured to compete with Qantas and Ansett. The market power and strength of the existing airlines enabled them to crowd out this competitor and the duopoly remains.

Private enterprise will definitely try and do this to Council trading activities. Is it then unfair for Council to attempt this? There may be nothing wrong in principle however Councils are political by nature and have certain moral obligations. The crowding out of private enterprise would leave a market place dominated by Council only.

It is unusual for Councils to directly compete with the private sector to provide a service where both are equally capable of providing the service. In order to ensure that the private sector does not over charge in this respect Councils may offer the service at a rate higher than what is considered acceptable in order to 'cap' the price and ensure a monopolised environment does not emerge.

EXAMPLE

A Council may make a conscious decision not to compete directly with the only local earthmoving contractor. However the Council may be concerned that the contractor may then be in a position where he could charge well above the going rate in similar areas where there is competition. The Council could price its services at 15% above what is considered to be a fair contractors rate and thereby 'cap' the price. If the contractor raised his price to a similar amount Council would then enter the market due to its competitiveness.

Actions taken by a Council to deliberately crowd out private enterprise competitors to that Council could be considered contrary to the principles of competition, however if it was done on a 'level playing field' basis it could be considered quite fair. The impact for local communities is that small business operators would be forced out of business leading to unemployment, families possibly leaving the community and hostility towards Council.

The crowding out of competitors may also in turn lead to higher prices associated with the delivery of services. This is contrary to the principles of free enterprise and maximising value for money in operations.

Level Playing Field

The purpose of competition policy is to market test the efficiency and effectiveness of the organisation. In undertaking the market test a 'level playing field' environment is created. Both private and public enterprises are competing on a similar footing by eliminating 'unfair' advantages that one may have over another. Examples of these benefits include taxation advantages, government charges and the lack of a profit component. Is it fair to impute a profit margin on Council when this is not being done to the private enterprise?

Why should the Council create an environment where it is competing equally with private enterprise, or even with other Councils? The impact on the local community will be that an environment will be created where opportunities exist for local businesses to compete with Council on a level playing field.

The Council needs to be able to make true comparisons, i.e. comparing 'apples with apples'. Not to include certain items such as administration overheads would not enable such a comparison to be made.

Should the Council lose the tender as a result of this level playing field then other questions may arise. These questions may include what happens to the Council's workforce? Does the Council redeploy its displaced staff or does it make those staff redundant? Then does the Council include the costs of redeploying or making the staff redundant in its calculations? This will be a particularly important question to a smaller Council as the loss of staff will have a dramatic affect upon a small community, more so than a larger community.

In a larger community the loss of a few jobs, while regrettable, can be hidden within the community, this is not so easy for a smaller community. Also the Council in many smaller communities is the major employer and holds a much more important role within those communities. When Councils within such communities start making employees redundant then not only does it have an economic effect it also has an effect on the morale of the community.

Does the Council also take into account the costs that may arise from the possible loss of a tender upon its plant fleet? The costs that may be incurred relate to maintaining that fleet until it is redeployed or sold and the costs associated with selling or redeploying.

In addition to the tangible direct costs Council also must take account of those costs associated with governance and how those are accounted for.

EXAMPLE

Councils have an additional cost over private enterprise in that of its elected representatives. The question here is does Council include in its calculations these additional costs, which normally are not included in with those of the private sector. These costs would include Councillor fees, administrative support for the Council and election expenses. While many larger enterprises have paid directors the majority of businesses that a Council within a smaller community would be dealing with would mostly be partnerships or small companies and the directors of these would be the operator as well.

The Council in establishing a 'level playing field' in the best interests of the community may at the end of the day lose the tender to a competitor from outside the community. This could result in job losses and an economic downturn for the local community. The Council also has to look beyond costs and quality in determining the winners and losers in the tender situation. It has to examine the negative consequences for borderline examples.

A further complicating issue is at what level does one deem this 'level playing field' to be in place. The dilemma is how far does the Council want to go. What factors does the Council wish to include into its calculations when firstly calling the tenders and then assessing the tenders? These items may include;

Administrative Costs
Labour costs
Capital Equipment
Profit Margins
Costs of Democracy

EXAMPLE

The inclusion of Administrative costs would not be questionable. These costs would include payroll, creditors, reception, Manager's time, accounting and a whole range of administrative costs. The difficulty would be working out what portion of these costs apply to a particular job. The calculation could be quite difficult and would always be questionable or subjective.

