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Regulatory roadblocks

2.1 The volume of regulation and associated compliance costs are negatively impacting on businesses. It can impede investment by using resources that would otherwise be directed to expanding output, especially for small businesses which typically lack the time, expertise and financial resources to deal with the cumulative regulatory burden.

2.2 The Business Council of Australia argued that despite efforts to reduce red tape, the cumulative burden of regulation on business is increasing not decreasing. It stated that:

> All too often, regulation and intervention are the first resort of policy-makers to deal with a perceived market failure and cost-benefit assessments are either by-passed or given mere lip service. Excessive regulation risks undermining the incentives that drive businesses to invest and innovate in the first place.[1]

2.3 When announcing the referral of the inquiry to the committee, the then Treasurer, the Hon Scott Morrison MP, noted feedback from businesses that regulations are a major impediment to investment and stated:

> The Australian Government has cut more than $5.8 billion of red-tape and will continue to search for opportunities to go further, including through the Small Business Regulatory Reform Agenda…announced in last year's Budget.[2]

2.4 The World Bank's *Doing Business* publication for 2017 ranked Australia 14th (of the 190 countries assessed) in ease of doing business. It ranked behind New Zealand, Singapore, Denmark, South Korea, Hong Kong

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1 Business Council of Australia (BCA), *Submission 29*, p. 6.

2 Treasurer, the Hon Scott Morrison MP, 'Inquiry into the impediments to business investment in Australia', *Media Release*, 29 March 2018, <http://sjm.ministers.treasury.gov.au/media-release/030-2018/>, accessed 28 September 2018.

special administrative region, the United States, the United Kingdom, Norway, Georgia, Sweden, Macedonia and Finland.

2.5 The Australian Retailers Association (ARA) also noted that the World Economic Forum's *Global Competitiveness Index* ranked Australia as 80 out of 137 in the burden of government regulation category.[3]

2.6 Uncertainty can negatively impact on Australia's attractiveness to foreign and domestic investors. The Department of Foreign Affairs and Trade (DFAT) and the Australian Trade and Investment Commission (Austrade) commented that increasing regulatory efficiency and harmonisation would increase Australia's competitiveness. They further stated that:

> Any necessary regulatory changes should be clearly communicated, which is central to maintaining investor confidence in the Australian market. As far as possible, our policy settings should provide investors with the certainty they need to support long-term investment.[4]

2.7 Evidence to the committee suggested while there are certainly specific regulatory frameworks and regulations themselves that need improving, it is the overall cumulative effect of regulation that is placing a burden on business and by extension impeding investment.

2.8 However, the Public Interest Advocacy Centre (PIAC) cautioned against taking a narrow view of regulation and regulatory structures as simply 'a burden imposed upon business that would otherwise invest more effectively in their absence.'[5] It argued that:

> …effective regulation exists to provide a framework of stability and certainty to both businesses and consumers, allowing both to make decisions with confidence.[6]

2.9 The Institute of Public Affairs meanwhile proposed a very direct approach to reducing red-tape; introducing a 'one-in two-out' approach, in which two existing regulations are repealed for every new one introduced.[7] It suggested that this would address the wider issue that while red-tape

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3 Australian Retailers Association, *Submission 15*, p. 4.

4 Department of Foreign Affairs and Trade (DFAT) and the Australian Trade and Investment Commission (Austrade), *Submission 19*, p. 8.

5 Mr Miyuru Ediriweera, Senior Policy Officer, Public Interest Advocacy Centre (PIAC), *Committee Hansard*, 31 July 2018, p. 50.

6 Mr Miyuru Ediriweera, Senior Policy Officer, PIAC, *Committee Hansard*, 31 July 2018, p. 50.

7 Mr Daniel Wild, Research Fellow, Institute of Public Affairs, *Committee Hansard*, 1 August 2018, p. 43.

reduction efforts may be streamlining and removing unnecessary regulations, new regulations are still being made.

Improving business engagement with government

2.10 When announcing the referral of the inquiry to the committee, the then Treasurer, the Hon Scott Morrison MP, noted feedback that businesses were finding it 'particularly difficult when they are required to interact with multiple levels of government.'[8]

2.11 The committee heard that business expects to be able to engage efficiently with government. Whether starting a business or in its normal operations, businesses do not want to have to provide similar information to different levels of government in cases where there is regulatory duplication.

2.12 The Motor Trades Association Queensland (MTA Queensland) called for ongoing reform to simplify and reduce unnecessary and excessive legislative requirements, and to streamline processes to improve timeliness in government decision making. It outlined that in the automotive sector:

> The regulatory requirements by all levels of governments applying to the automotive value chain are extensive, ranging from legislative policy requirements to business operations and activities, obligations to audit and inspection responsibilities. These need significant investments in capital and resources to respond. The onus is on the SME's to comply or risk penalties.[9]

2.13 Digitisation has significantly enhanced the ability to streamline regulatory frameworks across the different levels of government. However, MTA Queensland submitted that silos are still evident, with 'SMEs having to provide duplicated data/information for approvals or compliance obligations to layers of government entities or regulators.'[10]

2.14 The Department of Industry, Innovation and Science (DIIS) noted that the Australian Government is working to deliver better regulation through the National Business Simplification Initiative (NBSI).

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8 Treasurer, the Hon Scott Morrison MP, 'Inquiry into the impediments to business investment in Australia', *Media Release*, 29 March 2018, <http://sjm.ministers.treasury.gov.au/media-release/030-2018/>, accessed 28 September 2018.

9 Motor Trades Association Queensland (MTA Queensland), *Submission 12*, p. 2.

10 MTA Queensland, *Submission 12*, p. 2

2.15 The NBSI involves an agreement between the Commonwealth, state and territory governments to work together to make it simpler to do business in Australia by:

- focusing on reducing the complexity of regulation by streamlining regulatory and compliance requirements, and
- addressing business demands for simplified digital transactions and tailored information and advice.

2.16 DIIS noted the NBSI is focused on the Australian Government and state and territory governments working on 'small, achievable projects in specific industry sectors.'[11]

2.17 Tasmania and Western Australia nominated ecotourism as a priority area for business simplification. DIIS advised that following consultation with ecotourism businesses on areas of regulatory uncertainty, duplication and burden, changes are being implemented in these states.

