
C Legislation reviews and the marketing of rural products

Under the Competition Principles Agreement (CPA) of the National Competition Policy (NCP), the Commonwealth, State and Territory governments agreed to:

- develop a timetable for legislative reviews, by June 1996;
- review, and where appropriate reform, legislation that restricts competition by the end of 2000; and
- ensure that new legislation which restricts competition passes the competition test — that is, the benefits to the community as a whole must outweigh the costs, and the objectives of the legislation can only be achieved by restricting competition.

The timetable was developed by June 1996 as planned. Altogether some 1800 pieces of legislation have been identified for review.

This appendix details each jurisdiction's progress, as of 31 December 1998, in reviewing and reforming legislation which restricts competition in the marketing of primary products. The appendix draws on publicly available information such as the National Competition Council's *Legislation Review Compendium* (NCC 1998e) and *Second Tranche Assessment of Governments' Progress with Implementing National Competition Policy and Related Reforms* (NCC 1999b).

The primary focus is on statutory marketing legislation for agricultural commodities. Other legislation of importance to country Australia which is to be reviewed for its effects on competition, but which is not included in this appendix, includes:

- marketing arrangements which may enable producers to raise prices above competitive levels, but which do not operate through a statutory marketing authority (SMA) — such as restrictions on the sale of seeds, horticultural stock and fertilisers;
- long-term contracts which give exclusive access to a particular resource, as well as licensing and other entry regulations. These are common in fisheries, forestry and mining. Although there are resource management issues relating to environmental sustainability which may justify the existing (or similar) entry restrictions, there is clear potential for them to be uncompetitive; and

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- legislation which may have a significant cost or other impact on rural industries but which can be justified on public interest grounds, such as legislation governing health and food standards.

Other marketing restrictions with the potential to be anti-competitive, but which do not operate through an SMA, include regional food markets which have a legislated monopoly for the wholesale of fresh food. These are included in this appendix.

Typically, statutory marketing legislation is anti-competitive as it grants SMAs monopoly powers to:

- compulsorily acquire (vest) an entire crop;
- regulate the quality or price of the commodity; or
- act as the single seller on either or both the export and domestic markets.

While elements of such statutory marketing arrangements apply to many agricultural commodities, there are exceptions such as horticultural crops, cotton, winegrapes and wine. As the NCC has said ‘arrangements underpinning SMAs are prima facie anti-competitive’ (NCC 1998b, p. 103).

C.1 Commonwealth

Overall, the Commonwealth has scheduled approximately 100 pieces of legislation for review, 67 of them listed for the Second Tranche Assessment. As of December 1998, some 40 reviews had been completed, with another three still underway.

The scheduled timing of reviews of Commonwealth statutory marketing legislation is set out in table C.1. The review of the *Pig Industry Act 1986* and associated legislation commenced in June 1998. Public submissions were due by late October 1998, but no formal hearings were to be held. The review committee was required to report by 31 January 1999, with the Minister of Agriculture, Forestry and Fisheries to respond within six months of receipt of the report. As of August 1999, there had been no response.

The review of the Primary Industries Levies Acts and related Collection Acts commenced in June 1998. Again, public submissions were called for, but no formal hearings held. The review committee reported to the Minister at the end of December 1998, and the Government was to respond within six months. As of August 1999, there had been no response.

Table C.1 Reviews of Commonwealth primary industries legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date of review</i>	<i>Reform progress</i>
Dairy Industry Legislation	AFFA	1998-99	Not yet commenced
Dried Vine Fruits Legislation	AFFA	1998-99	Act repealed
<i>Pig Industry Act 1986</i> and related Acts	AFFA	1997-98	Underway
Primary Industries Levies Acts and related Collection Acts	AFFA	1997-98	Underway
<i>Wheat Marketing Act 1989</i>	AFFA	1999-00	Not yet commenced
<i>Wool International Act 1993</i>	AFFA	1997-98	Deleted. Once the stockpile has been liquidated, the Act will be repealed.

Notes: AFFA: Dept. Agriculture, Forestry and Fisheries — Australia.

Source: NCC (1998e).

Table C.2 sets out the legislation for which reviews are not scheduled under the initial legislation review schedule. The reasons for not scheduling these are that they have been reviewed only recently, and will be re-reviewed on a systematic basis every ten years (Commonwealth of Australia 1998a).

Table C.2 Commonwealth legislation not included in the review schedule

<i>Name of legislation</i>
<i>Australian Horticultural Corporation Act 1987</i>
<i>Australian Wine and Brandy Corporation Act 1980</i>
<i>AWBC Amendment Act 1993</i>
<i>Meat and Livestock Industry Act 1995</i> and regulations
<i>Australian Meat & Livestock (Quotas) Act 1990</i>
<i>Australian Meat & Livestock (Quotas) Amendment Act 1993</i>
<i>Australian Wool Research and Promotion Act 1993</i>

Source: Commonwealth of Australia (1998a, pp. 23–5).