Labour costs that should be included in the calculation would include annual leave, long service leave, sick leave, workers compensation, and superannuation. Private enterprise is not as restricted as Councils with some of its practices, some examples of this include additional employee entitlements (e.g. superannuation), or legislative requirements. How does a Council make adjustments for these additional requirements?, does the Council impute the additional costs into the competitors tender or make a reduction on its own.

Councils generally across the country are required to contribute more to superannuation than are our private enterprise counterparts. Also certain work practices or privileges are available to local government which are not to private enterprise. In some instances higher standards are imposed upon local government, this may include safety aspects. Does Council then include in the specification that the successful tenderer adhere to the same standards or do you impute those additional costs? Maybe you discount those costs in the Council bid?

Local preference policy

A local preference policy is a policy decided by a Council that affords local firms and competitors a premium over and above competitors from outside the Council area in order to retain business within the locality. The premium may also be to the Council over private enterprise. The premium may be by way of a fixed dollar amount, a percentage differential, a requirement that local products or workforce be utilised or a combination. This is to ensure that the local economy retains the economic and social benefits of the supply of the service and the associated multiplier effects. It is essential that the policy is made known to all potential tenderers at the time of tender.

Within a smaller community the Council is often the single largest employer and single largest spender.

The first problem that a Council needs to address is, does the Council need a local preference policy? Studies have revealed that for every dollar or Rural income spent within a small rural community the multiplier effect is two to one, that is it has the affect of spending two dollars within that community. This study can be extrapolated to income spent in the community that is derived from the public sector. By introducing a local preference policy the Council consciously makes a decision to charge its own constituents a premium for purchasing locally.

Should the Council decide that it wishes to introduce a local preference policy then by what means does it do so? The options available are a percentage premium, a broad dollar value or by introducing conditions within the tender specifications.

EXAMPLE

The first option permits the Council or local businesses to submit a tender which is higher than the alternatives by a fixed percentage of the lower tender, for example should the lower tender be \$100,000 and the Council has a local preference policy of 10% then Council will accept a local tender of up to \$110,000. Alternatively should the lowest tender be \$10,000 then the Council will accept a local tender of up to \$11,000. An advantage to this type of preference policy is that it allows for relativities, on the other hand the Council could be paying out larger sums of money.

Under the second option Council could attach a strict dollar value to its local preference policy such as that it would purchase from the local community if the local price is within say \$1,000 of the lowest tendered price. The problem here is that if the lowest tendered price is say \$100,000 then there are no relativities.

EXAMPLE cont.

The Council could also decide to combine both the percentage and the fixed dollar amount. An example of this would be a policy of 10% up to a maximum of \$1,000.

Finally, the Council could always include in its specifications that the labour for a project must be employed from the local community, that goods and services must be purchased from the local community, or that the existing plant fleet must be leased from the local Council.

This latter policy could be used by the Council to ensure that it may be able to tender for services at a later date without the need to purchase capital equipment again. The impact of this dimension is that the viability of the local community will be maintained.

If Council does decide on a local preference policy then it needs to make it clear to all tenderers that there is such a policy. This will alleviate problems of complaints that prospective tenderers were not aware of such a policy and would have perhaps decided not to tender had they known. The impact on the local community of this course of action will give the local suppliers the opportunity to increase its prices because it knows that it will win a tender even if it has a higher price.

In June 1995 amendments were made to the Australian Trade Practices Act (TPA) with the National Competition Policy in mind. The effect of these amendments was to include local government within the provisions of that Act, though these amendments are not to affect local government until July 1996. Councils which wish to give either themselves or the local community an advantage over others can have a local preference policy, but this policy should not be a blanket policy, otherwise it could be in breach of the TPA. For each area the Council wishes to introduce such a policy it needs to make an assessment and indicate that such a policy would have net benefits for the community. It would be better practice for Council to make an assessment of each area of its operations and of the type of businesses that would be affected. The affect upon different local businesses would vary.

