

The Hon Dr David Crean MLC
Treasurer
Level 9
Executive Building
15 Murray Street
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Dear Dr Crean

I have pleasure in submitting to you the Annual Report of the Government Prices Oversight Commission for the year ended 30 June 2001, in accordance with Section 40 of the *Government Prices Oversight Act 1995*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Reeves', written in a cursive style.

Andrew Reeves
COMMISSIONER

November 2001

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Commissioner's Report

This report describes the fifth full year of the operation of the Government Prices Oversight Commission (the Commission).

The Commission commenced operations on 1 January 1996, under the authority of the *Government Prices Oversight Act 1995* (the GPO Act). Its primary function was to investigate the pricing policies of the major Tasmanian public sector monopolies.¹ The Commissioner's powers to investigate the pricing policies of electricity entities were transferred to the Tasmanian Electricity Regulator on 1 July 1998.

In 1997, the GPO Act was amended to provide the Commission with powers to investigate National Competition Policy competitive neutrality complaints.

Minor amendments to the GPO Act in 2000 clarified the Commission's role to undertake consultancy assignments on behalf of the Government, specifically in relation to petroleum product price monitoring and monitoring of the Commonwealth Bank of Australia's undertaking to the Australian Competition and Consumer Commission in regard to products and services offered in Tasmania.

As Commissioner of the Government Prices Oversight Commission, I also hold the office of the Regulator under the *Electricity Supply Industry Act 1995* and the Director of Gas under the *Gas Act 2000*. The Commission itself was appointed in June 2001 as the Local Regulator pursuant to the *Gas Pipelines Access (Tasmania) Act 2000*.

Pricing Policies Investigations

During 2000-01, the Commission completed its second review of the pricing policies of the Motor Accidents Insurance Board (MAIB) and commenced its second investigation into the

¹ The *Government Prices Oversight Act 1995* provides for the investigation of the pricing policies of certain Government Agencies, Government Business Enterprises, Local Government Bodies, statutory authorities and State-owned companies that are monopoly or near monopoly providers of goods and services in Tasmania.

pricing policies of the three Bulk Water Authorities, Hobart Water, Esk Water and the North West Regional Water Authority (Cradle Coast Water). In both these investigations, the Commission received valuable assistance and guidance from Assistant Commissioners Bernard Rowley in regard to the MAIB investigation and Dr Hugh Sibley in regard to the Bulk Water investigation.

The Final Report for the MAIB investigation was forwarded to the relevant Ministers and the MAIB by the due date, 31 August 2000.

The MAIB scheme provides both common law and no-fault benefits and is one of the lowest cost schemes in Australia. One of its features is that it provides care for life on a needs basis for the very seriously injured, rather than settling such claims. The result is that the scheme is developing a significant portfolio of long-tail 'future care' claims. The Commission's investigation considered the solvency and future issues for the fund, particularly in regard to growth in provisions necessary to meet future care. In addition to recommending maximum premiums, the Commission made a number of observations on the management of this part of the claims portfolio. Suggestions were made in regard to asset allocation and investment strategies, the adequacy of accounting standards to properly reflect the underlying financial performance of the scheme and the calculation and payment of dividends. The Commission is pleased to note that the Board and the Government, as owner, have been taking steps to address these important issues.

The Final Report for the Bulk Water Investigation was due (and completed) by 31 July 2001.

The Commission, in undertaking its investigations, is aware that there are potentially differences in objectives between a government owned entity and a private sector entity. This issue was evident during its investigation into the bulk water authorities. These authorities are owned by the local government councils that are also their customers, there being only a minority of customers in each instance that do not have an ownership interest. This structure has the potential to result in tension in decision-making at the Board level, with a natural conflict between interests as owners and interests as customers. As owners, the Councils should focus on seeking commercial returns on their funds invested in the business. As customers, there is a natural preference for lower prices for water

consumers. However, prices set at levels below full cost have the potential to distort the consumption decisions of consumers, with the attendant risk of over-investment in water supply facilities.

The Commission is required to recommend a maximum revenue for each authority based on an efficient level of operations within its operating constraints. However, in making its recommendations for the bulk water authorities, the Commission recognised that maximum efficient revenues will not be achieved where Councils are prepared to accept a lower than commercial rate of return on their investment in the business. As in its 1998 Final Report, the Commission also suggested target revenues based on a real rate of return of four per cent, some three per cent lower than its assessment of a commercial rate of return.

Competitive Neutrality Principles Complaints

In addition to a number of general enquiries, the Commission investigated two competitive neutrality complaints. These complaints related to patient transport services provided by the Tasmanian Ambulance Service and the valuation of crown land by the Valuer-General.

The Commission found that the complaint against the Tasmanian Ambulance Service was justified and recommended that competitive neutrality principles be applied to its non-urgent patient transport services, subject to the public benefit assessment required under the Application Statement.

Based on legal advice, the Commission determined that the complaint against the Valuer-General was not a competitive neutrality issue as the complaint was not in regard to a business activity. The Valuer-General was performing his regulatory duty when deciding not to rate the Crown land occupied or the land owned by GBEs. The Commission's determination was the subject of a court challenge, but this was subsequently withdrawn.

Consultancies

In addition to performing core legislative functions, the Commission, at the request of Government, is able to undertake consultancy projects. During 2000-01, the Commission

provided services in relation to three separate projects at the request of the Government.

In accordance with the brief provided by the Government in 1999-00, the Commission continued monitoring Tasmanian wholesale and retail petrol prices, and retail prices for diesel and autogas in Tasmania. The information gathered as part of this project is published monthly on the Commission's website.

As noted in last year's Annual Report, the Commission was nominated by the Australian Competition and Consumer Commission (ACCC) to monitor compliance of the Commonwealth Bank of Australia (CBA) with a section 87B undertaking. The purpose of the monitoring is to ensure that, following the merger of CBA with the former Colonial Bank Ltd, the Tasmanian community will enjoy the same level of pricing, new product innovations and services standards as those offered elsewhere in Australia. The Commission's first six monthly report was delivered with the positive conclusion that there was substantial compliance with the undertaking.

During 2000-01, the Commission continued to provide assistance and support to the Department of Premier and Cabinet in relation to its previous consultancy on local government water pricing. The Urban Water Pricing Guidelines were also reviewed and the Department reissued the Guidelines during the second half of the 2000-01 financial year.