2.18 The Tasmanian Government, for example, has been exploring a digital solution bringing together the approval processes required to start an ecotourism business in the state.[12]

2.19 The Tasmanian Government submitted that the work program under the NBSI will positively impact on the state's nature based tourism sector:

> For Tasmanian tourism operators, this provides an opportunity for real savings for businesses so they can focus on growing, creating more jobs, developing new products and exploring new market opportunities. With the tourism industry in Tasmania experiencing unpresented growth and a plan to attract 1.5 million visitors to the State by 2020, improved business investment in the sector is likely to contribute to economic growth and employment opportunities across the State.[13]

2.20 Through the NBSI the Australian Government has improved the Business Licence and Information Service, and the Business Registration Service (BRS), with the Department of the Treasury and the New South Wales Government.

11 Department of Industry, Innovation and Science (DIIS), *Submission 24*, p. 5.

12 DIIS, *Submission 24*, p. 5.

13 Tasmanian Government, *Submission 9*, pp. 1-2.

2.21 The BRS, launched in April 2017, enables businesses to complete multiple registrations online in a single transaction. It connects a range of existing Commonwealth registry services to provide users with a more streamlined service.

2.22 The BRS website moved from its beta form to live on 29 June 2018. Most state and territory governments are providing a link to BRS from their websites. As at 31 July 2018, the BRS had been used by more than 174,000 businesses, with the average time for a sole trader to register a business dropping from 65 minutes to under 15 minutes.[14]

2.23 In May 2017, an NBSI project between the Australian Government and the NSW Government connected the BRS with Service NSW. DIIS stated:

> This has made it easier for people wanting to open a café, bar or restaurant in four local government areas (Parramatta, Georges River, Northern Beaches and Dubbo) to complete necessary registrations and approvals.[15]

2.24 DIIS commented that the NBSI involves government engaging with businesses, especially SMEs, to 'better understand regulatory pain points and business decision-making processes.'[16]

2.25 The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) observed that small businesses 'view Government as one body' and in line with this principle governments should only ask SMEs for information once, and provide the technical infrastructure and processes to share the information with other relevant agencies.[17]

2.26 The committee heard that the Parramatta 'Easy to do business' project in New South Wales is doing just that. The project has developed a streamlined online form for new SMEs starting up. The system then distributes information to the relevant local, state and Commonwealth agencies involved in creating and licensing the business.

2.27 While not actually changing the regulatory requirements, this approach significantly reduced the regulatory burden on these new businesses by 'masking red tape and removing duplication.'[18]

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14 DIIS, *Submission 24*, p. 5.

15 DIIS, *Submission 24*, p. 5.

16 DIIS, *Submission 24*, p. 5.

17 Australian Small Business and Family Enterprise Ombudsman (ASBFEO), *Submission 30*, p. 1.

18 ASBFEO, *Submission 30*, p. 1.

2.28 The ASBFEO emphasised that what this demonstrates is that it is about mindset. If governments are committed to making regulatory compliance and engagement easier for business, then there are many ways that technology and smart forms can be utilised to meet this objective.

2.29 The ASBFEO outlined that the Easy to do business project had reduced the number of forms for opening a restaurant or cafe in Parramatta by more than a third. It stated that:

> In Parramatta there were, I think, 45 different forms you had to fill in if you wanted to open a restaurant or cafe. It would take 18 months. …Instead of forms or requirements being done sequentially, they'd be done in parallel. …Last time I looked, it had got down to under 12 weeks and, I think, 10 or 12 forms, which is still too many but is an incredibly impressive improvement.[19]

2.30 After the pilot in Parramatta, it was extended to Dubbo, Georges River and the Northern Beaches local councils in NSW.

2.31 The committee noted that New South Wales is looking outside Parramatta to regional areas and other industries and are 'prepared to offer that model as a white label product.'[20]

2.32 DIIS also noted that the Major Projects Facilitation Agency now provides a single entry point for major project components seeking tailored information and facilitation of their regulatory approval requirements. This assists businesses that have to comply with various levels of regulatory approvals across different levels of government.

2.33 On 16 November 2018, the Australian Government announced that it will reduce the reporting burden for SMEs by raising financial reporting thresholds.

2.34 To be regarded as a large company for the purposes of Australian Securities and Investments Commission, a company would need to meet two of the three thresholds in a given financial year: $25 million or more in consolidated revenue; $12.5 million or more in consolidated gross assets; or 50 or more employees. The announcement flagged that these thresholds would be doubled.

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19 Ms Kate Carnell AO, Ombudsman, ASBFEO, *Committee Hansard*, 7 August 2018, p. 4.

20 Ms Kate Carnell AO, Ombudsman, ASBFEO, *Committee Hansard*, 7 August 2018, p. 4.

2.35 The Australian Government estimated that this would reduce the number of businesses captured under the large category by around a third (from approximately 6,600 to 2,200), and save SMEs more than $300 million over four years. The Treasurer stated:

> This is estimated to reduce the regulatory cost on these businesses by $81.3 million annually, as the average cost of preparing and auditing financial reports is approximately $36,950 per company, per year.[21]

Foreign investment framework

2.36 Australia's foreign investment framework is underpinned by the *Foreign Acquisitions and Takeovers Act 1975* and the Foreign Investment Policy. As part of Australia's foreign investment framework, the Australian Government requires certain proposed investments to be notified and a no objections notification be issued before the investment can be made.

2.37 The Foreign Investment Review Board (FIRB) advises the Australian Government on foreign investment policy and its administration, which includes examining proposals by foreign interests to undertake direct investment in Australia, and makes recommendations on whether those proposals are suitable for approval. The FIRB publishes a range of guidance and resources to assist investors comply with the rules under Australia's foreign investment framework.

2.38 The committee heard stakeholder concerns about potential negative impacts of certain FIRB guidance. The BCA claimed that uncertainty around foreign direct investment assessment criteria 'has resulted in late-in-the-day rejection of proposals.'[22]

2.39 The Clean Energy Council stated that the FIRB guidance for investments on agricultural land, announced on 1 February 2018, 'failed to fully comprehend the impediments these changes would have on the billions of dollars of investment into regional communities to fund clean and reliable energy.'[23]

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21 Treasurer, the Hon Josh Frydenberg MP, 'Small and medium businesses to save more than $300 million over four years', *Media release*, 16 November 2018, <http://jaf.ministers.treasury.gov.au/media-release/052-2018/>, accessed 12 December 2018.

