

The effects of the National Competition Policy on emergency management arrangements

Background

On 26 February 1992 the then Prime Minister Paul Keating, in his *One Nation* statement, said 'the engine which drives efficiency is free and open competition'. Free and open competition was believed to be a keystone for the micro-economic reforms that were to deliver improvements in the Australian economy.

There were six specific elements that were major parts of the competition policy, each of which is supported by laws, policy or government action.

- 1 Controlling anti-competitive conduct of firms by enforcing Part IV of the Trade Practices Act.
- 2 Reforming regulation that unjustifiably restricted competition, examples of which were the deregulation of telecommunications, banking and domestic aviation.
- 3 Reforming the structure of public monopolies to facilitate competition (e.g. power and water in many States).
- 4 Providing competitors with access to national networks that are essential for competition (e.g. Optus access and use of the Telstra network).
5. Restraining monopoly-pricing behaviour through price surveillance by a prices and competition surveillance authority.
6. Fostering competitive neutrality between government and private enterprise by requiring government businesses to make tax equivalent payments.

John Wearne, Senior Vice President of the Australian Local Government Association, has raised a number of concerns about the impact the National Competition Policy and its impact on emergency management at the local level.

'One of the major concerns, particularly in rural areas with the introduction of Compulsory Competitive Tendering, was the potential impact of losing their capacity to respond to local situations. For example, concern was expressed about the potential consequences of outsourcing to contractors who were not locally based, or had other contractual commitments in another area. In this case essential plant and equipment that may have normally been located and

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available to the community at the time of an emergency may not be in the area when required. This would clearly be an unintended consequence of awarding a contract to a 'low-cost' contractor without adequate consideration of the potential need in the event of an emergency.'

Another simple illustration of the impact of out-sourcing was a result of the decision to contract out the cleaning of classrooms. Previously the school cleaners employed by education departments often carried out minor maintenance and repairs, such as changing light globes, tap washers and fixing broken desks. The contractor who put in a very competitive bid to sweep the classrooms, does what the contract demands. They sweep the classrooms according to the contract specifications for the agreed price. But the globes still blow and the taps still drip, who will fix this? The contractor will often happily accept a variation to the contract, for an agreed price.

We can measure costs and therefore it is easier to control them. It is very hard to measure value so it does not appear to figure in the calculations.

Legislation

To increase the likelihood of implementation of an idea or concept in our society it should be based on legislation. Legislation provides the power or authority to act and an incentive.

The Trade Practices Act 1974 is the piece of legislation that has provided the power and incentives for the activities called compulsory competitive tendering, economic rationalism, national competition policy. What was the intended target of the Trade Practices Act and the purpose?

Role of the National Competition Council

Although since 1974 the Trade Practices Act has prohibited certain anti-competitive

market conduct, its application in some areas of the economy was limited. The 1993 National Competition Policy (Hilmer) Review recommended extension of the Trade Practices Act to cover all business activities.

Recognising this measure might not be enough to produce effective competition in some markets, the review addressed five additional policy elements:

- review of laws that restrict competition
- restructuring of public sector monopoly businesses
- introduction of competitive neutrality so that public businesses do not enjoy unfair advantages when competing with private businesses
- access to nationally significant infrastructure services to promote competition in related markets
- extension of prices surveillance to government businesses to deal with those circumstances where all other competition policy reforms prove inadequate.

The National Competition Council is an independent advisory body, comprised of members from private industry. This advisory body makes recommendations to the Federal Government on all governments involved in competition reforms. The three inter-governmental agreements and the changes to the Trade Practices Act form the Council's guiding principles and establish strong incentives for a nationally consistent, cooperative approach to achieving a more competitive economy.

These guiding principles establish a role for the Council in the following broad areas:

- assessment of government's progress in competition policy reform
- recommendations to governments on access to significant infrastructure services
- recommendations on whether State and Territory government businesses should be declared for prices surveillance by the Australian Competition and Consumer Commission (ACCC)
- advice to the Commonwealth when it is considering overriding State or Territory exemptions from the Trade Practices Act

- other work on competition policy as agreed by a majority of the stakeholder governments.

