

17 November 1998

Mr John Cosgrove
Presiding Commissioner
Impact of Competition Policy Reforms Inquiry
Productivity Commission
PO Box 80
BELCONNEN ACT 2616



Dear Mr Cosgrove

Re: Impact of Competition Policy Reforms on Rural and Regional Australia

The National Institute of Accountants (NIA) welcomes the opportunity to contribute to the Productivity Commission's inquiry into the impact of competition policy reforms on rural Australia.

The NIA is Australia's third largest accounting body and has over 12,000 members, with a large portion servicing the needs of small business in rural and regional Australia. Accordingly, the NIA is fully supportive of the scope of the inquiry and recognises the specific focus that is required to assess the impact of competition policy on the rural sector.

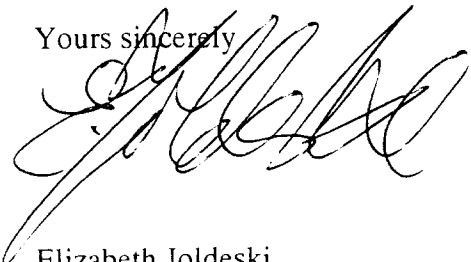
The NIA is pleased to provide a submission that focuses on the auditing profession and the anti-competitive impact of barriers and regulation in this sector on rural Australia.

The NIA is heavily involved in the competition issues surrounding registration requirements for auditors at both a Federal and State level. In particular, these issues have been the subject of an on-going Federal Treasury Audit Review, which has acknowledged that current registration requirements for auditors in many State and Federal acts are overly excessive, unnecessary and therefore require legislative reform.

We trust that the submission and recommendations made by the NIA will be given full consideration and support and would welcome the opportunity to provide any further information or advice on the issues as required.

Please free to contact me on 03 9249 5585 if you have any further queries.

Yours sincerely



Elizabeth Joldeski
MANAGER, TECHNICAL POLICY

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Impact of Competition Policy Reforms on Rural and Regional Australia

1. INTRODUCTION

This submission by the National Institute of Accountants (NIA) mainly addresses the legislation reform agenda adopted by each State and Territory and also by the Commonwealth under the National Competition Policy (NCP) framework.

The NIA has identified the need for the review of the qualification requirements of auditors to be included on the agenda of legislative reform as a matter of priority. This is in order to reverse the negative effects on rural and regional Australia of maintaining anti-competitive restrictions surrounding auditor's qualification criteria. This is in line with the objectives of the NCP.

Accordingly, the NIA will focus its comments on the need for a relaxation of anti-competitive restrictions imposed on the auditing profession and the benefits this will bring to rural Australia, in accordance with the points raised on page 15 of the Inquiry Issues Paper.

2. BACKGROUND

The need for the Registered Company Auditor benchmark

The NIA recognises that the only available legislative benchmark, which prescribes qualification criteria for auditors at the Commonwealth level, is found in the Corporations Law. To attain the Registered Company Auditor (RCA) statutory qualification an applicant must satisfy the educational and experience requirements set out under subsection 1280 (2) of the Corporations Law (**Attachment A**).

The auditing requirements under the Corporations Law only apply to companies. In particular, only 'large proprietary companies' are required to have their accounts audited. A large proprietary company must meet two of the following criteria: it must have more than 50 employees, \$10 million plus in revenue, and \$5 million plus of gross assets.

Clearly, the qualifications that are required of an RCA to audit such an entity would have to be commensurate with the high level of complexity of the commercial activity associated with large companies. The NIA concurs that the RCA benchmark, which is a highly specialised and expert qualification to obtain, appropriately meets the standard required for the auditing of large companies.

The use of the RCA benchmark in other legislation

However, in a practical sense, the RCA requirement for auditing also exists in a significant amount of both Commonwealth and State legislation and regulations, apart from the Corporations Law. For instance incorporated associations must have their accounts audited in accordance with requirements of State and Territory Associations Acts. Other examples of Acts which require the auditing of accounts by RCA's include the: *National Health Act 1953* (Commonwealth), *Fire Brigades Act 1989* (New South Wales), *Co-operative Industrial Societies Act 1928* (Tasmania), and the *Dairy Industry Act 1984* (Victoria).