22 BCA, *Submission 29*, p. 5.

23 Clean Energy Council, *Submission 5*, p. 2.

2.40 The Red Meat Advisory Council called for the Australian Government to lift the FIRB screening threshold for agricultural land from $15 million, as it acts as a deterrent to foreign investment in the Australian red meat value chain. It noted that the previous threshold for agricultural land had been $252 million, and argued that the current threshold is too low for a sector worth billions of dollars.[24]

2.41 In their submission, DFAT and Austrade advised that in the past two years, 'Australia has streamlined its foreign investment review process by simplifying aspects of the regulations and the fee framework.'[25]

2.42 However, some submitters argued that there is more work to be done in this area. For example, on 1 July 2017 the Foreign Acquisitions and Takeovers Regulation introduced the business exemption certificate for programs of acquisitions of interests in the assets of an Australian business or securities in an entity, including interests acquired through the business of underwriting. This allows foreign interests to gain pre-approval for their programs of investments or acquisitions if certain conditions are met.

2.43 The Australian Private Equity and Venture Capital Association Limited (AVCAL), while noting that this process is still new, suggested that improvements to the exemption certificate process were needed, and recommended that:

> …the application process is made as simple as possible given the current requirements to secure approval for each application from several government entities, including the Foreign Investment Review Board, the Australian Taxation Office, the Australian Competition and Consumer Commission – each with its own set of information and reporting requirements and questions – and a final approval from the Treasurer.[26]

24 Red Meat Advisory Council (RMAC), *Submission 20*, p. 7.

25 DFAT and Austrade, *Submission 19*, p. 7.

26 Australian Private Equity and Venture Capital Association Limited (AVCAL), *Submission 11*, p. 3.

National regulation

National Offshore Petroleum Safety and Environmental Management Authority

2.44 The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is an example of bringing regulation in various jurisdictions under a single national regulator.

2.45 NOPSEMA is the national regulator for safety, integrity and environmental management for offshore petroleum activity in Commonwealth waters and state and territory waters where that state or territory has conferred its powers to the regulator.

2.46 When pipelines run from Commonwealth waters to an onshore facility, for example an LNG plant, they will be going through both Commonwealth and state waters. So without the conferral of powers to the national regulator, these businesses would have to duplicate approval processes to meet separate Commonwealth and state requirements. NOPSEMA noted that at times regulatory regimes had not been consistently applied in different jurisdictions.

2.47 NOPSEMA originally began as an offshore safety regulator in 2005, but extended its role in 2012 to environmental management and integrity. It noted that its formation:

> …standardised the approach taken to the regulation of environmental management of the industry in Commonwealth waters, reducing the potential for inconsistency and the resulting regulatory burden without reducing environmental standards—if anything, we would argue actually increasing those.[27]

2.48 NOPSEMA noted that since 2013-14 its environmental management authorisation process is endorsed in line with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), which means that when NOPSEMA grants environmental approvals under its processes, they are automatically deemed to be approved under the EPBC Act. Previously that could have involved getting a number of separate approvals, rather than one.

2.49 NOPSEMA advised that it currently has a conferral from Victoria. However, for various reasons, not all states and the Northern Territory

27 Mr Stuart Smith, CEO, National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), *Committee Hansard*, 1 August 2018, p. 11.

have conferred their powers. This is generally attributed to the timing, the need to resolve certain issues, or in some cases reluctance by a state to hand their powers to the Commonwealth due to concerns about lost resources to support the regulatory function at the state level.

2.50 Despite still awaiting a number of conferrals, NOPSEMA argued that there is scope for the government to 'further streamline activities through allocating some functions such as sea dumping, offshore renewables regulation and offshore minerals'.[28] It also noted it had been collaborating in fields like marine biosecurity. It stated:

> These are areas that we already work with other government agencies in, and there's interest in some of those agencies in giving those responsibilities to us. We're happy to take on those functions, we have the expertise and the capacity to do it.
>
> Based on our experience with the streamlining under the EPBC Act, these measures are also likely to reduce costs in the order of hundreds of millions of dollars.[29]

2.51 It also advised that the Australian Petroleum Production and Exploration Association supports conferral and the streamlining of environmental approvals to NOPSEMA.

2.52 More broadly, the Mineral Council of Australia identified the need to streamline environment regulation processes, including in relation to the EPBC Act, as it can involve a significant time and cost impost on business.

2.53 NOPSEMA noted that it no longer receives government funding, with funding primarily through levies on industry on activities or facilities, and some from minor fees and charges.

2.54 It further commented that government estimates suggest that 'the streamlined arrangements for those environmental assessments have reduced costs to industry in the order of $120 million per year.'[30]

2.55 In expanding on the benefits of a national regulatory approach, NOPSEMA stated:

> The greatest financial benefit would be to the industry, but there are also potential savings to government. There is certainly no cost. If a state jurisdiction is fully cost recovered from industry now, then the effect is neutral for the government and there are

28 Mr Stuart Smith, CEO, NOPSEMA, *Committee Hansard*, 1 August 2018, p. 12.

29 Mr Stuart Smith, CEO, NOPSEMA, *Committee Hansard*, 1 August 2018, p. 12.

30 Mr Stuart Smith, CEO, NOPSEMA, *Committee Hansard*, 1 August 2018, p. 11.

> substantial savings to industry. If the state currently pays for its regulatory approvals, then that saving is there for the government and there is no additional cost to industry. So either way there are substantial savings to be made.[31]

Electrical safety

2.56 The Clean Energy Council identified electrical safety as an area that would benefit from national regulation, particularly given the important nature of the issue. Currently, electrical safety is largely the responsibility of the states or territories. The Clean Energy Council argued that the current arrangement:

> …creates some real challenges for the electricity sector, and particularly the clean energy sector, given the complexities of that and given the different levels of resources at states and territories, and often their different interpretations on particular issues. We think there is scope for some consolidation there, or, to put it differently, a transition to a single, national electricity safety institution.[32]

2.57 To illustrate the difficulties that these arrangements can cause, the Clean Energy Council mentioned the recent reclassification of DC isolators, which is a safety device installed as part of a solar system and is used to disconnect solar electricity at the source or from the control. The Clean Energy Council explained that the reclassification meant that the product was treated differently between each state and territory:

> What resulted was a level of chaos, because each of those bodies had either perhaps not anticipated that change—hadn't communicated that change out to industry. Indeed, it had interpreted that change differently. In some states, there was a change required instantly to the type of products being accredited and other states more recently gave a transition period et cetera.[33]

2.58 The Clean Energy Council also suggested that if a single Australian Electrical Safety Authority subsumed the roles of the eight state and territory safety regulators, this could deliver 'significant savings to businesses, consumers and taxpayers'.[34]

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31 Mr Stuart Smith, CEO, NOPSEMA, *Committee Hansard*, 1 August 2018, p. 13.

