



NSW IRRIGATORS' COUNCIL

ACN 002 650 204

P.O. Box 82

NORTH REVESBY NSW 2212

Web: www.nswirrigators.org.au

Tel: 02 9791 3206

Fax: 02 9791 3208

Mobile: 0418 619 325

Email: irrigators@nswirrigators.org.au

Impact of Competition Policy Reforms Inquiry
Productivity Commission
P.O. Box 80
Belconnen ACT 2616

Submission by NSW Irrigators' Council
National Competition Policy Agreement and the Council of Australian
Government's (COAG) Water Reform Agreement

In this submission the NSW Irrigators' Council draws attention to a number of anti-competitive effects of Competition Policy and the Council of Australian Governments (COAG) Water Reforms. They contradict the spirit of the National Competition Agreement and should be ameliorated forthwith.

1. Anti-competitive effects of Uniformity

Competition between States in regulatory regimes and in taxes and charges can be as important as competition in any other market.

First, competition allows each State to try different regulatory approaches with regulatory approaches that produce better outcomes being revealed and widely adopted. Uniformity under the banner of Competition Policy or COAG introduces a rigidity that hinders the development and trialing of different approaches.

Second, the independence of States facilitates regulatory reform as there is no need to obtain the approval of all States before changes are made. Uniformity under the banner of Competition Policy or COAG introduces a rigidity that hinders the ability to change policy in a timely manner in the light of emerging impacts and situations. In many areas of regulation, National Standards are adopted with variations by each State. This can defeat any national uniformity benefits often put forward as the justification for National Standards. Occupational Health and Safety Regulations are an example. The Victorian regulations for manual handling were the basis for the National Standard adopted by the National Occupational Health and Safety Commission after Commonwealth/State/Union/Employer negotiation. Victoria is now changing its regulations and will be different to the National Standard. National uniformity is often neither desirable in policy terms nor achievable in practice.

Third, competition between States in taxes, charges and regulation is a deregulatory force that creates pressure for public sector reform and the reduction of needlessly high Government taxes and service charges. Traditional interstate comparisons highlight the State of lowest cost. Uniformity under Competition Policy and COAG Water Reform could have the effect of delaying the devolution of water management functions and driving taxes, charges and regulation to the most costly and most regulatory position. Already the experience in water pricing has been that the State which has the highest charge for water services is taken as the benchmark and other States are accused of being too cheap.

Fourth, new bureaucracies have been created in the name of Competition Policy and COAG that are driven by self-seeking public sector regulatory and administrative agendas. Recommendations drafted by these bureaucracies are being put to Ministerial Councils and approved without reference to State Parliaments and State regulatory assessment disciplines. The recommendations have not been subject to Parliamentary or any other representative public scrutiny and they have not complied with the public regulatory impact assessment processes and disciplines required by State subordinate legislation Acts. These public regulatory impact assessment disciplines were introduced as a safeguard against inappropriate, unnecessary and over-regulatory approaches often associated with regimes that have inadequate public regulatory assessment processes. The experience in water policy has been that so-called reforms are drafted by the public sector to justify expansion of public sector services. The submissions made in the past three years by the NSW Department of Land and Water Conservation to the NSW Independent Pricing and Regulatory Tribunal amply demonstrates the point. The Tribunal in its first report highlighted that if the Department could become more efficient then prices, under full cost recovery would not need to rise. The Tribunal refused to sanction a price increase. The Department responded the following year by submitting that it had increased estimated expenditure by \$20 million and no fundamental reform or efficiency was achieved. The Tribunal reported that on its examination the Murray and Murrumbidgee rivers were already at or above full cost recovery levels and whilst reconfigured and increased charges in other areas of the State refused to recommend increased charges in the Murray and Murrumbidgee, where the majority of the Department's water "sales" are located. The Tribunal criticised the Department's lack of reform and lacklustre efficiency efforts. The Department responded last year by submitting that costs would be \$60 million more than two years previously because of increased "natural resource management functions" created by the Department. Not only had there been no fundamental reform in the supply of water that would have delivered cheaper and more effective supply but the functions and costs had increased significantly.