The use of the RCA benchmark occurs even in legislation such as those mentioned above where the current RCA qualification would generally appear to be out of proportion with the defined audit task. As such RCA's are required to audit not only large companies as is intended, but much smaller organisations. Conversely, smaller organisations are being unnecessarily forced to use the services of an RCA.

Hence the appropriateness of applying the RCA criteria to the auditing of entities under other Federal and State legislation must be questioned. The nature, degree of complexity, and the dollar amount associated with the activities of those entities can be clearly distinguished from that of the auditing of a large proprietary company.

The RCA benchmark - a high cost option?

Generally speaking, RCA's are able to charge higher audit fees commensurate with their level of statutory qualification. The fact that legislation other than the Corporations Law uses the RCA qualification as a benchmark has led to great cost inequities for smaller organisations. In many instances the nature of the auditing work under other legislation is

such that RCA's are "over-qualified" to perform such tasks when compared to the level of responsibility or complexity of the audit required.

Accordingly, it would be reasonable to assume that the use of an RCA may well be a high cost option in most of these cases, compared with the actual need for the audit. In particular, small businesses in rural Australia are faced with the much higher costs of unnecessarily acquiring the services of an RCA. The lack of availability of RCA's generally, but particularly in rural areas also unnecessarily compounds the problems and costs for small businesses requiring an RCA to perform an audit of its accounts.

By requiring an RCA to complete audits, many rural based organisations may be forced to spend excessive resources on getting an RCA to travel from major regional and capital cities, accommodating them for the length of the audit and meeting other incidental costs over and above the ordinary audit fee. Urban-based organisations only have to meet the audit fee expense.

Overall, the use of the RCA benchmark in other legislation places an unnecessarily high cost burden on the audited organisation and such burdens fall disproportionately hard on the shoulders of small business in country Australia, and also community based organisations normally staffed by volunteers.

Commonwealth Treasury Review of Registration and Regulation of Auditors

The anti-competitive and restrictive result caused by the inappropriate use of the RCA benchmark in other Acts has been identified and acknowledged by a Federal Treasury Audit Review Working Party on behalf of the Ministerial Council for Corporations (MINCO). Also, all of the above issues on the currency and relevance of the RCA benchmark for other legislation are brought to light in the Final Report of the Commonwealth Treasury *Review of Requirements for the Registration and Regulation of Auditors*, especially chapter 10 (**Attachment B**).

The NIA has been extensively involved in this review and supports the need to review the auditor's registration criteria in other legislation. In particular, the NIA is focused on the anti-competitive issues surrounding auditor's qualification criteria.

Other issues highlighted by the review

A major issue highlighted by the Commonwealth Treasury Review process is that certain Commonwealth and State Government Departments continue to require higher auditing standards and qualifications under certain sections of legislation that they administer, than are reasonably necessary for such purposes. The Working Party itself concedes that *“RCA’s might be ‘over-qualified’ for some of the audits they would be required to undertake.”* (MINCO Report pg 142.)

The NIA agrees that this causes fundamental problems for the auditing sector. Indeed, given that the subject matter of the Acts may have little to do with the administration of companies, the RCA may in fact have neither knowledge nor expertise in the legislation that they are required to audit under. There is no reason why the RCA benchmark is used in such disparate and inapplicable circumstances.

Lack of mandate for Federal Audit Review

The Federal Treasury Audit Review Working Party was convened to review the requirements of the regulation of Registered Company Auditors under the Corporations Law only. Even though it has given recognition to the problem caused by use of the RCA benchmark in other legislation and it has recommended that States and Territories should review their various acts, it does not have the authority to ensure these recommendations are implemented. The NIA is aware that the South Australian and Victorian Governments are advancing in their consideration of these issues. However it is paramount that further support is given to this review in recognition of the competition issues affecting the auditing sector. Moreover, the Commonwealth Government should also commit itself to a review of all the other numerous Acts apart from the Corporations Law which prescribe RCA criteria or other inconsistent and inapplicable qualification criteria for auditors.

