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Council of Australian Governments' Communique 19 August 1994

The Council of Australian Governments, comprising the Prime Minister, Premiers and Chief Ministers and the President of the Australian Local Government Association, today held its fourth meeting, in Darwin.

Discussions focussed on competition policy and electricity reform.

The Council agreed to hold its fifth meeting on 23 and 24 February 1995, in Adelaide.

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National Competition Policy

The Council agreed that higher productivity levels were essential to Australia's growth and competitiveness. Competition is a key stimulus to productivity improvement. The Council agreed that an effective national competition and legal framework were crucial to underpin enhanced economic performance.

The Council agreed in general to a package of reforms that comprises:

- the revision of the conduct rules of trade practices legislation and their extension to cover State and local government business enterprises and unincorporated businesses;
- the application by individual jurisdictions of agreed principles on structural reform of public monopolies, competitive neutrality between the public and private

- sector where they compete, and a program of review of regulations restricting competition;
- the establishment in each jurisdiction of a system to carry out surveillance of prices charged by utilities and other corporations with high levels of monopoly power and a regime to provide access to essential facilities such as electricity grids, gas pipelines, airports, rail networks, postal delivery services, communication channels and seaports; the agreed approach will provide for participating State/Territory regimes to be taken as being effective if they meet agreed principles; and
 - the establishment of the Australian Competition Commission and the Australian Competition Council (previously the National Competition Council) to exercise recommendatory powers in relation to access and pricing surveillance issues and advisory powers on matters determined by governments. In relation to its advisory program, the Commonwealth would ensure that there is no duplication of the Competition Council's work by the Industry Commission.

The Council agreed to a number of transitional arrangements. These include two and three year phase-in arrangements for extension of the trade practices law as well as provisions for the States and Territories to continue to provide exemptions, subject to Commonwealth override, for conduct that would otherwise breach the competition laws. In addition, the Council agreed to grandfather contracts entered into by the States and their authorities and by Local Government under the shield of the Crown and by unincorporated enterprises before 19 August 1994, which might otherwise have been in breach of the competition laws. The Council confirmed that State indentures legislated prior to 19 August 1994 which validly effect exceptions from the Trade Practices Act pursuant to S. 51 (1) (b) of that Act, will continue to have that same effect.

The Council agreed to release for public comment:

- amended draft legislation which amends and applies to all persons within State jurisdictions, Part IV of the Trade Practices Act; establishes pricing and access arrangements; and establishes the Australian Competition Commission and the Australian Competition Council;
- the amended draft Intergovernmental Conduct Code Agreement, which includes the procedures for extension of the Trade Practices Act and appointments to the Australian Competition Commission; and
- the draft Intergovernmental Competition Principles Agreement, which includes procedures and principles for

those elements of the national competition policy which do not require a statutory basis and appointments to the Australian Competition Council.

The Council noted its commitment to protect existing property rights and contractual arrangements in the development of the new access regime.

The Council agreed that:

- following the public consultations the Council would finalise the legislative package at the February 1995 meeting with the aim of bringing the new arrangements into effect on 1 July 1995; and
- all Governments should share the benefits to economic growth and revenue from Hilmer and related reforms to which they have contributed. An assessment of such benefits would be made by the Industry Commission on a brief provided by Heads of Treasury. This would be used to assist the Council in determining at its February 1995 meeting the increase in the Commonwealth revenue which might be expected from these reforms and the appropriate percentage share which would accrue to the States, Territories and Local Government.

The Council agreed that the Australian Local Government Association would participate in the further consultations on competition policy that are now to occur and in the preparation of the advice to the Council flowing from these consultations.

The Council also agreed that the Working Group on Micro-Economic Reform would report to its February 1995 meeting on the treatment of international liner shipping conferences under the national competition law.

Electricity

Relevant Heads of Government noted the progress that had been made since the Council's February 1994 meeting, and agreed to the need for further work to fulfil their commitment to have the necessary changes in place to allow the implementation of a competitive electricity market from 1 July 1995. [The Council's detailed decisions in relation to the electricity supply industry are attached.](#)

Attachments

- Attachment A - Report on Electricity Reform - [HTML](#)

Last Updated: 12 December, 2005

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