In addition to this body of work, the Commission commenced preparations for its new role in the economic and technical regulation of the proposed natural gas industry development in Tasmania. These activities, together with the activities of the Commission as the Regulator under the *Electricity Supply Industry Act 1995*, are described in the Annual report of the Tasmanian Energy Regulator.

Andrew Reeves
COMMISSIONER

November 2001

The Government Prices Oversight Commission

The Commission

The Government Prices Oversight Commission (the Commission) is an independent statutory body. It was established following the commencement of the *Government Prices Oversight Act 1995* (the GPO Act) on 1 January 1996. Its role is to investigate the pricing policies of Government Business Enterprises (GBEs), agency activities and local government businesses that are monopoly providers of goods and services in Tasmania.

The establishment of the Commission was part of Tasmania's commitment to the National Competition Policy (NCP) Agreements that were signed by the Council of Australian Governments (COAG) in April 1995.

The COAG Competition Principles require that the source of prices oversight advice have the following characteristics:

- (a) it should be independent from the Government Business Enterprise whose prices are being assessed;
- (b) its prime objective should be one of efficient resource allocation but with regard to any explicitly identified and defined community service obligations imposed on a business enterprise by the Government or legislature of the jurisdiction that owns the enterprise;
- (c) it should apply to all significant Government Business Enterprises that are monopoly, or near monopoly, suppliers of goods or services (or both);
- (d) it should permit submissions by interested persons; and
- (e) its pricing recommendations and the reasons for them should be published.

The Commission was set up according to these principles.

The GPO Act was amended in 1997 to provide the Commission with powers to investigate alleged breaches of the National

Competition Policy Competitive Neutrality Principles by State and local government business activities.

The Competition Principles Agreement (CPA) requires Government businesses to operate within a framework that ensures that they do not enjoy any net competitive advantage simply as a result of their public ownership. This is the concept of competitive neutrality. The competitive neutrality principles (CNP) are set out in clause 3 of the CPA. As a general principle, significant state and local government businesses should reflect full Commonwealth and State taxes or tax equivalents, be liable for debt guarantee fees, face the same regulatory framework as their private sector counterparts and earn a commercial return on the capital invested in them. The CPA also requires that there be a mechanism to consider complaints relating to the application of the CPA.

The complaint mechanism applicable to Tasmanian State and local government businesses is contained in the *Government Prices Oversight Regulations 1998*. The Commission does not have the power to investigate complaints in regard to Commonwealth government businesses or private sector businesses.

Objectives of the Commission

The National Competition Policy Agreements define the Commission's principal objectives, being to ensure that prices charged by government businesses promote efficient resource allocation decisions by the business, government and thus the wider economy. These objectives are given effect through the GPO Act.

As an independent regulatory body, the Commission does not have a primary role in policy development. However, the Commission through its papers and reports does seek to promote discussion of issues that will inform or impact on policies in regard to the operations of the monopoly service providers.

The Commission's strategic and operational activities, roles and responsibilities are determined by the GPO Act.

The Roles of the Commission

Under the GPO Act, the Commission has two key roles:

- ⇒ prices oversight of government monopolies; and
- ⇒ investigation of competitive neutrality complaints.

In addition to performing the key legislative functions, the Commission undertakes consultancy projects at the request of the Government. Consultancies undertaken at the request of the Government during 2000-01 included:

- ⇒ review of the urban water pricing guidelines;
- ⇒ monitoring of petroleum prices; and
- ⇒ monitoring of CBA retail banking activities.

Prices Oversight

In providing prices oversight of Government monopolies, the Commission is required to investigate prices charged by government bodies for monopoly services and to recommend maximum prices to apply for the ensuing three-year period. An investigation is initiated on receipt of the terms of reference issued by the Minister administering the GPO Act, currently the Treasurer. The Commission is required to take account of the terms of reference and the specific matters set out in Section 31 of the GPO Act. These matters include:

- ⇒ the cost of supplying or providing the monopoly service;
- ⇒ interstate benchmarks for prices and costs;
- ⇒ the need to protect consumers from the adverse effects of the exercise of monopoly power;
- ⇒ the need for the monopoly provider to be financially viable;
- ⇒ the need for a reasonable return to the State, including the payment of dividends;
- ⇒ the Ministerial Charter of the GBE prepared in accordance with Section 36 of the *Government Business Enterprises Act 1995* (GBE Act)¹;

¹ Where the government monopoly is incorporated under Corporations Law, the Commission looks to the Memorandum and Articles of Association. Where the monopoly has been established as

- ⇒ any community service obligations; and
- ⇒ the quality of the supply of the monopoly service.

In essence, the Commission is required to consider and recommend maximum prices based primarily on grounds of economic efficiency. These outcomes do not always accord with the Government's social and economic objectives, and the Government has the opportunity to reflect its policies in the Minister's determination of maximum prices, which is set out in an Order².

The creation of the Commission was not intended to take away the Government's ability to use prices charged for Government services as instruments of policy, but to bring greater transparency.

The GBE Act provides for the identification and payment of community service obligations (CSOs) where it requires a GBE to undertake a non-commercial activity. Non-commercial activities could include providing services at a concessionary rate to a particular class of customer. The Ministerial Charter may also require a GBE to carry out certain activities required by the Government. Non-commercial activities or community service activities (CSAs) undertaken by a State-owned corporation (SOC) are performed under contract with the State Government.

There is an expectation by consumers and community interest groups that the Commission will address social and other issues in its investigations. In practice, the Commission meets these expectations by accepting submissions not only on matters that specifically address the terms of reference, but also on related issues. These issues are then raised for the information of the Government in the Commission's reports. The Commission expects that this treatment will assist the Government to make better-informed decisions when maximum prices are prescribed.

a joint authority under the Local Government Act, the Commission looks to the Charter issued by the relevant Councils.

² In the case of a local government monopoly business, the Minister for Local Government (currently the Premier) is able to issue a determination under the GPO Act.

To assist it in undertaking its price investigation role, the Commission seeks the expert contributions of persons appointed as Assistant Commissioners and its consultants. It also draws upon the experience of other regulators, similar investigations in other jurisdictions, and informed comments from the community and stakeholders.

Competitive Neutrality

The CPA requires that the State has a complaint mechanism in place to consider complaints relating to the application of the competitive neutrality principles. The prescribed process for making and investigating complaints is contained in the *Government Prices Oversight Regulations 1998* (the Regulations).

