



NORTHERN TERRITORY OF AUSTRALIA

Annual Report
on the
Implementation of
National Competition Policy
2004

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Introduction

In April 1995 all State and Territory Governments, with the Commonwealth, signed three intergovernmental agreements which together form National Competition Policy (NCP):

- the Competition Principles Agreement;
- the Conduct Code Agreement; and
- the Agreement to Implement the National Competition Policy and Related Reforms

Under Clause 3 (10) and 5 (10) of the Competition Principles Agreement (CPA) all parties to the agreement are required to report annually on progress towards fulfilling the competitive neutrality and legislative review requirements of the Agreement.

Northern Territory Annual Report 2004

This Annual Report provides information relevant to each area identified in the National Competition Council's *Assessment of governments' progress in Implementing the National Competition Policy and Related Reforms* August 2003 and the 2004 assessment framework.

Review and reform information for various pieces of legislation has been provided directly to the Council throughout the year.

Chapter 1 – Electricity and Gas

Petroleum Act

Eight of the recommendations (recommendations 3, 4, 5, 10, 11, 12, 13 & 14) have been included in the *Petroleum Amendment Act 2003*.

The few remaining outstanding recommendations have been drafted into a new Bill for introduction during the May 2004 sittings of Legislative Assembly (these recommendations are 1 and 2, 6, 7, 8 and 9).

Petroleum (Submerged Lands) Act

The States and the Northern Territory mirror the *Commonwealth Petroleum (Submerged Lands) Act* in local legislation under the terms of an Inter-Government Agreement.

The Commonwealth recently passed major amendment to the *Commonwealth Petroleum (Submerged Lands) Act* to provide for the establishment of the National Offshore Petroleum Safety Authority (NOPSA) to which all mainland coastal states and the Northern Territory are a party.

NOPSA will commence operations on 1 January 2005, replacing the existing joint safety authority arrangements. All participating jurisdictions are at present in the process of drafting similar amendments to their legislation.

Because all jurisdictions are a party to the Petroleum (Submerged Lands) legislation, the competition review was conducted nationally. Given the nature of the legislative arrangement, it required the Commonwealth to act first in respect of implementation of the competition recommendations.

This has now occurred and it is the responsibility of each jurisdiction to make similar mirror amendments.

However, the NOPSA amendments have taken priority and in addition, the Commonwealth has initiated a major re-write of the *Petroleum (Submerged Lands) Act* that will ultimately impact on states and territories that mirror the Commonwealth Act. The re-write is presently proceeding with an anticipated conclusion late in 2004 or early 2005 (passage during 2005/6 and commencement in 2007).

Northern Territory position

In the Northern Territory, Cabinet approval is at presently being sought to draft the NOPSA amendments to the *Petroleum (Submerged Lands) Act* (NT). This is a high priority task due to the deadline for national commencement of NOPSA on 1 January 2005.

No action has yet been taken to mirror the Commonwealth *Petroleum (Submerged Lands) Act* competition amendments passed over 12 months ago by the Federal Parliament.

The immediate priority is the drafting of the Northern Territory NOPSAs amendments.

Due to the major re-write currently being undertaken by the Commonwealth of the *Petroleum (Submerged Lands) Act*, it could prove that implementation of any NCP amendments to the Northern Territory Act (given the time needed for drafting and the subsequent legislative process) be overtaken by events.

When a newly re-drafted Commonwealth Bill is completed and passed by the Federal Parliament, it will require all participating jurisdictions to mirror in local legislation.

The new Act will be subjected to the competition impact assessment process prior to commencement.

Power and Water Authority Act

The *Power and Water Authority Act* was replaced by the *Power and Water Corporation Act* (PAWC Act) from 1 July 2002. Section 19 of the PAWC Act provides an exemption from paying local government rates. This section has not yet been repealed as the Corporation will need to continue to pay local government rate equivalents through the Territory's Tax Equivalent Regime until complexities regarding the existing local government funding arrangements are resolved. However, the PowerWater Corporation satisfies competitive neutrality requirements as it has been paying local government rate equivalents since 1 July 2001.

Chapter 2 – Primary Industries

Agricultural and Veterinary Chemicals (Northern Territory) Act

NT Bill incorporating nationally agreed changes (including National Competition Policy reforms) was drafted and circulated for public comment during 2003. The Agricultural and Veterinary Chemicals (Control of Use) Bill 2004 was introduced during the March 2004 sittings of Legislative Assembly and was passed on 18 May 2004. A copy of the Bill can be located on the internet at <http://www.nt.gov.au/dcm/cabinet/register.shtml>

Food Act 1986

The Food Bill 2003 was introduced in the November 2003 Legislative Assembly sittings. It was debated and passed on 19 February 2004 and is expected to commence operation on 1 July 2004. Copies of the Bill and second reading speech have previously been provided to the National Competition Council.

Veterinarians Act 1994

The Veterinarians Act has been amended to increase the non-veterinarian representation on the Veterinarian's Board and to allow a non-veterinarian to become president. All of the NCP review recommendations have now been implemented. No further action is required.

Fisheries Act 1996

The review of the *Fisheries Act 1996* and Regulations has been finalised. The review report and summary of the Government's response to the recommendations has previously been forwarded to the NCC.

An amending bill to incorporate those review recommendations requiring a legislative response, the Fisheries Amendment Bill, was introduced during the March 2004 sittings and was passed on 18 May 2004. A copy of the Bill can be located on the internet at <http://www.nt.gov.au/dcm/cabinet/register.shtml>

Other non legislative responses to the review recommendations are in the process of being developed by the Fisheries Division of the Department of Business, Industry and Resource Development. It is anticipated that these will be reported to the Government during June 2004.

Mining Act 1980

The review of the *Mining Act* has been finalised. The review report and summary of the Government's response to the recommendations has previously been forwarded to the NCC.

An amending Bill was introduced into the November 2003 sittings incorporating those review recommendations that require a legislative response. The Bill was debated and passed during the February 2004 sittings.

Other review recommendations that require further action are in the process of being dealt with at present. The outcomes are currently under consideration by the Government.

Chapter 3 - Transport

Commercial Passenger (Road) Transport Act (taxis)

Amendments to the *Commercial Passenger (Road) Transport Act* took effect from 1 August 2003. Private hire cars (PHCs) now pay a \$6,000 annual fee (in place of the once-off \$10,000 entitlement fee and \$1,000 annual fee). The new fee structure is in recognition of the more limited access private hire cars have to the market but also puts the fees paid by them and taxis on a more equitable basis (level playing field).

There are no limits on the number of PHCs permitted to operate.

The cap on taxi numbers has been replaced by a 1 per 900 head of population ratio in Alice Springs and Darwin (administered by the Commercial Passenger Vehicle Board), the ratio is to be reviewed in 2004. The ratio does not apply in Katherine, Tennant Creek and Nhulunbuy where there are no restrictions on the number of taxi licenses available.

The ratio is Government policy, it is not set down in the Act.

A full report can be located at Appendix A.

Chapter 4 – Health and pharmaceutical services

Dental Act; Health Practitioners and Allied Professionals Registration Act; Medical Act; Nursing Act; Optometrists Act

The Health Practitioners Bill was introduced in the November 2003 Legislative Assembly sittings. The Bill was debated and passed on 1 April 2004. Upon commencement this Act will repeal the *Dental Act, Health Practitioners and Allied Professionals Registration Act, Medical Act, Nursing Act* and *Optometrists Act*.

Occupational Therapists

The retention of the registration of Occupational Therapists is included in the Health Practitioners Registration Bill.

The Council has found that the reservation of the title ‘occupational therapist’ potentially restricts competition between occupational therapists and other practitioners who provide similar services. Recommendation 9 of the Professional Boards Review recommended the retention of Occupational Therapists as a regulated profession. In 2000, the Centre of International Economics reviewed the *Health Practitioners and Allied Registration Act* as part of the NCP legislation review. This review recommended retaining title protection arguing that the title protection has the potential to reduce risks and costs to the Government from service users choosing inappropriately qualified health care providers. This is in conflict with the Council’s assessment.

The Public Interest case for retaining Occupational Therapists as a regulated profession in the Northern Territory is summarised as follows:

- a) Consumers of Occupational Therapy services are often vulnerable or “socially disadvantaged” due to the nature of their illness or disability. Occupational Therapists often work without supervision and in remote areas. Without registration, consumers have no assistance in assessing the competence of an individual holding themselves out to be an Occupational Therapist, thereby potentially exposing them to harm. The contingent liability on the community in cases where treatment is not of an appropriate standard outweigh the cost of professional regulation;
- b) The risk of harm from an incompetent Occupational Therapist falls into three main categories: physical harm (burns, choking, soft tissue damage); emotional harm (exacerbating mental health problems) and the risk of physical, emotional, sexual and financial exploitation. Registration facilitates consumers in choosing a provider and assists in balancing the information asymmetry between consumers and providers; and
- c) The registration of Occupational Therapists has not prevented the development of other service providers such as rehabilitation coordinators/counsellors, developmental educators and diversion

therapists. Nor has the registration of occupational therapists restricted the role of other workers such as handicraft instructors, activity supervisors and paramedical aides and as such should not be viewed as anti-competitive.