32 Mr Kane Thornton, CEO, Clean Energy Council, *Committee Hansard*, 7 August 2018, p. 21.

33 Mr Kane Thornton, CEO, Clean Energy Council, *Committee Hansard*, 7 August 2018, p. 21.

34 Clean Energy Council, *Submission 5*, p. 3.

2.59 In the Productivity Commission research report *Consumer Law Enforcement and Administration*, the Commission noted that the enforcement powers differed between the state and territory electrical safety regulators. The report noted as an example the confusion around the dangers of hoverboards, with Victoria issuing a public warning on 5 January 2016 and specific hoverboards were recalled, but the Australian Competition and Consumer Commission led interim ban was not introduced until March 2016.[35]

2.60 The Clean Energy Council noted the Productivity Commission's support for governments to work towards more national consistent laws. The Productivity Commission in that report recommended that 'state and territory governments should move to agree on nationally consistent laws on electrical goods safety.'[36] The Clean Energy Council also noted that since 2007 electrical safety regulators have supported more consistency across jurisdictions.

Cooperatives and mutual enterprises

2.61 The Business Council of Co-operatives and Mutuals (BCCM) noted that while the around 2,000 cooperative enterprises nationally may not seem like a large number, they play an important role in Australia's economy. In the 2016-17 financial year the total value added to the economy by the cooperative and mutual enterprises (CME) sector was $140 billion or 8.3 per cent of GDP. Australia Institute research suggests that a healthy cooperative sector has 'significant competition and accountability benefits for economic efficiency and community resilience.'[37]

2.62 The BCCM outlined that cooperative and mutual enterprises:

> …are paths for new entrants into the market by enabling new entrepreneurs to combine within a limited liability business model. They give small businesses leverage in a competitive market through aggregating power. In fact, some 174,000 small businesses can compete and prosper through cooperative organisations. They include travel agents, plumbers, real estate agents, hairdressers, farmers and architects, to name just a few.

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35 Productivity Commission, *Consumer Law Enforcement and Administration*, Research Report, March 2017, p. 75.

36 Productivity Commission, *Consumer Law Enforcement and Administration*, Research Report, March 2017, p. 20.

37 Business Council of Co-operatives and Mutuals (BCCM), *Submission 33*, p. 2.

> Cooperatives also address market failure as a business model to serve needs that are not met by investor owned firms.[38]

2.63 However, the BCCM submitted that current regulatory burdens are constraining the CME sector. The BCCM claimed that the current regulatory framework hinders the growth and development of cooperatives. In its submission it suggested that the regulation of cooperatives was problematic in the following ways:

- regulatory administration is paternalistic
- regulatory administration is not transparent
- regulatory administration exhibits a closed culture
- inconsistent regulatory administration between jurisdictions
- the Co-operatives National Law has still not been adopted by Queensland
- regulatory overlap between state and federal jurisdictions
- lack of coordination between state and federal corporate regulators, and
- process for registering a name for a co-operative.[39]

2.64 The Co-operatives National Law (CNL) is a uniform scheme of legislation to provide consistent state and territory legislation. It aimed to remove the competitive disadvantages for cooperatives in comparison to entities under the *Corporations Act 2001*.

2.65 New South Wales and Victoria (covering over 80 per cent of the cooperative sector in Australia) commenced their CNL legislation in 2014. It was then adopted in the following years by other jurisdictions, with the exception of Queensland.

2.66 The BCCM noted that Queensland had 'withdrawn from the inter-government agreement and there is presently no commitment by the state to adopt the CNL.'[40]

2.67 The BCCM advised the committee that Queensland not adopting the CNL poses practical challenges for cooperatives since:

> Co-operatives registered under the CNL must register as a foreign co-operative to carry on business in Queensland, and

38 Ms Melina Morrison, CEO, BCCM, *Committee Hansard*, 31 July 2018, p. 29.

39 BCCM, *Submission 33*, pp. 3-6.

40 BCCM, *Submission 33*, p. 5.

> co-operatives registered in Queensland do not have mutual recognition to carry on business in other States and Territories.[41]

2.68 While the BCCM described the CNL as 'robust and excellent', it argued that what 'we need is a regulatory regime that exists at federal level to enable the supervision and the regulation of that law', because cooperatives are not 'even-handedly dealt with as a business model because of the disparities in the treatment at a state and territory level.'[42]

2.69 Cooperatives are regulated by a combination of Commonwealth and state or territory laws, and mutual enterprises come under the Corporations Act.

2.70 The BCCM submitted that the process for forming a cooperative can be more complex than for standard companies. It stated that 'depending on which state or territory that process is initiated, the process can be either a simple tick-a-box system or it can be quite interrogative and paternalistic.'[43]

2.71 In relation to inconsistencies between jurisdictions, the BCCM noted, for example, that applications for registration are subject to different policies and standards. It claimed that a particular proposed draft constitution could be approved in one jurisdiction but not in another.[44]

2.72 The BCCM noted that company registration has no equivalent approval processes and that formation is quick and indifferent to the purpose or viability of the entity. However, it suggested in the case of cooperatives a paternalistic approach has been evident where 'regulators in one jurisdiction have rejected formation documents based on a view that the entity may not be financially viable.'[45]

2.73 The fact that cooperatives are registered at the state level was raised as a particular point of constraint for the cooperatives sector.

2.74 It was also noted that there is no single national register of cooperatives. This means that it is difficult to get an accurate picture of the size and composition of the cooperatives sector in Australia. Also, anyone needing to access this information but are unsure of which jurisdiction the business originates will have to search each state or territory register separately.

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41 BCCM, *Submission 33*, p. 5.

42 Ms Melina Morrison, CEO, BCCM, *Committee Hansard*, 31 July 2018, pp. 31-32.

43 Ms Robyn Donnelly, Consultant, BCCM, *Committee Hansard*, 31 July 2018, p. 31.

44 BCCM, *Submission 33*, p. 5.

45 BCCM, *Submission 33*, pp. 3-4.

2.75 The BCCM noted that where the cooperative regulator process has been made more user-friendly, this has led to more activity. It provided the example of the Co-op Builder tool, which it developed for the Farming Together Program. It noted that the tool assisted users to prepare documents for forming a cooperative, leading to increased registrations.