The experience threshold

The current experience threshold required for the attainment of registration as a company auditor is excessive and is an obstacle for potential applicants in rural Australia. The Federal Government is well aware that it is extremely difficult for practising accountants to meet the experience requirement guidelines presently stipulated to attain the

qualification of an RCA. As the Corporations Law Regulation 9.2.04 (a) currently stands the practical experience prescribed is to have worked “*in auditing under the direction of a registered company auditor for a period of not less than three years.*” Practitioners who work for auditors in smaller towns and country areas find the requirement to work under the supervision of an RCA impractical and almost impossible to achieve. This is because most companies subject to audit are found in capital cities and major regional cities. This has the result that most newly qualified auditors come from, and are located in, major cities. Attachment C highlights the low level of RCAs in regional areas and the disproportionate distribution of RCAs throughout Australia (**Attachment C**).

A change to competency standards

As most accountants in public practice in charge of their own small business have found the experience threshold to gain an RCA qualification a seemingly impossible hurdle to jump, the Federal Government is looking at changing the work prescription to that of competency standards. To this end the NIA supports the Audit Review Working Party recommendation to introduce competency standards as a way of measuring the experience criteria required for registration as an RCA.

3. RECOMMENDATIONS

Against this background, the NIA makes the following recommendations.

Appropriate audit requirements

- A larger variety of commercial activities including those of rural and regional Australia will be better served by appropriate audit requirements. Maintaining only one qualification standard for all audit requirements is neither economical, nor necessary and adversely discriminates against those in rural Australia.
- If the auditor’s required qualifications are largely based on the appropriate level of audit required for that audit activity then unnecessary and anti-competitive barriers can be overcome.

Introduce an alternative benchmark

- The introduction of an alternative benchmark for non-corporate audits, would result in a far more extensive market of appropriately qualified auditors being available to rural Australians. By adopting an alternative standard to the RCA benchmark, a change from an inaccessible and impractical statutory qualification for those simpler audits could be achieved without any reduction in the necessary quality of audits. Also the provision of an authorised alternative requirement for non-corporate audits would streamline procedures, and ensure uniformity and consistency by reducing the complexity that currently pervades the provision of audit services in the non-corporate area.

Universal and competitive qualification requirements

- The standards for determining the qualifications of an auditor should be universal and promote a competitive, deregulated accounting environment. Any benchmark should include practical, accessible and competitive requirements. This would remove the hurdle faced by many especially those outside major centres.
- All legislative or regulatory requirements pertaining to auditors should be based on the experience, qualifications of the individual and proof of continuing professional education. The current practice based solely on reference to membership of particular associations is anti-competitive when it specifies certain organisations to the exclusion of others.

Audit requirements in legislation

- The minimum criteria for an auditor should be defined clearly within any legislation based on education, experience and proof of continuing professional education.
- When including audit requirements in legislation, Governments should fully consider the needs of small practices and in particular rural accountants who are unable to meet the excessive RCA requirements for some non-corporate audits.
- In any case the NIA recommends that the qualifications prescribed within the Acts should not be higher than that necessary for the audit task involved.

- The NIA believes there is scope within the NCP framework for a review of how appropriate it is for State, Territory and Federal Acts to impose the RCA benchmark. This is in line with recognition of the need to remove anti-competitive legislation at all levels of government.

4. SUMMARY

This submission is made in the midst of ongoing review of the area at State and Federal level. The findings of the Commonwealth Treasury Review Working Party support the NIA view that urgent far-reaching reform is required. In light of this, it is important that momentum for change is able to swing through all levels of Government.