The Territory also took the following points into consideration.

- a) The Occupational Therapist Board of the Northern Territory is opposed to deregulation of Occupational Therapists and conducted a successful campaign for the retention of regulation of the profession during the process of Mutual Recognition/Regulatory Reform in 1992.
- b) In April 2002, the Council of Occupational Therapists Registration Boards (Australia and New Zealand) Inc (COTRB) wrote to the National Competition Council and the Health Ministers of New South Wales, Tasmania, Victoria and the Australian Capital Territory advising that it does not support the Council's view, rather it supports national registration for Occupational Therapists in all States and Territories.
- c) COTRB also indicated that the Prime Minister had indicated in principle support for registration of Occupational Therapists.

The decision to retain the registration of Occupational Therapists is a considered one taken to meet the best interests of Territory residents. In addition;

- the Council has acknowledged that the anti-competitive impact of the decision is insignificant; and
- there are strong public interests arguments that are recognised as important in three other Australian jurisdictions despite their dismissal by the Council.

The Northern Territory submits that the public interest arguments in retaining registration of occupational therapists are significant in the Territory context.

Radiographers Act

The Radiation Protection Bill was introduced in the February 2004 Legislative Assembly sittings. The Bill was debated and passed in the March 2004 sittings and will commence on or before 1 January 2005. This period will allow appropriate regulations to be drafted prior to commencement. Upon commencement this Bill will repeal the *Radiographers Act* and transfer the registration and licensing powers of persons using a radiation source to the Chief Health Officer. A copy of the Bill can be located on the internet at <http://www.nt.gov.au/dcm/cabinet/register.shtml>

Pharmacy Act

The Health Practitioners Bill was introduced in the November 2003 Legislative Assembly sittings and passed in the March 2004 sittings. The Bill contains pharmacy ownership restrictions but allows the Minister to grant exemptions to this restriction.

The National Review of Pharmacy Regulation (the Wilkinson Review) found that the pharmacist-only ownership provisions provide a net public benefit in those jurisdictions where they currently exist.

These findings were supported by the Prime Minister in a press release dated 2 August 2002.

The Northern Territory supports this position. As the only jurisdiction without existing restraints on pharmacy ownership, it is proposed that the legislation will impose some restrictions on pharmacy ownership.

However, blanket ownership of pharmacies by pharmacists is not the preferred model for the Northern Territory. Therefore, the proposed restriction will be tempered by a Ministerial discretion to grant exemptions where it is in the public interest to do so.

The introduction of the proposed legislative regime is in the public interest for the following reasons:

- Any net benefit arising from increased competition in this area would not offset the costs of establishing offences to ensure that non-pharmacist owned pharmacies maintain professional standards;
- The imposition of pharmacy ownership restrictions coupled with a discretionary power to grant exemptions where it is in the public interest will facilitate the development of a community capacity (through entities such as Aboriginal Health Boards and Friendly Societies) in terms of health service delivery.

The public interest arguments in favour of pharmacy ownership restrictions, supported by the findings of the Wilkinson Report and the views of the Prime Minister on the matter, provide ample justification for the proposed legislative reform.

Any potential adverse impacts on competition will be minimised by the Northern Territory Government establishing a transparent and consistent process for making decisions on exemption applications and basing decisions solely on public interest principles.

The Prime Minister and his Health Minister, Mr Abbott, are on the public record as supporting the current model of community pharmacy over corporate and supermarket ownership. All State Governments agree pharmacist ownership of pharmacies is in the public interest.

The Health Practitioner's Bill is due to commence operation on or about 14 May 2004. The provisions of the legislation concerning pharmacist owned pharmacies will be commenced independently to the rest of the legislation. The Northern Territory is not intending to commence these provisions until such time that the National Competition Council determines that the Northern

Territory will not be penalised for provisions that are determined to be in the public interest and beneficial for the Territory.

Poisons and Dangerous Drugs Act; Therapeutic Goods and Cosmetics Act

A national review. The review has been conducted and a national working group was established to prepare a response to the review. Agreement has been sought to submit the final report of the Review and the response through the Prime Minister to COAG for consideration and this is expected to occur out-of-session in mid 2004. The Northern Territory is waiting for COAG's final consideration of the Review and response before major legislative reform to this Act is commenced.

It is proposed that therapeutic goods control provisions to complement the Commonwealth legislation will be included in the new poisons legislation. The *Therapeutic Goods and Cosmetics Act* will be repealed upon commencement of the new legislation.

Amendment of the *Poisons and Dangerous Drugs Act* and the *Therapeutic Goods and Cosmetics Act* is included in the Department of Health and Community Services' legislative program for 2004 for commencement of the new legislation on or about 1 July 2005.

Chapter 5 – Legal and other professions and occupations

Legal Practitioners Act

The Report has been finalised and the Northern Territory Government has made various decisions that have been advised to the National Competition Council. However, implementation is now to be folded into the national model legal profession Bill that is being developed under the auspices of the Standing Committee of Attorneys General (SCAG).

Consumer Affairs and Fair Trading Act (NT Regulations) and amendment Act 1996 (travel agents)

The Northern Territory has not implemented most of the provisions that have been identified in the national NCP review as anti-competitive (e.g. relating to the travel compensation fund). However, the Government has formed an Advisory Committee which is expected to release an issues paper during May 2004. The question to be addressed is that of whether the Northern Territory Government needs to enact new legislation providing for compensation to clients of licensed travel agents. Any restrictions on competition introduced as a result of new legislation will be subject to the Northern Territory's Competition Impact Analysis process.

Chapter 6 – Finance, insurance and superannuation services

Territory Insurance Office Act

As reported in the 2003 assessment, the review of the *Territory Insurance Office Act* was undertaken by the Northern Territory Treasury and the Territory Insurance Office (TIO) in 1999. Necessary amendments to remove two of the three potential restrictions identified in the Act were passed by the Legislative Assembly in November 2000. The remaining restriction relates to the issue of the government guarantee on TIO's deposits and contracts of insurance, which is currently being considered as part of a general review of the Territory's corporate governance and prudential supervision arrangements for TIO. This review is expected to be completed in the latter half of 2004.

Motor Accidents (Compensation) Act

In November 2000, Taylor Fry Consulting Actuaries and Professor Stephen King completed a review of the Territory's compulsory third party motor accident compensation scheme (MACA). The review encompassed the *Motor Accidents (Compensation) Act* and Part V and Section 137B of the *Motor Vehicles Act* and was conducted in accordance with standard terms of reference for National Competition Policy legislation reviews. The review was also conducted under oversight by a steering committee comprised of Northern Territory Treasury, the former Attorney-General's Department and the Department of Transport and Works. The review concluded that the legislation satisfied NCP requirements, but made two recommendations for the Government to consider. The recommendations include:

1. the statement of objectives in the Motor Accidents (Compensation) Act be expanded to clearly state the objectives of the scheme; and
2. specific references to TIO as administrator of the scheme be replaced with a neutral term to allow for possible future franchising of the scheme, should Government consider this beneficial.

It was determined that these recommendations would be considered as part of a wider review of appropriate corporate governance and prudential supervision arrangements for TIO. A copy of the review (and Government's response to it) was sent to the Council on 18 June 2002.

A general review of options for the future ownership and management of the MACA scheme is currently being conducted by Treasury and TIO (with support from Trowbridge Consulting). Substantive recommendations are likely to be put to Government in late 2004. Treasury will provide the Council with details of the outcome of the review once it is finalised.

Chapter 7 – Retail trading arrangements

Liquor Act

NCP related legislative amendments via the *Liquor Amendment Bill (No.4) 2003* were passed in the February 2004 sittings of the Legislative Assembly.

The outstanding issues identified in the NCP review are the Sunday takeaway trading issue and an issue regarding enabling objections to the Restricted Area provisions. These are being considered further as part of the Alcohol Framework project.

The interim report of the Alcohol Framework was released on 25 February 2004 and identifies a range of options (pp 216-223) to be considered in addressing the Sunday takeaway trading issue.

The *Liquor Act* establishes the regulatory regime for the sale of alcohol in the Northern Territory. The National Competition Council (NCC) considers that the *Liquor Act* fails to meet National Competition Policy (NCP) public benefit criteria because:

- it contains a “needs and wishes test”, which means that a liquor licence application can be rejected if existing liquor outlets are assessed as being able to meet consumer demand (thereby imposing an undue barrier to market entry); and
- it imposes restrictions on Sunday takeaway trading, which discriminates between types of liquor outlet.

The Council’s 2003 assessment recommended a 5% permanent deduction in the Territory’s 2003-04 competition payments for failing to meet liquor regulation review and reform commitments prior to 30 June 2003. The reduction is to apply regardless of any remedial action taken. If satisfactory reform progress is not demonstrated at the 2004 Assessment, the penalty could be re-applied.

