

5 The Conduct Code Agreement obligations

In addition to obligations in the Competition Principles Agreement (CPA), National Competition Policy (NCP) commitments aim to improve the effectiveness of regulation in the Conduct Code Agreement. Clause 2(1) of the Conduct Code Agreement requires all governments to notify the Australian Competition and Consumer Commission (ACCC) of legislation or provisions in legislation that rely on s. 51(1) of the *Trade Practices Act 1974* (the TPA) within 30 days of the legislation being enacted or made.

Section 51(1) of the TPA provides that conduct that would be an offence under the Act's restrictive trade practices provisions may be permitted if authorised under a Commonwealth, State or Territory Act. As such, legislation that is relevant to clause 2(1) of the Conduct Code Agreement is new legislation restricting competition, so it needs to satisfy the tests in clause 5 of the CPA.

Each of the National Competition Council's NCP assessment reports lists the legislation relevant to clause 2(1) that governments enacted since the previous assessment, along with the date of notification to the ACCC. Since 1 July 2002 — the commencement date of the period for the current NCP assessment — several State and Territory governments have enacted legislation relying on s. 51(1) of the TPA.¹

The Conduct Code Agreement also required (under clause 2[3]) governments to notify the ACCC by 20 July 1998 of all continuing legislation that relies on s.51(1) of the TPA.² As part of the 1999 NCP assessment, all governments stated that they had notified the ACCC of all relevant legislation.

¹ For legislation passed between 11 April 1995 (the earliest date stated in the agreement) and 30 June 1999 and notified by jurisdictions, see NCC 1999b, pp. 172-7. For legislation passed between 1 July 1999 and 30 June 2002 and notified by jurisdictions, see NCC 2001, p. 26.2 and NCC 2002, p. 16.2.

² For this list, see NCC 1999b, pp. 172-7.

Legislation notified to the ACCC

In accordance with clause 2(1) of the Conduct Code Agreement, the following governments notified the ACCC of legislation that relies on s. 51(1) of the TPA:

- New South Wales — *Poultry Meat Industry Amendment (Price Determination) Act*, notified on 18 November 2002.
- Western Australia — *Grain Marketing Act 2002*, notified on 22 November 2002.
- Northern Territory — *Consumer and Fair Trading (Tow Truck Operators Code of Practice) Regulations*, notified on 10 April 2003.
- Queensland — *Transport (Busway and Light Rail) Amendment Act 2000*, notified on 20 May 2003.