Outcomes

Although not scheduled for review until 1999-2000, the statutory marketing arrangements for wheat were changed during 1997 and 1998. In July 1999, the Australian Wheat Board (AWB) was restructured into a grower-owned and controlled company — known as AWB Limited — with two subsidiaries (AWB (International) Limited and AWB (Australia) Limited). Collectively, they are known as the AWB Group.

AWB Limited will act as a borrower and provide funding for the AWB Group, on-lending to the subsidiaries. AWB (Australia) Limited will be responsible for domestic wheat and other grain sales and the export of grains other than wheat. It will also be able to participate in other commercial ventures.

AWB (International) Limited will be responsible for wheat export pools and will operate the single desk export monopoly for wheat. The legislation includes an exemption for the activities of AWB (International) Limited from the competitive

conduct rules of the Trade Practices Act (TPA). The activities of AWB (International) Limited will be monitored by the Wheat Export Authority (WEA).

In July 1998, a new regulatory and institutional arrangement came into operation for the red meat industry, with the establishment of three producer owned companies — Meat and Livestock Australia (MLA), the Australian Meat Processors Corporation (AMPC) and Livecorp — to replace the Australian Meat and Livestock Corporation, the Meat Research Council and the Meat Industry Council. AMPC is a processor-owned company, while Livecorp is a livestock exporter-owned company.

MLA has been established as a producer-owned company to:

... provide professional services and other activities for the benefit of members and contracting parties dealing with market access, research and development, animal health and welfare, meat safety and hygiene, crisis and issues management, meat standards, and database collection and analysis and core marketing and promotion activities as well as other services required (and funded) by members and contracting parties in the interests of the industry. (Minister for Primary Industries and Energy 1998a, p. 3)

MLA is funded by compulsory levies collected from cattle, sheep and goat producers. Processors will contribute funding to MLA through the AMPC, and exporters of live animals through Livecorp. AMPC and Livecorp are funded through voluntary processor and exporter contributions, although the Government has signalled that it will reimpose levies to fund activities if contributions prove insufficient (Hicks and Ireland 1997, p. 11).

In December 1997, the Parliamentary Secretary to the Minister for Primary Industries and Energy announced plans (following approaches from the Australian Dried Fruit Association recommending changes to the present arrangements) for meetings with stakeholders in the dried fruits industry to discuss industry reforms. As a result, the *Dried Vine Fruits Equalisation Act 1978* was repealed in December 1998. The equalisation scheme which operated under the Act ceased from 1 January 1999. During the second reading speech delivered when the Bill repealing the Act was introduced into Parliament in July 1998, the then Minister for Customs and Consumer Affairs stated:

The dried vine fruits industry is the only commodity which continues to operate an equalisation scheme. The industry now contends that, in the prevailing market circumstances, equalisation arrangements are inappropriate and mask market signals and inhibit industry and marketing innovation. (Commonwealth of Australia 1998b, p. 5873)

A Horticultural Industry Alliance Steering Committee has been established to investigate the feasibility of forming a new single entity to deliver services to the

horticultural industry which are provided currently by the Australian Horticultural Corporation and the Horticultural Research and Development Corporation.

C.2 New South Wales

New South Wales has listed approximately 185 pieces of legislation for review — 143 of those scheduled for the second tranche. By the Second Tranche Assessment, 60 had been completed, with 78 still underway. Table C.3 sets out the schedule for review legislation affecting the marketing of rural products.

To date, reviews have been completed of the *Banana Industry Act 1987*, the *Dairy Industry Act 1979*, the *Farm Produce Act 1983*, the *Meat Industry Act 1978*, the *MIA Citrus Fruit Promotion Marketing Committee [Marketing of Primary Products Act 1983]*, the *MIA Citrus Fruit Promotion Marketing Order*, the *MIA Wine Grapes Marketing Board*, the *Poultry Processing Act 1969*, the *Rice Marketing Board [Marketing of Primary Products Act 1983]*, and the *Tobacco Leaf Stabilisation Act 1967*.

The *Grain Marketing Act 1991* is currently under review. The Review Group reported to the Minister for Agriculture and Minister for Land and Water Conservation on 30 September 1998, but the outcomes of this review were not made public at the time.