Subsequent to the release of the NCC 2003 Assessment, the findings of the NCP *Liquor Act* review were considered by Government on 29 September 2003. Of the review report’s 29 recommendations, (17 of which require legislative amendment) 27 were endorsed by Government. The two remaining recommendations involve:

- The inclusion of clear objectives in the Act with harm minimisation being the primary objective. The Government preferred alternate (but consistent) wording to that proposed in the review report.
- The removal of the discriminatory restriction on takeaway trading, which currently only allows hotels to sell takeaway liquor on Sundays. The NCP

Review Report concluded that there were three available options to address the current anti-competitive restriction:

- (i) Revise trading hours in a uniform way under which all takeaway liquor licensees may operate;
- (ii) Introduce a roster system for the sale of takeaway liquor on Sundays; and
- (iii) Introduce a complete prohibition on Sunday trading in liquor.

The Review recommends option (i) as being the favoured option, with an overall reduction in trading hours for takeaway sales of liquor on Sundays. Government has previously identified this issue and specifically requested that it be considered amongst a range of matters associated with the development of a comprehensive Alcohol Framework, aimed at dealing with alcohol-related anti-social behaviour.

Amongst the recommendations accepted by Government is the replacement of the “needs and wishes” test with a “public interest” test. This change effectively removes competition with surrounding outlets as a factor preventing the granting of new licences. Furthermore, the licensing criteria will focus on public amenity/harm minimisation issues. The NCC has previously commented that liquor licensing tests that focus on harm minimisation, with no references to outlet density and competition, meet public benefit criteria and therefore this review outcome is considered to be consistent with the Territory’s commitments.

With regards to the deferral of the Sunday trading recommendation, the availability of takeaway liquor in the Northern Territory is considered to be a major contributor to relatively high levels of itinerancy, anti-social behaviour, property crime and domestic violence. Given these adverse social implications, the Sunday takeaway trading issue is to be further considered as part of the development of a comprehensive alcohol management framework. The Alcohol Framework project is expected to consider the availability of takeaway sales at all times (not just Sundays). An Alcohol Framework Project Team has been established and an interim report to Government was tabled on 25 February 2004 and a final report is due by May 2004. It is considered premature to act on the Sunday takeaway trading recommendation until this work is complete.

The Government endorsed a timetable for implementation of the accepted *Liquor Act* review recommendations is as follows:

10 October 2003	NCP Review report, together with Cabinet’s approved implementation plan, to be released to the NCC.
Oct-Nov 2003	Amendments to implement approved review recommendations drafted.
Mid November 2003	Cabinet to consider draft amendments to liquor legislation.

Nov 2003 sittings	Bill to implement approved NCP changes introduced in the Legislative Assembly.
Feb 2004 sittings	Debate and passage of Bill.

This timetable has been met. Consequently, the Territory has implemented 27 of the 29 recommendations of the *Liquor Act* review, with the remaining issue of Sunday takeaway trading deferred pending the development of the Alcohol Framework in 2004. A further matter to enable objections to the Restricted Area provisions has also been deferred for further community consultation as part of the Alcohol Framework project.

The Territory contends that it has demonstrated a substantial commitment to reform, particularly against the context of the considerable and complex social issues surrounding alcohol consumption in the Northern Territory. As such, the Territory submits that the permanent deduction for failure to meet liquor regulation reform commitments, prior to the 30 June 2003 deadline, should be converted to a temporary suspension, with payments re-instated on satisfactory completion of reform commitments.

Chapter 8 – Social regulation: education, child care and gambling

Education Act

Section 73A of the *Education Act* has been reviewed to determine if any changes were required to reflect the protocols endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). The review identified areas where amendments to the *Education Act* should be made.

In September 2003, the Government approved the drafting of a Bill to amend, as necessary, the *Education Act* to incorporate the Protocols. The amending legislation was introduced during the March 2004 sittings of the Legislative Assembly in preparation for passage and commencement in June 2004. Copies of the Bill and second reading speech can be located on the internet at <http://www.nt.gov.au/dcm/cabinet/register.shtml>

Community Welfare Act

Reform of the entire *Community Welfare Act* – including provisions relating to child care centres has commenced and will occur in a one stage approach – not two stages as previously indicated. Significant work towards reform of this Act has already been completed including release of a discussion paper. It is anticipated that the appropriate Bill will be introduced in the February 2005 sittings of the Legislative Assembly.

Racing and Betting Legislation

The Territory's racing and betting legislation (*Racing and Betting Act* and *Unlawful Betting Act*) was included in the National Competition Council's suspension pool for failure to complete review and reform commitments prior to the 30 June 2003 deadline. Subsequently, a review of the racing and betting legislation has been completed and was considered by Government on 29 September 2003.

Details of the review, including copies of the review reports and the outcomes of Government deliberations, were reported to the Council in October 2003.

The NCP-related legislative changes for the key recommendations of the review of the racing and betting legislation were introduced into the February 2004 sittings of the Legislative Assembly and were passed on 30 March 2004. Some recommendations from the review require further consideration.

Some of the review's recommendations propose further legislative change, but have been deferred because they form part of a broader change to gambling legislation as a whole. Specifically, the deferred aspects relate to:

- (i) broader recommendations to develop a new legislative framework based on two principle sets of legislation, the one covering the licensing and operations of the industry itself and the other covering the gambling and wagering control aspects; and
- (ii) possible changes to the regulatory administration itself.

Both of these recommendations require further research before further legislative amendment can be contemplated. Importantly these recommendations relate to improving the layout of the Territory's gambling legislation and do not relate to anti-competitive restrictions. Consequently, there should not be NCP concerns with the deferral of these recommendations.

The outstanding recommendations do not directly relate to the restrictive provisions of the legislation. Therefore, the Territory considers that it has met its outstanding NCP commitments with regards to racing and betting legislation.

Gaming legislation

The Territory's gaming legislation (*Gaming Control Act, Gaming Machine Act and Soccer Pools Act*) was included in the National Competition Council's suspension pool for failure to complete review and reform commitments prior to the 30 June 2003 deadline. Subsequently, a review of the gaming legislation has been completed and was considered by Government on 29 September 2003. Details of the review, including copies of the review reports and the outcomes of Government deliberations, were reported to the Council in October 2003.

NCP-related legislative changes for gaming are due for introduction in to the Legislative Assembly in May 2004.

Totalisator Licensing and Regulation Act; Sale of NT TAB Act

Review completed and considered by Government in February 2002. Negotiations with QTAB, necessary to implement the findings of the review are currently underway. Negotiations are being delayed/complicated pending the proposed UniTAB/TAB merger.

Once negotiations are finalised, the Review Report and details of reforms undertaken in response to the review findings, will be provided to the Council.

Chapter 9 – Planning, construction and development services

Architects Act

The Architects Act Amendment Bill was passed by the Legislative Assembly on 27 November 2003. Copies of the Act and second reading speech have been previously forwarded to the National Competition Council.

Chapter 10 – Competitive neutrality

Competitive neutrality implementation

There have been no developments in the coverage of the application of competitive neutrality principles.

Competitive neutrality complaints

The Northern Territory Treasury received one complaint regarding breaches of competitive neutrality principles during 2003. The complaint was lodged in May 2003 and involved the procurement of data services. However, the complaint was subsequently withdrawn in September 2003. There are no outstanding complaints to be resolved from calendar year 2003 (or to March 2004).

Chapter 11 – Outstanding Non-Priority Legislation

Aerodromes Act

The review recommended that the Act be repealed. The Government endorsed the review recommendation in March 2002. The Act was repealed on 1 February 2003.

Public Health Act

It is expected that the Public and Environmental Health Bill will be introduced in the May 2004 sittings of the Legislative Assembly and passed in the August 2004 sittings. Upon commencement this Bill will repeal the *Public Health Act*.

Public Health (Shops, Eating Houses, Boarding Houses, Hotels and Hostels) Regulations

Upon commencement of the *Food Act 2003* Part III of these Regulations will be repealed and the premises previously registered under Part III will be registered under the Food Act 2003. The remainder of the Regulations will be reviewed in conjunction with finalisation of the Public and Environmental Health Bill.

Radiation (Safety control) Act; Radiation Safety Control Regulations

On 17 December 2002, the Government:

- Approved drafting of a Radiation Protection Bill to replace the Radiation (Safety Control) Act;
- Directed that the Radiation Protection Bill be consistent with the recommendations of the NCP review of Radiation Protection Legislation conducted by the Australian Radiation Protection and Nuclear Safety Agency; and
- Endorsed the implementation plan already endorsed by the Australian Health Ministers Conference out-of-session, for meeting NCP commitments in respect of the Radiation (Safety Control) Act.

The Radiation Protection Bill was introduced in the February 2004 Legislative Assembly sittings and was debated and passed in the March 2004 sittings. A copy of the Bill can be located on the internet at <http://www.nt.gov.au/dcm/cabinet/register.shtml>

Upon commencement this Bill will repeal the *Radiation (Safety Control) Act* and the *Radiographers Act*.

Companies (Trustees and Personal Representatives) Act

This is a matter being considered by the Commonwealth and the Standing Committee of Attorneys General. The issue is whether the Commonwealth should take over the prudential regulation of trustee/executor companies. The NT has

completed an NCP review but this has not been referred to the Government because of the outstanding issues at a national level.

