

Contact: Heather Cerutti
Phone No: (03) 6233 5603
File No: COM100/3
Our Ref: 10/4926 DF/HC

To all general managers,
Tasmanian Councils

Dear Sir/Madam,

COMPETITIVE NEUTRALITY COMPLAINTS MECHANISM GUIDELINE

I am writing to advise you of the Tasmanian Economic Regulator's role in the review of competitive neutrality complaints.

As you would be aware, one of the National Competition Policy Agreements, the Competition Principles Agreement (CPA), requires that government businesses are not to enjoy any net competitive advantage in the marketplace simply as a result of their public ownership. This is the principle of 'competitive neutrality'.

The principles of competitive neutrality refer to the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities, so that ultimately all government businesses compete on fair and equal terms with private sector businesses.

The CPA was signed by all heads of government in 1995 and requires that each state and territory set up a complaints mechanism to oversee the application of the Competitive Neutrality Principles. The Government Prices Oversight Commission was given this role in Tasmania in 1998. On 1 June 2010 the functions of the Commission were vested with the Tasmanian Economic Regulator under the *Economic Regulator Act 2009* and the Commission abolished.

The Commission prepared a guideline in relation to the review of competitive neutrality complaints which has now been updated to reflect the role of the Tasmanian Economic Regulator. The Guideline sets out an overview of the processes for the review of complaints from businesses or persons about alleged breaches of, and non-compliance with, competitive neutrality principles under the National Competition Policy.

In 2008 and 2009 the Commission received a number of complaints from private building surveyors alleging that fees charged by three councils for their building surveying services did not comply with competitive neutrality principles.

In two of the cases, the Commission concluded that neither council was applying full cost attribution to the pricing of its building services and in the third case, the Commission found that the council concerned had not considered all costs in its application of full cost attribution to its business's fees and charges.

The CPA requires that Government bodies, in pricing their business activities, ensure that the prices charged for goods and services reflect full cost attribution. The application of full

cost attribution means that the total cost of the resources used in providing the activity are to be accounted for by the government body, irrespective of who pays for those resources. The full cost must take into account the direct cost of providing the activity and a proportional share of indirect costs. Costs will include wages, workers' compensation, rents, rates, travel expenses, equipment maintenance, capital costs and, where appropriate, tax equivalents and the other provisions.

More recently, the Regulator has received a number of inquiries from caravan park operators around Tasmania concerned with their local council's provision of cheap or free services for recreational vehicles (overnight parking) and campers (camp sites). Two formal complaints have been lodged with the Regulator.

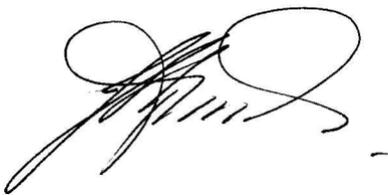
These recent cases are a reminder to all local government agencies that they are responsible for adherence to the CPA and the Competitive Neutrality Principles.

Further information about competitive neutrality and a copy of the Competitive Neutrality Complaints Mechanism Guideline can be found on the website of the Office of the Tasmanian Economic Regulator (OTTER). In addition to the Guideline, the Department of Treasury and Finance has published a number of documents that may help councils to meet their obligations under the CPA. These are also available on the Prices Oversight page on the OTTER website: www.economicregulator.tas.gov.au.

I hope this is of assistance to your Council in undertaking future reviews of your business activities and national competitive policy obligations.

If you have any queries in relation to the above, please contact Ms Heather Cerutti on telephone (03) 6233 5603 or by email to Heather.Cerutti@economicregulator.tas.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Glenn Appleyard', with a stylized flourish at the end.

for

Glenn Appleyard
CHAIRMAN
TASMANIAN ECONOMIC REGULATOR

4 November 2010

cc Treasurer, Minister for Local Government