

PO Box 234
Curtin
ACT 2605
Tel/Fax 02-62814493

17 July 2001

Dear Mr Banks,

As your Belconnen based Secretariat may already mentioned to you the Balanced State Development Working Group (BSDWG) has only just received a copy of the Commissions Position Paper paper on the Review of the National Access Regime.

Last December I wrote to your Mr Henderson advising that we would not make a submission in response to the Issues Paper but that we might make a contribution after the release of the Position Paper. I asked for three copies of the Position Paper to facilitate consideration by BSDWG.

It was only when, earlier this month, I heard a reference to the completion of public hearings that I realised that our request had been overlooked.

BSDWG realises that the Commission is obliged to meet the reporting requirements set by the Commonwealth Treasurer and that the closing date for the receipt of submissions may well have passed. We have therefore decided that we should restrict this letter to two key issues which have been of ongoing concern to members of BSDWG and which I have advised my colleagues do not appear, from a first reading, to be adequately addressed in the Position Paper.

#The first is the question of how is the concept of 'Access Regulation' to be understood.

For example the first dot point under 'Key Messages' on page xii focuses narrowly on 'uneconomic to duplicate' and subsequent dot points continues the emphasis on 'costs'.

The overall thrust appears to relate to financial cost to businesses who wish to gain access to 'essential' infrastructure. Gas pipelines and railways are quoted as examples but BSDWG is aware of applications for access to grid and distribution networks for the transmission of electricity and to networks of microwave transmission towers for communications and data transfer. Not only does there not appear to be any acceptance of the need for compulsory consideration of environmental and health issues but the availability of alternatives to the use of the 'essential' infrastructure receives minimal consideration.

Thus road transport as an alternative to rail and shipping as alternative to gas pipelines as well as to road and rail is only rarely given appropriate consideration even when the land infrastructure alternative causes ongoing environmental degradation. A simple example is visible to the passengers in every car (or CountryLink Coach) travelling on the Monaro Highway from Michelago to Nimitabel via Polo Flat. Not only is there a 'scar' some 15 metres wide which is clearly visible from the road but, since it was not 'economic' to place the pipe in a deep channel, the banks of water gullies are lined with concrete and there are several hundred red and white metal flags placed along the alignment creating the impression of a continuous series of linear pitch and put golf courses. The flags will be required until, at some future time, the pipeline is abandoned because its future use is deemed not to be economic.

Coincidentally an example of the environmental effects of increased access to a long established rail line was noted on page six of the Travel Section of the July 14-15 edition of the Sydney Morning Herald. The report by Jacqui Taffel on a weekend stay at a B&B at Burradoo notes 'The only downside to the stay, for me, is the train line. A light sleeper, I wake several times as trains go by somewhere in the distance.' The Commission will recall that BSDWG drew attention to a range of similar issues in its 1999 submissions to the Inquiry into the effect of National Competition Policy on Rural and Regional Australia.

An example of the reluctance of statutory bodies, established to implement National Competition Policy, to consider environmental and health issues can be found in the February 2001 Discussion Paper issued by the National Competition Council with respect to 'Application for declaration of Western Power Corporation Electricity Transmission and Distribution Services'. Our response to that Discussion Paper was sent to the NCC on 21 March. Since we understand that it is available on the NCC's web site it is not repeated here.

It is appropriate to note that the issues paper made no reference to the long term effects of increased levels and longer periods of high voltage transmission on the health of local residents, the possible use of solar and wind power - an experimental wind farm was established some time ago - and the approval by the (then) Government for a windfarm at Albany due to be 'operating' by July 2001, and the transport of gas by sea to one of several possible sites on the South West Coast (if a case for additional capacity in the region can be established).

In summary, BSDWG believes that one potential benefit of the Commission's 'Review' is that it provides an opportunity to more adequately address the wide range of 'issues' which need to be covered in relation to the concept of access.