The Commonwealth Trade Practices Act 1995 is concerned with a number of anti-competitive practices which include price fixing, market sharing, boycotts, resale price maintenance and third party line forcing. It is conceded that this is a Commonwealth Act and therefore has no jurisdiction over local government, however all Australian States have signed an agreement whereby they will impose legislation on their respective states which will be consistent with the Commonwealth Legislation. It would therefore be expected that the same provisions will apply.

Included in the Commonwealth Legislation, Section 88, authorisations may be granted giving exemptions from anti-competitive practices. Under Section 90 the Commission may give an authorisation where *"it is satisfied in all circumstances that the proposed provision or the proposed conduct would result, or be likely to result, in such a benefit to the public*".

Organisational structure

The organisational structure of Council will most likely require restructuring to cater for the establishment of business units. The problems of separation of functions of the process among suitably experienced and qualified staff is seen as a problem for many small Councils. It is important to achieve separation of those drafting specifications and analysing tenders from those submitting in-house bids.

The restructuring of the organisation to achieve separation between the governance function and the service delivery function will not have a significant impact on the local community. Rather, it will be a matter of communicating the changes and the rationale behind the change to the community to ensure that confusion and disruption is minimised. It is likely that some uncertainty may be felt within the community.

Smaller Councils will probably be best served by the 'umbrella' or multi-service business unit whereas larger Councils may develop a single service or stand alone unit.

The final choice of organisation structure must take account of local matters such as size of the Council, its style, performance and skills of its existing staff, the current efficiency of its workforce and so on.

Workforce issues

The uncertainty of the situation associated with the restructuring of the organisation and the implementation of competition policy for Council will cause distress among the community. Small to medium Councils would in most cases be a major employer in the local community. Redundancies and reduced work forces would have a significant impact, morale within Council's workforce would also be tested.

This will be particularly evident when issues such as redundancies, dropping morale, and other unrest is dealt with. Many Councils throughout Australia are also experiencing similar problems associated with amalgamations.

To be successful a Council must ensure that its people can adapt, contest, learn the required skills, and understand why there is a new way of doing things. It will be essential to provide training for all levels in the workforce, to provide people with the required skills to adapt and perform.

In some cases, where works programs are contracted out there could be a possibility of some of Council's staff being re-employed by the successful contractor. This would be likely to occur in more isolated areas.

Transparency Vs Commercial-in-confidence

Local government faces the invidious task of meeting the needs for transparency in its operations whilst trying to maintain commercial confidentiality about the costs of its operations. The 'transparency' notion involves Councils making available to the public, and its competitors, the Annual Budget, Annual Reports including financial details and minutes of meetings just to name a few aspects. When these are coupled with Freedom of Information legislation, a resourceful competitor can find out a great deal about Council's operations and cost structures.

On the other hand, the contractor is not burdened with these or similar requirements, therefore giving very little away about his business. In summary it can be seen that the two sectors are required to play the 'competition' game with a different set of rules applying. The playing field may be level but the local government team is kicking against the wind and will always do so.

EXAMPLE

In many instances Councillors may be local contractors that will be competing with Council to perform works. The issue of pecuniary interest and the obtaining of an advantage by a Councillor is a very real possibility.

The difficulties facing Councils when trying to meet what are two opposing requirements are the need to be open, transparent and accountable to the local community as against trying to minimise the knowledge available to competitors. The community is likely to experience a tightening in the information available to it from the local Council, in other words a reduction in its openness.

Freedom of Information requests in relation to financial information could lead to less information being provided due to the Council's need to maintain commercial confidentiality. The actions of the Council will all be with the express intention of reducing the impact of this conflict of interest and thus minimising the advantage of its competitors.

Communities would feel directly the impact of this dimension should the local Council lose a tender to an outside competitor who does not use local suppliers and labour. The direct impact would be job losses for the community.

Revenue Raising

Monopoly pricing and prices surveillance provisions may have an impact on the revenue raising activities of Councils particularly in the areas of monopoly activities such as water and sewerage services. It is envisaged that this would only impact on communities where a Council was charging an exorbitant rate that was unjustifiable. This is seen as an extreme case and generally other measures are in place or are taken by the community to ensure the Council justifies its actions. The Council like any form of government accounts for its actions at the ballot box.