A review of those parts of the *Marketing of Primary Products Act 1983* relating to the Murray Valley (NSW) Wine Grape Industry Marketing Order 1994 and the Murray Valley (NSW) Wine Grape Processing Industry Marketing Order 1995 was conducted by KPMG Management Consulting Limited as part of a joint review with the *Victorian Agricultural Industry Development Act 1990*. KPMG was expected to report by November 1998, but the review was still underway as of July 1999.

A joint New South Wales/Victorian review by the Centre for International Economics (CIE) of the *Murray Valley Citrus Marketing Acts 1989* (Victoria and New South Wales) commenced in November 1998. The CIE released an issues paper on 10 November 1998. Public submissions (due by 24 December 1998) were called for and direct consultation with relevant stakeholders, including public meetings in the Murray Valley, were undertaken. The report to the relevant Ministers in each State was due by March 1999, but had not been completed before the release of the Second Tranche Assessment in July 1999 (NCC 1999b, vol. 3).

Table C.3 Reviews of New South Wales statutory marketing legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date of review</i>	<i>Reform progress</i>
<i>Banana Industry Act 1987</i>	Ag	1995-96	Completed. Banana Industry Committee and some of its functions retained.
<i>Co-operatives Act 1992</i>	FT	1997-98	Underway.
<i>Dairy Industry Act 1979</i>	Ag	1996-97	Completed; current pricing and supply regulations to remain to July 2003.
<i>Dried Fruits Act 1939</i>	Ag	1997-98	Completed. Act repealed, industry deregulated.
<i>Farm Produce Act 1983</i>	Ag	1995-96	Completed. Act repealed.
<i>Grain Marketing Act 1991</i>	Ag	1997-98	Underway.
<i>Marketing of Primary Products Act 1983</i>	Ag	1997-98	Not commenced. Will be started when constituent marketing boards have been separately reviewed.
<i>Meat Industry Act 1978</i>	Ag	1995-96	Completed. Regulatory powers transferred to new statutory body, Safe Food Production.
MIA Citrus Fruit Promotion Marketing Committee [<i>Marketing of Primary Products Act 1983</i>]	Ag	1996-97	Completed. Committee retained with reduced powers.
<i>MIA Wine Grapes Marketing Board</i>	Ag	1995-96	Completed. Vesting powers will cease after 31 July 2000.
Murray Valley Wine Grapes Ind. Dev.Comm. and Murray Valley Wine Grapes Ind. Neg.Comm. [<i>Marketing of Primary Products Act 1983</i>]	Ag	1997-98	Joint review underway with Victoria.
<i>Poultry Meat Industry Act 1986</i>	Ag	1996-97	Underway.
<i>Poultry Processing Act 1969</i>	Ag	1996-97	Complete. To be repealed and replaced with <i>Meat Industry Amendment Act 1998</i> .
<i>Rice Marketing Board [Marketing of Primary Products Act 1983]</i>	Ag	1995-96	Completed. Export powers retained. Domestic marketing powers maintained to 2004, with review in 2000.
<i>Murray Valley Citrus Marketing Act 1989</i>	Ag	1996-97	Joint review underway with Victoria.
<i>Sydney Market Authority Act 1968</i>	Ag	1996-97	Act repealed, review unnecessary.
<i>Tobacco Leaf Stabilisation Act 1967</i>	Ag	1995-96	Completed. Act repealed.
<i>Wheat Marketing Act 1989</i>	Ag	1996-97	Review unnecessary. Act repealed.

Notes: Ag: Dept. of Agriculture; FT: Dept. of Fair Trading.

Sources: NCC (1998e), NCC (1999b).

Outcomes

The highest profile reviews completed in New South Wales have been reviews of rice and dairy statutory marketing arrangements. The New South Wales Rice Review Group completed its review of *Rice Marketing Board [Marketing of*

Primary Products Act 1983] in 1995. It concluded that reform of existing arrangements would be to the benefit of the community. Its main recommendations included the retention of a ‘single desk’ for rice exports and the deregulation of the domestic rice market (NCC 1998c).

In November 1997, the NSW Government decided that it would continue the Board’s vesting powers until 31 January 2004, based on its assessment that the benefits of the regulation were in the range of \$26–\$35 million in 1996-97, rising to \$36–\$45 million in 2000-01. The Government estimated the costs of the regulations at between \$2 million and \$12 million annually (NCC 1999b). The NCC, in its Assessment Report, indicated that it was not convinced that New South Wales’ approach was consistent with the CPA — namely that restrictive arrangements only be retained where a net public benefit can be demonstrated. In regard to the non-implementation of the review recommendations, the NCC reported in June 1998:

Despite extensive discussions with the Council since June 1997, New South Wales has offered no substantive additional information or justification for its decision. As a result, the matter has not advanced from the position at June 1997. (1998c, p. 25)

Following a lack of progress in resolving the issue, the NCC recommended that the Commonwealth deduct \$10 million from the 1998-99 component of the NCP payments otherwise due to New South Wales, but that the deduction not take place until after 31 January 1999 — the Rice Review Group’s recommended date for cessation of vesting (NCC 1998c). On 21 August 1998, the Treasurer announced that a working group comprising representatives of the New South Wales Government, rice growers and the NCC had been established to develop an ‘acceptable’ solution to this matter.

