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THE MEANING OF DEREGULATION

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'Deregulation' has been a powerful catchcry behind a series of major economic policy changes in Australia over the past twenty years. The most recent calls for 'deregulation' have been aimed at the broadcast media, the milk industry and the higher education sector, but these have followed earlier programs of 'deregulation' in the key areas of finance, telecommunications and industrial relations. The rationale for 'deregulation' is an efficient use of resources, human freedom in open competitive markets, consumer benefit and expanded choice. But this is mostly the doublespeak of mystifying and irrelevant 'market economics'. The term does not really mean what it claims.

In fact, the Australian experience demonstrates that 'deregulation' actually means:

- a market re-regulation to guarantee the delivery of new markets and the profitability of existing markets to large, monopolistic corporations,
- a social re-regulation which restricts and represses citizenship, insofar as citizens' rights conflict with the delivery of profitable markets to large corporations.

This may also mean a consequent redistribution of social subsidies, and of the common wealth (i.e. publicly owned enterprises, assets and resources) in line with the state's project to ensure the profitability of those large corporations.

Deregulation is associated with another much misused word, 'efficiency'. Market economics doublespeak has it that efficiency means a 'market efficiency', born of vigorous competitive markets which drive down

prices, and profits, and which will benefit the great mass of consumers. The re-regulation of markets to advantage large private corporations, however, keeps a close eye on that 'corporate efficiency' which will sustain and expand monopoly profits. These two efficiencies are quite distinct and, most often, mutually exclusive.

Deregulation has been carried out to varying degrees, by successive governments, broadly in line with the liberal project which demands profits to fund new investment, new investment to fund economic growth, and economic growth to provide employment and affordable commodities, through which there will be some dispersion of the benefits of the project. Thus the sustained profitability of large corporations is linked to the common good. In this paper I will outline the recent experience of deregulation in finance, telecommunications, and industrial relations, to illustrate the key features of the process.

Financial Deregulation

Financial deregulation in the early 1980s was led by the Coalition Government commissioned Campbell Report, which argued that "the most efficient way to organise economic activity is through a competitive market system which is subject to a minimum of regulation and government intervention" (Campbell *et al* 1981: 758). The removal of borrowing and lending controls and the entry of foreign banks was claimed to lead to a competitively efficient market system, bringing about reduced interest differentials between deposits and loans. These differentials were the financial institutions' main source of income. Competition was said to be able to eliminate the possibility of monopolistic 'super-profits'. At the same time, both public and private borrowing was to be facilitated in a more certain and better-informed market (Campbell *et al* 1981: 758, 771, 800-801; Swan & Harper 1982: 511). The subsequent Labor Government commissioned the Martin Review, which broadly supported the Campbell findings, though with less 'free market' rhetoric. The Martin Review Group claimed itself free from "general presumptions, derived from theoretical models, about the operations of unregulated markets". Nevertheless, it added: "market oriented policy ... [was] seen as having considerable advantages" (Martin

et al 1984: 361, 1). A series of benefits were claimed for the financial deregulation which was to follow. It was claimed that there would be stable and lower interest rates, greater availability of funds, leaner margins between interest rates for borrowing and lending, innovations in service, and better financial servicing of production.

The results of financial deregulation were quite different. The float of the Australian dollar led to greater volatility in foreign exchange. Consumer credit became more readily available, but consumer debt also rose. Some foreign banks entered the Australian market, though few were able to successfully compete in retail banking with the domestic banks and their entrenched branch structure. The foreign banks targeted higher yielding but higher risk corporate lending areas, being "forced to lower credit standards in seeking these [higher] margins" (Darvall 1990: 41). They were left exposed to substantial bad debt and many withdrew from Australia. The domestic banks consolidated their position, regaining market share they had lost to the building societies and other non-bank financial institutions (NBFIs) (Anderson 1993: 63). Indeed the banks had pushed for 'deregulation', on the basis that they were unfairly discriminated against by a different regulatory regime to that of the NBFIs. The domestic banks were happy with the lifting of controls they saw as unfair to them. Westpac General Manager Bob White enthused "I couldn't have written it better myself", while other Australian banks also welcomed the report (Carew 1984: 1, 8).

