
Crawford School of Public Policy, ANU: Competition Policy and Deregulation – Challenges and Choices*

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21st anniversary, should have a bit of history.

Can I start by addressing the rosy-hued view that it was all so easy to undertake reform back then.

Summarised by some commentators as the low-hanging fruit.

Low hanging fruit, ha.

POLITICS OF THE DAY Historically, NCP dates from March of 1991. Page 9, March Statement by Hawke. PM is replaced amid great acrimony later that year, new PM has to decide if he wants the reform ideas of his predecessor.

INTERNAL SUPPORT a bit soft: Tariff reform and the floating dollar were having their desired effect, but it was a constant concern in that time that the reform process was imbalanced, leaning heavily only on the internationally-trading sector.

But the idea that we could embed a legislated right to compete in the domestic economy, and do that by sweeping away regulations held dear to those rusted-on supporters of micro reform, the States, was a bridge too far for some.

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20 months of preparation between first announcement and final commencement of the Hilmer team. For some economists, this looked suspiciously like further regulation of markets.

STATES The States were essential to National Competition Policy.

Not just implementing it, since they had many of the entry barriers and regulated businesses, but even starting the Hilmer Review.

Prior to Fred getting called to action, we needed 12 months of active negotiation and two Special Premiers Conferences to get support.

All this, before the intellectual challenge starts.

So don't anyone tell me about low-hanging fruit.

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The Hilmer Report was a much more substantial success than its lowly position in the 1991 Statement suggested.

That this is so is largely the responsibility of the other guests on the stage with me here today.

Being there at the start means I know how close to death this idea occasionally was, and how much it relied on the efforts of a handful of individuals to remain alive; and then become the major reform project of the last decade of the twentieth century.

There were two basic thrusts to the reforms: removal of barriers to entry as far and as wide as possible across sectors that were not international trade-exposed; and the right of access for innovators (or just plain old competitors) to facilities that otherwise gave a monopoly business the ability to choose its level of competition. The Telecom problem, as it was known then.

The former area was the source problem that encouraged the framers of the 1991 Statement to take up the idea.

We knew as policy-makers a great deal about how to address protected industry policy where the market was potentially amenable to threat or reality of international competition.

But until the Hilmer Review, we had no policy options of a traditional kind for dealing with the accreted problems of industries which - through government

regulation of entry or through direct government ownership - controlled access to markets covering a larger part of the economy than that which was internationally exposed.

Not only was there a sense of inequity to that, but also a sense that greater burdens for the economy existed behind those walls than behind the walls of tariffs and quotas.

A sense, exposable by incident and example, but not able to be calculated in the precise way sought by some at the time.

Pressed to demonstrate the expected benefits in advance of the inquiry, we could only say it was hard to be sure.

Thus page 9.

But in this, as in the case of the internationally-traded sector, the Industries Assistance Commission was also active.

In its 1989-90 Annual Report, the Commission called greater exposure to competition across markets the surest method of securing higher productivity.

Thus two years before the embryonic Hilmer inquiry appeared in Hawke's 1991 March Economic Statement, the Commission said in relation to government enterprises:

Exposing public enterprises to competition is sometimes dismissed because it is assumed to involve wasteful duplication of infrastructure... [However] duplication... is only likely to occur if firms cannot get access to the distribution networks at reasonable cost.

In our own micro reform efforts, we had met up with this problem.

Preceding the Hilmer Report had been the politically scarring experience of introducing a competitor to the then monopoly Telecom.

The differences within the Hawke Government over how to deal with introducing competition to Telecom have been recorded elsewhere.

But the very effective resistance by Telecom to what was known then (and still is today) as structural separation was exactly as forecast by the IAC.

However, Telecom's victory was also a loss. It set the circumstances where, when needing to explain what benefits might come from new access provisions, one only had to say 'remember Telecom'.

Although there were of course many other similar access issues, in ports and rail and gas pipelines and airports that looked and were just as prospective for reform.

And where by the time their turn for reform came, the Hilmer framework was in place.

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The National Competition Policy process was very successful.