The Treasurer also announced:

I propose to delay until early 1999 any decision on whether New South Wales will have its NCP Payments reduced. This delay will allow the working party to complete its task and enable me to take the outcome into account in making my decision. (Treasurer 1998, p. 2)

In February 1999, the Treasurer presented a proposal to put in place a single desk arrangement for export rice and asked for in-principle agreement from New South Wales to deregulate the domestic market if it can be shown that the single desk is effective in maintaining export premiums. New South Wales has given in-principle agreement.

The review of the *Dairy Industry Act 1979* was completed in November 1997. A Review Group was chaired by a representative from NSW Agriculture and comprised government and industry representatives. The Chairman and industry members (a majority) recommended that the regulated pricing and supply

arrangements remain in place until a further review in 2003. Government representatives sought the removal of regulations (with three to five years notice), supported by an Australian Competition and Consumer Commission (ACCC) authorisation of collective negotiation arrangements as a transitional measure (NSW Government Review Group 1997).

Under the *Dairy Industry Act 1979*, all milk produced in New South Wales is vested in the NSW Dairy Corporation. The corporation sets farm gate prices to producers and the input price paid by processors. To ensure adequate milk supplies, the Corporation also issues production quotas to farmers. Despite acknowledging that these arrangements result in an annual subsidy of between \$56 million and \$87 million to dairy farmers, the Review Group recommended the continuation of these arrangements on the grounds that they provided farmers with countervailing power against processors, they cushioned the New South Wales industry against corrupt world prices, and their removal would adversely affect dairy regions.

In May 1998, the NSW Government accepted these recommendations and announced that it would maintain current regulations controlling food safety, industry services and pricing and supply management for a period of five years, with a further review to be undertaken at that time. This will be achieved by legislating a continuing exemption for milk quotas and farm gate prices from the TPA (Minister for Agriculture and Minister for Land and Water Conservation 1998a). The NSW Government has called on the Commonwealth not to impose a penalty on the State as a result of this decision (Minister for Agriculture and Minister for Land and Water Conservation 1998a, p. 1).

C.3 Victoria

Victoria has listed approximately 430 Acts and regulations for review. Of these, 146 were scheduled for the second tranche; 76 have so far been completed, and 20 are still underway. Table C.4 sets out the schedule for reviews of legislation affecting the marketing of rural products.

To date, reviews have been completed for the *Barley Marketing Act 1993* (in conjunction with South Australia) and the *Dried Fruits Act 1958*.

A review of those parts of the *Agricultural Industry Development Act 1990* and five orders made under the Act relating to four Victorian primary production industries — wine grapes in the Murray Valley region (two orders), fresh tomatoes in Northern Victoria, strawberries and emus — was still underway at the time of the Second Tranche Assessment. KPMG Management Consulting Limited has been engaged to

conduct the review, as part of a joint review with aspects of the NSW *Marketing of Primary Products Act 1983*.

The CIE commenced a combined review for New South Wales and Victoria of the *Murray Valley Citrus Marketing Acts 1989* in November 1998. The CIE also conducted the review of the *Dairy Industry Act 1992*. A background paper was released in September 1998, and public submissions were invited (DNRE 1998a). The report to the Victorian Government was due by July 1999, and had not been released by the time of the NCC's Second Tranche Assessment (NCC 1999b, vol. 1). Nevertheless, the Victorian Government has announced:

The in-principle decision to remove the price and supply control on market milk ... (McNamara 1999)

A review of the *Broiler Chicken Industry Act 1978* and Broiler Chicken Industry Regulations 1992 commenced in late 1998. Terms of reference were released and tenders called for from consultants interested in conducting the review, with KPMG being the successful consultant. A background paper was released in October 1998. According to the terms of reference, the consultant was required to report by 14 May 1999, although the report had not been finalised by the time of the Second Tranche Assessment (NCC 1999b, vol. 3).