Most significantly, the differentials between the major borrowing and lending rates of the banks increased enormously over the 1980s. Typically, the differential was much greater for the smaller saver/depositor , but all major margins expanded with deregulation (Singh 1989; Anderson 1993: 66-67). The removal of regulated home loan rates added to this. For example, the rate for average home loans minus the rate for investment accounts rose from around 2% in the 1970s to 3-6% in the late 1980s and early 1990s. Similarly, the rate for average overdrafts minus the rate 90 day deposits for rose from around 2.5% to about 5%. The table following sets out a range of such margins, from 1970 to 1996.

Table 1: Australian Bank Margins. 1970-1996

	Typical Margins			Tightest Margins	
	Average Home Loan MINUS Investment account ($10,000+)	Small Overdraft (<$100,000) MINUS 90 Day Deposit	Average Home Loan MINUS Large Savings Account (A)	Average Home Loan MINUS 90 Day Bank Bill	Average Home Loan MINUS 180 Day Bank Bill
1970	2.25		3.00	-1.45	1.77
1972	2.00		2.75	1.25	2.34
1974	1.38		2.38	-10.42	-2.38
1976	1.88	2.25	3.88	-0.57	2.63
1978	1.75	2.75	3.25	-1.55	0.50
1980	2.00	2.25	4.00	-3.85	-0.55
1982	1.00	1.00	7.50	-5.25	-2.54
1984	1.75	2.25	5.50	-1.30	-0.20
1986	3.25	4.13	9.50	0.70	2.71
1988	3.75	5.75	7.50	0.35	1.96
1990	5.00	6.13	10.50	1.45	1.89
1992	5.37	4.80	6.25	4.10	4.40
1994	5.65	4.85	5.65	3.30	2.80
1996	6.90	5.30	6.90	2.95	2.90

Source: *Reserve Bank Bulletin* & Foster & Stewart (1991); figures are as at June;
Note: a large savings account is taken as over $4,000 before 1992 and over $10,000 after 1992

More foreign capital was drawn into Australian circulation; domestic credit increased; and new technology streamlined financial services. On the other hand, the regulated subsidy for home buyers was removed; the cost of finance increased; and the banking sector's strength, as against consumers, increased. This was a significant market inefficiency, seriously adverse to consumers, and the reverse of that predicted by free market enthusiasts such as Swan and Harper (1982). It was *However,* consistent with the consolidation of corporate efficiency in the Australian banking sector, in that the banks' aggregate return on capital improved. Corporate efficiency is measured as a lower operating cost to income

ratio, and a higher operating profit per employee (e.g. Deloitte *et al* 1994: 34). Market efficiency, on the other hand, is represented by lower prices to consumers as a result of vigorous competition, and will act to restrict both profit levels and corporate efficiency.

Cross shareholding of the domestic banks increased substantially through the 1980s (Maley & Cleary 1989: 33); and interest rates and differentials remained high, until the recession of 1991 drove all rates down. After this, renewed competition in the housing sector was incited by the large volumes of lending, coming from an appreciation in prices of property in the major cities, driven by the lower interest rates. This renewed competition combined with lower rates, which restricted the opportunity for higher margins, pushed banks in the 1990s to increase fees. A debate raged in the mid-1990s about increasing fees, leading to a 1995 Prices Surveillance Authority inquiry and some pressure on the Labor Federal Government to regulate and control bank fees (Kermond and Flint 1995: 9). Amounting to little more than 5% of bank income pre-deregulation, fees and non-interest charges by 1996 had risen to 35% (Cornell 1996: 1). The banks further consolidated their profits by continuing to shed staff and automate services through ATMs, phone and internet transactions. However, complaints about customer service to the Banking Industry Ombudsman continued to rise into the mid-1990s, with the main complaints concerning the accuracy of advertised rates and information provided on front-end fees (Flint 1995: 8). By the late 1990s the banking industry was spending millions of dollars in the 'cash for comment' scandal (Australian Broadcasting Authority 1999), covert advertising to counter an influential radio commentator's criticism of the banks, and the Banking Industry Ombudsman was still reporting a steady increase in a wide range of complaints (ABC 1999).