In February 1999, the Commission issued *National Competition Policy Competitive Neutrality Principles Complaints Mechanism Guidelines* (the Guidelines). The purpose of these Guidelines is to describe:

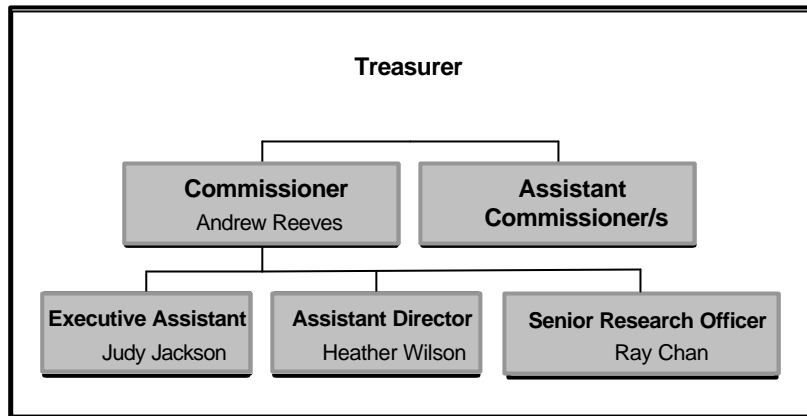
- ⇒ the processes for the review of complaints from persons about alleged breaches of, and non-compliance with, competitive neutrality principles;
- ⇒ the role of the Commission in relation to the review of complaints;
- ⇒ the procedures to be followed by complainants; and
- ⇒ the internal review process required of government bodies in relation to complaints made against its business activities.

At the completion of an investigation, the Commission is required to forward a copy of the final report containing a summary of findings and recommendations in relation to each matter to the relevant Government body, the complainant, the Minister and Treasurer. The findings of the Commissioner are final.

An outline of the complaints mechanism is provided in Appendix B. The Guidelines and other relevant documents are also available from the Commission or its web site www.gpoc.tas.gov.au.

Composition of the Commission

Commission Organisation Chart



Note: The Executive Assistant, Assistant Director and Senior Research Officer are employees of the Department of Treasury and Finance.

The Commission for a scheduled price investigation consists of the Commissioner and any Assistant Commissioner/s specifically appointed for a particular investigation. In regard to other matters, the Commission consists of the Commissioner alone.

Mr Andrew Reeves was appointed as the first Commissioner for an initial three-year term on 1 January 1996. This appointment was renewed for a further three-year period from 1 January 1999.

To assist the Commission in performing its functions and powers, the Department of Treasury and Finance provides staff to the Commission under Section 19(1) of the GPO Act.

The Commissioner was also appointed as the independent Regulator on 1 July 1998 under the *Electricity Supply Industry Act 1995* (ESI Act) and the Director of Gas under the *Gas Act 2000* on 16 July 2001. In addition, the Commission was appointed as the Local Regulator on 20 June 2001 under the *Gas Pipelines Access (Tasmania) Regulations 2001* pursuant to the *Gas Pipeline Access (Tasmania) Act 2000*. For administrative purposes, the functions of the two Regulators and the Director of Gas are carried out by the Office of Tasmanian Energy Regulator (formerly the Office of the Tasmanian Electricity Regulator).

While the Commission and the Regulators are separate and discrete statutory entities, in practice there is a common set of core skills required. The office of the Commission is co-located

with the Office of the Tasmanian Energy Regulator. The Regulator's staff are also employees of the Department of Treasury and Finance and the sharing of resources improves the efficiency and experience of the two organisations. Under the ESI Act and the Tasmanian Electricity Code, the Regulator is required to prepare a separate Annual Report. The Annual Report of the Office of the Tasmanian Energy Regulator will also provide details of the roles and functions of the Local Regulator for natural gas and of the Director of Gas.

The Department of Treasury and Finance also provides assistance and facilities to the Commission for human resource management and for information technology, financial and accounting services.

Prices Oversight Scope

The GPO Act provides for the investigation of the major public sector (State and Local Government) monopolies in Tasmania at least once in every three years³. The Commission may also be required to investigate any other monopoly service provided by a State or Local Government body. At the date of the publication of the Annual Report, the following investigations have been completed:

- | | |
|---|-----------------------------|
| ⇒ Hydro-Electric Commission | 30 August 1996 ⁴ |
| ⇒ Metropolitan Transport Trust (MTT) | 28 February 1997 |
| ⇒ Motor Accidents Insurance Board | 29 August 1997 |
| ⇒ Hobart Regional Water Authority North West Regional Water Authority Esk Water Authority | 23 December 1998 |
| ⇒ Metro Tasmania Pty Ltd (previously MTT) ⁵ | 2 June 2000 |

³ The *Government Prices Oversight (Amendment Act) 1998* extended the scope of the Commission to provide for investigations of prices charged by statutory authorities and State-owned companies, and local government monopoly businesses.

⁴ As noted above, responsibility for investigation of the pricing policies of electricity entities in Tasmania (including those of the former Hydro-Electric Commission) was transferred to the Tasmanian Electricity Regulator on 1 July 1998.

⇒ Motor Accidents Insurance Board 31 August 2000

⇒ Hobart Regional Water Authority
North West Regional Water Authority
Esk Water Authority 31 July 2001

The Commission also commenced a second investigation into the pricing policies of the Hydro-Electric Corporation in 1998. However, this investigation was transferred to the, then, Office of the Tasmanian Electricity Regulator following the establishment of that Office.

Conduct of Investigations

The procedures for the conduct of major investigations, the requirements for reports and the procedures for setting of prices are described in Appendix A to this Report.

Public Consultation

Public consultation is an important component of the Commission's work.

Assistant Commissioner/s are appointed for their expertise on the matter under investigation, however the Commission also draws on business and community knowledge to identify the particular issues of each investigation.

Where it is considered appropriate the Commission will also release a background or issues paper to encourage initial submissions. After consideration of all initial submissions and the issues raised by the entity, the Commission prepares a draft report with the Commission's draft proposals. The draft report becomes the focus for further submissions, which are then taken into account in preparing the final report and recommendations.

