

Competitive neutrality

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Acronyms	Full form
CIRA	Competition and Infrastructure Reform Agreement
CPA	Competition Policy Agreement
CSOs	community service obligations
DTF	Department of Treasury and Finance
FDC	fully distributed cost
FMA	<i>Financial Management Act 1995</i>
GBDs	government business divisions
GOCs	government owned corporations
NCP	National Competition Policy
NTTC	Northern Territory Treasury Corporation

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Introduction

Purpose

The purpose of this competitive neutrality statement is to outline the approach taken by the Northern Territory Government in applying the principles of competitive neutrality to its government business enterprises and to significant business activities.

This document fulfils the commitment made under the National Competition Policy (NCP) agreements to publish such a statement.

National Competition Policy and National Reform Agenda

In April 1995, all state and territory governments in conjunction with the Commonwealth signed a series of intergovernmental agreements that embody the NCP:

- the Competition Policy Agreement (CPA)
- the Conduct Code Agreement
- the Agreement to Implement the National Competition Policy and Related Reforms.

These agreements are based on the tenet that free and open competition drives efficiency and is a sustainable means for delivering the productivity improvements and innovations necessary for future economic development and job creation. They provide the legislative and policy framework for promoting competition and restricting anti-competitive activities.

Competition and Infrastructure Reform Agreement

In 2006, all state and territory governments in conjunction with the Commonwealth signed the Competition and Infrastructure Reform Agreement (CIRA) that forms the basis of the implementation of further NCP reforms. The CIRA is intended to achieve a simple and consistent national approach to the economic regulation of significant infrastructure.

A copy of the competitive neutrality requirements of the CIRA is at Appendix B. The main reforms in the CIRA and the NCP agreement aim to enhance competitive neutrality principles so government businesses do not enjoy unfair advantages when competing with private businesses.

This statement seeks to ensure all significant government business activities face the same commercial environment as private sector firms.

Competitive neutrality

What is competitive neutrality?

Competitive neutrality requires that significant government business activities should not enjoy competitive advantages over their private sector competitors simply by virtue of public sector ownership. This is reinforced by Clause 3(1) of the CPA, as shown below.

“The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. These principles only apply to the business activities of publicly owned entities, not to the non-business, non-profit activities of these entities.”

The competitive neutrality requirements of the CPA are at Appendix A.

Government business activities frequently compete with private sector businesses in a variety of markets and can potentially hold a competitive advantage as a direct result of public ownership. These advantages arise from government business activities being insulated from certain costs incurred by the private sector. Advantages can include:

- exemptions from Commonwealth, state, territory and local government taxes
- cheaper capital financing, or grant funding
- free access to various corporate overheads.

However, government businesses can experience competitive disadvantages due to costs or obligations that do not exist for privately owned enterprises. Examples of these disadvantages include:

- greater accountability obligations
- reduced managerial authority
- public sector employment terms and conditions
- the inability to access taxation benefits of depreciation, investment allowances and other deductions.

Competitive neutrality aims to create a level playing field by removing resource allocation distortions so no net competitive advantage is held by government businesses as a direct result of public ownership. When properly implemented, the range of reforms aims to create a competitively neutral environment.

The Territory has already adopted a range of reform measures based on the principles of competitive neutrality including cost-reflective pricing, corporatisation and commercialisation, which are discussed later in this statement.

A number of benefits can arise as a result of implementing competitive neutrality reforms, including:

- longer term performance efficiency gains as a result of government business enterprises operating in a more competitive environment
- more efficient pricing leading to better resource allocation
- savings to government from better utilisation of infrastructure
- transparency and greater efficiency in the provision of community service obligations (CSOs)
- performance monitoring resulting in increased service quality.

Competitive neutrality in the Territory

Overview

Competitive neutrality between a government business and its competitors is achieved by:

- identifying areas where a significant government business activity enjoys an advantage or disadvantage because of its government ownership
- introducing measures to address those advantages and/or disadvantages where appropriate.