To this end the Productivity Commission should:

- Recognise the negative impact that the use of the RCA benchmark has on business in rural and regional Australia.
- Supervise the progress of these amendments and their incorporation into the legislative reform agendas of each level of government, recognising that much support is necessary to bring about the changes needed.
- Commit to the adoption of competency requirements based on the experience and qualifications of the individual and proof of continuing professional education.
- Recognise that these amendments need to be commenced as a matter of urgency to address the existing discrimination and inequities that act as a burden on small business particularly in rural and regional Australia.
- Recognise the need for all levels of government to amend legislation and regulations that include the anti-competitive and restrictive provisions based solely on membership of certain organisations and not universally accessible, practical and competitive requirements. This is to be done by including these reforms in the objectives of the intergovernmental agreements of the NCP. Thus all levels of government will be involved in the supervision and implementation of the MINCO objectives.

- Acknowledge that until these amendments are implemented governments and agencies are compelled to continue with anti-competitive and restrictive practices.
- Declare support for these recommendations. The implicit support for such changes in the NCP framework would thus be made explicit. This is an acknowledgement that there is no benefit to the community as a whole in maintaining the inappropriate anti-competitive nature of the RCA benchmark. There needs to be the further acknowledgement that the objective of assuring the standard and competency of auditors is not necessarily achieved by the restriction of competition.

5. CONCLUSION

In this submission, the NIA has illustrated that rural and regional Australia will benefit from the abolition of anti-competitive restrictions in the qualification requirements of auditors. The discrimination is apparent and the effect is far reaching. There is no benefit to society in maintaining such a position.

ATTACHMENT A

REGISTRATION OF AUDITORS

Commentary on SECTION 1280

18

1280(1)

(Omitted by No 110 of 1990, Sch 1 (effective 18 December 1990).)

1280(2) [Requirements for granting application] Subject to this section, where an application for registration as an auditor is made under section 1279, the Commission shall grant the application and register the applicant as an auditor if:

(a) the applicant:

(i) is a member of The Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or any other prescribed body;

(ii) holds a degree, diploma or certificate from a prescribed university or another prescribed institution in Australia and has passed examinations in such subjects, under whatever name, as the appropriate authority of the university or other institution certifies to the Commission to represent a course of study in accountancy (including auditing) of not less than 3 years duration and in commercial law (including company law) of not less than 2 years duration;

or

(iii) has other qualifications and experience that, in the opinion of the Commission, are equivalent to the qualifications mentioned in subparagraph (i) or (ii);

(b) the Commission is satisfied that the applicant has had such practical experience in auditing as is prescribed; and

(c) the Commission is satisfied that the applicant is capable of performing the duties of an auditor and is otherwise a fit and proper person to be registered as an auditor;

but otherwise the Commission shall refuse the application.

History

S 1280(2) amended by No 110 of 1990, Sch 1 (effective 18 December 1990).

1280(3) [Registration prohibited] The Commission shall not register as an auditor a person who is subject to a section 229 prohibition, a section 230 order, a section 599 order, a section 600 notice or a civil penalty disqualification.

History

S 1280(3) amended by No 210 of 1992, s 15(1) (effective 1 February 1993).

1280(4) [Non-residents] Subject to subsection (8), the Commission may refuse to register as an auditor a person who is not resident in Australia.

1280(5) [Certificate of registration] Where the Commission grants an application by a person for registration as an auditor, the Commission shall cause to be issued to the person a certificate by the Commission stating that the person has been registered as an auditor and specifying the day on which the application was granted.

ATTACHMENT B

10. IMPLICATIONS OF REVIEW FOR OTHER LEGISLATION

1001. This chapter briefly considers the implications of the audit review for other Commonwealth, State and Territory legislation that requires either financial statements or other accounting documents to be audited or examined by a registered company auditor.