Consumer Credit (Northern Territory) Act

The remaining amendments to the Code arising from the NCP review are being drafted by Queensland and will be introduced during 2004. Once passed by Queensland, they will automatically apply in all jurisdictions.

Trade Measurement Act

This is a national review. The review process is yet to be completed.

Chapter 12 – New Legislation and Gatekeeping

The Competition Principles Agreement 5(5) obliges governments to ensure proposals for new legislation (including subordinate legislation) that have the potential to restrict competition are accompanied by evidence to show that the legislation provides a net benefit to the community and that the restriction is necessary to achieve the objectives of the legislation. This obligation has been ongoing since the signing of the National Competition Policy Agreements in 1995.

New requirements for a formal regulatory impact assessment of all proposed legislation, including all new and amended primary legislation and subordinate legislation, that contain restrictions on competition were introduced by the Northern Territory Government in August 2003.

The Northern Territory now requires a comprehensive impact assessment for all legislation proposals that may restrict competition and/or confer a significant cost on business. In these cases, a Competition Impact Analysis (CIA) is prepared to analyse the likely impact of new legislation in terms of risks, costs and benefits. A CIA also includes an assessment of alternatives to formal regulation.

Competition Impact Analysis Principles and Guidelines have been prepared to assist Northern Territory Government agencies in the preparation of a Competition Impact Analysis. An implementation plan has been developed including monitoring and evaluation of the process.

A Competition Impact Analysis Committee has been established and is chaired by a representative from the Department of the Chief Minister. Membership of the Committee is comprised of representatives from the Department of Justice and Northern Territory Treasury. The Department of Business, Industry and Resource Development is represented on the Committee when it is examining draft Regulations.

Coordination of the Competition Impact Analysis function is currently located in the Department of the Chief Minister. Officers from the Department advise agencies on how and when to conduct a Competition Impact Analysis. The Competition Impact Analysis Committee examines each Competition Impact Analysis and advises the agency and Cabinet on whether the process has been followed adequately.

All Cabinet Submissions seeking approval to draft new or amended legislation are monitored to ensure that agencies have adhered to the gatekeeping requirements i.e. a statement is attached, signed by the CIA Committee, advising that the Competition Impact Analysis process has been adequately completed.

If the proposed legislation does not restrict competition in any way the agency is provided with a statement, signed by the Chair of the CIA Committee, advising that an exemption from the CIA process has been granted. This is also attached to the Cabinet submission.

Below are details of all proposed new and amending legislation considered by the Competition Impact Analysis process since its introduction in August 2003. It should

be noted that legislation that is developed in order to implement previously approved National Competition Policy Review recommendations is automatically exempted from the CIA process.

Competition Impact Analysis adequately completed:

- *Amended Regulations to the Rail Safety Act 1998*
- *Amendments to Schedule 2 of the Weapons Control Regulations (Commercial Slingshots)*
- *Teacher Registration (Northern Territory) Act*

Exemption from Competition Impact Analysis process issued:

- *Agricultural and Veterinary Chemicals (Control of Use) Bill 2004*
- *Amendment of Electricity Reform (Administration) Regulations*
- *Amendment to the Consumer Affairs and Fair Trading Act (Tow Truck Operators Code of Practice)*
- *Amendment to Regulation 69, Schedule 7 of the Work Health Act Regulations*
- *Amendment to Regulations under the Planning Act*
- *Amendment to Schedule 1 of the Animal Welfare Regulations*
- *Amendment to the Evidence Regulations*
- *Amendment to Trans Tasman Mutual Recognition Regulations*
- *Amendments to Community Welfare Regulations*
- *Amendments to Local Government (Accounting) Regulations*
- *Amendments to Motor Vehicle Dealer Regulations under the Consumer Affairs and Fair Trading Act*
- *Amendments to Police Administration (Fees) Regulations*
- *Amendments to Regulations under the Building Act*
- *Amendments to the Jabiru Town Development (Accounting) Regulations*
- *Amendments to the Northern Territory Traffic Regulations*
- *Animal Welfare Amendment Bill 2003*
- *Associations Regulations*
- *Bushfires Amendment Bill 2003*
- *Business Tenancies (Fair Dealings) Regulations*
- *Coroners Amendment Bill 2004*
- *Dangerous Goods (Road and Rail Transport) Regulations*
- *Electoral Bill 2003*
- *Electoral Regulations*
- *First Home Owner Grant Amendment Bill 2004*
- *Fisheries Regulation 46A (Amateur Possession Limit - Tropical Rock Lobster)*
- *Fisheries Regulation Part 2, Section 4 (Amateur Drag Net Dimensions)*
- *Legal Practitioner Amendment Regulations*
- *Legal Practitioner Amendment Regulations (Costs and Advertising)*
- *Magistrates Amendment Bill 2004*
- *Northern Territory Aboriginal Sacred Sites Regulations*
- *Northern Territory Treasury Corporation Inscribed Stock Regulations*
- *NT Employment, Education and Training Act - Model Clauses for National Accreditation*

- *Parks and Wildlife Amendment Bill 2004*
- *Regulations 3B, 3C and 3D of the Territory Parks and Wildlife Conservation Act*
- *Remuneration Tribunal Amendment Bill 2004*
- *Stamp Duty Amendment Bill 2004*
- *Stock Diseases Amendment Bill 2003*
- *Stock Diseases Regulations*
- *Swimming Pool Safety Act and Regulations*
- *Swimming Pool Safety Regulations*

Chapter 13 – Trade Practices Act

Under the Conduct Code Agreement, the Commonwealth, States and Territories have an on-going obligation to report legislation reliant on section 51(1) of the Trade Practices Act to the ACCC. Clause 2(1) of the Conduct Code obliges Governments to send written notice to the ACCC of legislation that relies on section 51(1) when the legislation has been enacted or made.

The Consumer Affairs and Fair Trading Amendment Bill was passed on 30 March 2004. It contains a section 51 clause. Notification will be provided to the ACCC within the appropriate timeframe.

**NORTHERN TERRITORY
COMMERCIAL PASSENGER VEHICLES REGULATION
AND
NATIONAL COMPETITION POLICY**

UPDATED TO MARCH 2004

Executive Summary

The National Competition Council recommended a financial penalty be imposed on the Northern Territory because the Territory has not complied with its obligations under clause 5 of the Competition Principals Agreement (CPA). The National Competition Council (NCC) drew particular attention to the re-introduction of restrictions on entry to the taxi sector and the imposition of an annual licence fee for private hire vehicles in the Commercial Passenger (Road) Transport Act (CPRTA).

The Northern Territory considers the NCC's recommendation to be unjustified and also considers that the financial penalty should be removed. The reasons for this are:

- **Minibuses and private hire vehicles were made more competitive in 2003 amendments:** While the 2003 amendments to the CPRTA introduced a method of regulating the issue of new taxi licences; at the same time the Northern Territory increased the competitiveness of minibuses by easing the restrictions on their operation and also lowered the barrier to entry for private hire vehicles (see page 6 for more information).
- **Taxi fares lower because of taxi licence buyback:** The Northern Territory bought back the privately owned taxi licences on issue at the end of 1998. Had this not occurred, taxi licence values would now cost approximately \$30,000 per annum in Darwin, \$5,000 more than they did in 1999 and \$15,000 per annum more than the current taxi licence fees (see page 12 for more information). Alice Springs licences would now cost approximately \$24,000, \$5,300 more than they did in 1999 and around \$11,000 more than the current taxi licence fees.

The reduction in lease/licensing costs represent savings of up to 10% of the current cost of operating a taxi and, if the buyback had not occurred, would almost certainly have led to pressure for increased taxi tariffs.

- **Current licence fees recovering cost of buyback:** The cost of the buyback of taxi licence plates in 1999 is being recovered through the current taxi licence fee and the NCC has accepted the need for this to occur. The NCC is critical of the licence fee set in 2003 for private hire vehicles but this has been set at a level to maintain consistency and a level playing field with taxi licence fees (see page 15 for more information).

- **Increased number of commercial passenger vehicles:** Consideration of the 1:900 ratio and the number of taxis in the Darwin and Alice Springs licence areas should not be done in isolation from the total number of commercial passenger vehicles. The demand for each of the four main types of these vehicles, taxis, minibuses, private hire vehicles and limousines, is not independent of each other.

The total number of commercial passenger vehicles in Darwin and Alice Springs has increased as a result of the changes introduced since 1998. Total commercial passenger vehicles in Darwin have increased by 18% to 176 while in Alice Springs they have increased by 14% to 69 (while the resident population increased by only 7% and 1.5% respectively to 2003).