The CPA recommends a corporatisation model as the primary means of achieving competitive neutrality. The model incorporates four key principles:

- the introduction of clear business objectives
- management independence and accountability
- independent performance monitoring
- an effective system of rewards and sanctions.

The CPA also recognises that the corporatisation model may not be appropriate in some situations. As the model seeks efficiency gains and improved performance, it can only be applied where the benefits of doing so outweigh the costs.

Where corporatisation is not appropriate, competitive neutrality can be achieved through introducing:

- full taxation of government businesses, or a taxation equivalence system
- debt margins, aimed at offsetting the advantages of cheaper government financing
- the application of regulations applicable to private sector counterparts, such as planning and approval processes
- prices for goods and services supplied by government business that fully reflect the total cost of production.

The actions and processes undertaken and established since the inception of NCP have satisfied the Territory's obligations.

Competitive neutrality aims to increase the efficiency and performance of government businesses. Under the CPA, each government is free to determine its own agenda for the implementation of competitive neutrality principles. This section outlines the Territory's approach to achieving these objectives.

Northern Territory approach

Competitive neutrality can be implemented through corporatisation, commercialisation or cost-reflective pricing. The appropriate competitive neutrality model to be applied to an agency will depend on a number of factors, including:

- the costs and benefits of applying the policy
- the organisational context of the activities exposed to competition
- the level of resources used in the supply of the good or service
- any special requirements such as increased accountability.

Implementation of competitive neutrality in the Territory has principally been delivered through the commercialisation and corporatisation of government business activities. The early stages of reform included the development of the Territory Government's policy statement on competitive neutrality, the identification and classification of most significant business activities as government business divisions (GBDs), and the application of competitive neutrality and commercial principles to significant business activities.

In some instances it is not practical to fully commercialise a significant business activity. At a minimum, competitive neutrality will be implemented through cost-reflective pricing.

Significant business activity

Determinations of a significant business activity should be made on a case-by-case basis. In making a determination, relevant considerations should include the size of the business activity in relation to the size of the relevant market, the business activity's influence on competition and whether the activity earns a substantial part of its operating revenue from user charges.

Each agency is responsible for regularly assessing the status of significance of its business activities in terms of the size of the business activity and its influence on competition.

Corporatisation

The objective of corporatisation is to subject government businesses to disciplines, incentives and sanctions that are effectively the same as those applying to private business enterprises.

The Territory Government has developed a framework aimed at improving the performance of government owned corporations (GOCs) while increasing long-term financial returns. This framework applies a shareholder model of corporate governance, which encompasses the *Government Owned Corporations Act 2001* and provides for the establishment and operation of government businesses as GOCs. The model applies to major government businesses on a case-by-case basis.

The shareholder model generally replicates the disciplines that apply to private sector businesses. The model applies accountability arrangements suitable for GOCs, rather than those appropriate for budget-dependent agencies. Under the framework, the main objectives of each GOC are to operate as efficiently as any other comparable business (private or public) while maximising financial returns to the Territory.

Key elements of the GOC framework include:

- the establishment of a GOC as a statutory corporation outside the scope of the Territory budget and public account
- a shareholding minister who administers the GOC Act, and a separate portfolio minister who is responsible for the GOC's governing legislation
- a commercial board of directors, accountable to the shareholding minister and responsible for the corporation's performance
- an annual performance agreement between the shareholding minister and the GOC's board, known as the Statement of Corporate Intent.

Commercialisation

Commercialisation involves structural reform of an entity but falls short of full corporatisation. The key difference is that the entity conducting the business activity is not a separate legal entity to its government agency owner and does not have a board of directors. Commercialisation entails the establishment of separate business units, full recovery of all costs, separate financial statements and rate of return requirements.

The Territory Government adopted a course of commercialisation rather than corporatisation for certain government businesses due to their comparatively small size. This is in accordance with subclause 3(6) of the CPA, which provides the competitive neutrality principles are only required to be implemented to the extent that the benefits from implementation outweigh the costs.