By the mid-1990s the bank-driven 'deregulation' agenda was squarely focussed on mergers, following the refusal of the Keating Labor Government to allow any further consolidation of ownership, under the Trade Practices Act's monopoly rules. One of the first acts of the new Coalition Government in 1996 was to set up the Wallis Inquiry, which would be a "stocktake of regulation" designed to "deal constructively with further financial innovation" (in Kell 1996: 9). *However,* bankers made clear that merger guidelines and the future of the market structure

was the main issue. Competition between institutions was highly significant, but this had little to do with consumers who, it was accepted, "exercise little countervailing power" in the finance sector (Ullmer 1996: 123-124). Arguments about competition were thus reduced to arguments about the form of monopolisation. Should the big four banks be reduced to three, or to two? The two bank model has been advanced as more 'efficient' than the three bank model, clearly emphasising the efficiency which suits monopolists (corporate efficiency) rather than that which suits consumers (market efficiency).

The process of financial deregulation, therefore, was carried out in the name of a market efficiency which would benefit consumers, but really orchestrated a quite distinct corporate efficiency and facilitated monopolisation. Wider interest rate margins, consistent with corporate efficiency but inconsistent with market efficiency, were the most obvious sign of this. The financial market expanded, but the leverage of banks over consumers increased. In addition, a regulated right of citizens, to affordable housing through subsidised rates, was abandoned in favour of the main project.

Deregulating Telecommunications

Probably the most important deregulation of a public enterprise dominated market has been that of telecommunications, where the staged privatisation of the former public monopolist Telstra (formerly Telecom) has shadowed the staged 'deregulation' of its market. Once again, the argument for deregulation has based itself on claims of greater consumer choice, market efficiency and lower prices. However, the real agenda has been to facilitate the access of a few large private corporations to a highly profitable market.

A new *Telecommunications Act* in 1991 allowed a second carrier to compete with Telstra in a duopoly until 1997, after which the duopoly rules were removed. In early 1992, with government enforced access to Telstra infrastructure, Optus began as the second long distance carrier. In late 1992 Vodafone became the third licensed mobile phone carrier. Partial privatisation of Telstra then became a major election issue in 1996

and 1998, with subsequent sales of 49% of the giant public corporation. What has been the result? Though the long process is incomplete, we can gain some understanding of this 'deregulation' process by briefly considering consumer choice, prices, the use of resources, the social objectives of Telstra and the extent of bureaucratic regulation.

Consumer choice in handsets was one of the first obvious signs. Replacement of the old, clunky 'twist-dial' Telecom handsets in the early 1990s was a breakthrough for consumers. There are now myriad handsets, both for landline and mobile phones. Consumers may also choose between carriers, indeed they are heavily targeted to switch one way or the other by the big competitors. However, as Austel (the new regulator) forced Optus access to Telstra's monopoly infrastructure, it is hard to say that this choice means anything other than a price difference. So the big issue is really whether the highly regulated competition between Telstra and Optus has caused price decreases.

There is a popular perception that such is the case, and in fact both Telstra (Seal 1993) and Optus assert it. In 1996 Optus public affairs executive Amanda Wallace said that "the cost of the average long distance call has fallen by 20% since Optus entered the market in 1992" (Palestrant 1996: 1), implying that competition from Optus was responsible. Even economists studying telecommunications assert that falling prices are "prima facie evidence of competition" (Sayers 1999: 144). Such claims are misleading. Any price decreases arising from competition have to be distinguished from the price decreases that could have been projected to arise from productivity gains, through the public monopolist. In an industry with rapid technological gains the relevant question is, has competition accelerated the pace of price falls which could have occurred anyway?

