



**NEW ZEALAND INSTITUTE FOR THE STUDY  
OF COMPETITION AND REGULATION INC.**

# **Competition policy development in New Zealand**

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**Competition Policy: the CER approach**

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<http://iscr.org.nz>

# Overview

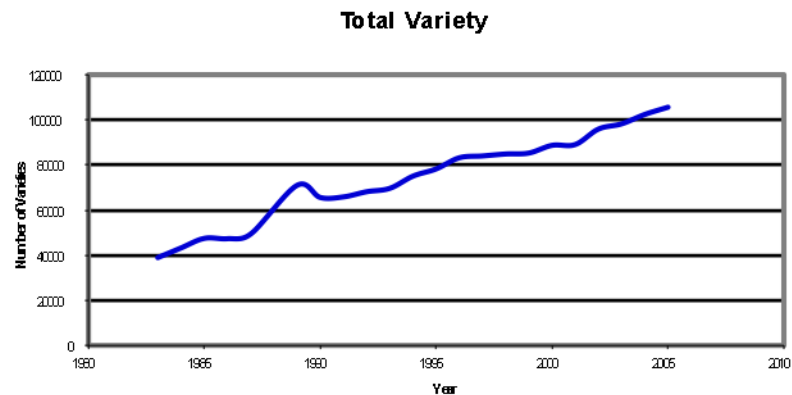
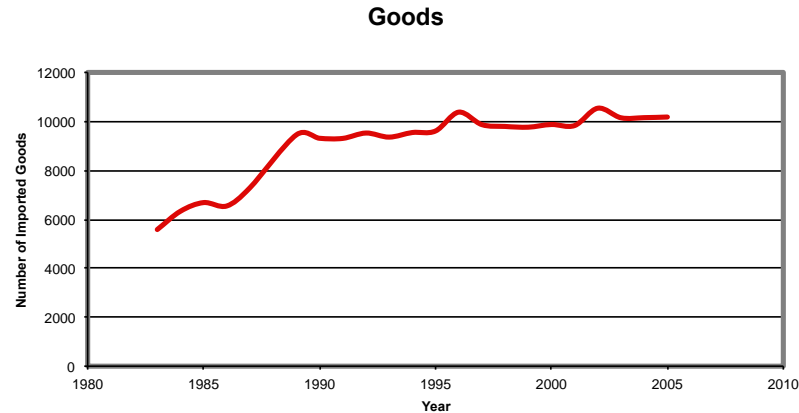
- Background: New Zealand's economic evolution 1984-2013
- Competition Law and Regulation:
  - There are general principles: but one rule does not fit all
  - Economy-specific elements to implementation
  - Evolution in economy-specific cases
    - Electricity
    - Dairy

# Background

- 1960s-1984 economy centrally controlled: fixed exchange rates, subsidies, declining performance
- 1984 crisis
- 1984-1991 economy wide deregulation
- 1986 Commerce Act: i) drew on the Australian Trade Practices Act: ii) includes natural monopoly regulation
- Domestic competition greatly assisted by CER 1970s-1980s and tariff reductions