Table C.4 Reviews of Victorian statutory marketing legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date for completion</i>	<i>Reform progress</i>
<i>Agricultural Industry Development Act 1990</i>	AR	Dec 1997	Joint review with NSW completed. Awaiting response.
<i>Barley Marketing Act 1993</i>	AR	Dec 1996	Joint review with SA completed. Single desk for export barley sales to be retained until July 2001. Oats market in SA to be deregulated. Domestic barley market to be deregulated.
<i>Broiler Chicken Industry Act 1978</i>	AR	May 1999	Underway.
<i>Cooperation Act 1981</i>	FT	June 1998	Replaced by <i>Cooperatives Act 1996</i> .
<i>Dairy Industry Act 1992</i>	AR	July 1999	Underway.
<i>Dried Fruits Act 1958</i>	AR	Dec 1997	Act repealed.
<i>Meat Industry Act 1993</i>	AR	Dec 1999	Nil.
<i>Melbourne Market Authority Act 1977</i>	AR	Jun 1998	Delayed pending completion of Competitive Neutrality Review.
<i>Murray Valley Citrus Marketing Act 1989</i>	AR	April 1999	Joint review underway with NSW.
<i>Wheat Marketing Act 1989</i>	AR	June 2000	Awaiting Commonwealth review.

Notes: AR: Dept. Agriculture and Resources; FT: Dept. Fair Trading.

Sources: NCC (1998e); NCC (1999b).

Outcomes

The joint review of the *Barley Marketing Act 1993*, commissioned by the South Australian and Victorian Governments and conducted by the CIE, was completed in November 1997. The review recommended the deregulation of the domestic market for feed and malting barley in South Australia and Victoria, the oats market in South Australia, and the abolition of the Australian Barley Board's (ABB) single desk export power. The review found that the ABB's ability to price discriminate in domestic markets by charging prices higher than the prevailing world price imposed net costs on the community, while the price premiums on export markets were a result of quality and transport cost differentials rather than any market power conferred through the single export desk (CIE 1997).

This joint review has been cited by the NCC as a 'benchmark' review (in terms of the process followed). According to the NCC:

This review was done by an independent review panel, undertook significant consultation and produced a robustly argued report with analysis and recommendations framed against the terms of reference. In many ways, it represents a benchmark for the conduct of reviews, at least for those relating to statutory marketing arrangements. (1998c, p. 6)

In response to this review and further consultations with industry, the Victorian Government introduced legislation to establish two grower-owned companies, ABB Grain Limited and a subsidiary company ABB Grain Export Limited, to take over the marketing responsibilities of the ABB by 30 June 1999. The Victorian Minister for Agriculture and Resources noted that the key objectives of the reform process were 'to fully privatise the ABB and to extend the single desk to the 30th of June 2001' (Minister for Agriculture and Resources 1998).

C.4 Queensland

Queensland has scheduled 114 legislation reviews, 68 of them for the second tranche. Of these, 31 had been completed and 24 per cent were underway by the time the Second Tranche Assessment was released. Table C.5 sets out the schedule for reviews of legislation affecting the marketing of rural products.

The major reviews completed to date include the Brisbane Market Authority, dairy, sugar, chicken meat, and grains. The *Egg Industry Act 1993* was allowed to 'sunset' on 31 December 1998.

Table C.5 Reviews of Queensland statutory marketing legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date of review</i>	<i>Reform progress</i>
<i>Chicken Meat Industry Committee Act 1976</i>	PI	1996-97	Completed. Growers able to contract directly with processors.
<i>City of Brisbane Market Act 1960 and City of Brisbane Market Regulation 1982</i>	PI	1997-98	Completed. Monopoly to be repealed by Dec 1999.
<i>Dairy Industry Act 1993</i>	PI	1997-98	Completed. Post-farmgate regulations ended Dec 1998. Farm gate regulations extended to 31 December 2003.
<i>Egg Industry (Restructuring) Act 1993</i>	PI	1997-98	Act 'sunsetted' at end of 1998.
<i>Farm Produce Marketing Act 1964</i>	PI	1997-98	Act is due to sunset on 31/12/99.
<i>Fruit Marketing Organisation Act 1923</i>	PI	1997-98	Completed. Marketing provisions to be repealed.
<i>Grain Industry (Restructuring) Act 1991</i>	PI	1995-96	Completed. Vesting powers retained for export barley. Vesting powers for wheat awaiting review of Commonwealth legislation. All other grains to be deregulated.
<i>Primary Producers' Organisation and Marketing Act 1926.</i>	PI	1996-97	Completed. Orders in Council for tobacco leaf repealed October 1998. Existing provisions relating to marketing boards to be repealed via the 'PILA' Bill 1998.
<i>Sugar Industry Act 1991</i>	PI	1995-96	Completed. Replaced by new <i>Sugar Act 1999</i> .
<i>Wine Industry Act 1994</i>	TSBI	1998-99	Underway.

Notes: PI: Primary Industries.

Sources: NCC (1998e); NCC (1999b).