The estimated total factor productivity (TFP) increases of Telstra for at least three of the four years referred to by Wallace were more than 10% per year, and rising (BIE 1995: 135), a great deal of which involved labour shedding. So a 20% price decrease over four years meant that, at most, only half the benefits of productivity gains were being passed on to consumers. Quiggin (1996: 119) points out that productivity gains and price decreases have been occurring since the 1960s, and that in the recent period "competition has had little overall effect on the prices faced

by consumers ... the small reduction in prices casts doubts on the efficiency increases arising from competition". In fact the Telstra-Optus price 'competition' is closely regulated by Austel, in view of Telstra's continued dominance of the market (Austel 1995). Telstra has not been allowed to reduce its prices, as this would be unfair to Optus (Chamberlin and Potter 1995: 1). Optus has thus tended to position itself just under the Telstra price structure. One consumer survey concluded that "the pricing differences are small, and neither carrier is cheaper in all situations ... the complicated charging structure makes it impossible to generalise" (ACA 1996: 17).

While extremely strong demand for telecommunications services buoyed up prices, especially for mobile phones (BIE 1995: 9), consumer complaints about phone bills and mobile phone contracts also rose sharply (Potter 1996: 2; Crowe 1995: 35s). Thus the evidence to suggest that actual competition has generated market efficiency, or greater benefits for consumers, is very weak. *However,* there has been a gain for corporate efficiency, as large private corporations have been allowed a new share of a highly profitable market.

Did the post-1991 regime ensure a generally more efficient use of resources? There is little to support this claim and much to contradict it. The physical infrastructure of fixed line telecommunications, like water and sewerage services, seems a 'natural monopoly' to which competitive duplication would only add inefficiency. Argument on this point raged over the 1996 layout of the dual fibre-optic cables, by both Telstra and Optus, to all major urban centres in Australia. This dual investment was in the order of $6 to $7 billion (Walker 1996: 4), an investment which could have been halved had the natural monopoly been retained. Critics (Robertson 1996; Quiggin 1996) have pointed to the huge opportunity costs of this duplication. Were there only one network, the additional capital could have been used: "to extend the network to [rural] areas, or for future network upgrades as technology improves ... [and] the cable could perhaps have been confined to underground" (Robertson 1996: 7). It does seem extraordinary that, on the one hand, the new technology of fibre optics delivers the potential efficiency of combining several functions (telephony, data connections and cable television) in the one network, yet on the other hand an economic policy demands the

inefficiency of immediately duplicating that physical network. The head of the Australian Competition and Consumer Commission, Professor Alan Fels, defended the dual cable layout, claiming that competition would push prices down. However, telecommunications expert Dr Peter Troughton condemned the duplication as "crazy" (Walker 1996: 4). Authorisation of the dual cable layout is explicable, though, as state support for the strategic move by Optus to secure its share of the market, by ownership of vital infrastructure.

The social objectives of Telstra embodied particular citizenship rights, principally equity of access to telecommunication services, that is, access by all at the one low rate. In support of this "universal service obligation", rural users have been cross-subsidised, timed local calls have been resisted and the full cost of some installations has not been imposed. Fierce political argument has been required to sustain these 'social objectives', in the face of attempts by a corporatised Telstra board to privatise and to introduce, for example, timed local calls (Lewis 1996). But there is little doubt that, without regulation to sustain some equity of access, the logic of 'deregulation' would be to remove subsidies and enforce a full user-pays system.

Nor has the publicly-funded bureaucracy engaged in telecommunications regulation decreased with 'deregulation'. This is perhaps not surprising, given the 'competitive neutrality' rules, reinforced by national competition policy. By these rules, Telstra cannot be allowed to use its advantage as monopolist to unfairly compete with new private entrants to the market..(Indeed, it has been forced to do what no private corporation would do - subsidise its competitors by allowing access to its valuable infrastructure.) Hence Telstra's hands are tied in price competition, by the regulator. There are now several regulators affecting telecommunications, indicating that deregulation and privatisation in telecommunications can increase and has increased bureaucracy (King and Pitchford 1999). The potential for such increased bureaucracy is likely to be strong in industries where there are natural monopolies, and strong pressures for the maintenance of previously accepted citizens' rights in service delivery and in quality control.

The claim, by those supporting privatisation, of an inefficient bureaucracy characterised by "chronic under-performance" on the part of

Telstra (SERCARC 1996), was not supported by a survey which suggested that, by world standards, the publicly owned corporation performed "relatively well" (BIE 1995: 145). A similar good (though not world beating) price performance applied after deregulation (Sayers 1999). The heat of the argument and the battery of dubious claims about efficiency and consumer benefit in the Telstra debate are thus hardly explicable unless we see in them a vigorous advocacy of the need of large corporations to share in Telstra's highly profitable operations, and for an obligation on the part of the state to service that need.

