
AGREEMENT TO IMPLEMENT THE NATIONAL COMPETITION POLICY AND RELATED REFORMS

WHEREAS the Council of Australian Governments at its meeting in Canberra on 11 April 1995 agreed to a program for the implementation of the National Competition Policy and related reforms;

AND WHEREAS the Commonwealth and the States¹ have agreed to financial arrangements in relation to the implementation of the National Competition Policy (NCP) and related reforms;

THE COMMONWEALTH OF AUSTRALIA

THE STATE OF NEW SOUTH WALES

THE STATE OF VICTORIA

THE STATE OF QUEENSLAND

THE STATE OF WESTERN AUSTRALIA

THE STATE OF SOUTH AUSTRALIA

THE STATE OF TASMANIA

THE AUSTRALIAN CAPITAL TERRITORY, AND

THE NORTHERN TERRITORY OF AUSTRALIA agree as follows:

The provision of financial assistance by the Commonwealth is conditional on the States making satisfactory progress with the implementation of NCP and related reforms (as set out below). The Commonwealth's commitment is on the basis that the financial arrangements will need to be reviewed if Australia experiences a major deterioration in its economic circumstances.

The Commonwealth will maintain the real per capita guarantee of the FAGs² pool on a rolling three year basis.

¹ In its meeting on 3 November 2000, the Council of Australian Governments agreed to replace all references in the Agreement to Implement the National Competition Policy and Related Reforms to "States" with "States and Territories".

- This will involve the Commonwealth extending the guarantee to 1997-98 now.
- The per capita element will have an estimated annual cost to the Commonwealth of \$2.4 billion by 2005-06 (see attached table) ³.
- Local government will benefit from the link between the State and Local government FAGs pools.

There will also be three tranches of general purpose payments in the form of a series of Competition Payments.

- The first tranche of Competition Payments will commence in July 1997 and will be made quarterly thereafter.
- The annual payment from 1997-98 under the first tranche will be \$200 million in 1994-95 prices.
- It will be indexed annually to maintain its real value over time.
- Commencement of the first tranche of the Competition Payments and the per capita guarantee is subject to the States meeting the conditions set out below.
- The second and third tranches of the Competition Payments will commence in 1999-2000 and 2001-02. The annual Competition Payments will be \$400 million, in 1994-95 prices, from 1999-2000 and \$600 million, in 1994-95 prices, from 2001-2002. These payments will be indexed in real terms.

The Competition Payments to be made to the States in relation to the implementation of National Competition Policy (NCP) and related reforms will form a pool separate from the FAGs pool and be distributed to the States on a per capita basis. These Competition Payments will be quarantined from assessments by the Commonwealth Grants Commission.

- If a State has not undertaken the required action within the specified time, its share of the per capita component of the FAGs pool and of

² In its meeting on 3 November 2000, the Council of Australian Governments agreed that the references to the per capita Financial Assistance Grants (FAGs) component of the NCP payments be removed.

³ In its meeting on 3 November 2000, the Council of Australian Governments agreed that the payments table attached to the Agreement be deleted.

the Competition Payments pool will be retained by the Commonwealth.

Prior to 1 July 1997, 1 July 1999, and 1 July 2001 the National Competition Council will assess whether the conditions for payments to the States to commence on those dates have been met.

Conditions for Payments to States

The first payments will be made in 1997-98 to each participating State as at the date of the payment and depending upon:

- (i) that State giving effect to the Competition Policy Intergovernmental Agreements and, in particular, meeting the deadlines prescribed therein, in relation to the review of regulations and competitive neutrality;
- (ii) effective implementation of all COAG agreements on: -
 - electricity arrangements through the National Grid Management Council,
 - the national framework for free and fair trade in gas, and
- (iii) effective observance of road transport reforms.

Payments under the second tranche of the Competition Payments will commence in 1999-2000 and be made to each participating State as at the date of the payment and depending upon:

- (i) that State continuing to give effect to the Competition Policy Intergovernmental Agreements including meeting all deadlines;
- (ii) effective implementation of all COAG agreements on: -
 - the establishment of a competitive national electricity market,
 - the national framework for free and fair trade in gas, and
 - the strategic framework for the efficient and sustainable reform of the Australian water industry; and
- (iii) effective observance of road transport reforms.

Payments under the third tranche will commence in 2001-02 and be made to each participating State as at the date of the payment and depending on the State:

- having given full effect to, and continues to observe fully, the Competition Policy Intergovernmental Agreements; and
- having fully implemented, and continues to observe fully, all COAG agreements with regard to electricity, gas, water and road transport.

Full details of the conditions are set out in the attachment.