As a direct result of NCP implementation, the Territory introduced the *Financial Management Act 1995* (FMA) that established a category of activities referred to as government business divisions (GBDs). The FMA defines a GBD as:

“...an agency, or a part of an agency, that –

- a) recovers a significant proportion of its operating costs through charges on users; and
- b) is determined by the Treasurer to be a GBD.”

The GBD classification encompasses not only those activities that supply goods and services to external clients, but also activities that supply the Territory Government exclusively. It should be noted NCP requirements do not include competitive neutrality policies being applied to purely internal service providers. Nonetheless, the Territory Government has applied NCP compliant guidelines and principles of operation to all GBDs.

The Territory’s commercialisation policy for GBDs is described below.

General pricing principles

GBDs’ prices should reflect the total cost of resources used. However, prices may also reflect:

- the level of competition
- prices charged by competitors
- CSOs.

Prices will be subject to independent review by the Northern Territory Department of Treasury and Finance (DTF) and will need to be approved by Cabinet. It is expected prices will be increased at least in line with the consumer price index in the short term, with a review undertaken in consultation with DTF every three years. Any significant changes to prices or methodology should be submitted to Cabinet for approval.

General costing principles

To calculate the total input cost of a good or service, it is recommended the fully distributed cost (FDC) method be used to assess full costs. The FDC method takes into consideration employee costs (superannuation, workers compensation and leave entitlements), property rental, insurance, and legal and auditing expenses.

However, where appropriate, the avoidable cost method may be used to assess costs in instances of competitive tendering and non-commercial activities.

Lending margins

All borrowing and financing arrangements by GBDs are undertaken through the Northern Territory Treasury Corporation (NTTC). As NTTC could source these funds at a considerably lower rate than other corporations, and government business activities are explicitly or implicitly guaranteed against bankruptcy, GBDs could receive cheaper finance, providing them with a competitive advantage over private sector competitors.

To mitigate the advantage that comes from the government bearing the risk and other associated competitive advantages, NTTC charges a lending margin resulting in interest rates comparable to those offered commercially. The lending margin is reviewed at least annually and applied to the relevant swap reference rate for the term chosen by the borrower. Accordingly, loans issued by NTTC to GBDs are in accordance with commercially based guidelines and practices.

The interest margin applied to GBD loans aims to recover administration costs incurred by NTTC and provides better incentives for GBDs to manage their risks.

Return on equity

In principle, GBDs are required to earn a return on equity. A minimum return on equity should be at least as great as the return available from virtually risk-free government bonds (the risk free rate), plus a margin to compensate for risk (business and financial).

The required rate of return for each GBD will also take into account:

- the level of potential or actual competition in the market(s) the GBD serves
- any CSOs that impose constraints on the pricing policies of the GBD. For example, where a GBD is unable to recover the full cost of services provided due to a CSO, the expected rate of return may be reduced
- the rate(s) of return the GBD's competitors achieve.

Community service obligations

The Territory Government's CSO policy has been tightened and made more transparent to ensure government is getting value for money and GBDs are compensated for the CSOs they are directed to provide. This has been achieved by establishing a process for:

- each CSO to be negotiated between a purchasing agency and GBD provider and, wherever possible, funded on an agreed unit price basis
- as part of the Budget, annually reviewing the amounts of each CSO being purchased to determine value for money and justify the outlays against competing alternatives.

A transparent CSO policy ensures government business activities are not financially disadvantaged relative to private sector competitors. In addition, by identifying and costing CSOs, non-commercial functions of GBDs can be separated from commercial functions.

Financial reporting

Under the CIRA, GBDs are required to report at least annually on their commercial performance and the performance of any non-commercial activities.

In preparing these financial reports, GBDs are to comply with the requirements of the FMA, relevant Treasurer's Directions and applicable Australian accounting standards that provide guidance in financial

reporting and the recognition and accounting treatment of revenues, expenses, assets, liabilities and owners' equity.