Governments in Australia have agreed to implement the National Competition Policy and Related Reforms. This agreement includes the Conduct Code Agreement, the Competition Principles Agreement and the Agreement to implement the National Competition Policy and Related Reforms.

Under the agreements, the Commonwealth will make special payments to States and Territories that make satisfactory progress in implementing the national competition policy reforms. If a State or Territory does not take the required action within the specified time, its share of the payments will be withheld. The National Competition Council will assess, prior to 1 July 1997, 1 July 1999 and 1 July 2001, whether the conditions for payments to the States and Territories, have been met.

Commonwealth payments to States and Territories (estimated nominal \$ million)	
1997-1998	\$428,000,000
1998-1999	\$646,000,000
1999-2000	\$1,113,000,000
2000-2001	\$1,369,000,000
2001-2002	\$1,888,000,000
2002-2003	\$2,184,000,000
2003-2004	\$2,499,000,000
2004-2005	\$2,833,000,000
2005-2006	\$3,188 000 000
Total:	\$16,147,000,000

Community Service Obligations

Collateral damage, a euphemism for secondary, indirect, unintended or innocent victims of an action.

What is the collateral damage of the economic reforms?

Community Service Obligations, known internationally as Universal Services, are one of the significant victims of the National Competition Policy and its naive implementation.

What do we mean by the terms Community Service and Community Service obligations? Do we need to provide these services? How will we fulfil Community Service Obligations in the competition context? How much do they cost, and who is going to pay for them?

A definition of Community Service Obligations is 'ensuring fair and equitable access to everyone at reasonable cost to the provider e.g. the public emergency telephone number.'

But community service obligations have also, in some instances, become perverted into an ideological concept that has been manipulated by different players to support their own point of view, for example:

- commercial radio broadcasting Community Service Announcements as part of the regulator's requirement of their broadcasting licence
- transport operators asking for subsidies for providing passenger services on uneconomic routes.

These issues could be resolved if there was a single universal model, which will apply in all contexts. Or perhaps it is better seen as a dynamic concept, which needs to be considered within the context of a particular country, its stage of development and against a background of the community's economic, social and political objectives.

As a recent simple example, a local council previously collected household rubbish once a week as part of its responsibilities for public health. It now collects household rubbish once a fortnight. The costs of household rubbish removal have been contained, but at what cost to public health? Is that an indicator of the priority issues for that council?

How then do we define community service obligations in developed countries in a competitive environment? It is perhaps useful to separate the social and political objectives from the economic and legal objectives.

Social and political:

- access to health, education, communication, security, food, water, shelter and transportation, which are essential for full participation in the community.

Economic and legal:

- universal geographical availability, or the provision of service irrespective of where, when and by whom it is requested
- non-discriminatory access, which means that groups of recipients are treated alike in terms of quality and quantity of service.

Maintaining Community Service Obligations

With the advent of national competition policies, providers have started to identify the cost of providing community services, particularly in the highest-cost least-benefit areas.

Where are these high-cost, low-benefit areas? Most often it is the rural or remote areas where the tyranny of distance and low volume adds considerably to the unit cost of any service. The solution in our communities at this time rests largely with community volunteers providing self-help.

But the self help capability of remote and rural communities is diminishing and enterprise and governments are more inclined to give priority to the best return on investment and or implement the 'user pays' principle regardless of the capacity of the user to pay.

So how are we going to resolve the issue of satisfying the needs of low-income groups, who have little political clout in the new competitive environment?

A major issue is that of community expectations of a level of service that has evolved with the government monopolies on supply of the community services. The expectation has been created in the community over a long time and is seen as part of their rights in return for their taxes.

Using the economic rationalism strategy the answer would appear simple; outsource the supply of services and market forces will in the end determine who best balances the level of service with the cost of providing that service. The people with the least power will initially be disadvantaged, but they will either learn to express their power or continue to be disadvantaged, which some might argue is their own problem. The possibility that the expressions of power of disadvantaged groups would cause social disharmony, dislocation and possible revolt and considerable cost to the community, is of course hypothetical.