# Background

- Variety: important for consumer and producer welfare and competition

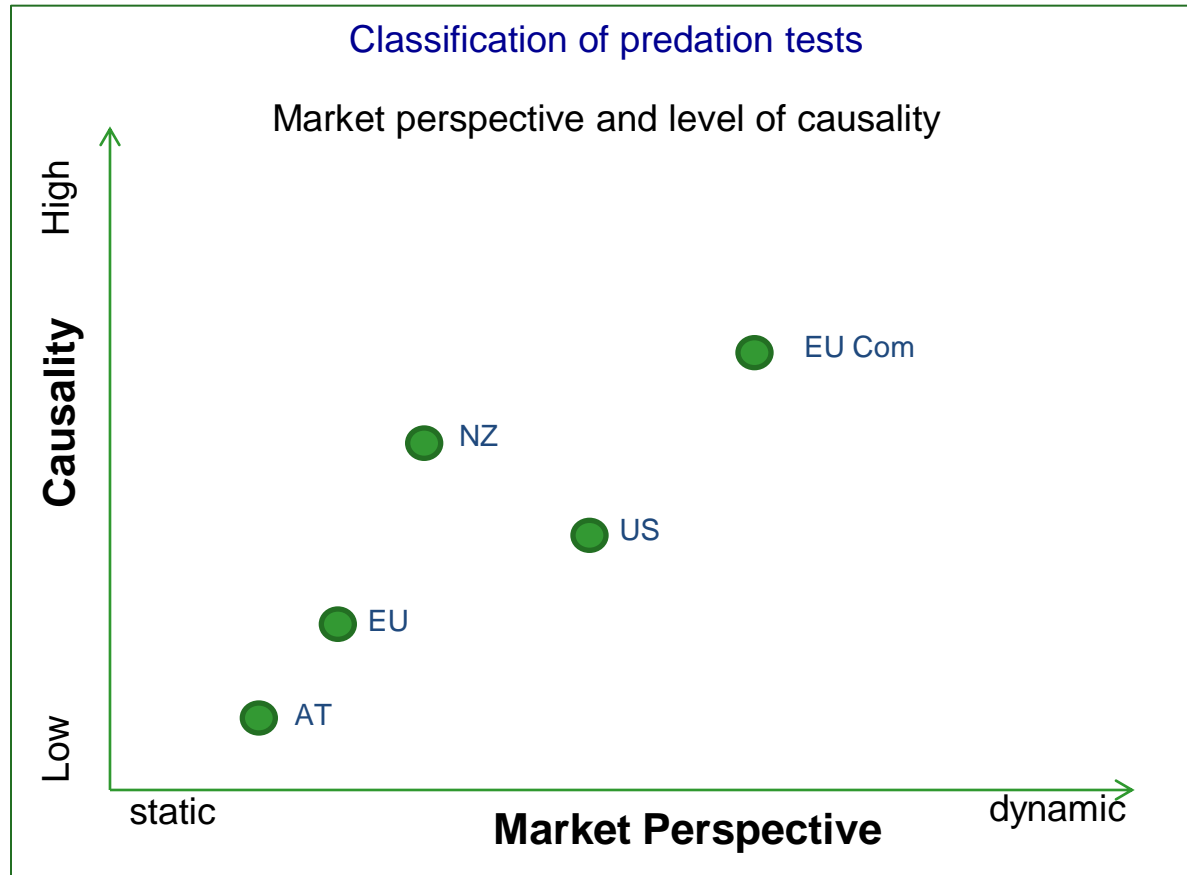


- Economic productivity growth good 1991-2001

# NZ Competition Law

- Applied “generic” microeconomic principles
- Apply to fit shape of the economy and stage of development
- Implementation criteria varied to reflect small open isolated economy e.g.
  - Level of HHI thresholds
  - Emphasis on the efficiency test (as opposed to consumer surplus) in decisions.
  - Relatedly, the particular role of export/domestic activity in competition law decisions

Related but different approaches to the same competition issue  
are not uncommon even among established systems  
(Taken from Winkler 2013)



# NZ Natural Monopoly Regulation: evolution

- 1984-2001 regulate with competition law (light handed) and self regulation
- Distinct natural monopoly characteristics revealed; some industry regulation was slow and arguably ineffective
- Tendency to try home-design rather than learn from other jurisdictions
- Stronger argument for adopting similar cross-country regulatory approaches than competition law: because regulation is applied to non-traded goods