GBDs and purchasing agencies should be aware of the timing requirements of financial reporting as set out in the FMA, *Fiscal Integrity and Transparency Act 2001*, Treasurer's Directions, Treasury Circulars and the *Public Sector Employment and Management Act 1993*.

Treasurer's Direction A1.1 and each of the overview sections of the Accounting series of Treasurer's Directions provide additional instruction and guidance in relation to the basis of accounting and the elements of the financial statements. In addition, further direction in relation to financial reporting can be found in Treasurer's Direction R3.1 GBD Financial Statements. This should be read in conjunction with AASB 101 Presentation of Financial Statements and other relevant accounting standards and authoritative interpretations.

Tax equivalents

GBDs are required to pay tax equivalents in accordance with the Northern Territory Tax Equivalents Regime Manual.

Equivalent regulation

The general approach of the Territory is to minimise regulatory distortions on the behaviour of government businesses. This comprises two key components. First, government businesses are required to meet all regulations to which the private sector is subjected (with the exception of the Corporations Law).

Second, it is generally intended that government businesses need only comply with those regulations with which the private sector complies. However, clause 3(7) of the CPA states legislation and regulations may apply only to the public sector, not the private sector, where it is considered appropriate by the party responsible for the regulation, for example, stated public service conditions of employment. A case can be made for offsetting CSO funding where a GBD can identify regulations that are disadvantageous when compared to the private sector.

Dividend policy

The Territory Government's primary benchmark for dividend policy is an ordinary dividend payment of 50 per cent of after-tax profits, unless otherwise determined by the Treasurer. However, a dividend payout ratio of 50 per cent may not always be appropriate, particularly if a GBD has inappropriate capital structures (high debt levels) or significant future capital expenditure commitments. There is an additional provision for payments of special dividends in certain circumstances, as determined by the Treasurer.

Capital structure

The capital structure of each GBD should broadly reflect those observed in private sector firms that deliver similar services. This should facilitate both competition and comparisons with like businesses in other jurisdictions or the private sector.

Cost-benefit analysis

The CPA requires parties to apply competitive neutrality policies to significant business activities only to the extent that the benefits realised from implementation outweigh the costs.

In assessing the benefits and costs of implementing competitive neutrality, the government will, where relevant, take into account:

- government legislation and policies relating to ecologically sustainable development
- social welfare and equity considerations
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access equality
- economic and regional development, including employment and investment growth
- the interests of consumers generally, or of a specific class of consumers
- the competitiveness of Australian businesses
- the efficient allocation of resources.

In some cases, implementation of competitive neutrality could lead to conflict between the pursuit of efficient resource allocation and the government's policy objectives. Where there is potential for this to occur, the government will consider the feasibility of alternative means to achieve its desired policy outcomes, while simultaneously applying competitive neutrality.

Benefits

Potential benefits generated from competitive neutrality policies can include:

- increased market contestability
- greater ability to compare the performance of government business activities to that of private competitors
- clearer distinctions between commercial and non-commercial objectives, improving capacity to determine whether the business is effectively meeting these objectives.

Costs

Costs that could be incurred from implementing competitive neutrality policies include:

- amendments to legislation and regulation, or changes to administrative policy, to facilitate the introduction of competitive neutrality
- changing an organisation's culture and managerial approach as a result of competitive neutrality being applied
- development and administration of measures that stimulate the impact on government businesses of regulatory and commercial pressures experienced by firms in the private sector
- compliance with competitive neutrality, such as the administrative costs to agencies of complying with tax equivalent regimes
- monitoring of compliance, including maintenance of a complaints mechanism.

Competitive neutrality complaints mechanism

Who investigates complaints

DTF is the nominated body that deals with complaints regarding competitive neutrality. There are currently insufficient complaints to justify the establishment of a specialist body to deal solely with complaints. DTF has the expertise to undertake transparent inquiries into competition issues involving government bodies.

All complaints should be emailed to Commercial.DTF@nt.gov.au.