While the GPO Act provides for the Commission to convene public hearings, no formal hearings were convened during the year. Rather, the Commission has preferred to meet separately with interested parties. The formality of a public hearing is daunting for some and the process, while effective in some

⁵ The Government corporatised MTT on 2 February 1998 as part of its transport reform package.

circumstances for gathering information, gives less opportunity for meaningful exchange than direct consultations with interested parties.

The Commission also publishes all its public documents and entity submissions on its website (www.gpoc.tas.gov.au).

Information Gathering

Submissions from the monopoly business whose pricing policies are under investigation are a major source of information. In addition, the Commission has powers under Section 29 of the GPO Act to require material to be provided. The following number of Section 29 requests were issued in 2000 - 2001:

| Investigation | Number of Section 29 Requests |
|--|--------------------------------------|
| Motor Accidents Insurance Board 2000 | 25 |
| Hobart Regional Water Authority North West Regional Water Authority Esk Water Authority | Nil |

The Commission also held regular briefings and consultations with officers of each organisation under review.

Report on the Performance of the Commission's Functions and Powers: 2000-01

PRICING INVESTIGATIONS

MOTOR ACCIDENTS INSURANCE BOARD

The Commission is required to investigate the pricing policies of the Motor Accidents Insurance Board (the MAIB) every three years. The Commission completed its second investigation into the pricing policies of the MAIB and forwarded the Final Report to the MAIB and relevant Ministers by 31 August 2000 as required by the Terms of Reference for the investigation. Mr Bernard Rowley was appointed as an Assistant Commissioner for this investigation. In summary the Commission recommended:

- ⇒ Maximum average premiums to be set at the prevailing level, increased annually to reflect changes in average weekly ordinary times earnings for each of the three years from 1 December 2000.
- ⇒ Increases of 15 per cent (to be phased in over 3 years), in addition to the above annual increases, to be applied to medium and large passenger vehicles, heavy goods vehicles and taxis to better reflect risks associated with these classes.

These recommended adjustments will bring premiums into close alignment with risk for all classes of vehicles.

The Commission also made recommendations in relation to the setting of quarterly and half-yearly premiums where it was permitted that these be applied.

Following the Government's consideration of the Commission's recommendations, the Minister for Infrastructure Energy and Resources issued a new Pricing Order, which took effect on 1 December 2001.

In addition to recommending maximum premiums, the Commission made the following recommendations:

- ⇒ Where pensioner discounts are applied, these should be available for a single registration for a vehicle used solely for domestic, social, or recreational purposes, per eligible pensioner.
- ⇒ The MAIB seek an actuarial analysis of claims experience and relativity for Class 1 and Class 2 registrations on the Bass Strait Islands with a view to establishment of a regional rate.
- ⇒ Certain types of vehicles (street rods, restricted recreational vehicles, farm motorcycles, and classic cars) should be reclassified to more appropriately reflect the risk associated with insuring that type of vehicle.
- ⇒ To protect the scheme from the impact of very large claims, compensation for loss of earnings should be limited to \$2 000 (after tax) per week. A similar cap should be placed on the scheduled disability benefit.

The MAIB scheme provides both common law and no-fault benefits and is one of the lowest cost schemes in Australia. One of its features is that it provides care for life on a needs basis for the very seriously injured, rather than settling such claims. The result is that the scheme is developing a significant portfolio of long-tail claims. The Commission's investigation considered the solvency and future issues for the fund, particularly in regard to this growth in the portfolio of 'future care' claims. In this regard, the Final Report also included observations in regard to asset allocation and investment strategies, the adequacy of accounting standards to properly reflect the underlying financial performance of the scheme and the calculation and payment of dividends.

In relation to the other recommendations the Commission has been advised of the following responses:

- ⇒ The Government has yet considered the issue of restricting MAIB pensioner discounts to one vehicle per pensioner. This issue is currently being discussed by the MAIB and the Department of Infrastructure Energy and Resources (DIER). The MAIB considers that, from a practical perspective, it is necessary that consistent approach be applied to MAIB pensioner discount and motor registration pensioner discount.

- ⇒ Actuarial studies did not support the application of a regional rate for the Bass Strait Islands. This issue is not being pursued any further.
- ⇒ All recommended vehicle reclassifications (except classic cars) were reflected in the 2000 Premiums Order. Classic cars will be reclassified in the near future.
- ⇒ Legislative changes to cap weekly benefits were drafted following Cabinet's approval. It is anticipated that these will be introduced into Parliament in November 2001.
- ⇒ In response to the Commission's observations in regard to the 'future care' scheme, the MAIB and the Government initiated a 'Solvency Project', which concluded in January 2001. The outcomes of this project are:
 - MAIB moving to a higher weighting of growth assets in its investment portfolio,
 - a new claims valuation method has been adopted for liabilities over 10 years, and
 - the Ministerial Charter has been amended to modify dividend policy with dividends to be calculated on the average of profits and losses over the last five years.

BULK WATER PRICING POLICIES INVESTIGATION

At the time of the publication of this Annual Report, the Commission had completed its investigation into the pricing policies of the Hobart Regional Water Authority (Hobart Water), the North West Water Authority (Cradle Coast Water) and Esk Water Authority (Esk Water). The Commission submitted the Final Report to the Treasurer, the portfolio Minister, and relevant Local Government bodies on 31 July 2001.

In summary, the Commission recommended in its Final Report that:

- ⇒ as a first principle, locational pricing (ie different prices at each supply point) is the preferred mechanism to allocate both volumetric and connection charges;
- ⇒ the volumetric price at each node (supply point) should reflect the LPMC (Long Run Marginal Cost) equal to the

SRMC (Short Run Marginal Cost) plus marginal capacity cost (MCC). The change in consumption associated with implementation of the revised price should be taken into account in estimating the MCC. However, where there is not significant variation in the nodal volumetric costs between nodes or where the loss of efficiency is not significant, it is acceptable to use a regional average of LRMC for the volumetric charge; and

⇒ if locational pricing is not used for the allocation of remaining costs then the Commission proposes that these fixed charges be allocated according to the weighted number of connections in retailer's networks. This mechanism will not bias the location decisions of those wanting new connections. Other mechanisms for allocation of fixed charges may also be acceptable, however the practice of using a three-year rolling average to calculate the allocation of fixed charges should not be applied.

In addition to the above recommendations, the Commission also made specific recommendations in relation to each Authority's pricing policies.