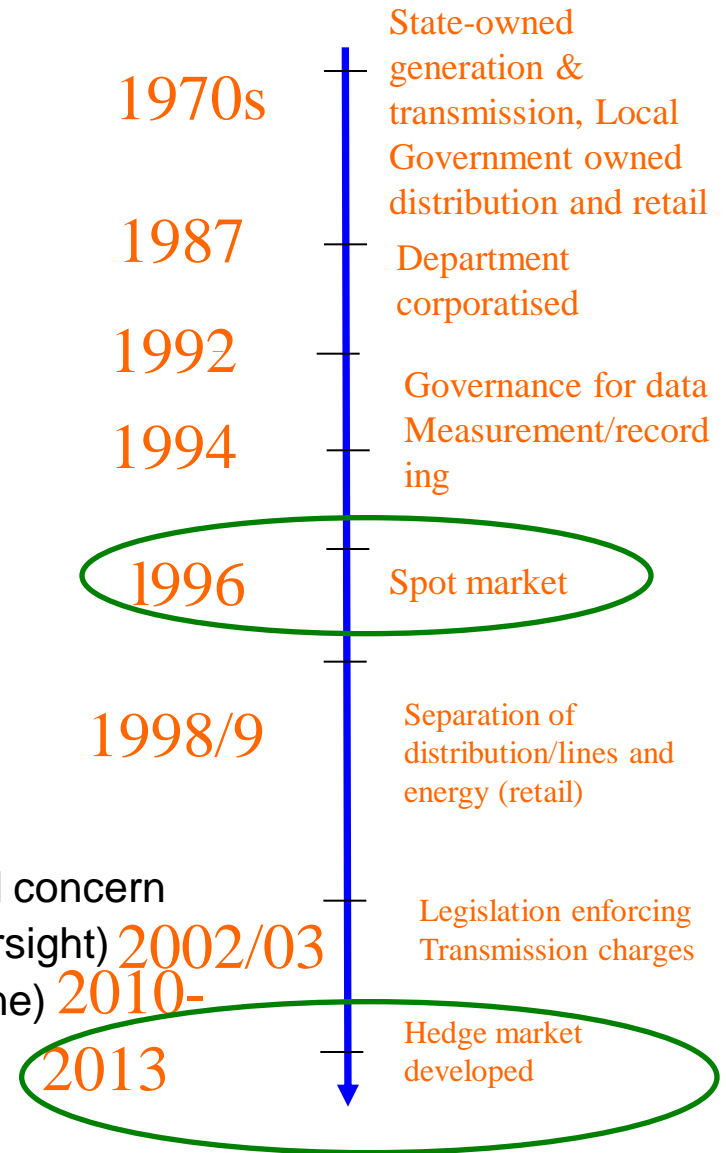
# Competition Law *and* Regulation: evolution

- Commerce Act changed regularly from 2000
- Competition law changes in early 2000:  
strengthened emphasis on affiliated actions
- Firm-specific regulation, changes in form and subject have  
been regular since 2001: now includes price control administered  
by the Commerce Commission:  
*telecommunications (2001), gas (2006), electricity  
transmission and distribution (2003), dairy (2001)*
- Economy wide: regulatory statutes continue to grow very  
rapidly



# NZ Electricity: evolution

- **Corporatisation**
  - NZED ➔ ECNZ (almost single buyer model)
- **Competition**
  - Franchise areas removed
  - Transmission split from ECNZ
  - Information disclosure & price control
  - ECNZ split 4 generation companies  
1 privatised 3 SOE's
- **Learning**
  - 1996 ➔ contract market (industry)
  - 2001 ➔ dry year severe consumer & political concern
  - 2003 ➔ Electricity Commission (political oversight)
  - 2010 ➔ Electricity Authority (more stand alone)



# NZ Electricity: 2013

Energy only Market, priced at cost of next unit of capacity, no taxpayer-funded investment, risks assigned to those best able to manage them



Generation

**Oligopoly:** 4-6 large firms/fringe competition: workable competition possible  
3 SOEs operate as if good businesses



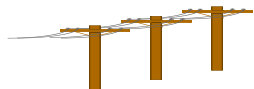
Customers

1/3 households and 1/3 commercial firms and 1/3 large industrials



Transmission

**(National HV Grid)** Natural monopoly SOE  
(investment/prices regulated by the Commerce Commission)



Distribution

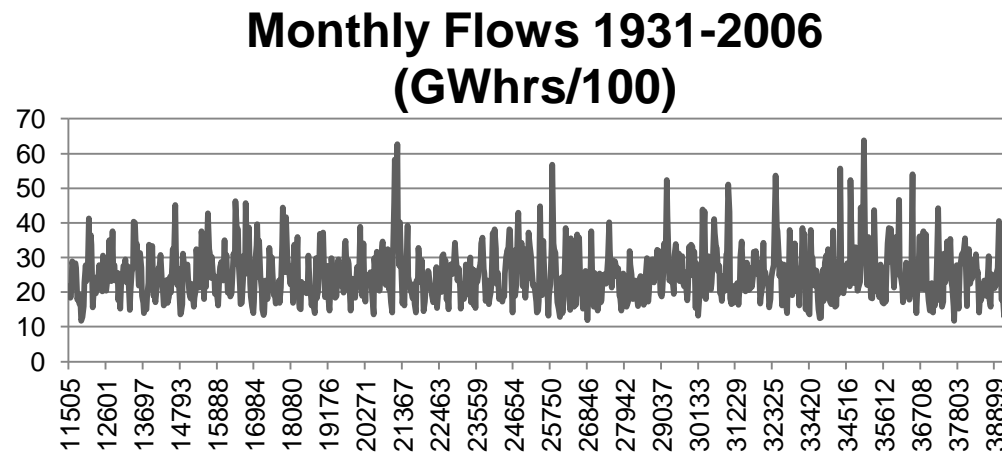
**(Local LV Grid)** Natural monopoly  
(18 cooperatives/regulation Commerce Commission)