Fifth, Ministerial accountability is destroyed because, when illogical economic reasoning and unintended impacts are identified, State and Federal Ministers feel they can pass the buck and say that they cannot do anything about the matter because it was decided by COAG or ARMCANZ or some other Ministerial Council.

Sixth, where there are public benefit or similar tests provided that are intended to provide States with flexibility in action, the National Competition Council or other policy gatekeeper sometimes refuses to accept the State assessments as sufficient to

justify State actions. In some cases the approach adopted is over-zealous and does not accept that on the evidence, the anti-competitive theoretical detriments of the proposed policy can be outweighed by the overall economic and community benefits.

2. Water Reform, Water Rights and Pricing

A particular problem with the current Council of Australian Governments (COAG) water reform program that has been incorporated into the Competition Agreement is that with the gradual removal of production and trading constraints which has taken place over the last decade, all existing water rights, in the multitude of forms that have developed, will not be honoured. A redistribution of rights is increasingly being seen as a necessary step in the establishment of a secure water right regulatory and legislative regime, as required by COAG. In a redistribution of rights there are always winners and losers. The water reform program needs to be accompanied by a compensation mechanism to accommodate justice and equity in the redistribution. At present there is no compensation in the reform agenda or program. This is a major deficiency in the water reform program and is holding back reform.

There is an urgent need for reform to the management and supply of water. This requires devolution of functions to valley level authorities and the opportunity for private sector investment in and management of rural water infrastructure. This would drive cost efficiency and provide opportunity for new approaches. For example, the opportunity for the private sector to offer to manage a wetland so that it can be wetted as part of a managed wetting cycle and then used to deliver water downstream as part of a managed drying cycle. The creation of a market in salinity credits has not happened despite the 1988 Salinity and Drainage Strategy Agreement because States have not devolved down the market in credits.

Water Pricing in NSW is oversighted by the Independent Pricing and Regulatory Tribunal. Over three years of pricing hearings it has determined full economic cost recovery principles. From the outset of the Tribunal's inquiries, the NSW Irrigators' Council supported the principle of all users paying, on a beneficiary pays basis, of the cost of the efficient supply of water. The Council did not support paying more than efficient and necessary costs of supply. The Tribunal also agreed that water pricing needed to be forward looking and that sunk costs were not to be recovered from the current generation of water users. The public sector and the environmental lobby continue to use the various COAG and Ministerial Council forums, such as the ARMCANZ, to attempt to get agreement to principles that would force prices up beyond sensible full economic cost recovery levels.

The Competition Policy, including the COAG Water Reforms, has not been implemented in NSW in accordance with the intent of the Agreements. There has been no introduction of secure water rights nor has there been genuine reform in the storage and supply of water. Instead we have seen the notion of cost recover embraced to push up public sector functions and costs. The result for farmers has been increased prices for water, reduced water allocations and reduced security of supply.

Gary Donovan
Secretary
Received 22-3-99.

Attachment-1

1. The **NSW IRRIGATORS' COUNCIL** comprises:

- Ricegrowers' Association of Australia
- Cotton Australia
- Dairy Farmers Association of NSW
- NSW Farmers Association
- MIA Council of Horticultural Associations
- Southern Riverina Irrigation Districts Council
- Border Rivers Food and Fibre
- Gwydir Water Users Council
- Namoi Valley Water Users Association
- Macquarie River Food and Fibre
- Jemalong Irrigation
- Upper Lachlan Water Users Association
- Hunter Valley Water Users Association
- Murrumbidgee River Management Board
- Murrumbidgee Irrigation
- Coleambally Irrigation
- Murray Valley Water Diverters Association
- Murray Irrigation
- South Western Water Users Association
- Darling River Food and Fibre