2.76 The BCCM supported a single national regulator for cooperatives that would come under Commonwealth responsibility. It stated that this approach:

> …would provide uniformity for regulation and administration and resolve any dual regulatory issues. It would also provide a single national and searchable public register to support policy and research into the size and value of the sector.[46]

2.77 The BCCM asserted that moving to national regulation would not diminish the characteristics of the cooperative business model. Further, the BCCM proposed that the Australian Securities and Investments Commission, as a key regulator in Australian financial markets, is 'best placed to administer disclosure requirements for new hybrid securities (Cooperative Capital Units) offered by cooperatives to boost business investment.'[47]

Road transport

2.78 An effective freight system is crucial for Australia's business viability and attracting investment. As a key stakeholder, the Australian Trucking Association (ATA) identified Heavy Vehicle National Law (HVNL) and the National Heavy Vehicle Regulator (NHVR) as areas in need of regulatory reform.

2.79 The HVNL applies in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria. Each of these states or territories adopted or duplicated the HVNL, with some exceptions. While the HVNL has not commenced in Western Australia or the Northern Territory, the law does apply to vehicles in this state and territory when they cross into one of the states of territories where the HVNL applies.

2.80 In its role as a national coordinator, the NHVR administers the set of HVNL laws that apply to heavy vehicles over 4.5 tonnes gross vehicle mass. The ATA noted that the goal for establishing the NHVR was to

46 BCCM, *Submission 33*, p. 7.

47 BCCM, *Submission 33*, p. 8.

realise $8.4 billion in potential economic gains by improving arrangements to restricted access and oversize and overmass vehicles. However, the ATA maintained that these productivity gains have not been realised. It outlined that:

- it can take more than 80 days to get a permit to transport OSOM steel products on the Transurban tollways in Melbourne, because the Transurban and NHVR processes do not work in parallel
- a company seeking to move OSOM mining equipment from the Pilbara to Weipa waited more than 100 days for a permit to move the equipment by road through Queensland. In the end, the company transported the equipment to Darwin by road and then barged it to Weipa
- the QTA has estimated that there are an estimated 4.5 million days lost in waiting for approval to move freight. This calculation assumes 20,000 permits issued by each jurisdiction and the NHVR, and then rounded down in light of the smaller jurisdictions and multiplied by the 30-day approval process.[48]

2.81 The ATA called for an independent and wide-ranging review of the HVNL.

2.82 The ATA identified the Australian Code for the Transport of Dangerous Goods by Road and Rail (the ADG Code) as a source of inconsistency between the federal and state or territory levels. Each state and territory separately implements the ADG Code and associated regulations, and a number of different agencies are responsible for enforcing it.

2.83 The next review of the ADG Code is scheduled for 2020. The ATA and the Australian Logistics Council have suggested that the reviewers consider whether the ADG should be adopted into Australian law using the ‘applied legislation’ model—the same model used for the HVNL—and whether a common operations manual could be adopted by all jurisdictions to enable more uniform interpretation.[49]

48 Australian Trucking Association, *Submission 7*, p. 6.

49 Australian Trucking Association, *Submission 7*, p. 6.

Retail sector matters

2.84 The Australian Retailers Association (ARA) identified local government bureaucracy as 'creating significant delays and compliance burdens for business.'[50] It stated:

> At present, there are numerous examples where retailers and other businesses must engage with multiple regulators, with differing timeframes and requirements, sometimes on a single issue. Some particular areas for retailers across the country include:
>
> - Entirely inconsistent trading hours regulations across and within various jurisdictions.
> - Transportation restrictions differing between States and Territories creating holdups to supply chains and the service economy.
> - Continued inconsistencies in VET between jurisdictions and a lack of accountability preventing job creation and business investment.
> - Requirements to obtain numerous permits and licenses to operate businesses, which differ widely in every local government area.[51]

2.85 It also identified excessive planning and zoning regulation as 'curtailing opportunity and imposing costs on the overall economy.'[52] The ARA stated:

> Onerous development and planning requirements deter business establishment and expansion and constrains prosperity in our regions. While tenancy costs are driving retailers out of the marketplace, the mire of planning and zoning regulations act as a further barrier to viable alternatives.[53]

2.86 The ARA proposed that the Council of Australian Governments (COAG) should be responsible for facilitating and driving a national approach on local planning and zoning regulation.

2.87 However, the ARA did note that recent state government budgets have implemented real change in this area, and that 'at least one state

50 Australian Retailers Association (ARA), *Submission 15*, p. 4.

51 ARA, *Submission 15*, pp. 4-5.

52 ARA, *Submission 15*, p. 5.

53 ARA, *Submission 15*, p. 5.

government has ably dealt with planning and regulation, with others hopefully following suit.'[54]

2.88 The retail sector supported the greater use of technology to improve the effectiveness of local government approval processes:

> With improving technology, local government could undertake large parts of the approval processes electronically using methods such as process application interfaces. As an application is processed, applicants could instantly view progress and address issues immediately. This would limit the appeals process, improve the ability of council staff to understand the commercial implications of any delays and gain an understanding of the significance of delays for developers and retail tenants.[55]

Providing turnover figures

2.89 The 'turnover rent' provisions by shopping centre landlords, and some large-format retailers, were identified as a particular area of concern for retailers. This involves a requirement in the tenancy contract that retailers provide the landlord with monthly turnover figures.

2.90 The ARA argued that this is one of the big problems with the shopping centre industry, and that the outcome of this was that retailers with reasonable turnovers were placed at a disadvantage in future rent pricing. It explained that:

> What happens when you hand in turnover figures is that a retailer goes into the store; he has a good rent at the beginning; he gets to the five- or seven-year term of the lease; the landlord sees his figures and knows what he's doing and just puts the thumbscrews on. They push it to the point where they're making it just viable to be in business. They understand your business as well as you do. So if you're a vertical player they know what your margins are, so they just know how far to push it. If you're a smaller independent business and you're buying from wholesalers, they know what that margin is. They just know where to push it to put you on that borderline. Then when the economy turns down, unfortunately the landlords don't come to you and say, 'Your turnover's gone down so we're going to reduce the rent.'[56]

54 ARA, *Submission 15*, p. 6.

55 ARA, *Submission 15*, p. 6.

56 Mr Russell Zimmerman, Executive Director, ARA, *Committee Hansard*, 1 August 2018, p. 19.

2.91 The ARA noted that the retail sector strongly supported removing the requirement in contracts for shopping centre tenants to provide turnover figures to landlords. However, if the requirement is to continue, it proposed that the figures be provided to a third party.