Market operator

Attached to the grid (**Transco**)

# Electricity: NZ country-specific issue

60% is hydro generation with limited storage and very volatile water supplies



Yet influential analysts from other jurisdictions use frameworks that have no supply uncertainty to (inappropriately) report on NZ market performance.

# NZ Dairy: country-specific issue

**Importance:** dairy products in 2012 were approximately 25% of NZ exports, 30% of world trade and 2% world milk supply

**Question:** how to ensure a workably competitive domestic milk market that enables firms to be tested for their efficiency in the product market and in their organisational form?

**Regulation design using economic principles**

# NZ Dairy: evolution

**Agriculture un-subsidised:** but dairy competition inhibited

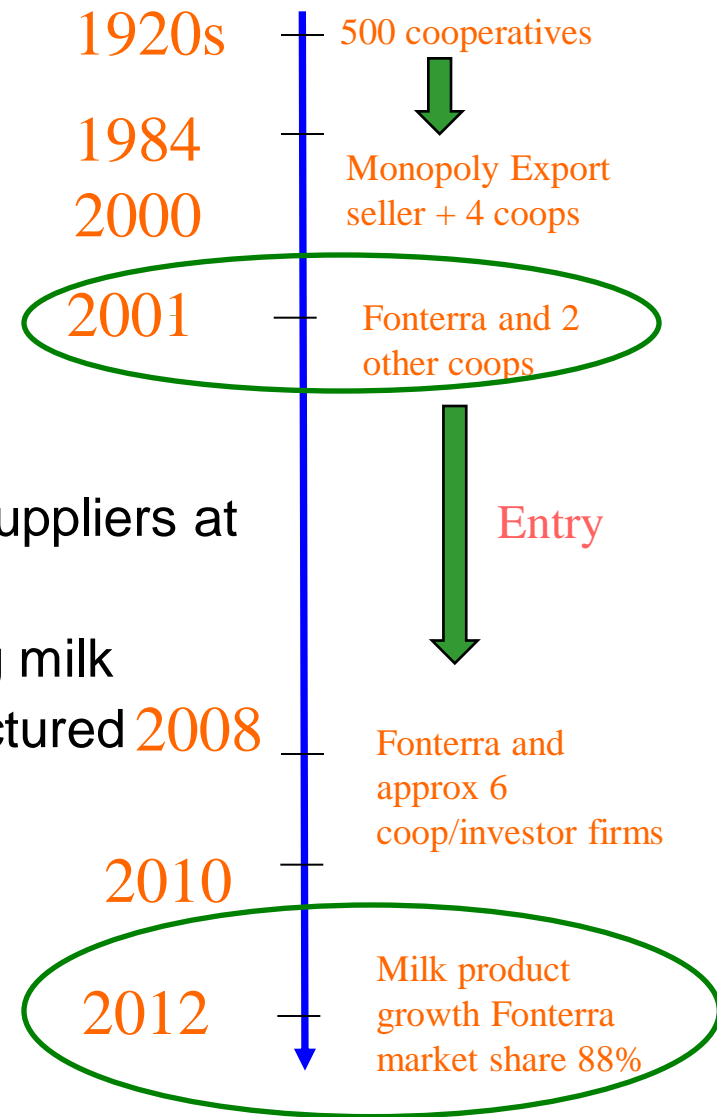
**Remove monopoly export seller:** replace with Fonterra coop: 96% milk market

**Discipline:** external prices

**Regulation:** Fonterra open entry and exit of suppliers at “fair value” shares, and forced to supply some manufacturing milk

**Fonterra:** introduces spot market for manufactured dairy products

**Fonterra:** introduces share trading including open market non-voting share-backed units  
open entry/exit preserved



New Zealand Competition Law and  
Regulation are still evolving

Thank you for your attention

# Some References

Various studies New Zealand Institute for the Study of competition and Regulation:

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