OTHER LEGISLATION

1002. As noted in chapter 3 of this report, there are a number of other Commonwealth, State and Territory Acts that require RCAs to audit financial statements or other accounts. These Acts, and the audit requirements that they impose, include:

- (a) auditing the accounts of life insurance companies in accordance with section 83 of the *Life Insurance Act 1995*;
- (b) auditing the accounts of general insurance companies in accordance with section 47 of the *Insurance Act 1973*;
- (c) auditing the accounts of regulated superannuation funds with more than four members in accordance with section 113 of the *Superannuation Industry (Supervision) Act 1993*;
- (d) auditing the accounts of financial institutions in accordance with the requirements of State and Territory Financial Institutions Codes;
- (e) auditing the accounts of incorporated associations in accordance with the requirements of State and Territory Associations Incorporation Acts; and
- (f) auditing accounts and trust accounts under other Commonwealth, State and Territory Acts, including the *National Health Act 1953* (Commonwealth); *Fire Brigades Act 1989* (NSW); *Co-operative Industrial Societies Act 1928* (Tasmania); and the *Dairy Industry Act 1984* (Victoria).

1003. The Working Party notes that it is outside its terms of reference to comment on whether it is appropriate for these Acts to require the audit work in question to be undertaken by RCAs. The Working Party, however, acknowledges that the RCA status has become the de facto bench-mark for identifying a competent auditor for many non-corporate audits.

ATTACHMENT B

Review of Requirements for the Registration and Regulation of Company Auditors

COMMENT

1004. Matters dealt with in this report that have implications for Commonwealth, State and Territory agencies that administer legislation containing audit requirements that must be performed by RCAs include:

- (a) the proposal that the accounting bodies assume responsibility for the registration and supervision of RCAs;
- (b) the proposal that the educational requirements needed for registration be strengthened by requiring all applicants to have completed the auditing module offered as part of the PY program of the ICAA and the CPA program of the ASCPA;
- (c) the proposal that applicants who have not satisfied the practical experience requirements for full and immediate registration as RCAs be given conditional registration on the basis of lower practical experience and other appropriate conditions; and
- (d) the proposed modifications to the disciplinary procedures.

1005. The Working Party is of the opinion that the proposals set out in this report at least maintain the existing standards for the registration of RCAs. Accordingly, legislation that requires RCAs to undertake audit work would not require amendment to accommodate the proposals in this paper.

1006. One issue that other agencies may need to consider is whether, given the proposed change in educational requirements, RCAs might be 'over qualified' for some of the audits they would be required to undertake.

1007. The Working Party notes that the qualifications for auditors vary both between and within States and Territories, with some Acts describing auditor's qualifications in the following terms:

- (a) a member of the ICAA, the ASCPA or the NIA; or
- (b) a person who holds a certificate of public practice issued by the ICAA or the ASCPA.

1008. The Working Party considers that the States and Territories should review the audit requirements in their various Acts and, where they consider it appropriate, provide that an auditor may be a person who is either a member of or who holds a certificate of public practice issued by a professional accounting body recognised in that legislation.

ATTACHMENT B

Chapter 10: Implications of Review for Other Legislation

1009. The full implications of the Review for State and Territory legislation would seem to be a matter for MINCO and SCAG to consider. State and Territory Governments, through a consultative process such as SCAG, could consider the proposals and amend the audit requirements of their legislation as appropriate.

ATTACHMENT C

DISTRIBUTION OF AUDITORS within each State and Territory *as at 2 April 1997*

New South Wales

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Sydney metro area				
Sydney CBD	574	239	108	921
North Sydney	57	24	5	86
Parramatta	71	31	10	112
Other metro areas	1129	364	66	1559
Total metro area	1831	658	189	2678
Country areas				
Blue Mountains	19	2	1	22
Gosford Central Coast	47	12	2	61
Newcastle and the Hunter	129	41	4	174
North Coast	106	52	12	170
New England	77	30	9	116
Wollongong and the Illawarra and South Coasts	69	16	13	98
Southern Highlands and Tablelands	55	10	2	67
Other areas	143	44	14	201
Total Country areas	645	207	57	909
Norfolk Island	0	1	0	1
Total RCAs in NSW	2476	866	246	3588