The Commission in 2005 (10 years after the Commonwealth and the States entered into the National Competition Policy Agreement) found that National Competition Policy had:

- (a) Contributed to the productivity surge that underpinned (then) 13 years of continuous economic growth (now 22 years and counting)
- (b) Directly reduced prices of goods and services to business and consumers, in areas such as electricity and milk
- (c) Stimulated innovation; and
- (d) Improved environmental goals, including in water policy.

Being the Commission of our name, we emphasised the productivity gains: the highest recorded productivity improvement in more than forty years.

We also found – conservatively – that at least 2.5 percentage points had been added to GDP before any dynamic efficiency gains, or about \$20 billion annual income in the dollars of the day.

Businesses benefited most directly, but households also gained.

On the negative side of the agenda, some regions suffered disproportionately and smaller States and Territories found commitments to undertake comprehensive review programs hard to manage.

I cannot think of any single reform proposal under public discussion today that has the capacity to make this order of difference to an economy.

It changed attitudes at the firm and workplace levels across a nation.

More recent efforts have not been so successful.

For example, the National Reform Agenda in social policy, which offered such promise five years or so ago, did not really take off. More or less, the reforms have

been ones that the Commonwealth has purchased. The incentives and structures remain pretty much unchanged.

Part of the reason for this is lack of structured commitment, like that which preceded the Hilmer Review.

We are dull people at the Commission. We like process. In that respect, I may be dullest of all – I've seen process and structure that works for major reform projects; and wonder if I will ever see it repeated again.

In that spirit, let me note that NCP's comprehensiveness was also part of its strength.

Today's COAG agendas do not often survive one change of government. NCP survived numerous changes of government, State and Commonwealth, because it was too big to fizzle.

Hawke, Keating, Greiner, Kennett and Goss were eventually replaced with Howard, Fahey, Bracks and Borbidge; but the process continued.

State Treasuries were locked in as proactive agents of change because the fiscal benefit from incentive payments for reviews and reforms achieved was too important to ignore.

Politicians needed to remain publicly in support, because the idea of reformist governments had taken hold. The cost of not participating remained higher in public perception than the reward for any go-slow. There was adjustment pain all round, to be sure; but no one jurisdiction could backslide while others were out there taking their hits.

And there was transparency, public reporting of targets, that great incentive to good behaviour.

It is sometimes said that only chemists and newsagents survived the NCP unaltered.

In fact, there are many more areas of potential productivity-enhancing reform which are survivors from that era:

- limits on retailing hours and on how close to each other similar businesses can set up (eg big box warehouses)
- coastal shipping competition restrictions
- aspects of international aviation (ownership rules)

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- some rail freight services, eg with privatisation of Queensland Rail, now Aurizon
 - foreign investment rules
 - restrictions on professions, both limits on entry and competitive substitution
 - water trading from rural to urban areas
 - large project approval process
 - taxis, potentially.

We still have potato and rice marketing boards, would you believe?

We estimate reforms in these areas could be roughly worth \$6 billion per annum.

More important than quantum of GDP improvement, however, is scope for innovation and dynamic efficiency gains.

I mentioned newsagents as survivor of NCP. They are today in somewhat of a different category.

The sweep of technology has changed their competitive circumstances significantly.

The decline in newspaper circulation and the rise of social media has done what regulatory reform could not; as it has done with:

- recorded music
- books (it was only five years ago we were looking at allowing parallel imports, now we're all looking at Kindles) ; and to
- some bricks and mortar retailing, to mention only the obvious examples.

Taxis, I qualified above. That's in part because they too are about to be caught up in the digital reform space. Google having bought into Uber, giving it an implied enterprise value of \$3.5bn which looks remarkable for a taxi booking app.

This suggests that there is much more scope for reform gains than just a convenient on-line booking service. Regulators in the US are seeking to shut down Uber or limit it, explicitly out of fear that it may undermine a system of regulated services. Without taking sides, I merely note that Google is not the sort of entity that will go away quietly.

Even chemists, with the level of ownership, location and regulatory protection they enjoy, are feeling the hot breath of technology-driven competition.

I will not comment on the position in Australia, but both Canada and the US are experiencing the impact of on-line competition jumping over regulatory boundaries.