- **Leasing of taxi licences not permitted:** The 1999 changes to taxi regulation removed the right of taxi licence owners to lease taxi licence plates, this increased the level of competition by encouraging new entrants to the sector.
- **NCC's treatment of the Northern Territory is inconsistent with treatment of other jurisdictions, particularly Victoria:** The Northern Territory has demonstrated a commitment to taxi (and commercial passenger vehicle) reform greater than most other jurisdictions and comparable to that of Victoria (see page 13 for more information). While the Territory has not specified targets for the release of new taxi licences, a formal mechanism for the regular review and release of taxi licences is in place.
- **Northern Territory meets NCC's four criteria:** The Council set down four criteria for States/Territories to meet in order to demonstrate progress in reforming the industry; the Northern Territory can demonstrate that it meets all four (see page 16 for more information).
- **Too early to assess impacts:** The most recent changes to the CPRTA were only introduced in 2003 and it is too early to assess the impact of them on the commercial passenger vehicles market. The Commercial Passenger Vehicle Board is required to review the 1:900 ratio by May 2004, this is a more appropriate timeframe in which to assess the impact of the changes made in 2003.

**NORTHERN TERRITORY
COMMERCIAL PASSENGER VEHICLES REGULATION
AND
NATIONAL COMPETITION POLICY**

UPDATED TO MARCH 2004

Introduction

The National Competition Council, in the 2003 assessment of Government compliance with National Competition Policy requirements, has indicated that the Northern Territory is considered to have "...not complied with its CPA clause 5 obligations for taxis and hire cars."¹

As a result, the Council is recommending a pool suspension of approximately \$1.14 million for this and other outstanding legislation review items.

This paper was originally prepared in September 2003 in response to the Council's recommendation regarding taxis and private hire cars.

NCC National Assessment of Taxis and Private Hire Vehicles

The National Competition Council (NCC) has reviewed the national operation of the taxi and private hire car sectors and has made a number of observations about them:

- Most States and Territories provide for the release of new taxi licences on a discretionary basis and, as a result, taxi numbers per capita have fallen over time. The Council refers to a 1999 report by the New South Wales Independent Pricing and Regulatory Tribunal (IPART)² which provides some information on comparative per capita taxi numbers. The IPART report indicated that in 1999 Australian cities ranged from 1 taxi per 877 (Sydney) to 1 per 1299 (Perth). New Zealand cities had significantly higher taxi numbers (1 per 341 in Auckland) which is said to be due to deregulation.
- The restrictions on taxi numbers leads to inflated values for taxi licences (\$200 – 300,000) and financing of these increases taxi cost structures and taxi fares. The Council expresses concern about this and the possibility that any subsequent increase in taxi fares may lead to yet higher licence plate values and, in time, to more pressure on fare levels.
- The higher cost and price structure adds to costs for consumers and reduces potential demand for taxis.

¹ National Competition Council, 2003 Assessment, Chapter 2, Transport, page 2.20

² Independent Pricing and Regulatory Tribunal, New South Wales, *Review of the taxi cab and hire car industries*, Interim report, Sydney 1999

- State and Territory Governments also regulate the private hire car sector although the extent of regulation of that sector varies.
- The Council suggests State and Territory Governments use an off-balance sheet approach to buying back of taxi licence plates. This approach envisages private financiers providing the funds for the buyback with these funds, as in the Northern Territory, to then be repaid from annual licence fee revenue. The Council acknowledges that “... the full price benefit could not be realised until the financial institution had recouped its investment and the compensation “surcharge” in licence fees was removed.”³.
- The deferral of consumer benefits as required to fund the buyback would be offset by an increase in the number of taxis.
- However, there should also be an easing of the entry provisions to the taxi sector. If there is no subsequent increase in taxi numbers, there would be no ongoing benefits for consumers.

Background Information

Some background information is required in order to respond to the NCC’s assessment.

Trends in Northern Territory Taxi and Hire Car Numbers – Pre 2003

Restrictions on entry to the Northern Territory taxi sector were lifted as from 1 January 1999, this coincided with a taxi licence buyback scheme whereby the existing licences were replaced by annual licences that cost \$16,000 annually in Darwin and \$13,000 in Alice Springs. This cost was lower than the lease cost for the privately owned plates, lease costs for these were estimated to be \$500 per week in Darwin (around \$26,000 per annum).

A freeze was introduced on the issue of new taxi licence plates in the Alice Springs and Darwin taxi licence areas from 28 November 2001, the freeze extended until 28 February 2003. While the freeze meant that no new taxi licences were issued, existing licences that were surrendered or not renewed were re-issued and a waiting list of applicants was established to facilitate this.

A “per capita ratio” for the calculation of taxi numbers was introduced in both Alice Springs and Darwin from 1 May 2003, the ratio was set at one taxi licence per 900 persons (residents).

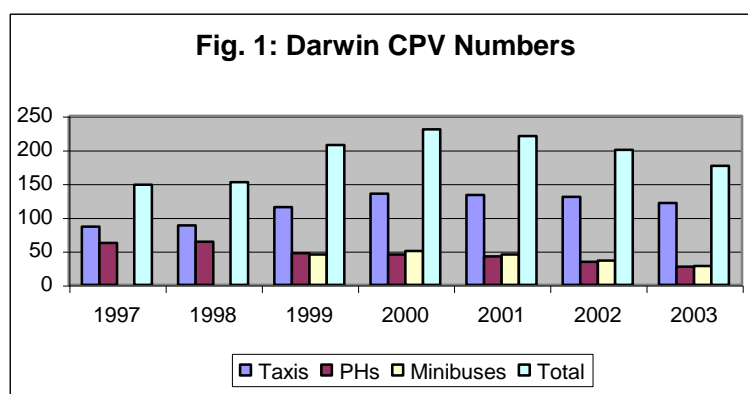
The changes in the number of taxis, private hire vehicles and minibuses for the years 1997 to 2003 in the two main taxi licence areas, Darwin and Alice Springs, are shown in Figures 1 and 2 (the data are as at 1 July for each year).

³ National Competition Council, 2003 Assessment, Chapter 2, page 2.7

Darwin

The key aspects to note in Figure 1 are:

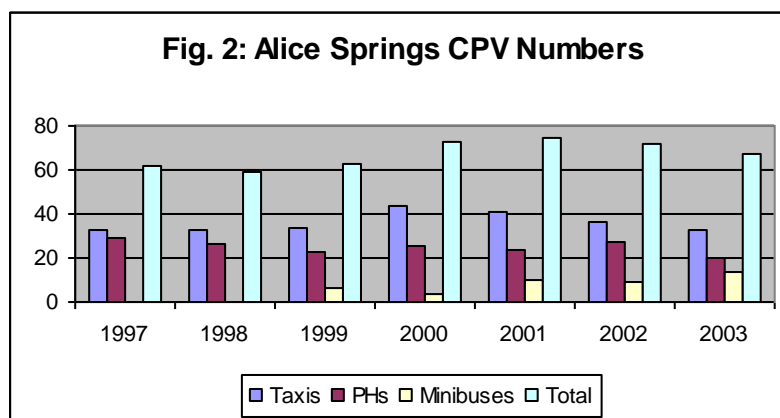
- Taxi numbers in Darwin grew rapidly in response to deregulation in 1999, these increased from 88 in 1998 to 115 in 1999 and then peaked at 135 in 2000. Numbers have fallen back since then to 122 in 2003 (after having remained above 130 until then).



- Private hire vehicle numbers have fallen from 1999, this corresponds with a sustained fall in visitor-nights (see Figure 3 below).
- Minibuses were recognised as a separate category of commercial passenger vehicle in 1999 and 50 vehicles were registered as such in January 1999. The number of minibuses peaked in 2000 but has fallen since then.
- Overall commercial passenger vehicle numbers peaked in 2000 and have also fallen since then; however, the number in June 2003 remained above the pre-deregulation number (176 as compared to 149). However, the pre-deregulation number excludes the minibuses that had previously been registered as motor omnibuses. The number of such buses is not known (although, as already noted, there were 50 in January 1999).

The number of taxis required by the 1 per 900 ratio was 119, based on the 2001 Census estimated resident population. There were 121 taxis in Darwin on 1 July 2003.

Alice Springs



The main points to note for Alice Springs are:

- Taxi numbers grew rapidly in response to the deregulation in 1999; numbers peaked at 59 in 2001 and have since fallen to 33 in 2003.
- While private hire vehicle numbers have declined since deregulation, the size of the fall is not as large as in Darwin.
- Minibus numbers have fluctuated and the figure in 2003 (14) is the highest to date.
- Overall commercial passenger vehicle numbers peaked in 2001 and are now around the same as they were in 1999.

The rise and subsequent decline in taxi numbers is not consistent with the pattern of visitation (see Figure 3) but may reflect a period of adjustment following deregulation and the impact of competition from minibuses and private hire vehicles.

Based on the 2001 Census estimated resident population, the number of taxis required by the 1 per 900 ratio is 30. There were 33 taxis in Alice Springs on 1 July 2003.

Changes in Commercial Vehicle Regulation Since 1999

As already noted, a number of changes have been made to commercial passenger vehicle regulation since 1999. A per-capita ratio (1 licence per 900 persons) was introduced as from 1 May 2003 in both the Darwin and Alice Springs taxi licence areas. Prior to the ratio being introduced, taxi numbers on both areas were “frozen” from 28 November 2001 to 28 February 2003 while the Government reviewed regulation of commercial passenger vehicles. This review led to changes to the regulations governing minibuses and private hire vehicles; these changes took effect in September 2003 and are summarised in Table 1.