ATTACHMENT C

Review of Requirements for the Registration and Regulation of Company Auditors

Victoria

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Melbourne metro area				
Melbourne CBD	229	137	54	420
Balwyn	26	8	0	34
Blackburn	24	8	1	33
Camberwell	17	15	0	32
Caulfield	23	6	0	29
Essendon	18	5	0	23
Frankston	23	3	1	27
Hawthorn	36	21	6	63
Melbourne (St Kilda Rd)	34	17	6	57
Mount Waverley	26	6	0	32
Sth Melbourne	25	16	2	43
South Yarra	27	9	1	37
Other metro areas	677	256	47	980
Total metro area	1185	507	118	1810
Country areas				
Ballarat	20	7	1	28
Bendigo	13	6	0	19
Geelong	32	13	4	49
Shepparton	5	6	0	11
Swan Hill	7	1	2	10
Warrnambool	8	2	1	11
Wodonga	9	2	1	12
Other areas	170	63	3	236
Total Country areas	264	100	12	376
Total RCAs in Victoria	1449	607	130	2186

ATTACHMENT C

Appendix C: Distribution of Auditors within each State and Territory

Queensland

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Brisbane metro area				
Brisbane CBD	152	70	21	243
Other metro areas	242	81	11	334
Total metro area	394	151	32	577
Country areas				
Cairns	26	6	7	39
Gold Coast	98	21	9	128
Mackay	17	4	2	23
Rockhampton	23	4	0	27
Sunshine Coast	36	13	3	52
Toowoomba	36	7	0	43
Townsville	14	4	1	19
Other areas	116	25	4	145
Total Country areas	366	84	26	476
Total RCAs in Queensland	760	235	58	1053

ATTACHMENT C

Review of Requirements for the Registration and Regulation of Company Auditors

Western Australia

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Perth metro area				
Perth CBD	89	39	18	146
South Perth	23	9	3	35
Subiaco	32	6	3	41
West Perth	84	38	9	131
Other metro areas	223	51	23	297
Total metro area	451	143	56	650
Country areas				
Albany	4	2	0	6
Bunbury	10	3	1	14
Esperance	2	0	0	2
Geraldton	6	1	0	7
Kalgoorlie	3	1	0	4
Other areas	24	5	3	32
Total Country areas	49	12	4	65
Total RCAs in WA	500	155	60	715

ATTACHMENT C

Appendix C: Distribution of Auditors within each State and Territory

South Australia

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Adelaide metro area				
Adelaide CBD	125	25	12	162
North Adelaide	20	1	3	24
Wayville	28	7	5	40
Unley	20	4	0	24
Fullarton	19	10	0	29
Kent Town	38	9	3	50
Other metro areas	109	19	9	137
Total metro area	359	75	32	466
Country areas				
Mt Gambier	8	2	0	10
Port Lincoln	2	0	0	2
Port Pirie	3	0	0	3
Renmark	2	0	0	2
Whyalla	2	0	0	2
Other areas	16	3	0	19
Total Country areas	33	5	0	38
Total RCAs in SA	392	80	32	504

ATTACHMENT C

Review of Requirements for the Registration and Regulation of Company Auditors

Tasmania

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Hobart metro area				
Hobart CBD	38	10	8	56
Bellerive	7	3	0	10
Glenorchy	4	0	0	4
Other metro areas	19	5	1	25
Total metro area	68	18	9	95
Country areas				
Burnie	10	2	0	12
Devonport	11	1	0	12
Launceston	26	8	4	38
Other areas	14	4	0	18
Total Country areas	61	15	4	80
Total RCAs in Tasmania	129	33	13	175

ATTACHMENT C

Appendix C: Distribution of Auditors within each State and Territory

Australian Capital Territory

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Canberra metro area				
Canberra CBD	19	7	8	34
Other metro areas	37	13	3	43
Total RCAs in ACT	56	20	11	87

Northern Territory

Region or area	Uniform Companies Acts (ie before 1.7.83)	Co-operative scheme (ie 1.7.83 to 31.12.90)	National scheme (ie after 31.12.90)	Total — all schemes
Darwin metro area				
Darwin CBD	4	13	1	18
Other metro areas	4	5	3	12
Total metro area	8	18	4	30
Other areas				
Alice Springs	0	6	1	7
Nhulunbuy	2	0	0	2
Total other areas	2	6	1	9
Total RCAs in NT	10	24	5	39