Outcomes

The review of sugar statutory marketing arrangements was conducted by a Sugar Industry Review Working Party (SIRWP), which was established by the Queensland and Commonwealth Governments in September 1995. The SIRWP, comprising government (State and Commonwealth) and industry representatives, presented its final report in November 1996.

The review recommended the removal of the \$55 per tonne specific tariff on sugar imports. The review found that the tariff cost consumers up to \$26.7 million per annum in the form of higher domestic sugar prices. The tariff was subsequently removed in November 1997. The review also recommended the continuation of compulsory acquisition for all raw sugar produced in Queensland; the retention of the Queensland Sugar Corporation (QSC) as the single desk seller for both the export and domestic markets; that the pooling of revenues and costs be retained; and that a system of producer pricing be introduced (SIRWP 1996).

Following release of the report, there were concerns that the compulsory acquisition powers of the QSC contravened the competitive conduct rules of the TPA. On request from the Queensland Government and CANEGROWERS (the peak body representing Queensland sugarcane growers), the Commonwealth Government introduced legislative amendments to the TPA to secure the compulsory acquisition powers of the QSC (Minister for Primary Industries and Energy 1998b).

In addition (and as with the NSW review of rice statutory marketing arrangements), the NCC has expressed reservations about the outcome of the *Sugar Industry Act 1991* legislation review. According to its 1996-97 Annual Report, the NCC's concerns centre on the validity of the review's conclusion that the benefits of full domestic deregulation can be achieved by mandating the provision of export parity priced raw sugar to the domestic market while, at the same time, avoiding the adverse impact of domestic deregulation on the competitiveness of export arrangements (NCC 1997a).

The NCC also expressed concerns about the basis of the estimated 'Far East premium', and the review's expectation that it will persist over time. The NCC noted that the Queensland Government has undertaken to reconsider marketing arrangements for sugar within ten years if changes in market conditions suggest that the current arrangements may no longer be providing a public benefit. (NCC 1998a)

The *Grain Industry (Restructuring) Act 1993* was first reviewed in 1995, with a report released in June 1995. An additional review to comply with Queensland's NCP legislation schedule was carried out in 1997. The major recommendations of the review were:

- to end the vesting powers for domestic grains other than wheat and barley;
- to maintain single desk selling of export barley until 30 June 2002; and
- to maintain wheat export powers subject to the Commonwealth review of the *Wheat Marketing Act 1989* in 1999-2000.

The Queensland Cabinet has accepted these recommendations. The extension of the monopoly over export barley was based on the results of a public benefit test. The *Grain Industry (Restructuring) Act 1993*, which originally had a 'sunset clause' of 30 June 1998, was extended to 30 June 1999 to enable all of the recommended legislative amendments to be passed.

A review of farm gate regulation under the *Dairy Industry Act 1993* by the Queensland Dairy Legislation Review Committee (QDLRC), was completed in July 1998. Post-farm gate regulations, including processor franchises, sunsetted on 1 January 1999. The QDLRC made nine recommendations — the most significant of which included:

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- the farm gate price of milk should continue to be regulated until 31 December 2003 — subject to earlier review if necessary. This was justified on the ground that the adverse impact of deregulation could be significant for some rural communities;
 - supply management arrangements in South East Queensland should be retained until 31 December 2003 following removal of exclusive franchise areas, and extended to Central and North Queensland, to ensure ‘equitable arrangements’ for all dairy farmers;
 - licensing of producers and processors, monitoring and enforcing mandatory food safety and quality assurance requirements, and legislative provisions imposing mandatory charges for the funding of generic promotion should continue; and
 - the extent of government involvement in the dairy industry after 31 December 2003 should be reviewed before 1 January 2003, and earlier if necessary (QDLRC 1998).

It was recognised, however, that the dairy review may need to be revisited as a result of the outcome of the dairy review in Victoria. As the QDLRC report noted:

The proposed regulated farm-gate price ... and associated supply management arrangements ... would be difficult to maintain if deregulation occurs in Victoria before 31 December 2003. It may be necessary to review these recommendations when the outcome of the Victorian NCP review is known. (1998, pp. 14–15)

As part of its legislative review, the Government is to repeal dormant legislative provisions that provide for the establishment of commodity marketing boards with vesting powers and other anti-competitive intervention measures in the fruit and vegetable industries (termed ‘Directions’). The provisions are contained in the *Primary Producers Organisation and Marketing Act 1926* and the *Fruit Marketing Organisation Act 1923*. Covered under these provisions in the past had been commodities as diverse as cotton, eggs, barley, tobacco, navy beans and peanuts. As these arrangements are no longer being used — the last Directions ceased in 1995 — provisions to repeal them are contained in the *Primary Industries Legislative Amendment Bill 1999*.