SUMMARY

Having identified the likely impact of the National Competition Policy on Councils and their communities, Councils are faced with a number of options. They can either:-

Continue operating as is and deal with issues as they arise.

Develop strategic options in order to ease the impact of competition reforms when they occur.

Do nothing and hope it all goes away.

Competitive Tendering is firmly entrenched on the agenda in many States and the Commonwealth Government is pursuing the implementation of the National Competition Policy with vigour. The Trade Practices Act has been amended and Agreements have been signed by all States and Territories to implement the reforms and pass the appropriate legislation.

It is important for Councils to determine what stance it wishes to take. Does the Council ignore Competition Policy and hope it goes away? Does it become proactive? After all what is best for its stakeholders?

If a Council does decide to implement a competition policy and wishes to survive as a viable entity in a competitive environment it is critical that a number of steps are taken.

1. Define your core business

Councils need to define their core activities, those activities that cause the Council to exist as an entity and are considered vital to the community.

2. Develop policies and plans

Policies and contingency plans associated with the implementation of Competition policy should be prepared on key aspects such as local preference, contestability, level playing field and other key areas.

3. Staff Development

The skills of staff need to be further developed to take account of specification writing, contract administration, and business plan development if the challenges of the competition policy are to be addressed.

4. Review Current Activities and Regulations

A review should be conducted to ensure that those activities which are not 'core' to the Council's business are operating in a flexible environment.

5. Establish Accurate Costing Systems

To ensure that Council can accurately establish what it is costing to provide the range of services.

6. Performance Monitoring

Is vitally necessary for comparing a Council's efficiency at performing tasks over a period of time against its previous performance and industry benchmarks.

7. Review Activities

To ensure that as a Council you are not contravening the Trade Practices Act in relation to unfair trading practices. The act may apply to Councils from 1st July 1996, however if contraventions are identified penalties can be made retrospectively to August 1994.

8. Communicate

The importance of regular communication with employees at all levels is imperative as is empowering them to deal with possible upheavals that may occur.

The implementation of these activities will place Councils in a proactive position to deal with the foreseen effects of the National Competition Policy on the Council and its community. The Council can create a win/win situation out of the current negativity by acting strategically to diffuse a potentially explosive impact on our community.

APPENDIX I

National Competition Council

Established under Section 29A of the Trade Practices Act on 6th November 1995

The Council's functions include:-

- making recommendations to relevant Commonwealth, State and Territory Ministers about the treatment of access declaration applications under Part 3A of the Trade Practices Act. Part 3A establishes a legislative regime to facilitate third party access to the services of certain nationally significant infrastructure. Its object is to encourage competition in related markets.
- making recommendations to the Commonwealth Assistant Treasurer about whether access regimes established by state or Territories are effective.
- making recommendations to the Commonwealth Assistant Treasurer about whether State or Territory government businesses should be subject to the Prices Surveillance Act;
- conducting reviews and providing advice to the Commonwealth, State and territory Governments in accordance with a work program agreed by those Governments. The work program may deal with matters such as review of regulation which restricts competition, the structural reform of public monopolies, prices oversight of government business enterprises and the achievement of competitive neutrality between government and private business.

For purposes of payments from the Commonwealth to the State and Territory Governments, the Council will also assess the progress of Governments in implementing national competition policy and related reforms agreed by the Council of Australian Governments.

REFERENCES

Boyd, L (1993), **Making Choices in Competitive Times**, Melbourne, Municipal Association of Victoria.

Boyd, L (1994), **Managing Competitive Services**, Melbourne, Municipal Association of Victoria.

Boyd, L and Cronin, B (1994), **Establishing the Business Unit**, Melbourne, Municipal Association of Victoria.

Independent Committee of Inquiry (1993), **National Competition Policy**, Canberra, Australian Government Publishing Service.

Jones, Dr M (1992), **Competitive Tendering**, Canberra.

Local Government and Shires Association of NSW (1995), **National Competition Policy and Local Government**, Sydney.

Paddon, M (1991), **The Real Costs of Contracting Out: Reassessing the Australian Debate from U K Experience**, Public Sector Research Centre.

Paddon, M (1995), **The Hilmer Report and National Competition Policy: A Summary of Issues**, Public Sector Research Centre.