In addition to the changes noted in Table 1, a new class of commercial passenger vehicle, limousines, was created in September 2003.

Prior to the 2003 amendments, both minibuses and private hire vehicles had significantly lower cost structures because they paid lower licence fees and they had more restricted access to the market. However, in addition to taxi industry concerns about the disparity in licence fees levels, one of the major criticisms regarding the then current regulations from taxi owners was that minibus operators were circumventing the restrictions on ad-hoc hails.

The changes made in 2003 have addressed this concern by allowing minibuses to respond to hails. This has opened up the commercial passenger market to increased competition from these types of vehicles.

Furthermore, the change to the licence fee paid by private hire vehicle operators (from a once-off entitlement fee of \$10,000 and annual fee of \$1,000 to an annual fee of \$6,000) has removed a major obstacle to entry to the private hire vehicle sector and redressed a major imbalance in the relative competitiveness and market access of taxis and private hire vehicles.

Limousines pay a annual licence fee of \$2,000 regardless of where they operate within the Territory.

While the full extent of the impact of these changes will not be known for several more months (to allow for the impact of the traditional dry season peak visitor period), Figures 3 and 4 show the initial industry response to the 2003 changes.

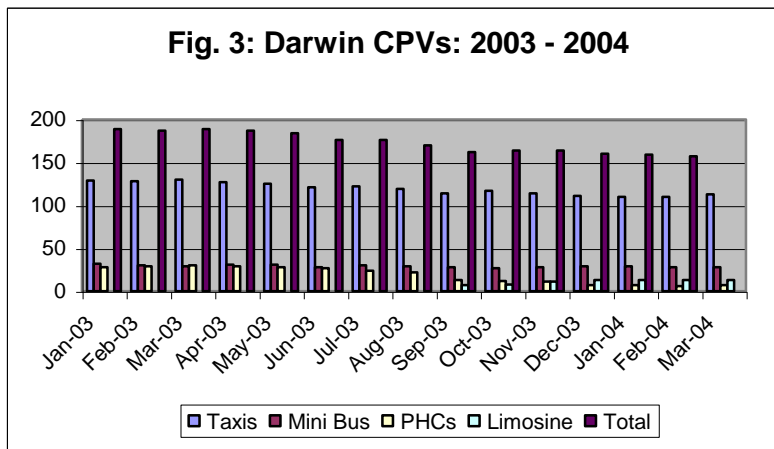
Table 1: Commercial Vehicle Regulations Pre and Post 2003 Amendments

	Taxi		Minibus		Private Hire	
	Pre 2003	Post 2003	Pre 2003	Post 2003	Pre 2003	Post 2003
Licence Cost	Darwin: \$16,000 Alice Spgs: \$13,000	Darwin: \$16,000 Alice Spgs: \$13,000	Darwin: \$7,500 Alice Spgs: \$6,000	Darwin: \$16,000 Alice Spgs: \$13,000	Entitlement Fee: \$10,000 (once-off) Darwin: \$1,000 Alice Spgs: \$1,000	\$6,000 regardless of location (PHs are not restricted to specific areas of operation)
Restrictions on entry	Entry subject to quality controls	Entry subject to quality controls and 1:900 ratio on numbers	Entry subject to quality controls	Entry subject to quality controls	Entry subject to quality controls	Entry subject to quality controls
Street ranking	Taxi ranks	Taxi ranks & Bus stops (outside route service times)	Minibus ranks	Minibus ranks & Bus stops (outside route service times)	No	No Special event ranks considered
Ad-hoc fares	Yes	Yes	No	Yes	Only at company base.	No except at special events
Respond to hails in street	Yes	Yes	No	Yes	No	No
Use of mobile phones for bookings	Yes	Yes	Yes	Yes	Yes	Yes
Data dispatch units	Yes	Yes	Yes	Yes	Yes – discrete mounting only	Yes – Discrete mounting only
Vehicle standards set by Gov't	Yes	Yes	Yes	Yes	Yes	Yes

Note, the Table does not include temporary freezes on numbers and transfers or phasing-in provisions that may apply from time to time

Darwin

Figure 3 shows the initial response in Darwin:

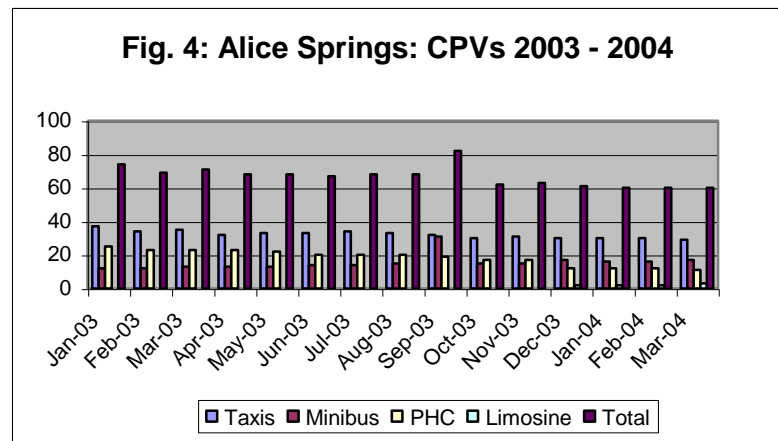


- There was an almost immediate fall in the total number of commercial passenger vehicles, this was largely due to a fall in the number of taxis from 129 in January 2003 to 113 in March 2004. The main reasons for this was the introduction of the 1 per 900 ratio in May 2003 and, at the same time, the introduction of a policy of permitting taxi licensees to “stand-out” of the market for up to three months without losing their licences (this was done in order to allow for such things as licensees taking holidays or having to repair a vehicle).
- The annual calculation of taxi numbers using the per capita ratio is due to be carried out in May 2004. The estimated resident population for the Darwin statistical division in June 2003 was 107922, applying the 1 per 900 ratio means there should be 120 taxis in Darwin.
- Mini-bus numbers have fallen slightly, this is not surprising given the change in competitiveness of these vehicles compared to taxis.
- Private hire vehicle numbers have also fallen but this has been almost completely balanced by a shift by some operators to the new limousine category of vehicle (private hire vehicle numbers fell from 22 in August 2003 to 7 in March 2004 while 13 limousine licences had been issued by February). The overall fall in numbers (from 22 to 20) may be at least partly due to seasonal factors given that January to March are months with traditionally low visitor numbers and private hire car numbers fell by one or two licences over the Christmas period in the previous two years.

Alice Springs

Figure 4 shows the response in Alice Springs, the main features have been:

- As in Darwin, a fall in the total number of commercial passenger vehicles from January 2003 to March 2004. However, the main fall occurred after September in private hire vehicles numbers rather than taxis and there has been no significant take-up, to date, of limousine licences to compensate for this reduction.



These changes in vehicle numbers are most likely due to a rebalancing of taxi, minibus and private hire vehicle numbers following the alterations introduced in 1999 and 2003 to commercial passenger vehicle regulations. It is unclear as to whether the market has stabilised or whether more changes are yet to occur. A more accurate assessment will probably need to wait until 12 months have elapsed since the new regulations were introduced; that is, until September 2004.

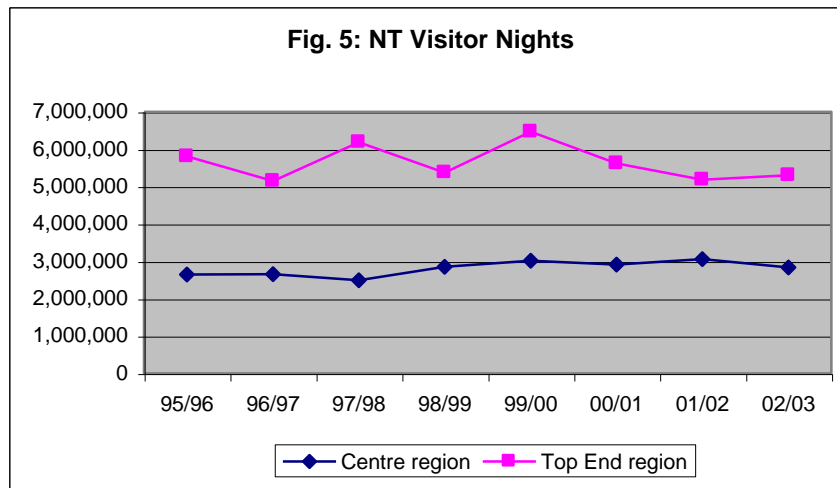
- Based on the estimated resident population for Alice Springs in June 2003, taxi numbers in February are currently at the 1 per 900 ratio (30 taxis) but there is also one licensee “standing out”.
- There has been a steady increase in the number of minibuses, this is consistent with the preference of indigenous people to travel in such vehicles.

Visitor Numbers

Visitor numbers to both the Top End and Centre have fluctuated over recent years and this has probably contributed to changes in the number of taxi and other commercial passenger vehicle licences on issue. Figure 5 illustrates recent trends in visitor nights (nights being a better indicator of visitor demand for travel than actual visitor numbers).