COMPETITIVE NEUTRALITY COMPLAINTS

During 2000-01, the Commission investigated two competitive neutrality complaints. These complaints related to:

- ⇒ Tasmanian Ambulance Service; and
- ⇒ Valuation of crown land by the Valuer-General.

Tasmanian Ambulance Service

In August 2000, the Commission received a complaint alleging that the Department of Health and Human Services (DHHS) failed to comply with the Competitive Neutrality Principles (CNPs) in relation to the pricing policy of Tasmanian Ambulance Service's (TAS) non-emergency ambulance services.

The Commission found that the complaint was justified, and recommended that the Director of Ambulance Services be directed by the Minister for Health and Human Services

- ⇒ to apply the CNPs to the patient transport services provided by the Tasmanian Ambulance Service subject to the public benefit assessment required by the Application Statement; and
- ⇒ to consider all issues prescribed in the Application Statement and the Public Benefit Guidelines when conducting the public benefit assessment, in particular, the impact of the non-application of CNPs on the private market.

Valuation of Crown Land by Valuer-General

In October 2000, the Commission received a competitive neutrality complaint lodged jointly by the Central Highlands Council and Derwent Valley Council (the Complainants) alleging that the Valuer-General has breached the CNPs in exercising his discretion not to value land owned by Government Business Enterprises (GBEs) and Crown land occupied by GBEs.

Under the *Land Valuation Act 1971*, the Valuer-General must value land before councils can impose rates. The Complainants alleged that they have been adversely affected by the Valuer-General's decision not to value the land concerned.

The Commission, on the advice of the Solicitor-General, determined that the Complainant's concerns are not a competitive neutrality issue as the Valuer-General was not conducting a business activity when making this decision. The Valuer-General was performing his regulatory duty when deciding not to rate the land concerned. The determination was the subject of a court challenge, which was subsequently withdrawn.

Other Matters

In June 2001, the Commission received a complaint against the Hobart City Council (HCC) in relation to HCC's off-street car parking business. The matter was referred to the Department of Treasury and Finance after the Commission found that it has no jurisdiction to investigate HCC's car parking business, since the business has not been endorsed as a Significant Business Activity.

As noted in the Commission's 1999-2000 Annual Report, the advice from the Solicitor-General was that the Commission has no jurisdiction in dealing with a business activity that has not been found to be a SBA. In the case of local government, the status of a business is to be found from the list of SBAs endorsed by the Minister administering NCP in accordance with the prescribed process in the Application Statement for Local Government.

CONSULTANCIES

Monitoring of Petroleum Prices

At the Treasurer's request, the Commission has been monitoring and reporting Tasmanian wholesale and retail petrol prices since August 1999 and average retail prices for diesel and LPG (autogas) since April 2000. The purpose for the monitoring and reporting is to address community concerns about the higher fuel prices paid by Tasmanians relative to mainland motorists.

In general, the Commission found significant discounting of petrol prices in the south of the State following the entry of Liberty (an independent discount petrol retailer) into Hobart's retail petrol market in September 2000. The same level of discounting has not been evident in the north of the State. There is still a significant gap (up to 10 cents per litre) between Hobart petrol prices and those in the north of the State.

Monitoring of the Commonwealth Bank's Undertaking

In March 2000, the Commonwealth Bank of Australia (CBA) and Colonial Limited (Colonial) announced their intention to merge.

The Tasmanian Government and the ACCC, among others, expressed concerns that the proposed merger might have a detrimental impact on retail banking services throughout the State. To address these concerns, CBA gave a commitment to the Tasmanian Government that Tasmanian customers will receive the same prices, new product innovations and services standards as those enjoyed by customers elsewhere in Australia. That commitment was subsequently incorporated in an enforceable undertaking given to the ACCC as a condition of approval of the merger. The same undertaking was given in

relation to regional New South Wales, a region identified by ACCC as another market that might be adversely affected by the merger.

As part of the undertaking, CBA agreed to appoint independent Monitors for Tasmania and New South Wales to ensure CBA comply with the undertaking. The Monitors' roles are to monitor CBA compliance and to report to the ACCC every six months. The Tasmanian Government has nominated the Commission as the Monitor for Tasmania. To assist the Monitors, CBA also agreed to appoint an independent Reporter in accordance with the Reporting and Monitoring Guideline proposed by the Commission.

The Commission submitted its first Report to ACCC in February 2001. In the Report, the Monitors advised the ACCC that for the period under review, the CBA had substantially complied with the undertakings.

Further, the Monitors considered it appropriate to observe that the CBA had devoted considerable resources to this task and approached it with goodwill and in good faith. The CBA had assisted the Monitors in fulfilling their responsibilities as well as ensuring that all staff and internal procedures and policies are informed of the necessity to comply with the undertakings.

Office Administration

Human Resource Management and Policies

Staff of the Government Prices Oversight Commission (excluding the Commissioner who is employed under the GPO Act) are employees of the Department of Treasury and Finance and are made available to the Commissioner (on a full-time basis). As such, Commission staff are subject to the same human resource management policies and procedures as applies in Treasury. Readers are referred to Treasury's Annual Report for any information in this regard.

Asset Management and Risk

The Commission is co-located with the Office of the Tasmanian Energy Regulator (previously the Office of the Tasmanian Electricity Regulator) and all assets are shared between the two bodies. Major corporate support services for the Office, including the management of assets, are undertaken by Department of Treasury and Finance. Readers are referred to Treasury's Annual Report for any information in this regard.

Pricing Policies

Under section 23 of the GPO Act a monopoly provider that is the subject of an investigation is liable for the whole or part of the reasonable expenses incurred by the Commission arising from the conduct and reporting of that investigation. On this basis the Commission is able to recover from the relevant entity(ies) all reasonable costs, including overheads, associated with the conduct of an investigation. From 1 July 2000 goods and services tax (GST) is required to be added to the invoice for services.

The Commission's competitive neutrality activities are undertaken free of charge to either the complainant or the entity subject to the complaint. However, the Regulations require a deposit of \$100 to be lodged with the Commission at the time a complainant lodges the complaint. This amount is refundable if the complaint is found to be justified.

Consultancy work is generally undertaken on a fee for service basis. However, the monitoring of petroleum product prices is undertaken on behalf of the Government and is funded through the Consolidated Fund. Monitoring of CBA compliance with the ACCC undertaking is funded by CBA.

