



# PRIME MINISTER

110/92

## STATEMENT BY THE PRIME MINISTER, THE HON P J KEATING, MP

### NATIONAL COMPETITION POLICY REVIEW

I have today established a major independent inquiry into competition policy in Australia with specific emphasis on areas currently outside the Commonwealth Trade Practices Act. The inquiry will be chaired by Professor Fred Hilmer, Dean of the Australian Graduate School of Management in the University of New South Wales; Mr Geoff Taperell, a partner in the law firm of Baker & McKenzie; and Mr Mark Rayner, Group Executive, CRA Ltd.

This inquiry is an important step in continuing the vital task of micro economic reform in Australia. It will examine a number of significant areas of economic activity not now subject to competition policy, such as many government instrumentalities and the professions.

I have asked the Review team to cover issues including:

- . the best means of providing consistent, nationally applicable competition rules to all businesses in Australia regardless of ownership or corporate status
- . transitional mechanisms necessary to bring businesses currently outside the scope of national competition rules within those rules.
- . potential improvements to the Commonwealth Trade Practices Act in the new environment of competition law to be recommended by the Review; changes to related legislation, for example in relation to prices or consumer interests; and the legal environment in which the Trade Practices Act is applied.

Clearly the review and its recommendations will have major implications for the States and Territories as well as the Commonwealth. As a result, I - and my Department - have consulted closely with the Premiers and State officials as well as with the Attorney-General, the Treasurer, and other relevant Ministers. The terms of reference attached have been developed in consultation with the States. The principles outlined in the terms of reference provide a very solid basis for the Review and were agreed at an earlier stage by the Premiers and Chief Ministers. The membership of the Review team has also been the subject of close consultation.

I have asked Professor Hilmer and his colleagues to undertake as a matter of priority discussions with States and Territories. I have today written to State and Territory leaders suggesting that Professor Hilmer is available to see them as soon as practical.

I am aware that the Review has the strong support of the Business Council of Australia and I believe other business groups also support the concept of consistent national competition rules applicable to all parties in a market. The Review will shortly call for Submissions and I ask these groups, and other interested parties, to put forward their views as soon as possible.

The review is to report to me in May 1993. Premiers, Chief Ministers and I will consider its findings prior to public release.

CANBERRA  
4 OCTOBER 1992

**REVIEW OF THE APPLICATION OF THE TRADE PRACTICES ACT 1974 TO MATTERS CURRENTLY OUTSIDE ITS SCOPE**

1. I, Paul John Keating, Prime Minister of the Commonwealth of Australia, having regard to the agreement between myself and the Premiers of the States of New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia and the Chief Ministers of the Australian Capital Territory and the Northern Territory that national competition policy and law should give effect to the following principles:

- (a) no participant in the market should be able to engage in anti-competitive conduct against the public interest;
- (b) as far as possible, universal and uniformly applied rules of market conduct should apply to all market participants regardless of the form of business ownership;
- (c) conduct with anti-competitive potential said to be in the public interest should be assessed by an appropriate transparent assessment process, with provision for review, to demonstrate the nature and incidence of the public costs and benefits claimed;
- (d) any changes to the coverage or nature of competition policy should be consistent with, and support, the general thrust of reforms:
  - (i) to develop an open, integrated domestic market for goods and services by removing unnecessary barriers to trade and competition; and
  - (ii) in recognition of the increasingly national operation of markets, to reduce complexity and eliminate administrative duplication;

appoint Professor Fred Hilmer to Chair the Committee of Review of the Application of the Trade Practices Act 1974, and Mr Geoff Taperell and Mr Mark Rayner as the other two Committee members.

2. The Committee is to inquire into, and advise on appropriate changes to legislation and other measures in relation to:

- (a) whether the scope of the Trade Practices Act 1974 should be expanded to deal effectively with anti-competitive conduct of persons or enterprises in areas of business currently outside the scope of the Act;
- (b) alternative means for addressing market behaviour and structure currently outside the scope of the Trade Practices Act 1974; and
- (c) other matters directly related to the application of the principles above.

3. In conducting the review the Committee should consider, against the background of the nature of markets in Australia and influences upon them:

- (a) whether the authorisation and exemption provisions of the Trade Practices Act 1974 have sufficient scope, flexibility and transparency;
- (b) the need for, and approaches to, the transition of government regulatory arrangements - including any associated revenue impact on States - to more competitive and nationally consistent structures;
- (c) the best structure for regulation including price regulation, in support of:
  - (i) pro-competitive conduct by government business and trading enterprises and in areas currently outside the scope of the Trade Practices Act 1974; and
  - (ii) the interests of consumers and users of goods and services; and
- (d) the past and present justification for the current exemptions from application of the TPA.

4. In performing its functions, the Committee is to:

- (a) take into account:
  - (i) the principles stated in paragraphs 1(a) to (d) inclusive;
  - (ii) legislation other than the Trade Practices Act and other arrangements that affect market behaviour and structure; and

(iii) the fact that some government business and trading enterprises may operate in industries having aspects, including pricing, of natural monopoly; and

(iv) current moves to reform government trading enterprises; and

(v) overseas experience.

(b) take written submissions; and

(c) consult interested parties where necessary.

5. The Committee is to report to me by May 1993.