According to media reports, Canada's much cheaper regulated pricing of pharmacy products attracts scripts from the US to the extent that parcels are now being scrutinised by border agencies; while the US's softer line on availability of products deemed restricted in Canada has also seen a reverse flow of parcels to the north.

The degree to which either of these trends will alter competitive dynamics is arguable, but that business model, whatever it is, will eventually come to Australia.

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We are in a productivity slump. MFP, the best indicator that we are getting more bang for our policy and entrepreneurial buck, was negative again last year, and has been for almost all of the past decade.

This isn't just depressing, it suggests we need to embrace the sort of the shifts represented by the internet.

Many of you will recall Robert Solow's comment on the IT revolution in the 80s: 'You can see the computer age everywhere but in the productivity statistics'.

It takes time – many years – to shift the productivity statistics, and so shift national income growth.

It is software that gives us the productive (if possibly unpalatable) delights of doing both our own check-in at airports and our own check-out at supermarkets. Those ideas took twenty years to emerge after Solow's comment.

So it might be best to start now embracing the internet.

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This does not suggest that chemists or some of the other areas left unaddressed by previous competition policy scrutiny should be ignored, that technology will solve all ills. As I will shortly indicate in a bit more detail, IP is not *required* to be licenced (under than under quite narrow circumstances) in Australia. Google may or may not choose to apply whatever it plans in this market, a somewhat remote and certainly small economic target.

But it does say that the real question may be one related to what we will do, or won't do, to allow the power of the internet to alter productivity in areas seen as traditionally too hard to reform.

Do we want to resist the examples like Uber? Or embrace them? And what does that mean for State regulators, and for the Commonwealth as Constitutional owner of communications laws?

Good questions, in my view.

Perhaps they will be further considered in the Government's root and branch competition inquiry.

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There are some notable areas of the economy still excepted from the Competition and Consumer Act, via restrictions in that statute.

They have long term historical rationales.

Intellectual property is one of two primary areas where historically the right to exploit a monopoly attracts no competition law scrutiny: if you achieve a patent, it is generally yours to exploit.

This is meant to create an incentive to innovate, a worthwhile concept.

Even better if you can get a government to extend your lock on IP, as has happened overseas more often recently, and may be extended to Australia under bilateral trade agreements from time to time.

Or more innovatively still, if you can obtain a patent portfolio and rather than licence it, use it to tax others' innovation via court cases, you may minimise your capital cost while maximising your potential returns.

I'm not sure this latter trend is precisely what was intended for the originators of the IP system we use today. The system, first developed around the 14th century, and pretty much unchanged since the 1800s, has had a fair run for any policy structure.

The Commission wrote a chapter in our *Trade and Assistance Review* last year on IP.

The empirical studies we could find generally concluded that incentives for innovation from the IP system appeared to apply only in a few sectors.

We think there could be a case for review: the nature of internet-driven change and related global dependence on software-based systems suggests each nation should consider closely how well it is served by current IP systems, as these trends take hold.

The other high profile policy area long excluded from competition policy is industrial relations. Since the Commission expects to be reviewing this area in the future, I will make no comment.

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I've talked today in introducing this forum possibly too much about the history.

There is a point to this, however, that is not about past glories.

The Hilmer Review lived because of two things:

Ideas were harvested from a willing bureaucracy, which had the ability to share with equally willing non-bureaucrats the task of framing a better economic outlook.

And a government of the day was willing to risk some political capital to see this happen.

It did this astutely, because it had learned that all sectors had to be involved in the reform effort, it was unsustainable to expect that tariff reductions and a floating dollar were going to do the job alone. Money and labour would move simply into protected domestic sectors and this imbalance was unlikely to maximise welfare for Australians.

But this was not the plucking of low-hanging fruit.

There is no serious reform that comes without political commitment, although *with* that commitment many more reforms are possible than are dreamt of by opinion-makers today.

The structure of how to do this is self-evident: we did it once before with a series of Economic Statements over more than a decade. The NCP Statement of 1995 was one of four that decade.

No sector was insulated from change and so no employer nor workforce could stay immune from having to consider new and better ways to do the job and beat off competition.

We can and have demonstrated the productivity and consequent national income benefits of this policy.

And we could do it again.