C.5 Western Australia

Western Australia has listed approximately 270 pieces of legislation for review, with 166 scheduled for inclusion in the second tranche. Of these, 92 had been completed when the NCC made its Second Tranche Assessment. Table C.6 sets out the scheduled timing of relevant legislative reviews for this inquiry.

Reviews have been completed for chicken meat, cooperatives, dairy, dried fruits, fruit, grain marketing and horticulture.

Reviews in progress at the end of 1998 include the *Marketing of Eggs Act 1945*, and the *Marketing of Potatoes Act 1946*. Preliminary work is occurring on the *Agricultural Products Act 1929*. Reviews of the *Marketing of Meat Act 1946*, the *Perth Market Act 1926* and the *Wheat Marketing Act 1989* are to commence in 1999.

Table C.6 Reviews of Western Australian statutory marketing legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date of review</i>	<i>Reform progress</i>
<i>Bulk Handling Act 1967</i>	PI	1997-98	Deferred to December 1999.
<i>Carnarvon Banana Industry (Compensation Trust Fund) Regulations 1962</i>	PI	1998-99	Completed. To be repealed.
<i>Chicken Meat Industry Act 1977</i>	PI	1996-97	Completed. Some restrictions to be removed. Entry restrictions to grower and processing sectors to be removed. Individual contract negotiations permitted where growers wish to opt out of collective bargaining arrangements.
<i>Dairy Industry Act 1973</i>	PI	1997-98	Completed. Restrictions on competition to be retained in public interest.
<i>Dried Fruits Act 1947</i>	PI	1996-97	Completed. Act to be repealed in 2000.
<i>Fruit Growing Industry Trust Fund Act 1941</i>	PI	1996	Repealed.
<i>Grain Marketing Act 1975</i>	PI	1998-99	Act to be amended to include public interest test
<i>Horticultural and Produce Commission Act 1988</i>	PI	1997	Completed. Amended to ensure compulsory levies on growers are only used to fund public good activities and are subject to cost-benefit test.
<i>Marketing of Eggs Act 1945</i>	PI	1997-98	Underway.
<i>Marketing of Meat Act 1946</i>	PI	1998-99	Not commenced.
<i>Marketing of Potatoes Act 1946</i>	PI	1997-98	Underway.
<i>Perth Market Act 1926</i>	PI	1998-99	Not commenced.
<i>Poultry Industry (Trust Fund) Act 1948</i>	PI	1996-97	Completed. Act to be amended to ensure compulsory levies on growers are only used to fund public good activities and are subject to cost-benefit test.
<i>Wheat Marketing Act 1989</i>	PI	1998-99	Not commenced.

Notes: PI: Primary Industry.

Sources: NCC (1998e); NCC (1999b).

Outcomes

The review of the *Chicken Meat Industry Act 1977* recommended that broiler growers be allowed to negotiate contracts directly with processors, to enable greater

flexibility and competition, and that entry restrictions to the growing and processing sectors be removed.

C.6 South Australia

South Australia has listed approximately 180 pieces of legislation for review, with 121 scheduled for the second tranche. At the time of the NCC's Second Tranche Assessment, 46 had been completed. Table C.7 sets out the scheduled timing of reviews of legislation affecting the marketing of rural products.

Table C.7 Reviews of South Australian statutory marketing legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date of review</i>	<i>Reform progress</i>
<i>Barley Marketing Act 1993</i>	PIRRND	1997	Completed. Joint review with Victoria. Single desk for export barley sales to be retained for 12 months. Oats market in SA to be deregulated. Domestic barley market to be deregulated from July 1999.
<i>Citrus Industry Act 1991</i>	PIRRND	1998	Underway.
<i>Dairy Industry Act 1992</i>	PIRRND	1998	Underway.
<i>Deer Keepers Act 1987</i>	PIRRND	1999	To be replaced by <i>Livestock Act 1997</i> .
<i>Dried Fruits Act 1993</i>	PIRRND	1998	Underway.
<i>Dairy Industry Assistance (Special Provisions) Act 1978</i>	PIRRND	1998	Repealed by Schedule 2 of the <i>Livestock Act 1997</i> .
<i>Bulk Handling of Grain Act 1955</i>	PIRRND	1998	Completed. Act to be repealed.
<i>Garden Produce (Regulation of Delivery) Act 1967</i>	PIRRND	1998	Underway.
<i>Marginal Dairy Farms (Agreement) Act 1971</i>	PIRRND	1998	Nil.
<i>Phylloxera and Grape Industry Act 1995</i>	PIRRND	1998	Not commenced.
<i>Poultry Meat Industry Act 1969</i>	PIRRND	1998	Completed. ACCC authorisation granted for collective negotiation of fees and conditions between growers and Inghams to April 2002.
<i>Wheat Marketing Act 1989</i>	PIRRND	2000	Nil.
<i>Wine Grapes Industry Act 1991</i>	PIRRND	1998	Underway.