Persons who may make a complaint

Only a genuinely disaffected party may lodge a complaint. A genuinely disaffected party should be a person, firm or government business:

- in actual or potential competition with a Territory Government business enterprise or activity
- with actual or potential access to infrastructure owned by a Territory Government business enterprise (for example, through lease agreements)
- or that has suffered a direct and material disadvantage due to the Territory Government business enterprise or activity having a net competitive advantage arising from its public sector ownership.

Scope of complaints

Complaints may be made regarding the non-compliance of GBDs, significant business activities, local government bodies and in-house bids as part of formal tender processes with competitive neutrality arrangements. Where this is not the case, complaints will not be investigated.

Effect of investigations on other processes

A complaint will be investigated independent of other processes. Where the complaint is made during, and referring to, a tender process in which a government business is a participant, DTF may either:

- investigate the complaint before the tender process is complete
- defer or suspend the investigation of the complaint until after the tender process has been completed
- or recommend to the relevant minister that the tender process be suspended or deferred until the complaint is investigated, especially if the outcome of the investigation may have financial implications for the Territory.

Burden of proof

Allegations of non-compliance must provide sufficient evidence to establish a prima facie case for investigating a GBD's pricing strategy, cost structure and behaviour. The burden of proof will rest on the complainant.

Matters to be considered in an investigation

Any investigation will take into account the CPA, the Territory's Policy Statement on Competitive Neutrality and the Territory's annual reports on competitive neutrality policy and principles.

Local government

In practice, the CPA has limited relevance in relation to local government, since no significant local government business activities have been identified in the Territory. Therefore there are no entities to which the competitive neutrality, public monopoly and prices oversight reforms contained in the CPA could apply.

Competitive tendering

Government owned businesses, local, territory, state and Commonwealth government agencies and authorities are required to apply competitive neutrality pricing principles to tenders in accordance with the NCP and the Territory Government's Procurement Framework.

A separate document entitled Northern Territory Government Competitive Tendering Guidelines is published on the Department of Trade, Business and Innovation's website to assist these organisations to prepare competitive tenders and estimate their competitively neutral tender price. In addition, the guidelines will enable agencies to assess tenders for Territory Government contracts against these criteria.

Making a complaint

Complaints must:

- be in writing
- contain details of the alleged non-compliance
- include sufficient information to permit assessment of how the complainant is, or may be, adversely affected by the alleged non-compliance
- include sufficient information to show the complainant and the government business or business activity are, or could be, in competition in a particular market, or the conduct of the government business or business activity produces an adverse competitive environment
- include information on attempts to address the subject matter of the complaint with the government business or agency concerned, together with the outcome of the attempted resolution.

Confidentiality

DTF will not disclose any information deemed confidential or of a commercially sensitive nature. Should DTF deem the material to be not of a confidential nature, it will notify the relevant party of its decision, allowing the relevant party to withdraw the information.

Information obtained by DTF for the purpose of complaint investigation will not be used for any other purpose without the permission of the relevant party.

Decision about investigating a complaint and notice of investigation

Complaints will be investigated fully, except when:

- the complaint is regarded as frivolous or vexatious
- the complainant is not, or could not be, in competition with the government agency or business in that particular market. In determining a particular market, consideration will be given to:
 - any laws or government policies governing competition in that particular market
 - whether the complainant is supplying, or could supply, the goods or services (or similar goods or services) provided by the government business activity or agency in that particular market
 - the structure of that particular market
 - any other matter(s) considered pertinent to the investigation.
- the complainant is not, or is unlikely to be, adversely affected by the actions of the government business or agency
- the complainant has not demonstrated that a genuine attempt to resolve the subject matter of its complaint with the government agency was made
- the complainant has not supplied sufficient information to enable an investigation of the complaint.

DTF will make a decision as to whether a complaint will be fully investigated within five business days of receiving a complaint.

Where a complaint is not to be investigated, advice will be provided to the complainant that will provide reasons for the decision.