Deregulating Industrial Relations

So-called labour market deregulation focuses clearest attention on the destruction of citizens' rights that is implicit in 'deregulation' in general. Here the Australian state has actively restructured social and market regulation to ensure investor profitability and, where such restructuring conflicts with workers' rights and freedoms, to restrict or diminish these. Considerable public resources have been used in this process. In particular, the internationally recognised and "fundamental" rights of workers - to freely associate and organise, to form trade unions and to collectively bargain (ILO 1999) - have been under heavy attack since the *Workplace Relations Act* of 1996.

Discrimination against trade unions and trade unionists, attacks on their right to freely associate, and prejudice against collective bargaining have been built into the *Workplace Relations Act.* The legislation pushes its preferred model of an individual worker negotiating a contract with an employer. Individual contracts are to replace industry-wide awards (s.170VQ) while there is now a strictly limited list of the matters which awards may cover (s.89A). The Act has stripped away the traditional protections that were provided to workers in the very unequal employee-employer relationship, by industry-wide awards and the arbitral powers of an independent Industrial Relations Commission. These protections, which embodied workers' rights recognised in international law, had been built up over more than a century. A complaint by the Australian Council of Trade Unions to the International Labour Organisation led to a 1998 finding that the Act did indeed breach commitments made by

Australia to protect the rights to freedom of association and collective bargaining, under ILO Convention 98. The ILO Committee of Experts (1998) found treaty breaches in the exemption of small business from unlawful dismissal laws (workers here were not adequately protected from discrimination based on union membership or activities), the generally inadequate protection against discrimination based on trade union activities, the prejudice against collective bargaining, the denial to workers of a choice of representative, and a generally "ineffective right to strike". The Industrial Relations Commission has also found that the Act no longer recognises the ILO convention on the protection of casual workers, holding that workers employed as casuals for less than twelve months have no right to claim an unfair dismissal (Norington 1999b).

This structural discrimination against unionists has been reinforced by illegal discrimination, under the terms of the *Workplace Relations Act*, in the 1998 waterfront dispute. Here the Federal Government colluded with the Patrick group of companies to dismiss its entire workforce on the basis of union membership. The Federal Government then attempted to pass special laws to appropriate large amounts of public money to facilitate redundancy payments to these workers. In the end the Federal Court found the government had a case to answer that it had breached the weak discrimination provisions of the Act (s.298K(1)) and had engaged in an unlawful conspiracy with the Patrick companies. As a result of this dispute, the International Confederation of Free Trade Unions (1998) lodged another complaint with the ILO, over a violation of the rights to freedom of association and the right to organise, under ILO Convention 87.

The Act also bans the right to engage in solidarity action with workers. Reasserting a late 1970s provision of the *Trade Practices Act*, the *Workplace Relations Act* provides heavy penalties for 'secondary boycotts' and even makes otherwise allowable industrial action (in a bargaining period) illegal if it is joined by solidarity actions (s.170MM). This has long been considered a breach of established civil liberties (eg. CCL 1993).

Deregulation in industrial relations has been argued by the conservative government as presenting flexible work arrangements which would benefit workers and industry, but in fact has involved an open siding with

strategically chosen groups of employers against organised workers. There is no doubt that the right of workers to a better living standard and to better conditions of work is enhanced by their ability to join and participate as a member of a trade union. Not only have there been weaker wage rise outcomes for workers under individual contracts ('Australian Workplace Agreements') as compared to union agreements, but AWAs have been increasingly used as a vehicle to recast workers' rights, over such issues as hours of work (ACIRRT 1999). It is clear that the conservative Federal Government has set about undermining trade unions and engaging in social and market regulation to favour employers (eg. Norington 1999a).