Notes: PIRRND: Primary Industries, Natural Resources & Regional Development.

Sources: NCC (1998e); NCC (1999b).

Reviews of the *Barley Marketing Act 1993* (jointly with Victoria), the *Bulk Handling of Grains Act 1955*, the *Cooper Basin (Ratification) Act 1975* and the *Poultry Meat Industry Act 1969* have been completed.

A review of the *Wine Grapes Industry Act 1991* was underway at mid-1999. Primary Industries and Resources South Australia (PIRSA) engaged KPMG

Management Consulting Limited to conduct a preliminary analysis, as part of a concurrent review of aspects of the New South Wales *Marketing of Primary Products Act 1983* and the Victorian *Agricultural Industry Development Act 1990*. Reviews of the *Citrus Industry Act 1991*, *Dairy Industry Act 1992*, *Dried Fruits Act 1993* are also underway.

Outcomes

The outcome of the review of the *Barley Marketing Act 1993* was discussed under the section on Victorian legislation reviews.

C.7 Tasmania

Tasmania listed 236 Acts for review; 202 for the second tranche. Of these, 113 had been completed for the NCC's Second Tranche Assessment. Table C.8 sets out the scheduled timing of reviews of legislation affecting the marketing of rural products.

Table C.8 Reviews of Tasmanian statutory marketing legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date of review</i>	<i>Reform progress</i>
<i>Apple and Pear Industry (Crop Insurance) Act 1982</i>	DPIF	1996	Completed. Compulsory insurance with the Fruit Crop Insurance Board ended.
<i>Dairy Industry Act 1994</i>	TDIA	1998	Underway.
<i>Egg Industry Act 1988</i>	DPIF- EMB	1998	Completed. Awaiting decision.
<i>Grain Reserve Act 1950</i>	TGEB- DPIF	1998	Underway.

Notes: DPIF: Dept. Primary Industry & Fisheries; EMB: Egg Marketing Board; TDIA: Tasmanian Dairy Industry Authority; TGEB: Tasmanian Grain Elevators Board.

Sources: NCC (1998e); NCC (1999b).

Reviews of the *Apple and Pear Industry (Crop Insurance) Act 1982*, and the *Egg Industry Act* have been completed. A review of the *Dairy Industry Act 1994* was underway at mid-1999. The review panel comprises Tasmanian Government and dairy industry representatives, and released an issues paper on 27 October 1998. The issues paper describes the operating environment of the Tasmanian dairy industry, the provisions of the *Dairy Industry Act 1994*, the legislative arrangements governing milk production and distribution in other States and Territories and the nature of the restrictions on competition in the Act. The panel held public meetings in Tasmania during November 1998. Public submissions to the review panel were due in November 1998.

The review panel was to report to the Minister for Finance and the Minister for Primary Industries, Water and Environment by 29 May 1999. The review was still underway as at July 1999.

A review of the *Egg Industry Act 1988* commenced in August 1998. The Egg Industry Review Group, comprising representatives from the Department of Primary Industries, Water and Environment (amalgamated from the Department of Primary Industries and Fisheries and the Department of Environment and Land Management) and the Department of Treasury and Finance, and community representatives, released an issues paper in August 1998 which called for public submissions by September 1998. The Review Group found that the restrictions could not be justified on public benefit grounds, and recommended that: the licensing/quota system for egg producers be abolished; the vesting powers of the Egg Marketing Board be abolished; and that the prohibition of eggs from unlicensed producers be abolished.

C.8 Australian Capital Territory

The Australian Capital Territory (ACT) has listed 181 Acts which restrict competition for review under the second tranche, of which 56 had been completed by the Second Tranche Assessment.

The ACT has only one piece of statutory marketing legislation, the *Milk Authority Act 1971*. Table C.9 sets out the scheduled timing of the review of this legislation.

Table C.9 Review of ACT statutory marketing legislation

<i>Name of legislation</i>	<i>Agency</i>	<i>Date of review</i>	<i>Reform progress</i>
<i>Milk Authority Act 1971</i>	Urban Services	1998	Completed. Subsidies and exclusive franchises to be phased out over 2 years.

Source: NCC (1999b).

C.9 Northern Territory

The Northern Territory has scheduled 85 Acts for review under the second tranche, of which 26 have been completed. Following the repeal of the Grain Marketing Act in August 1996 and the subsequent dissolution of the Northern Territory Grain Marketing Board, the Northern Territory has no statutory marketing legislation.