Payments to Consultants

The following payments were made to consultants during 2000-2001.

| Consultant | Amount \$ | Work Undertaken |
|----------------------------|----------------------|--|
| Ross Kelly | 4 500.00 | Local Government Water Pricing |
| Corporate Communications | 789.25 | Professional Services – Media Conferences |
| Informed Sources | 13 467.85 | Provision of Petroleum Product Prices |
| Bernard Rowley | 15 450.67 | Assistant Commissioner, MAIB Pricing Investigation |
| The Allen Consulting Group | 16 375.00 | Professional Services – Regulation of Gas |

Freedom of Information Act 1991

During 2000-01 no requests for information were made of the Commission under the *Freedom of Information Act 1991*.

Publications by the Commission during 2000-01

| Publication | Released |
|--|------------------------|
| <i>Investigation into the Pricing Policies of the Motor Accidents Insurance Board – Draft Report</i> | July 2000 |
| <i>Investigation into the Pricing Policies of the Motor Accidents Insurance Board – Final Report</i> | August 2000 |
| <i>Monitor's Report to Australian Competition and Consumer Commission (CBA Undertaking)</i> | February 2001 |
| <i>Investigation into Bulk Water Pricing Policies – Draft Report¹</i> | June 2001 |
| <i>Petrol Pricing Monitoring Reports – published monthly on the Commission's website</i> | July 2000 to June 2001 |

¹ The Final Report was released in July 2001.

FINANCIAL STATEMENTS

For the period ended 30 June 2001

The following financial statements are included:

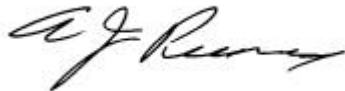
- ⇒ Certification
- ⇒ Audit Report
- ⇒ Notes to the Statement of Expenditure and Receipts
- ⇒ Statement of Expenditure and Receipts.

Government Prices Oversight Commission

Certification of Financial Statements For the period ended 30 June 2001

The accompanying Financial Statements of the Government Prices Oversight Commission have been prepared in compliance with the provisions of the *Government Prices Oversight Act 1995*. The statements are in agreement with the relevant accounts and records so as to present fairly the financial transactions for the period ended 30 June 2001 and such components of financial position as at 30 June 2001 which the Minister requires under Section 40(3) of the *Government Prices Oversight Act 1995* to be disclosed in the Financial Statements.

At the date of signing I am not aware of any circumstances which would render the particulars included in the Financial Statements misleading or inaccurate.



Andrew Reeves
COMMISSIONER

23 August 2001



INDEPENDENT AUDIT REPORT

To the Members of the Government Prices Oversight Commission

Scope

I have audited the special purpose financial report comprising a financial statement prepared on the cash basis of accounting, including notes and supplementary information, of the Government Prices Oversight Commission for the year ended 30 June 2001. The Members of the Government Prices Oversight Commission are responsible for the preparation of the financial report on the cash basis of accounting in accordance with the direction given under the provisions of Section 42 (2) of the Financial Management and Audit Act 1990. I have conducted an independent audit of the financial report in order to express an opinion on it to the Members.

The audit has been conducted in accordance with Australian Auditing Standards and used procedures which included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion whether in all material respects, the financial report is presented fairly in accordance with the cash basis of accounting which does not require the application of Accounting Standards and other mandatory professional reporting requirements.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In my opinion the financial report presents fairly, in accordance with the cash basis of accounting the financial transactions of the Government Prices Oversight Commission for the year ended 30 June 2001 and such components of financial position at that date as are disclosed in the financial report.

G R Morffew
ASSISTANT DIRECTOR
UNDER DELEGATION FOR THE AUDITOR-GENERAL

24 September 2001

HOBART

Government Prices Oversight Commission

Notes to the Statement of Expenditure and Receipts

1. Basis of Accounting

The Financial Statements have been prepared in accordance with the *Government Prices Oversight Act 1995* and Ministerial Directives under Section 40(3) of that Act.

The transactions of the Government Prices Oversight Commission are funded through the Consolidated Fund. The records are maintained on the cash basis of accounting by the Department of Treasury and Finance on behalf of the Commission.

Figures presented have been rounded to the nearest thousand dollars.

2. Non-Current Assets

The Commission has a policy of recording all assets regardless of value in its asset register. These assets are recorded at cost and are not depreciated. However, for reporting purposes assets with a value greater than \$5 000 and an estimated useful life greater than two years are shown below.

As at 30 June 2001, the Commission did not have any assets which met the above reporting criteria.

3. Debtors

As at 30 June 2001, the Commission had debtors outstanding amounting to \$60 789 (GST inclusive).

4. Creditors

As at 30 June 2001, creditors for the Commission amounted to \$11 721 (GST inclusive).

Government Prices Oversight Commission

The Consolidated Fund Statement of Expenditure and Receipts For the year ended 30 June 2001

| | 2001 \$'000 | 2000 \$'000 |
|--|----------------|----------------|
| Receipts | | |
| Fees and Recoveries | 138 | 72 |
| Total Receipts | 138 | 72 |
| Expenditure | | |
| Employee Entitlements | 204 | 81 |
| Rentals and Other Accommodation Related Outgoings | 27 | 21 |
| Communications | 6 | 6 |
| Travel and Transport | 17 | 10 |
| Consultancies | 35 | ... |
| Information Technology | 3 | 8 |
| Advertising and Promotion | 1 | ... |
| Other Expenses | 63 | 14 |
| Total Expenditure | 356 | 140 |

Appendix A

Government Prices Oversight Commission: Summary of Procedures

This appendix summarises the Commission's investigation procedures and the procedures for setting of prices following an investigation.

Conduct of Investigations

The Notice

An investigation is initiated by the Minister administering the Act (now the Treasurer) with the agreement of the Portfolio Minister (the Minister with responsibility for the 'monopoly provider'). Upon receiving the requirement to conduct an investigation, the Commission is required to give notice to the monopoly provider and in Tasmanian daily newspapers.

Such a notice must include the terms of reference and specify the purpose of the investigation, how submissions may be made to the Commission and the matters that the Commission would like submissions to address.