Figure 5 shows that visitor nights in the Top End peaked in 1999/00 and fell 20% over the next two years. The timing of this fall is consistent with the fall in Darwin region commercial passenger vehicle numbers (as shown in Figure 1).

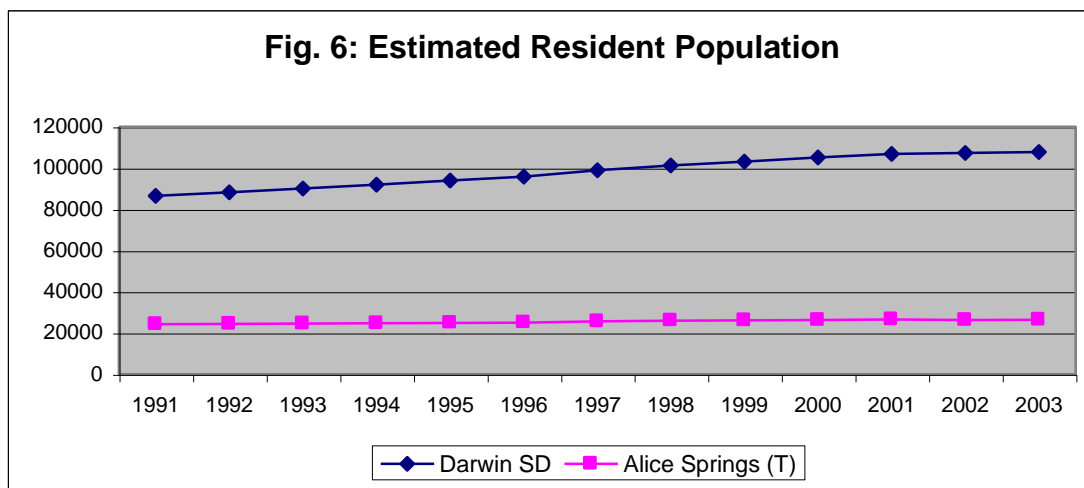
Visitor nights in the Centre have not fallen in the same way as Top End numbers but have remained relatively static although there was a small fall in 2002/03.



Source: Northern Territory Tourist Commission

Estimated Resident Population

Figure 6 shows the estimated resident populations for the Darwin Statistical Division and Alice Springs town (both as defined by the Australian Bureau of Statistics), these approximately match the taxi licence areas for both centres.



Source: Australian Bureau of Statistics special data request

Figure 6 shows that the population of Alice Springs has stopped growing over the past two years after slow growth from 1995 to 2002 (the increase from 1995 to 2002 is estimated to have been around 1300 persons) and so

population growth is unlikely to have had any significant impact on changes in the demand for commercial passenger vehicles in the town.

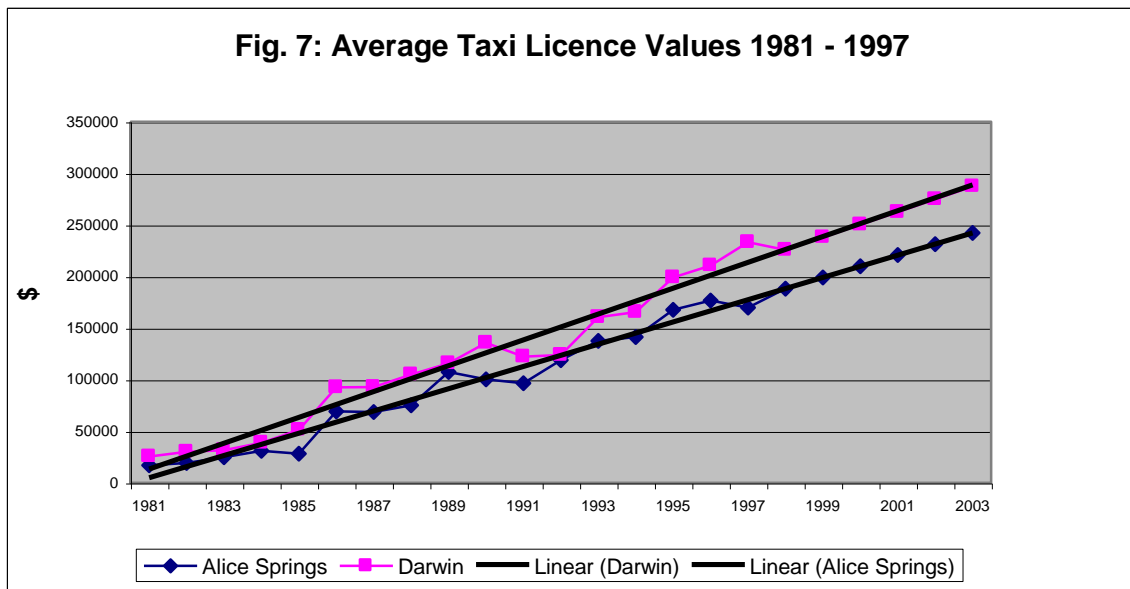
Population growth in the Darwin Statistical Division has been higher with an increase of 11,500 over the 7 years to 2002 although there was very little growth between 2002 and 2003. The population growth to 2002 can be expected to have had some impact with an increase in demand for commercial passenger vehicles.

However, it is also worth noting that, since the introduction of the 2003 changes, overall population growth and economic activity in the Territory has been relatively static and therefore the imposition of the ratio is unlikely to have imposed significant costs on consumers in terms of reduced availability of taxis.

Growth in Taxi Licence Plate Values

Taxi licence values prior to deregulation grew steadily as shown in Figure 7. Figure 7 also shows how the licence values are likely to have grown had the historic growth rates continued to 2003.

Based on previous history, by 2003 Darwin licences would have been valued at around \$287,000, up from \$213,000 (in trend terms) in 1997 the final year that actual data are available (a major inquiry into the taxi industry was conducted in 1998 leading to the buyback of licences later that year). This is equal to an annual increase of \$12,300 in licence values.



Alice Springs licences would have been valued at \$242,000 in 2003, up from \$176,000 in 1999 (in trend terms), this is equal to an annual increase of \$10,800 in licence values.

In its 2003 Assessment, the NCC discusses the additional cost imposed by high licence plate values on the community in jurisdictions where the licences are still privately owned⁴. Using the same approach for the Northern Territory, the buyback has saved the Northern Territory community approximately \$5,900 in annual finance costs (using a financing charge of 8%) per annum for each Darwin licence and approximately \$5,300 for each Alice Springs licence.

These savings are in addition to the savings achieved in 1999 by setting the annual licence fee at \$16,000 for Darwin and \$13,000 for Alice Springs. At \$16,000 per annum, the new licence fee is understood to be saving approximately \$10,000 per annum on the 1999 leasing costs for taxi licence plates.

This means that, in total, the buyback is saving approximately \$15,000 per annum in Darwin taxi operating costs and \$11,000 in Alice Springs. These are equal to 8-10% of the current annual cost of operating a taxi in these centres and will have had significant community benefits in terms of reduced taxi fares.

The total annual savings in finance costs for the Northern Territory community, based on the current taxi licence ratios for Alice Springs and Darwin (30 and 120 respectively) is \$867,000. This is a conservative estimate of the level of savings as many licence owners leased their licences for others to operate and are likely to have required a higher rate of return than the 8% used here. On this basis, the total cost may be closer to \$1 million annually (a 10% rate of return would cost around \$1.1 million).

Interstate Comparison of the Northern Territory's Progress in CPV Reforms

Over the past five years, the Northern Territory has made two major sets of changes to the regulations governing commercial passenger vehicles (1999 and 2003), these changes can be compared to the progress made by other jurisdictions, in particular Victoria, because the NCC has assessed Victoria as having met its NCP obligations with regard to commercial passenger vehicles⁵.

Only limited reforms have been introduced in Victoria, New South Wales and Western Australia at the time of the NCC's 2003 assessment and the NCC has assessed Victoria as the only jurisdiction meeting its CPA commitments for taxis. The Victorian Government's reform obligations include the annual release of 100 new peak period taxi licences for the next 12 years, the annual conversion of 50 peak period licences to full licences for the last 5 years of the 12 year reform period, release of new hire car licences with a \$60 000 fee, the introduction of accreditation arrangements and the removal of licensing related barriers to entry.

⁴ National Competition Council: *2003 Assessment*, Chapter 2, pages 2.3 and 2.4

⁵ National Competition Council, 2003 Assessment, Chapter 2, page 2.11

However, at the time of the NCC's assessment, only 66 new peak period licences had been released in Victoria, which represents a 2% increase since 2002. Furthermore, the Council's 2003 assessment report notes that the Victorian reform program involves a 46% increase in total taxi licence numbers over twelve years. Taxi licence numbers have increased by 38% in Darwin over the four years since 1998. Additionally, the peak period licences issued in Victoria restrict hours of operation whereas no taxi licences in the Territory include such restrictions.

Victoria has also introduced increased quality (accreditation) standards along with the Territory, while, the new hire car licence fee of \$60 000 in Victoria contrasts markedly with the Territory's annual private hire car licence fee of \$6 000.