If outsourcing will provide significant increases in the personal discretionary disposable income for most members of the community. Then it is likely that there will be a positive response to outsourcing. If there is any loss in the level of service the community must feel adequately compensated. I suspect that provided that the significant financial benefits do occur they will be accepted as a trade off for a drop in the level of services. But only until such time as they feel the need for the previous level of service and the sweetener has been absorbed in to their spending pattern long ago.

What should be included as Community Service Obligations?

Equitable access to health, education, transport and communication are basic community expectations in our society. To this we can probably add things like emergency services, police, fire, ambulance, defence from international aggressors, and care for special needs groups. But what else is reasonable to add to the list of community service obligations. What are the criteria that it should satisfy to be included?

Criteria that may assist are:

- if it is a basic physiological need, such as water, food, air or shelter

- if it is a security and safety need, such as police or health services
- if it is a social functioning need, such as communication, transport or power
- if it is a community functioning need, such as legislation or regulation,

then these community service obligations should be universally available to the community with no discrimination and not provided on the basis of capacity to pay.

- If it is an esteem need, such as luxury private cars, pleasure boats or large houses
- if it is a self-satisfaction need, such as hobbies, amusement, entertainment or gambling,

these could be made available to the community at a premium price that will subsidise the community service obligations. Many public enterprises, including transport, postal, energy and water authorities, have long been required by government to undertake activities that they would not engage in if guided strictly by commercial considerations. These non-commercial activities are usually directed to a government's social, industrial or developmental objectives.

The issue being addressed is not the appropriateness of community service and other non-commercial objectives. Instead we need to focus on the process and procedure for achieving those objectives, where appropriate, in a cost-effective way. The traditional means of funding non-profitable community service is by cross-subsidisation. Concerns have been raised about the sustainability of community service policies based on cross-subsidisation through taxation. This has contributed to the widespread belief that the tide of deregulatory change permitting rapidly increasing competition poses a significant threat to community service. Moreover, this argument has been exploited by public operators as a means of preserving their monopoly position.

The principles proposed for the development and achievement of community service objectives and programs are to:

- articulate community service objectives clearly and specifically
- identify barriers to community service
- identify schemes that could cost-effectively address the identified barriers to community service
- estimate the cost of community service programs
- consider the relative merits of alternative mechanisms for funding community service
- report progress in achieving community service targets regularly and publicly

- monitor and evaluate performance in community service delivery regularly.

The effects on emergency management

It is my proposition that emergency management is everyone's responsibility, it is not the sole responsibility of any one organisation. As it is not 'core business' for any one organisation, it is best described for most organisations as a universal or community service obligation.

I am passing judgement on the economic reform policies. I am simply raising the issue that asset and resource management in an emergency is important for the survival of enterprise, and there will need to be very clear protocols established to ensure the existing standards of emergency management are not compromised.

Conclusion

The primary conclusion is that competition and the achievement of community service objectives are not mutually exclusive nor necessarily in conflict. With appropriate arrangements in place, competition rather than monopoly may still be the more appropriate structure to ensure the maintenance, or expansion, of community service objectives and targets. What this suggests is that rather than find expression in attempts to impede competition, the concern over community service could be more constructively harnessed and directed towards the design and installation of such appropriate arrangements as are necessary for the preservation of community service in a competitive environment.

So where do we go from here? Of course the different players will continue to look at the issues from their perspective and will hold to their view being right. Who will be the arbitrators?

The answer has to be the regulators who are empowered by the community to make decisions on their behalf. The regulators need to put into place legislation and regulations that provide a community services profile that the general community wish to sustain politically, economically and socially. We should not adopt an ideological view that competition *per se* will be detrimental to the poorest in society, nor claim that community service obligations degrade the implementation of a competitive environment.

There are also other areas of myopic market rule application that should adopt a broader view on the grounds of public interest, when the value or benefit to the community outweighs the cost of the anti-competitive implications. Examples are the incorporation of the recognition that the power transmission and communication

networks are essential facilities.