Matters To Be Considered

In addition to issues specifically mentioned in the Terms of Reference, Section 31 of the Act requires the Commission to consider certain matters. These include:

- ⇒ the cost of providing the monopoly service;
- ⇒ interstate or international benchmarks for prices, costs, revenues and return on assets;
- ⇒ the need to protect consumers from any adverse exercise of monopoly power;
- ⇒ any community service obligations of the monopoly provider;
- ⇒ the need for efficiency in the provision of the monopoly service and for the monopoly provider to be financially viable; and

⇒ the impact on pricing policies of any borrowing, capital, dividend and tax equivalent obligations of the monopoly provider, including obligations to renew or increase assets.

The Investigation Process

In conducting an investigation, the Commission may receive written and oral submissions, consult with any person, hold hearings and seminars and conduct workshops.

Preliminary notice of any hearing is required to be advertised in the Tasmanian daily newspapers. The hearing is to be held in public unless the Commission considers that for reasons of public interest, or because the evidence to be presented is likely to be confidential or commercially sensitive, the hearing should be held in private.

Freedom of Information Act 1991

The *Freedom of Information Act 1991* (FOI Act) applies to the activities of the Prices Oversight Commission. However, where the Commission gives directions prohibiting or restricting the publication of information provided to it, the FOI Act will not apply in respect of that information.

Section 29 Requests

The Commission may require any person, normally an Agency or GBE, to supply information by a request under Section 29(1) of the Act. This information may be in oral or written form. Section 30(2) enables the Commission to give directions prohibiting or restricting the publication of all or part of this information.

As noted above, where the Commission gives such a direction under Section 30(2), the FOI Act will not apply in respect of that information or to records relating to the production of such information.

If information is provided in response to a Section 29 requirement and the provider of the information requests that the Commission give a direction under Section 30(2) to prohibit or restrict the publication of that information, the Commission will not make that information available to any person without prior consultation with the provider.

Reports and Recommendations

Draft Report

The Commission may prepare a draft report when required by the terms of reference, or by the Minister and Portfolio Minister, or by its own decision. If a draft report is made public, any person may make submissions. The Commission is required to take these submissions into consideration before making a final report.

Final Report

The Commission must prepare a final report containing a recommendation in relation to the appropriate maximum prices chargeable by the monopoly provider for the monopoly service during the three years after completion of the report.

Section 4 of the Act sets out the form in which maximum prices may be expressed. These include:

- ⇒ maximum prices or the maximum rate of increase or the minimum rate of decrease in maximum prices;
- ⇒ average prices or average rates of increase or decrease in such average prices;
- ⇒ pricing policies or principles; and
- ⇒ by reference to a general price index, the cost of production, revenue, a rate of return on assets or any other factor.

Price-setting

The Portfolio Minister must lay a copy of the Final Report before each House of Parliament within 20 sitting days of receiving the report. Copies are to be available for purchase by members of the public.

Where the monopoly provider sets its prices by statutory rule, or has been declared a "prescribed monopoly provider", then the process for price-setting includes Parliamentary oversight as described below:

- ⇒ Within 60 days of receiving the final report, the Portfolio Minister is required to consult with each Minister of the Crown and the monopoly provider in relation to the recommendations of the Commission. The Portfolio Minister must either accept the Commission's recommendations in relation to the

maximum prices, or take some alternative decision about those maximum prices.

- ⇒ The Portfolio Minister must then make an order (which is disallowable in Parliament) that gives effect to that decision.
- ⇒ The Act further requires that the monopoly provider must, during the 60 days between when the order is made and when it takes effect, re-determine its prices, tariffs or charges so that new arrangements are in place to conform with the order from the day it commences.
- ⇒ In re-setting its prices and in varying those prices at any time during the next three years, the monopoly provider must obtain a certificate from the Commission to the effect that the proposed prices are within the maximum prices, which have been established by the order.

In all other cases, the Act simply requires that after receiving a final report the Portfolio Minister, after consulting with each Minister of the Crown and the monopoly provider, must determine the maximum prices to be charged by the monopoly provider during the next three years and take such action as is necessary to ensure that those maximum prices are met.

Appendix B

Government Prices Oversight Commission: Complaints Mechanism

The CPA requires that the State have in place a complaint mechanism to consider complaints relating to the application of the competitive neutrality principles¹.

The Government decided that the Commission would be responsible for overseeing the complaints mechanism within Tasmania in addition to its existing function of oversight of the prices charged by public sector businesses that are monopoly, or near monopoly, suppliers of goods or services.

The Commission was empowered to administer the complaints mechanism by the inclusion of this function under Section 10 of the *Government Prices Oversight Act 1995* (the GPO Act) and by procedures set out in the *Government Prices Oversight Regulations 1998* (the Regulations).

Under the Regulations the Commission will:

- ⇒ only consider complaints by ‘a person who believes that a Government body has contravened any of the principles and is adversely affected by that supposed contravention’²; and
- ⇒ only formally consider complaints after the person ‘has discussed that supposed contravention with the Government body’³ against which the complaint is made.

On the completion of an investigation into an alleged breach, the Commission is to report on its findings to the Treasurer and the Portfolio Minister and make its recommendations public in an annual report.

Where a complaint is lodged concerning a government business activity which, in accordance with the relevant Application Statement, is not subject to the competitive neutrality principles, the Commission will consider whether the person has been adversely affected by the failure to apply the competitive neutrality principles to that business activity.

¹ The national competition policy competitive neutrality principles as set out in clause 3 of the Competition Policy Agreements.

² See clause 4 of the *Government Prices Oversight Regulations 1998*.

³ See clause 4 of the *Government Prices Oversight Regulations 1998*.

The process, which governs the review of complaints concerning the application of the competitive neutrality principles, can be divided into three stages:

Stage 1 - Identification and Lodgement of a Complaint: by the body or person adversely affected by the alleged non-compliance with the competitive neutrality principles. Prior to formal lodgement the complainant is required to discuss the complaint with the relevant government body.

Stage 2 - Investigation of the Complaint: by the Commissioner. As part of the investigation the government body subject of the complaint is required to provide the Commission with a statement of facts in response to each of the alleged breaches of the CNPs. The Commissioner is also able to seek additional material from the complainant and the body subject to the complaint and from any other relevant body.

Stage 3 - Reporting on the Review Outcomes: to the Minister responsible for the Government business (in the case of a local Government body to the Minister for Local Government) and the Minister responsible for administering NCP. The report may contain recommendations in relation to the application of the CNPs by the government body that was the subject of the complaint and or, in relation to the Application Statement itself. Where the Commission has made a recommendation in relation to the application of CNP, the relevant government body and Responsible Minister are required to advise the Commission of action being taken as a result of the Commission's findings and recommendations. Where the Commission has made a recommendation in relation to the Application Statement, the Treasurer is required to advise the Commission of action he/she intends to take in relation to the recommendation.