Parallel importation of books restrictions

2.92 The committee also heard that the opening up of global markets has revealed some 'legacy regulations' that are impacting on the retail sector.

2.93 The *Copyright Act 1986* prohibits booksellers importing books for resale where there is an Australian publisher who has acquired exclusive rights and publishes the title within 30 days of the original overseas publication. Booksellers can import overseas editions after that, but only if the book is unavailable from the local publisher for longer than 90 days.

2.94 The ARA argued that the practical effect of the parallel import restrictions on books is that:

> Physical bookstores are constrained by outdated agreements with only one method of supply—the Australian based publisher. These laws don't protect local authors, because readers source from cheaper overseas options. These laws exist to support multinational publishing conglomerates. Why can you buy, for example, a Stephen King novel online from overseas cheaply but at your local bookstore you have to pay a premium for the publisher to sell it here?[57]

2.95 The committee noted that parallel import restrictions more broadly was identified by the Productivity Commission in the 2015 *Competition Policy Review* (the Harper Review) as an area in need of immediate reform.

2.96 The Harper Review recommended removing restrictions on parallel imports unless it could be shown that 'the benefits of the restrictions to the community as a whole outweigh the costs', and that 'the objectives of the restrictions can only be achieved by restricting competition.'[58]

2.97 The recommendation included removing parallel import restrictions on books, subject to transitional arrangements to be recommended by the Productivity Commission.

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57 Mr Russell Zimmerman, Executive Director, ARA, *Committee Hansard*, 1 August 2018, p. 15.

58 Productivity Commission, *Competition Policy Review: Final Report*, March 2015, p. 48, Recommendation 13.

2.98 In its response to the Harper Review, the Australian Government signalled its support for removing parallel import restrictions on books, subject to a review of intellectual property arrangements in Australia and stakeholder consultation.

2.99 In its subsequent 2016 final report on its inquiry into Australia's Intellectual Property Arrangements, the Productivity Commission again supported removing parallel import restrictions for books and recommended that the Australian Government should proceed with repealing the restrictions, to take effect no later than the end of 2017. [59]

2.100 In its response in August 2017, the Australian Government supported the recommendation in principle and indicated it would consult with the book industry to develop a reform pathway that is in the public interest.

2.101 The ARA told the committee that 'it is past-time for the Government to act on parallel importation of books'.[60]

Clothing label standards

2.102 The way in which Australian standards for clothing labels differs from international standards was identified as a regulation that is unnecessarily impeding the retail sector.

2.103 The ARA noted that there are three regulations in Australia relating to clothing labelling, and that there are also symbols used in Australia that do not comply with international standards. It explained that:

> Australia requires that clothes are labelled at the collar, as opposed to international standards which are on the side of the clothing and apparel. This may not sound significant until you consider all products must be specially changed for the Australian market. For Australian businesses operating offshore, they must manufacture and often change designs so they can sell product to international buyers.[61]

59 Productivity Commission, *Intellectual Property Arrangements*, Inquiry Report, No. 78, 23 September 2016, pp. 13 and 32.

60 ARA, *Submission 15*, p. 11.

61 Mr Russell Zimmerman, Executive Director, ARA, *Committee Hansard*, 1 August 2018, p. 15.

2.104 Clothing manufacturer Esprit was provided as an example of a company impacted by these inconsistences between Australian and international standards for clothing labels. The ARA stated that Esprit had:

> …stopped every garment that was coming into Australia in Singapore, unbagged it, took it out, sewed the label on where it had to go and rebagged it. From memory—they did tell me at the time—the cost was $1.50 per garment to be relabelled in Singapore. It was a horrific cost—and you multiply that by the number of garments.[62]

2.105 The ARA advised that it has been consulting with industry on this issue and is planning to make an application to Standards Australia to change this old standard.

Access to skilled and qualified labour

2.106 The inability of some businesses to access suitably skilled and qualified Australian workers in relevant fields has also been identified as an impediment to business investment in Australia.

2.107 For example, the *Intergovernmental Review of Business Investment* (the Review) noted feedback that despite being home to five universities and a range of training facilities, 'Canberra businesses continue to identify skills shortages as a key impediment to business investment in the region.'[63]

Visa arrangements for skilled labour

2.108 AVCAL described Australia as 'a net importer of not only capital but talent.'[64] It highlighted the importance of skilled migration in generating economic growth, and the need for Australian policies to continue to have policies to support business entrepreneurs, especially in an environment with 'rising global mobility of workers and heightened competition for talent.'[65] ACVAL stated that:

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62 Mr Russell Zimmerman, Executive Director, ARA, *Committee Hansard*, 1 August 2018, pp. 16-17.

63 Prepared by Heads of Treasuries, *Intergovernmental Review of Business Investment*, September 2017, p. 37.

64 AVCAL, *Submission 11*, p. 8.

65 AVCAL, *Submission 11*, p. 8.

> Recent changes to the 457 visa program for skilled migrants reduced the flow of talent to Australian companies. Within the technology sector, for example, the number of these types of visas granted for developers and programmers dropped 31%, along with a 50% drop for analyst programmers and a 10% drop for software engineers, from July to December 2017 compared to the same time in the year prior. In this context, Australia can do more to attract skilled migrants into key economic sectors that are facing skills shortage challenges.[66]

2.109 The Temporary Skill Shortage (TSS) visa replaced the Temporary Work (Skilled) visa (subclass 457) on 18 March 2018. The TSS visa (subclass 482) enables employers to address labour shortages by bringing in skilled workers where they cannot source appropriately skilled Australian employees.

2.110 One of the key reforms with the TSS visa includes mandatory labour market testing (LMT), if an exemption does not apply. LMT requires business sponsors to prove that they have tested the Australian labour market for available employees with the appropriate skills, before they can seek to bring in staff under this skilled worker visa provision.