The veneer of government as an arbiter of class conflict has grown extremely thin, and other state institutions (such as courts and arbitration bodies) which might serve an arbitral function have been diminished. Simultaneous with the conservative Government's project of restructuring social relations to protect or restore the profitability of large corporations has come the legal destruction of several basic rights. Re-regulation of market and social relations has been designed to favour employers and managers, over citizens and workers, at a time of economic restructuring. The state's main aim has been to protect the profitability of key private corporations.

Some other 'Deregulations'

In a similar way, the proposal for 'fee deregulation' in higher education, by introducing student loans and 'uncapped fees', has been strongly linked to attempts to pressure staff for 'workplace reform' (Martin & Bernoth 1999). This 'reform' means renewed attempts to diminish the rights of workers to freely associate and organise collectively as members of a trade union. Some university administrators have applauded this, while at the same time demanding renewed forms of government regulation and subsidy (Chipman 1999) while others have expressed disappointment, not seeing how university managers would be advantaged. According to University of Sydney Vice-Chancellor Gavin Brown, "the whole spirit of deregulation should surely be to do things at the pace which suits management's agenda" (O'Loughlin 1999).

However, what suits the management of large private corporations may not yet be identical to the agenda of university managers, and it is the former which preoccupies government deregulators. Deregulation in the higher education sector (as in telecommunications) might be seen as a preparation for privatisation, in which new and potentially profitable markets in the public sector are opened up to private investors.

A Productivity Commission report (1999) on broadcasting services has now recommended the abolition of all foreign ownership and cross ownership rules, under the Broadcasting Services Act. This is widely seen as yet another deregulation (eg. Metherell 1999). It is couched in the language of market economics: diversity of and innovation in services, and a better deal for consumers. However, much of the driving force and much of the effect would certainly be a greater concentration of the ownership structure of the already monopolised Australian mass media. Similarly, the driving force for deregulation in the milk industry (under pressure of national competition policy) seems to have been the need for consolidation of dairy operations. While there has been opposition from many small farmers, the wealthy Australian Dairy Industry Council (1999) has supported the moves. However, NSW Minister for Agriculture Richard Amery (1998), pointing to price rises since deregulation in NSW, called deregulation "an absolute failure .. the dairy farmers have lost out, the vendors have lost out, the processors have lost out and the consumers have lost out". The Minister argued that only the large supermarkets had gained from the process. *However,* support for deregulation from the ADIC suggests that some large dairy farmers see benefits in the scheme.

Even where the new regulatory regime of deregulation has resisted monopolisation, there is a strong example of consumers paying a 'rent', organised by the regulator, to sustain the profitability of a fairly wide group of private companies. In the New South Wales Compulsory Third Party scheme, after ten years of deregulation (or 'market privatisation') purchasers of policies pay higher real prices than before, despite the conversion of a public monopoly into a 14-player regulated oligopoly and despite a succession of restrictions on allowable claims (Anderson 1999). With deregulation the price became higher but the service poorer. In 1999 the state government felt obliged to legislate, yet again, through

the *Motor Accidents Compensation Act* 1999, to reduce premiums by compromising the extent of policy coverage. This deregulation has also diminished citizenship by reducing participation in public safety programs. In Victoria the publicly owned Transport Accident Commission uses its resources to engage directly in road safety campaigns, with the Victoria Police. In NSW the Motor Accidents Authority (MAA - the regulator) has a similar role, but the private insurers do not. The MAA has found itself the guarantor of profit levels acceptable to the private general insurance industry. Claims of consumer benefit have once again proved ephemeral; but, more to the point, large private corporations have been guaranteed access to a new and profitable market.

The Australian experience of 'deregulation' has shown that this complicated process is unlikely to involve less government 'intervention', that the benefits to consumers will be limited at best and totally illusory at worst, and that it is quite likely that the legal rights of citizens will be seriously diminished. Deregulation really means a market re-regulation to guarantee new and profitable markets to large corporations, and a social re-regulation to restrict the meaning of citizenship, where this conflicts with the delivery of profitable markets to large corporations. Accompanied by equally mystifying and misleading claims of 'efficiency', deregulation is driven by a 'growth' policy agenda, firmly focussed on private corporate profitability. It is this reality, and not the fair-sounding but utopian doublespeak of mystifying and irrelevant market economics that we need to understand, when thinking of deregulation.

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