Under Regulation 18, the Commission in its Annual Report must include:

- ⇒ particulars of any contravention of the CNPs admitted by a government body in response to a complaint or determined by the Commission; and
- ⇒ include particulars of action taken by a government body as a result of such an admission or determination of a contravention of the CNPs.

The Commission may also include any other matters it considers appropriate to include or other matters that the Minister requires to be included.

To assist government bodies and potential complainants to understand the complaint mechanism process, the Commission released the *Competitive Neutrality Complaints Mechanism under National Competition Policy Guidelines* in early 1999. A copy of this document is available on the Commission's website. In addition the Commission's staff meet with potential complainants to discuss the process and requirements under the Regulations.

Appendix C

Glossary of Terms

| Term | Meaning within the Context of this Report |
|------------------------|---|
| ACCC | Australian Competition and Consumer Commission |
| Application Statements | <i>Application of the Competitive Neutrality Principles under National Competition Policy and Application of the National Competition Policy to Local Government</i> both issued June 1996 |
| CBA | Commonwealth Bank of Australia |
| CNPs | Competitive Neutrality Principles as defined in clause 3 of the CPA and the <i>Application Statements</i> |
| COAG | Council of Australian Governments |
| Commission | The Government Prices Oversight Commission unless otherwise specified |
| CPA | Competition Principles Agreement |
| CSA | Community Service Activity – being a non-commercial activity undertaken by a State-owned Corporation under contract with the State Government |
| CSO | Community Service Obligations (as defined in the GBE Act 1995) |
| ESI Act | <i>Electricity Supply Industry Act 1995</i> |
| FCA | Full Cost Attribution (as defined in the <i>Guidelines for Implementing Full Cost Attribution Principles</i> separately issued to Tasmanian Government Agencies and Local Government in 1997) |
| GBE | Government Business Enterprise, being a wholly owned Government business subject to the GBE Act |
| GBE Act | <i>Government Business Enterprises Act 1995</i> |
| GST | the Commonwealth Government's Goods and Services Tax |
| GPO Act | <i>Government Prices Oversight Act 1995</i> |
| GPOC | Government Prices Oversight Commission |
| HCC | Hobart City Council |
| LPG | liquefied petroleum gas |
| LRMC | Long Run Marginal Cost |

| | |
|-----------------|--|
| MAIB | Motor Accidents Insurance Board |
| Metro | Metro Tasmanian Pty Ltd (established in February 1998) |
| MTT | Metropolitan Transport Trust (prior to 1998) |
| NCP | National Competition Policy |
| SRMC | Short Run Marginal Cost |
| The Regulations | the Government Prices Oversight Regulations 1998. |

Appendix D

Compliance Index

This compliance index has been compiled in response to the Auditor-General's Special Report No. 4 of May 1993, Standard of Annual Reporting by Government Departments.

The three columns in the index have the following meanings:

Reference:

This refers to statutory disclosure requirements in Tasmanian public sector legislation.

FMAA: *Financial Management and Audit Act 1990*

FOI: *Freedom of Information Act 1991*

PSSRA: *Public Sector Superannuation Reform Act 1999*

SS: *State Service Act 2000*

SSR: *State Service Regulations 2001*

TI: Treasurer's Instructions

Description:

This is a brief statement of the instruction, clause, section or subsection of the corresponding statutory disclosure requirement.

Location:

This states where in this Annual Report the requirement is satisfied. In some instances the requirement is complied with by the report in its entirety.

| Reference | Description | Location |
|--|---|----------|
| Overview | | |
| SSR 9(a)(i) | An overview of the Agency's strategic plan, including its aims, functions and related programs. | P6 |
| FMAA s.27(1)(a) SS s.36(1)(a) | A report on the performance of the functions and powers of the Head of Agency under any written law. | p15 |
| FMAA s.27(1)(b) subject to s.27(2) SS s.36(1)(b) | A report by any statutory office-holder employed in or attached to the Department, except where required to report under any other Act. | p1 |
| SSR 9(a)(v) | Major initiatives taken to develop and give effect to Government policy. | P6 |
| Statutory/non-statutory bodies and companies | | |
| | A list of statutory and non-statutory bodies. | n.a. |
| Legislation administered and major documents produced | | |
| SSR 9(d) | A list of legislation administered by the Department. | P5 |
| SSR 9(c)(i) | A list of major documents or publications produced. | P25 |
| Performance information | | |
| TI701 (1)(a) & (e) | Consideration should be given to the following: <ul style="list-style-type: none"> ▪ performance measures (qualitative/quantitative); ▪ any Ministerial directives in relation to financing or investment activities; and ▪ relationships between performance reported and strategic objectives referred to in the corporate/strategic plan. | p15 |
| Human resource management | | |
| SSR 9(b)(i) | Staffing information as at 30 June. | p23 |
| SSR 9(b)(iii) | Equal employment opportunity. | p23 |
| SSR 9(b)(iv) SSR 9(c)(iii) | Industrial democracy plans with outline of process available for appeals against decisions by Department. | p23 |
| SSR 9(b)(vi) | Occupational health and safety strategies. | p23 |
| Asset management and risk policies | | |
| TI 701 (1)(g) | Asset management policies, strategies and initiatives. | p23 |
| TI 701 (1)(c) | Pricing policies of goods and services. | p23 |
| TI 701 (1)(f) | Risk management policies, activities or initiatives. | p23 |
| External/internal scrutiny | | |
| TI 701 (1)(i) & (ii) | Consultants engaged during the period. | P24 |
| Public access and awareness of services provided | | |
| SSR 9(c)(ii) | A list of contact officers and points of public access. | Piii |
| SSR 9(c)(i) | Activities undertaken to develop community awareness of the services the Department provides. | P33 |
| FOI Act s56 | Freedom of Information details. | P24 |
| Financial statements | | |
| TI 701 (1)(l) & (m) FMAA s27(2) & (3) FMAA s27(1)(c) | Financial statements of the Department, including statements of any public body not required to report under any other Act, together with the audit opinion on those statements. | P27 |