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18 November 2002

The Hon Peter Costello MP
Treasurer
Parliament House
Canberra ACT 2600

Dear Treasurer

Completing the 2002 assessment of governments' progress with implementing the National Competition Policy and related reforms: Western Australia and South Australia

In my letter to you of 19 August 2002 on the National Competition Council's recommendations on the allocation of competition payments for 2002-03, I noted that the Council was unable to make a recommendation on competition payments for Western Australia and South Australia at that time. The Council's report for 2002 on progress by governments against the National Competition Policy and related reforms (August 2002) identified various areas in which the two jurisdictions had not met NCP obligations. Specifically:

- Western Australia had not met its obligations in relation to:
 - water quality issues and the adoption of the intergovernmental National Water Quality Management Strategy;
 - the regulation of retail trading hours;
 - liquor licensing arrangements;
 - arrangements relating to egg marketing;
 - supply management and marketing arrangements relating to potatoes;
 - registration requirements for occupational therapists; and
 - taxi and hire car regulation.
- South Australia had not met its obligations in relation to:
 - the regulation of retail trading hours;
 - liquor licensing arrangements;
 - barley marketing arrangements;

- ownership restrictions for dental practices;
- registration requirements for occupational therapists;
- water quality and implementation of the National Water Quality Management Strategy; and
- taxi and hire car regulation.

During the course of the 2002 assessment, the Council had constructive discussions with the two governments and was able to resolve appropriate processes for addressing most of these matters. As I explained in my letter of 19 August, the matters not resolved for the 2002 assessment were:

- the regulation of retail trading, liquor licensing and potato supply management and marketing in Western Australia; and
- the regulation of retail trading in South Australia.

In relation to this, the Council advised all governments that it intends to complete the assessment of all legislation review and reform activity in 2003, following from CoAG's decision that such activity be complete by 30 June 2002. The Council will consider activity that is incomplete or inconsistent with NCP principles at the time of the 2003 assessment to not comply with NCP obligations, with consequent adverse competition payment implications. The Council sees no scope for governments to delay the resolution of outstanding matters beyond the 2003 assessment.

In addition to the legislative matters identified for Western Australia and South Australia in the 2002 assessment, the Council found that some governments were not sufficiently advanced with various water reform obligations. The Council undertook to conduct supplementary assessments for four jurisdictions, noting that a finding of unsatisfactory progress may attract an adverse recommendation for 2002-03 competition payments. The supplementary assessments are for:

- New South Wales relating to water sharing plans (December 2002);
- Queensland relating to the independent review of the science of the Condamine-Balonne system (February 2003);
- Western Australia relating to the implementation of the National Water Quality Management Strategy (December 2002 and March 2003); and
- Tasmania relating to asset valuation and cost recovery by urban water service providers (November 2002).

Developments in South Australia since 19 August 2002

The South Australian Government has commenced transitional reform of its retail trading arrangements with a view to implementing more substantial reform by the time of the 2003 assessment. It introduced the Shop Trading Hours (Miscellaneous) Amendment Bill 2002. The Council accepted that this constituted an appropriate transitional reform initiative.

In late October 2002, the Government advised that a Parliamentary Standing Committee had recommended amendments to the Bill, including that the proposed extension of trading hours on weeknights and Sundays should apply only until 30 June 2003. The Government further advised that it had 'rejected the conditions attached to these amendments as another delaying tactic designed to thwart the Government's attempt to introduce more flexibility into shop trading hours in this State'.

Notwithstanding the inability to progress the reforms through the Parliament, the Council considers that the Bill demonstrated a commitment by the Government to the reform of shop trading hours. This commitment has not been matched by the South Australian Parliament. In this context, the Council considers that the most constructive approach is to deal with this issue as part of its final assessment of legislation review and reform activity in 2003.

The Council recommends that South Australia receive the full quantum of competition payments for 2002-03.

Developments in Western Australia since 19 August

The Premier of Western Australia wrote to the Council in early August advising that the Government appreciated the need for reform in the three outstanding legislation areas. The Premier reported that potato marketing was under review, a Ministerial Task Force would be established to review retail trading hours and liquor licensing regulations would be reviewed over 2002-03.

The Council has continued to engage in discussions with the Western Australian Government on these matters. The Council understands that reform options for potato supply and marketing arrangements that better comply with NCP obligations than the policy directions initially proposed in the review's discussion paper are now being considered. However, while the Government has recognised the need to address restrictions on trading hours and liquor licensing, it has to date shown little inclination to remove legislative restrictions and has not provided convincing public interest evidence that the current restrictions offer a net community benefit.

The Council regards Western Australia's approach to the application of competition principles to trading hours and liquor licensing regulation as unsatisfactory. However, given that the final (2003) assessment of legislation review and reform activity will be completed in about eight months time, and that Western Australia is addressing some of the matters that the Council identified as not complying with competition principles, the Council considers that the best approach is to revisit trading hours and liquor licensing, with a view to their final resolution, in the 2003 assessment rather than to conclude on compliance at this time.

The Council recommends that Western Australia receive the full quantum of competition payments for 2002-03.

Water reform

As I have explained above, the Council will conduct a number of supplementary 2002 assessments of various governments' water reform performance. The

Council has completed the supplementary assessment for Tasmania, finding that the State has satisfactorily addressed asset valuation and cost recovery commitments for 2002. Given this is the final matter relating to the 2002 assessment for Tasmania, the Council recommends no reduction in 2002-03 competition payments for the State.

I will shortly write to you separately on the Tasmanian supplementary assessment, enclosing a copy of the Council's assessment. I shall advise you of the outcomes of the remaining supplementary assessments as these are completed.

Yours sincerely

Graeme Samuel
President