Where monopolies are broken down into business units to facilitate more competition, investors are naturally attracted to those elements that have the potential to generate the best return on their investment. The revenue generation business units are keen to divest themselves of those units that they perceive as detrimental to their bottom line, such as maintenance, safety and training, where the return on investment is less tangible.

In the long term it will become very apparent at the bottom line that these areas have been neglected, but most of the decision-makers are driven by the need to maximise the bottom line now. We need to ensure that there is an appropriate recognition of organisational synergy, that is, the output of the whole is greater than the sum of the output of the parts, and without the integration of all of the various aspects in the end, each part will fail in its isolation.

Likewise there are functions that are essential to the optimum functioning of a society. One of these functions is emergency management. It is not a natural monopoly and the sole responsibility of any one agency, organisation or level of government nor does it provide a rational target for competitive action. In the same way, we would be unlikely to contract out our national defence to the lowest bid from some mercenaries.

There are some important similarities in running a business and running a society. In running a business one has a fiduciary duty to maximise the return to the shareholder, if one does not, one is replaced. Likewise the leaders of our society need to provide the maximum services to the society or they will be replaced.

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Letter to the Editor

Cerebrally risking it

An increasing population and the exposure to natural and technological risks will demand greater attention from policy makers and hazard mitigation managers. Intuitive and reactionary responses of the past are no longer acceptable in a more aware and demanding society. Complex relationships between stakeholders and the diminishing resilience of the natural environment calls for sophisticated solutions within an ambiguous frame of reference and a reducing window of opportunity.

The interactive space between natural and the built environment is where the greatest number of risks to the pursuits of humankind occur. The urban environment possesses the most valuable of the physical infrastructure to support modern society.

For example, many people in urban areas face significant risks from flooding. Such a hazard is permanent and largely unavoidable in many established areas. Flood carries the potential for major impacts on the economic and social fabric of communities. It also frequently results in a high cost to governments through Disaster Relief payments and infrastructure repairs.

It is now essential for hazard mitigation planners and managers to assess the likelihood of the risk posed by a multitude of hazards through a process dictated by a new Australian Standard (AS/NZS 4360: 1995). This 'new' protocol defines 'risk' as 'the chance of something happening that will have an impact upon objectives. It is measured in terms of consequences and likelihood'. Failure on the part of State Government Agencies and on local government to comply with this Standard will increase exposure to litigation.

Most people have difficulty coming to grips with the term 'risk'—even those in the 'hazards industry' often misuse it. For example, 'It's odds on to happen' (a quantifiable relative measure). 'It's a sure thing' (gambling parlance that no one really believes, unless stupid). 'It's a 100-year flood' (some people think this is a flood

that only happens once every 100 years—that is the wrong message). 'It's a 1% flood' (wrong!). 'There is an x% chance there will be a flood of x magnitude in any one year' (correct!). Although we might be accused of dooms-daying, 'risk' is a fact that is with us all in our daily lives.

'Doomsday' is defined in the dictionaries as a time when a Final Judgement will be pronounced. The difficulty is not with convincing people that hazard situations exist, but in determining when and where (so as to not to be at that location at that fatal time) the magnitude, and the cumulative effects of an event over an infinite time line. Science, through statistical analysis, allows highly educated judgements to be made about the likelihood of a hazardous event. Sometimes we try to suppress the unthinkable because the consequences are almost obscene. People are usually more concerned about the problems which confront them in their daily lives than they are about the comparatively 'low risk-high impact' life chance hazards to which they are exposed. Concern is further suppressed

if community awareness about hazards is low. Distant events too serve to reinforce the wrong belief that disasters do not happen at all locally.

Those who would advocate worst-case scenarios in their planning considerations are often regarded as unnecessarily alarmists - doomsayers. But to do less only serves to perpetuate the myth that there is no risk. Moreover, people are comfortable in ignorance. Only when an event impacts upon their quality of life will they be outraged. These people then typically demand that 'they' (those who these people perceive responsible for the event or the disaster caused) should 'do something'. This establishes the political nexus that usually precipitates interest and the release of resources. A partial resolution of the problem may then result.

Those held 'responsible' often expend vast amounts of resources in the form of time, effort and funds to spread the liability, seek consolation, or excuse their actions,

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