Agreement to Implement the National Competition Policy and Related Reforms

National Competition Policy Payments (a)

Year	Per Capita (b) State		Per Capita (b) Local Govt (c)		Per Capita (b) Total		Per Capita (b) Total		Competition Payment		State and Local Government Total Payments	
	\$m	\$m	\$m	\$m	\$m	\$m	1994-95 Prices \$m	1994-95 Prices \$m	\$m	1994-95 Prices \$m	\$m	1994-95 Prices \$m
1997-1998	194	14	209	186	219	* 200	428	386				
1998-1999	392	29	420	365	226	200	646	565				
1999-2000	604	44	647	546	465	* 400	1 113	946				
2000-2001	829	60	890	729	479	400	1 369	1 129				
2001-2002	1 070	78	1 148	914	739	* 600	1 888	1 514				
2002-2003	1 327	97	1 423	1 101	761	600	2 184	1 701				
2003-2004	1 600	117	1 716	1 290	783	600	2 499	1 890				
2004-2005	1 890	138	2 028	1 481	806	600	2 833	2 081				
2005-2006	2 198	160	2 359	1 675	829	600	3 188	2 275				
Total	10 104	736	10 840	8 286	5 307	4 200	16 147	12 486				

* indicates year in which each additional payment is made

(a) Estimates.

(b) Population growth is assumed to be about 1.1% from 1997-98 onwards.

(c) Reflecting the existing link between the respective pools.

ATTACHMENT

CONDITIONS OF PAYMENTS TO THE STATES

(a) Per capita Guarantee and First Tranche of the Competition Payments

Payment under the extension of the per capita guarantee and the first tranche will start in 1997-98 to each State and Territory that:

- has signed the Competition Principles Agreement and the Conduct Code Agreement at the COAG meeting in April 1995;
- in accordance with the Conduct Code Agreement, passed the required application legislation so that the Conduct Code applied within that State or Territory jurisdiction by 12 months after the Commonwealth's Competition Policy Reform Bill received the Royal Assent;
- is a fully participating jurisdiction under the Competition Policy Reform Bill and a party to the Competition Principles Agreement at the time at which the payment is made (States and Territories must apply the Conduct Code as a law of the State without making significant modifications to the Code in its application to persons within their legislative competence and must remain a party to both Competition Policy Intergovernmental Agreements);
- is meeting all its obligations under the Competition Principles Agreement, which include, but are not limited to:
 - when undertaking significant business activities or when corporatising their government business enterprises, having imposed on these activities or enterprises full government taxes or tax equivalent systems, debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees and those regulations to which private sector businesses are normally subject on an equivalent basis to the enterprises' private sector competitors,
 - having published a policy statement on competitive neutrality by June 1996 and published the required annual reports on the implementation of the competitive neutrality principles,

- having developed a timetable by June 1996 for the review and, where appropriate, reform of all existing legislation which restricts competition by the year 2000,
- having published by June 1996 a statement specifying the application of the principles in the Competition Principles Agreement to local government activities and functions (this statement to be prepared in consultation with local government); and
- (for relevant jurisdictions) has taken all measures necessary to implement an interim competitive National Electricity Market, as agreed at the July 1991 special Premiers' Conference, and subsequent COAG agreements, from 1 July 1995 or on such other date as agreed by the parties, including signing any necessary Heads of Agreement and agreeing to subscribe to the National Electricity Management Company and National Electricity Code Administrator;
- (for relevant jurisdictions) has implemented any arrangements agreed between the parties as necessary to introduce free and fair trading in gas between and within the States by 1 July 1996 or such other date as agreed between the parties, in keeping with the February 1994 COAG agreement; and
- effective observance of the agreed package of road transport reforms.

(b) Second Tranche of the Competition Payments

Payments under the second tranche will commence in 1999-2000, and be made each year thereafter to the States and Territories that have undertaken the following specified reforms by July 1999 in so far as they apply to them:

- (for relevant jurisdictions) completion of the transition to a fully competitive National Electricity Market by 1 July 1999;
 - (for relevant jurisdictions) full implementation of free and fair trading in gas between and within the States including the phasing out of transitional arrangements in accordance with the schedule to be agreed between the parties;
 - implementation of the strategic framework for the efficient and sustainable reform of the Australian water industry and the future processes as endorsed at the February 1994 COAG meeting and embodied in the Report of the Expert Group on Asset Valuation Methods and Cost-Recovery Definitions, February 1995;
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- continuing to be a fully participating jurisdiction under the Competition Policy Reform Bill and a party to the Competition Principles Agreement at the time at which the payment is made;
- continued effective observance of the agreed package of road transport reforms; and
- meeting all obligations under the Competition Policy Intergovernmental Agreements.

(c) Third Tranche of Competition Payments

Payment under the third tranche will commence in 2001-02 and be made each year thereafter to the States and Territories on the basis of each State's or Territory's progress on the implementation of the following reforms:

- the extent to which each State and Territory has actually complied with the competition policy principles in the Competition Principles Agreement, including the progress made in reviewing, and where appropriate, reforming legislation that restricts competition;
- whether the State and Territory has remained a fully participating jurisdiction as defined in the Competition Policy Reform Bill;
- the setting of national standards in accordance with the Principles and Guidelines for National Standard Setting and Regulatory Action and advice from the Office of Regulation Review on compliance with these principles and guidelines; and
- continued effective observance of reforms in electricity, gas, water and road transport.