Therefore, it is considered that the Territory has demonstrated a commitment to taxi reform greater than most other jurisdictions and comparable to that of Victoria. While the Territory has not specified targets for the release of new taxi licences, a formal mechanism for the regular review and release of taxi licences, subject to the 1:900 ratio, is in place. This approach provides a degree of certainty and stability for taxi operators while ensuring that demand/supply imbalances do not emerge over time.

The Territory has also increased more rigorous driver and vehicle safety standards in order to strengthen the consumer protection aspects of commercial passenger vehicle regulations. Such qualitative restrictions are deemed to be in the public interest by the NCC. Additionally, the scope for private hire cars and minibuses to compete directly with taxis for commercial passenger vehicle market share appears to be significant compared to most other jurisdictions.

The NCC Assessment

Main Comments

In Chapter 2 of its 2003 Assessment, the NCC has drawn two major conclusions about the current Northern Territory regulation of taxis and private hire vehicles:

- The 1:900 ratio is a significant restriction on taxi numbers and competition (the Council refers to ratios applying in other cities, as discussed earlier in this paper, to support this proposition).
- The introduction of an annual cost for private hire licences also represents a significant restriction on competition.

The following comments are made in response to these:

Impact of the 1:900 Ratio

- It is not appropriate to draw conclusions on taxi numbers using the per capita ratios for taxi numbers in various other cities; there are too many factors affecting this to make the comparison valid. For example, the laws governing the role of taxis and alternative forms of commercial vehicle, the availability of public transport such as buses and trains (particularly to and from major trip generating facilities such as airports), the socio-economic mix of the cities concerned (age, gender and ethnic profiles in particular) and the geographic layout of the cities.
- To also then state that the ratio is a restriction on competition is based on a very narrow definition of the market and the competitors in that market. The Northern Territory has a strong minibus sector (particularly in Darwin) and also a relatively large private hire sector (particularly in Alice Springs). These provide extensive competition to the taxi sector and there are no restrictions on entry to both of these alternatives. The level of competition is likely to have increased with the changes introduced in September 2003.

Total commercial passenger vehicle numbers increased in both Darwin and Alice Springs in the period since the taxi licence buyback in 1999. Total commercial vehicles in Darwin increased by 18% (see Table 2) to 1 July 2003 whereas population increased by only 7% in the four years to 2003. Alice Springs commercial passenger vehicle numbers increased by 14% to 1 July 2003 while population grew by only 1.5%.

Table 2: Commercial Passenger Vehicles Per Capita

	Darwin		Alice Springs	
	June 1998	June 2003	June 1998	June 2003
Number of CPVs	149	176	59	67
Resident Population	101165	107922	25850	26229
Population per CPV	679	613	438	391

Source: Department of Infrastructure, Planning and Environment and Australian Bureau of Statistics

Annual Cost for Private Hire Vehicles

- Under the 2003 changes, private hire vehicles must now pay a \$6,000 annual fee (limousines pay \$2,000). The NCC considers this to be a restriction on competition because it raises the cost of operating these vehicles.

This conclusion fails to take into account that, prior to the 2003 changes, private hire vehicles were required to pay a \$10,000 entitlement fee and an annual fee of \$1,000. This fee structure had previously distorted the market and the change, rather than being a restriction on competition,

has been a balancing of the accessibility of taxis and private hire vehicles to the commercial passenger vehicle market. If this change had not been made, the difference in licence fee calculations would have continued to distort the market.

Furthermore, the new licence fee has reduced entry barriers to the sector.

It should also be noted that the licence fee for taxis has been set at a level to recover the cost of the 1998 – 99 taxi licence plate buyback and the licence fee for private hire vehicles must be set relative to this.

The NCC has accepted the principle of funding the buyback through licence fees (as noted on page 4 of this paper).

- In addition to this, the 2003 changes have allowed the option of private hire vehicles being allowed to rank at special events, this was not permitted before the 2003 changes and will add to competition.

Four Criteria

In October 2003, in order to progress reform of the taxi and private hire vehicle sectors⁶, the NCC set down four criteria for States and Territories to demonstrate progress in reforming their regulation of taxis and private hire vehicles. The four criteria are:

- There should be regular (at least annual) releases of new licences with sufficient being released to improve the relative supply of taxis in the short and medium term.
- There should be a commitment to independent and regular monitoring and review of reform outcomes (at least every two years) and to additional action if the demand supply imbalance is not improving.
- There should be immediate reform of the other chauffeured passenger transport providers (such as hire cars and minibuses) to increase competition.
- There must be strong commitment that the program of staged licence increases will proceed.

The following comments are made regarding Northern Territory progress in reforming regulation of the taxi and private hire vehicle sectors using these four criteria:

⁶ National Competition Council: *2003 Assessment*, Chapter 2 Transport, page 2.7

Release of New Licences

The Northern Territory Commercial Passenger Vehicles Board (CPV Board) is responsible for the annual release of new licences, detailed rules as to how this is to occur have been developed and made available publicly, an extract from the FAQs posted on the Department of Infrastructure, Planning and Environment website⁷ regarding the new regulations is at Attachment 1. This states that new taxi licences will be released no later than 30 June each year based on a re-calculation of the ratio using estimated resident population.

The FAQ also states that additional licences may be released at other times if required.

It is also worth noting that in addition to the buyback, the 1999 changes to the CPRTA prohibited the leasing of taxi licences; this has opened up the industry to new entrants and increased the level of competition.

Given this public commitment to at least annual releases of new licences, the lack of restrictions on minibus and private hire vehicle numbers and the overall increase in the total numbers of commercial passenger vehicles, the Northern Territory should be considered to have met this requirement.

Independent and Regular Review of Reform Outcomes

The FAQs referred to above also states that the current ratio is only in place for 12 months from 20 May 2003 and that the CPV Board is responsible for reviewing it within that timeframe.

The CPV Board is independent of the Government and consists of representatives of taxi operators, minibus operators, private hire car operators, limousine operators, regional industry operators, the tourism industry, disabled access advocacy, consumers, and drivers.

The Board provides advice to the Minister on all policy and regulatory matters pertaining to the taxi, minibus, private hire car and limousine sectors of the industry. The Board will facilitate reform of the industry; guide the future direction of the industry; facilitate regulation of the industry; and ensure all industry and consumer interests are represented in ongoing industry development.

The long term aim of the Government is for the industry to become self-regulating, as is evident in the following statement to the Legislative Assembly made during debate on the 2003 Amendments:

"The government wants the industry to ultimately govern itself completely. In the interim, the Commercial Passenger Vehicle Board will, over time, take on increasing powers to learn this self-governing process".⁸

⁷ www.nt.gov.au/ipe/dtw/publications/roadtransport/commercialpassengervehicle/factsheets.shtml

⁸ Ms Delia Lawrie, Member for Karama, Legislative Assembly Hansard, 17 June 2003

Given the requirement for the review and the independence of the CPV Board, the Northern Territory should be considered to have met this criterion.

Reform of Other Chauffeured Passenger Transport Providers

As already discussed (and set out in Table 1), the 2003 amendments to the CPRTA has increased competition by relaxing the restrictions on minibus operations and lowering the barriers for entry to the private hire vehicle sector.

It is too early to determine the overall effectiveness of the changes made in 2003. However, the changes made should demonstrate that the Northern Territory meets this criterion.

Strong Commitment to Licence Increases

As with the previous criterion, given that the changes have only been made in 2003, it is too early to assess this for the Northern Territory. However, the public FAQ regarding annual release of additional licences and the review of the 1:900 ratio by May 2004, should demonstrate the Governments commitment.

ATTACHMENT 1

Extract from Department of Infrastructure, Planning and Environment FAQs

1. When will the 1:900 ratio on Taxi and MPT CVL's be implemented?

From 20 May 2003, a new regime of releasing taxi and Multi Purpose Taxis (MPT) CVLs was introduced.

2. How long will the regime be in place?

The CPV Board is tasked with reviewing the regime and reporting to the Minister within 12 months from 20 May 2003.

3. What commercial passenger vehicles are subject to the ratio?

Only Taxi and Multi Purpose Taxi CVLs are subject to the ratio.

4. Is the ratio applicable to all taxi regions?

No. The regime is only in place for Darwin and Alice Springs taxi areas.

5. How is the ratio calculated?

The maximum number of Taxi & MPT CVLs that will be available will depend on the population of the area. A maximum limit of 1 taxi for every 900 people has been imposed. The Australian Bureau of Statistics data for estimated resident population will be used.

6. Will additional MPT CVLs be issued?

The regime includes a provision that a minimum of 10% of the ratio applicable to taxis must be MPT. The Director has discretionary powers to release additional MPT CVLs if deemed in the public interest to do so.

7. Can an operator put their name on a waiting list for a new CVL?

No. There is no waiting list for operators wanting a new CVL.

8. When will new CVLs be released?

The Director will review the number of CVLs available and release the CVLs (if any) on an annual basis no later than 30 June. If necessary, the Director can release available CVLs at other times.

9. How will CVLs be released?

CVLs will be released by ballot.