If a decision is made by DTF to fully investigate a complaint DTF will appoint an investigation officer and a decision-making officer. The investigation officer will be responsible for compiling a report on the complaint after considering all relevant details and information obtained during the investigation. The decision-making officer will come to a conclusion based on the investigation officer's report. The decision-making officer will have no involvement in the preliminary inquiries or the substantive investigation of the complaint.

DTF will within five business days of deciding to investigate, provide notice of the investigation to:

- the government agency, business or business activity into which the investigation is to be made
- the minister responsible for the agency or business
- the Treasurer
- the complainant
- any other parties considered appropriate by DTF.

Notices will:

- indicate the intention of DTF to investigate the complaint
- state the nature of the complaint, including an outline of the key elements of the complaint
- invite parties to the complaint to provide written submissions to DTF in response to the key elements of the complaint.

Investigation process

Submission and circulation process

Submissions from all parties are to be provided within 15 business days of receiving notification from DTF that the complaint is being investigated. Where submissions include commercial information, a redacted version is also to be provided. Following this, submissions will be circulated to the complainant and respondent who will have five business days to provide any further information in response to any additional matters that arose during the circulation process.

As part of its submission, the respondent GBD must provide detailed analysis of its cost structure, pricing policy and compliance with GBD pricing policy and address each point of the complaint.

Meeting of parties

Following the receipt of written submissions, the investigation officer has 10 business days to collate relevant information and convene a meeting of all parties to clarify relevant issues arising from the written submissions and responses.

Additional information can be provided for a period of up to 10 business days after the meeting of all parties takes place.

Preparation of investigation report

The investigation officer will then have 10 business days to prepare the report. The report will consist of a summary of the evidence and a summary of conclusions or findings regarding whether any principle of competitive neutrality has been violated or contravened.

Decision-maker's report

The decision-making officer will be the sole adjudicator and will have five business days from the completion of the investigation officer's report to prepare a final report as to whether there is non-compliance with the principles of competitive neutrality, resulting in direct or material disadvantage. The final report will make recommendations for government consideration.

Matters to be included in decision-maker's report

The decision-maker's report should:

- outline the complaint
- state whether the complaint has been substantiated in the opinion of DTF
- state the reasons for the decision
- make recommendations in respect to the subject matter of the complaint
- make recommendations on any other matter relevant to the investigation of the complaint.

Actions arising from decision-makers report

Within two business days of the decision-making officer making a decision DTF will write to the complainant advising the report has been finalised and that it will be provided to government for consideration. The Territory Government will decide, on a case-by-case basis, what action should be taken to overcome any net competitive advantage identified by the report, if an allegation of non-compliance is proven.

Following a government decision, DTF will notify the complainant and any other relevant parties.

Attachment C provides an overview of the timeline for assessing competitive neutrality complaints

Publication of complaint investigations

The minister may make reports of investigations available to the public, subject to commercial confidentiality.

In accordance with the CPA, all allegations of non-compliance and the findings of the investigation will be published by DTF in its annual report.

Reporting

All jurisdictions are required to report annually on the implementation of competitive neutrality principles, including any instances of non-compliance. These reports are published on the Council of Federal Financial Relations website.

Appendix A

Competition Principles Agreement (section 3)