#The second issue is whether there is a continued case for ministerial involvement in the decision making process.

The thrust of the Commission's argument that there no longer a case for a direct involvement seems very similar to Annie Oakley's famous 'Anything you can do I can do better', and there appears to be a reluctance to acknowledge some of the characteristics which provide strength to Ministerial decision making.

In its submissions (205, 210, D273, D291) to the Commission's Inquiry into the effect of National Competition Policy on Rural and Regional Australia BSDWG drew attention to the apparent lack of experience of living and working outside Capital Cities which seemed to be a characteristic of the then members of the ACCC, the NCC and the PC. One part time member had completed post graduate work at James Cook University and two other part time members had been members of academic staff at Newcastle and Wollongong Universities but all other experience outside Australian Capital Cities had been gained overseas!

At a later date it was pointed out to us that this was particularly surprising for members whose earlier careers were in the Australian Public Service since, in the late 1970's, Departmental Heads and the then Public Service Board had agreed that it was desirable that opportunities for postings in Australia away from Central Offices were found for promising senior (Class 11's and Level 1-3 SES) officers.

It was also suggested to us that we should have given greater emphasis to the very narrow range of academic qualifications represented and drawn attention to the complete absence of professional recognition through awards such as FASSA, FIEAust and FETS in a range of CV's which appeared to give undue emphasis to time spent at overseas universities.

Late last year BSDWG had occasion to wish to explore the experience gained by Commonwealth and State Ministers of living and working outside capital cities before they were elected to Parliament. The context of our interest related to certain aspects of Government decision making which BSDWG is particularly interested in. We agreed that as a first step we should look at Ministers whose current portfolios included responsibility for aspects of Competition Policy.

BSDWG has agreed that I can let you have the attached copy of an internal minute, circulated last January, which provides data for certain Commonwealth, NSW, Victoria and Queensland Ministers.

Using the Commonwealth Ministry as the model, eight portfolios seemed directly relevant. Interestingly two Commonwealth Ministers had extensive experience outside a Capital City environment and for each State at least three Ministers had extensive experience outside that State's Capital City while one Victorian Minister was an Alderman on Mount Isa City Council from 1988-90 and remains a patron of Mt Isa Australian Football League and Mt Isa Amateur Cycling Club.

As the BSDWG minute notes the 'spread' of experience of various working environments is quite extensive for the Portfolio Ministers in each of the four Governments. However it could be argued that the Legal Profession is over represented and the Engineering Profession conspicuously absent.

In a later discussion BSDWG agreed that when Government's generally, or Portfolio Ministers in particular, have to give consideration to the range of issues raised when matters related to Competition Policy must be determined the 'spread' of experience would be very valuable. BSDWG endorsed its earlier view that Ministers involvement in decision making processes could lend credibility to the final decision.

In the light of the Commission's Proposal 9.1 we believe that the considerations outlined above support the view that there is a strong case for the continued involvement of Ministers.

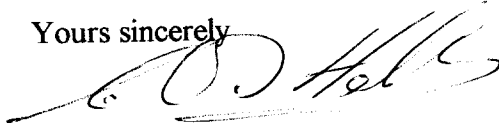
Irrespective of whether or not BSDWG's view prevails we believe that some of the issues raised by the Review of the National Access Regime confirms that it would be timely to revisit the application of Best Practice Principles to Commonwealth NCP Regulatory and Policy Review Bodies which we have previously raised with the Commission (Issue 5, 25 February 1999). From personal knowledge of regulatory practice in Canada, U.K. and U.S.A. we developed four key 'best practice' principles:

- * 1 Statutory Office Holders should provide a wide range of skills and background relevant to the work of the Agency.
- * 2 The 'mix' of statutory appointments to a particular Agency should demonstrate knowledge and/or experience covering Metropolitan, Regional and Rural Areas in States and Territories.
- * 3 That knowledge and/or experience should cover social and economic issues.
- * 4 Whenever possible NCP Regulatory and Policy Review Agencies should hold public hearings/round table discussions in areas likely to be affected by a Regulatory Decision and/or Policy Review Outcome.