2.111 KPMG maintained that the TSS visa steam gives insufficient consideration to multinational businesses that often rely on intra-group transfers and internal succession planning to support their business operations in different countries. KPMG supported making it easier for multinational employers to bring talented executives to Australia. It recommended that:

> …all intra-group transfers should be exempt from LMT, and so should executive hires (regardless of country of origin) whose minimum guaranteed earnings are at least $180,000 per annum.
>
> The executive exemption should also apply for foreign companies who are looking to set up business in Australia for the first time, whether in their own right or as a joint venture partner.[67]

2.112 CSL and Cochlear similarly expressed concern about the 'lack of a clear and consistent pathway for intra-company temporary transfers',[68] and stated that:

> Operating in sectors dominated by European and Northern American players, CSL and Cochlear need to try and construct our

66 AVCAL, *Submission 11*, p. 8.

67 KPMG, *Submission 21*, p. 14.

68 CSL and Cochlear, *Submission 13*, p. 7.

> Australian workforces from a patchwork of visas, shoehorning our people into occupation lists that are inflexible and outmoded. Meanwhile our competitors in the US and Europe can rely on their internal markets or intra-company transfer.
>
> A strategic and comprehensive reform of Australia's migration regime is necessary to support innovative Australian companies with a global export focus. There are several concepts which could be adopted including the US and UK intra-company transfer visas and the concept of a two tier visa system split between domestic jobs and those exposed to export markets.[69]

2.113 In their joint submission, CSL and Cochlear provided the abolition of the 457 visas as an example of where regulatory changes have undermined business confidence in Australia.[70]

2.114 CSL and Cochlear also noted the Australian Government's Global Talent Scheme (GTS) pilot aimed at providing an avenue for businesses to sponsor highly skilled workers who are not eligible under the standard TSS visa. However, they commented that 'the GTS has a very high earning requirement which does not reflect that highly skilled employees may not always be highly paid even where there is a genuine shortage of those skills in the market.'[71]

2.115 The committee also heard that the red meat industry is a sector struggling to attract semi-skilled labour in regional Australia. As a consequence it looks to outside Australia for much of its workforce, but is constrained by regulations around international labour.[72]

Workplace relations

2.116 The *Fair Work Act 2009* established Australia's national workplace relations system, the Fair Work system. It covers the majority of workplaces in Australia. In the Australian Capital Territory and the Northern Territory all employees and employers are covered under the national system. However, in some states, the state system applies to certain employees, for example state public sector and local government employees.

69 CSL and Cochlear, *Submission 13*, p. 8.
70 CSL and Cochlear, *Submission 13*, p. 6.
71 CSL and Cochlear, *Submission 13*, p. 7.
72 RMAC, *Submission 20*, p. 6.

A complex Fair Work system

2.117 Business also faces the challenge of navigating a complex workplace relations system. The committee heard that SMEs, in particular, struggle with Australia's workplace relations system, and that the system's complexity can act as a disincentive for businesses to grow.

2.118 The ASBFEO noted that the second most important milestone for a growing business is employing staff. However, it outlined that:

> …of the 2.1 million small to medium businesses that exist in Australia about a million of them are non-employing. That doesn't mean they don't have partners and others in their businesses; but they don't employ anybody. When we asked them, and we have done that, why that is the case, they tell us that the complexity of the system scares them off. They hear horror stories about what happens in unfair dismissal cases, with all sorts of issues. You've got to remember that small to medium businesses…don't have HR areas in their businesses. They don't have experts in the Fair Work Act; they don't have in-house headquarters; they can't afford expenditure outside their business. They're putting everything into their business to grow their business. So with a system which has 960 sections—we're talking about the Fair Work Act now—a quarter of a million words, before we even think about the 122 different awards, you can understand why many small business owners say, 'This is just too hard. So what we'll do is we won't grow.[73]

2.119 The BCA submitted that 'Australia's workplace relations framework continues to place a drag on flexibility and productivity improvement, including for greenfield developments.'[74]

2.120 ASBFEO commented that 'the bottleneck is lack of good, reliable and usable information on what they actually have to do' to employ that first person and then more.[75] It stated:

> We have suggested having an IT system that allows you to enter, 'I am a small pharmacy; I employ this many people; what are the requirements for me, what do I have to worry about, what's the award?' Remember that in lots of businesses multiple awards are involved. …So we need clarity around what actually needs to

73 Ms Kate Carnell AO, Ombudsman, ASBFEO, *Committee Hansard*, 7 August 2018, pp. 1-2.

74 BCA, *Submission 29*, p. 6.

75 Ms Kate Carnell AO, Ombudsman, ASBFEO, *Committee Hansard*, 7 August 2018, p. 3.

> happen, and the advice being backed up. If you take the advice that comes off the system in good faith, then there's a safe harbour provision. It still means that if you underpay someone you need to pay them back; you just won't be prosecuted.[76]

2.121 The committee heard that unfair dismissal is another problem area. The ASBFEO suggested that while small businesses want to do the right thing and comply with their obligations, they can get caught in procedural matters. The reality of pay arrangements and managing their obligations for a small business tends to be vastly different to large firms. The ASBFEO stated:

> The person who does the wages is usually the owner or the owner's partner, at 11 o'clock at night, after they've got the kids to bed, finally, after they've worked a 12-hour day. I don't want to make this more dramatic, but that's actually the reality here. That's when people do their BAS, at 11 o'clock at night. That's when they do the wages. They do it themselves. We have to make it so that those people can do the right thing easily and the system supports them in that.[77]

2.122 The ARA submitted that the government should address issues with Enterprise Bargaining Agreements, by simplifying the bargaining process generally and, in particular, reducing the complexity of the Better Off Overall Test.[78]

2.123 The Institute of Public Affairs identified the Australian workplace relations system as a significant obstacle to business investment and argued that 'Australia is one of the hardest places for businesses to recruit and keep talented workers.'[79] It recommended reinstating 'the partial exemption from unfair dismissal laws from only small businesses, to small and medium sized business, with up to 100 employees.'[80]

2.124 MTA Queensland called for unfair dismissal arrangements to be reviewed. It also expressed its support for the concept of providing a lower maximum compensation figure for 'proven unfair dismissal' matters for small businesses.[81]

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76 Ms Kate Carnell AO, Ombudsman, ASBFEO, *Committee Hansard*, 7 August 2018, p. 3.