Competitive neutrality policy and principles

1. The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. These principles only apply to the business activities of publicly owned entities, not to the non-business, non-profit activities of these entities.
2. Each party is free to determine its own agenda for the implementation of competitive neutrality principles.
3. A party may seek assistance with the implementation of competitive neutrality principles from the council. The council may provide such assistance in accordance with the council's work program.
4. Subject to subclause (6), for significant government business enterprises that are classified as 'public trading enterprises' and 'public financial enterprises' under the Government Financial Statistics classification:
 - a) the parties will, where appropriate, adopt a corporatisation model for these government business enterprises (noting that a possible approach to corporatisation is the model developed by the inter-governmental committee responsible for GTE National Performance Monitoring)
 - b) the parties will impose on the government business enterprise:
 - i. full Commonwealth, state and territory taxes or tax equivalent systems
 - ii. (debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees
 - iii. those regulations to which private sector businesses are normally subject, such as those relating to the protection of the environment, and planning and approval processes, on an equivalent basis to private sector competitors.
5. Subject to subclause (6), where an agency (other than an agency covered by subclause (4)) undertakes significant business activities as part of a broader range of functions, the Parties will, in respect of the business activities:
 - a) where appropriate, implement the principles outlined in subclause (4)
 - b) or ensure the prices charged for goods and services will take into account, where appropriate, the items listed in paragraph 4(b), and reflect full cost attribution for these activities.
6. Subclauses (4) and (5) only require the parties to implement the principles specified in those subclauses to the extent that the benefits to be realised from implementation outweigh the costs.
7. Subparagraph (4)(b)(iii) shall not be interpreted to require the removal of regulation that applies to a government business enterprise or agency (but does not apply to the private sector) where the party responsible for the regulation considers the regulation to be appropriate.
8. Each party will publish a policy statement on competitive neutrality by June 1996. The policy statement will include an implementation timetable and a complaints mechanism.
9. Where a state or territory becomes a party at a date later than December 1995, that party will publish its policy statement within six months of becoming a party.
10. Each party will publish an annual report on the implementation of the principles set out in subclauses (1), (4) and (5), including allegations of non-compliance.

Appendix B

Competition and Infrastructure Reform Agreement (section 6.1)

Competitive neutrality of government business enterprises

The parties agree to enhance the application of competitive neutrality principles to government business enterprises engaged in significant business activities in competition with the private sector.

Objectives

1. The enterprise has clear commercial objectives.
2. Any non-commercial objectives or obligations established for the enterprise are clearly specified and publicly reported.
3. Enterprises do not exercise regulatory or planning approval functions in circumstances in which they compete with private sector enterprises.

Governance

4. The responsibilities of the governing board of the enterprise and the performance measures against which the board will be held accountable are published.
5. The governing board is appointed on the basis of particular skills needed by the board.
6. Having received strategic guidance from the government about the achievement of its objectives, the enterprise has operational autonomy in the day-to-day management of its affairs.
7. The dividend policy applicable to the enterprise should be clearly and publicly specified.
8. Any payments to the government as shareholder or for the purposes of competitive neutrality, such as taxes, tax equivalent payments, special dividends, capital repayments, are identified in a transparent manner.

Reporting

9. At least annually, the enterprise will report publicly on its commercial performance and on its performance of any non-commercial activities.
10. Any directions given to the enterprise by the government are published.
11. Where the legislation establishing an enterprise derogates from competitive neutrality the derogation has been published.

Appendix C

Timeline for assessing competitive neutrality complaints

Action	Timeframe	Cumulative timeframe
	Business days	Business days
Complaint received		
Decision about investigating a complaint and notice of investigation		
DTF to make a decision as to whether a complaint will be fully investigated.	5	5
Complainant and other relevant parties (including the minister responsible, the Treasurer, and the government agency, business or business activity) will be advised in writing as to whether the complaint will be investigated. (If complaint is to be investigated an investigation officer and decision-making officer will be appointed)	5	10
Investigation process		
Notification from DTF that the complaint is being investigated, will also request submissions be provided by relevant parties responding to the complaint.	15	25
Once received, submissions will be circulated and respondents are required to submit any further information in response to any additional matters that have arisen during the circulation process.	5	30
The investigation officer will collate all relevant information and convene a meeting of the relevant parties to discuss any issues.	10	40
Following the meeting of all parties, additional information can be provided for a period of time.	10	50
Investigation officer to prepare report.	10	60
The decision-making officer is required to make a decision as to whether there is non-compliance with the principles of competitive neutrality, resulting in direct or material advantage, and make recommendations	5	65
Actions arising from decision-maker's report		
DTF to advise complainant and relevant government business or agency concerned in writing that the decision-making officer has made a decision and the process for finalising a government response.	2	67
Consideration of decision-making officer's recommendations by government	Subject to Cabinet discretion	