In 1999 BSDWG concluded that one way of ensuring that practice standards *2 and *3 are met would be to amend the enabling legislation of the NCC, ACCC and PC to require that at least 3 Commissioners of each Agency have current knowledge and/or experience of a wide range of Regional and Rural Issues and that that knowledge and/or experience must not be restricted to the Eastern States.

We believe that the Commission should incorporate both the four practice standards and the proposed legislative changes in its final report to the Assistant Treasurer on this Reference.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C.C. Halton', written over a horizontal line.

C.C. Halton
Co-convenor BSDWG

Mr Gary Banks
Chairman
Productivity Commission
PO Box 80
Belconnen
ACT 2616

PO Box 234
Curtin
ACT 2605
Tel/Fax 02-62814493

17 January 2001

Colleagues

As agreed last month I have given further thought to how best to sample the spread of experience in various working environments available within Commonwealth and State Ministries.

The information which was readily available included the Governments of NSW, Victoria, Queensland and Western Australia as well as the Commonwealth. However the information on W.A. is a year old and will be affected by the election. It is not covered in this note.

Consistent with our last discussion I looked at the Portfolios - other than First Ministers - who would seem to be directly involved in various aspects of NCP. Using the Commonwealth as the model these would certainly include:

Treasurer, Transport, Ag. Fish and Forest, Employment, Education, Environment, Communications and Industry/Resources

Interestingly for each Government at least two (Commonwealth) and three (State) Ministers are based, or have had many years adult experience, outside the Capital Cities and other large metropolitan areas such as Newcastle. Similarly the range of work experience is quite wide though the Legal Profession - Lawyers and Solicitors - seems to be over represented and the Engineering Profession is conspicuously absent.

The government/government breakdown is as follows:

Commonwealth

Gunnedah, Maryborough

1 Academic, 1 Cane Grower, 1 Farmer, 1 Journalist, 3 Lawyers, 1 Political Organiser

NSW

Blue Mountains, Central Coast, Mount Druit (I didn't count Windsor)

1 Lawyer, 1 Newspaper Publisher, 1 Policeman, 1 Public Relations, 1 Teacher, 2 Trade Union Organisers

Vic.

Bendigo, Dandenong, Morwell, Mount Isa

1 Journalist, 1 Lecturer, 2 Union Officials, 1 Union Organiser, 2 Teachers

Queensland

Cairns, Ipswich, Mount Isa, Rockhampton

2 Academics, 1 Public Relations, 2 Lawyers, 1 Teacher

As must be obvious from the above I wasn't always able to find reference to a Minister's work experience before entering political life. I have kept a copy of the raw data.

To Bill Henderson
Productivity Commission
Fax 02-62403311

PO Box 234
Curtin
ACT 2605
Tel/Fax 02-62814493

13 December 2000

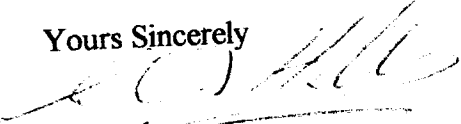
Dear Mr Henderson

Thank you for sending me a copy of the Issues Paper relating to the Commission's Inquiry into the National Access Regime and for the related documents.

When I read the Paper I believed that the Balanced State Development Working Group(BSDWG) would have little difficulty in developing a submission before the closing date of 15 December. Unfortunately I was wrong, primarily because there are different views within BSDWG on the concept of access and the implications of some NCC determinations.

We have therefore decided that I should advise you that we will not be making a submission but that we may be able to make a contribution after the release of the Commission's Position Paper. I would be grateful if you could let me have three copies of the Position Paper to facilitate consideration of the Paper by members of BSDWG.

Yours Sincerely


C.C. Halton
Co-Convenor BSDWG