77 Ms Kate Carnell AO, Ombudsman, ASBFEO, *Committee Hansard*, 7 August 2018, p. 3.

78 ARA, *Submission 15*, p. 15.

79 Mr Daniel Wild, Research Fellow, Institute of Public Affairs, *Committee Hansard*, 1 August 2018, p. 43.

80 Institute of Public Affairs, *Submission 34*, p. 13.

81 MTA Queensland, *Submission 12*, p. 2.

2.125 Fair Work Commission (FWC) research indicated that those involved found the process to be 'daunting, scary, costly and time consuming.'[82] The ASBFEO suggested that the relevant policy derived from thinking about what a large company would do, and did not readily apply to the reality of small business operations. It stated:

> …we've got a system that's trying to catch the people that are doing the wrong thing, but it's a bit like the tax system, where, if you have processes that are designed to capture the very small percentage that are doing the wrong thing, you put the cost and impediment of this across the whole lot of businesses. So it's just having a think about what's suitable for the small businesses in Australia rather than large businesses.[83]

2.126 The ASBFEO noted that its *Workplace Relations – simplification for small business* paper identified a number of changes which would reduce complexity for Australian businesses. The key focus areas are:

- simplifying Award compliance for smaller enterprises
- streamlining FWC processes
- ensuring FWC outcomes are predictable, transparent and proportional
- improving communication and education to small business
- small business focus, and
- legislative changes.

2.127 The ASBFEO noted that in July 2018, the FWC launched an initiative to improve access and reduce complexity for users of FWC services.

2.128 DIIS acknowledged that its consultation indicated that 'employing someone was an area of confusion for businesses.'[84] It noted that the COAG Industry and Skills Council had agreed that investigating the barriers that businesses face in employing someone was a national business simplification priority.

2.129 DIIS noted that it had collaborated with the Australian Tax Office, the Digital Transformation Agency, and the then Department of Employment (now Jobs and Small Business), on a project to 'better understand how businesses make (or do not make) the decision to employ their first

82 Ms Anne Scott, Principal Adviser, ASBFEO, *Committee Hansard*, 7 August 2018, p. 3.

83 Ms Anne Scott, Principal Adviser, ASBFEO, *Committee Hansard*, 7 August 2018, p. 3.

84 DIIS, *Submission 24*, p. 6.

person.'[85] It advised that the project made recommendations on how governments might encourage small business employment, and that the Australian Government is now looking at progressing some of these recommendations with state and territories.

Conclusions and recommendations

Business engagement with governments

2.130 Regulation plays an important role in Australian society and the economy to address and manage potential risks that if left to market forces could otherwise go unchecked to the detriment of the community. However, where these regulations are unnecessary or unduly complex or burdensome on business, governments at all levels should work together to streamline these whenever possible.

2.131 In particular, the committee recognised that, as is the case with individuals engaging with government services, when businesses engage with government they expect it to be user-friendly and efficient. They would prefer to engage with 'government' as a single entity and not have to undertake duplicate processes supplying the same or similar information to different levels of government, which adds to the time and complexity of the interactions.

2.132 The committee notes the work governments are already undertaking to reduce the regulatory burden on business and streamlining engagement with government. In particular, through the National Business Simplification Initiative (NBSI) and the related Business Registration Service (BRS).

2.133 The committee also notes that small and medium enterprises (SMEs) have been a focus area, with activities like the Easy to do business project pilot in the local government area of Parramatta. This involved reducing the number of forms for opening a hospitality business in Parramatta. The BRS cooperated with Service NSW, and a system was designed to distribute information to the relevant local, state and Commonwealth agencies involved in creating and licensing the business.

2.134 One particularly notable aspect of the Parramatta pilot was that it did not involve changing any of the regulatory requirements at the different levels

85 DIIS, *Submission 24*, p. 6.

of government. What it demonstrates is that by utilising digital tools and with a commitment from governments to reduce the regulatory burden and enhance the engagement experience for business, governments at all levels can help overcome the cumulative regulatory burden that currently impedes businesses investing and growing.

Recommendation 1

2.135 **The committee recommends that the Australian Government, in cooperation with state and territory and local governments, continue to identify areas and industry sectors for streamlining business engagement with governments through projects such as the National Business Simplification Initiative, and implement reforms where there is scope for reducing the layers of regulatory burden for starting and operating businesses.**

National regulation

2.136 The committee notes that the National Offshore Petroleum Safety and Environmental Management Authority is an example of where cross-jurisdictional regulation can be streamlined into a national regulatory body to the benefit of industry and government.

2.137 Evidence to the committee indicated that there are other areas that could benefit from national regulation. In particular, the electrical safety and the cooperatives and mutual enterprises sector.

2.138 Currently, electrical safety is largely the responsibility of the states or territories, which the committee heard has led to some inconsistency of interpretation and enforcement of certain regulations.

2.139 Given the importance of ensuring appropriate levels of electrical safety are maintained across Australia, the committee agrees that this is an area that lends itself to national regulation.

Recommendation 2

2.140 **The committee recommends that through the Council of Australian Governments, the Australian Government and state and territory governments develop and adopt a set of nationally consistent laws on electrical safety.**

2.141 The Co-operatives National Law is providing some much needed consistency between jurisdictions in relation to cooperative enterprises, excluding Queensland, which has not adopted the uniform law.

2.142 However, the committee heard that current regulatory burdens are constraining the cooperative and mutual enterprises sector. In particular, the requirement that cooperatives be registered at the state or territory level was found to be problematic, with standards and levels of complexity differing between jurisdictions.

2.143 The committee notes the Business Council of Co-operatives and Mutuals' (BCCM) evidence that between jurisdictions registration approaches could range from a simple tick-a-box system to a more complicated process.

2.144 In addition to these inconsistencies between jurisdictions, having separate state and territory registration lists makes it difficult to get an accurate picture of the size and composition of cooperatives in Australia, and to access information about particular cooperative enterprises.

2.145 The committee sees merit in BCCM's proposal for a single national regulator that will provide uniformity for regulation and administration and resolve any dual regulatory issues.

Recommendation 3

2.146 **The committee recommends that the Australian Government, in consultation with states and territories, consider establishing a single national regulator for cooperative enterprises.**

Retail sector matters

2.147 The committee notes concerns from the retail sector about regulations affecting the sector, in particular about:

- planning and zoning arrangements at the local government level hampering new retail developments
- provisions in tenancy agreements requiring retailers to provide monthly turnover figures
- restrictions on the parallel importation of books, and
- inconsistencies between Australian and international standards for clothing labels.

2.148 The Productivity Commission has examined the issue of the parallel importation restrictions on a number of occasions. Specifically in relation to the parallel importation of books restrictions under the *Corporations Act 2001*, it has recommended removing the restriction.

2.149 The committee notes that the Australian Government has indicated in principle support for removing the parallel importation restrictions for books, subject to consultation with industry. However, the Australian Retailers Association noted that the reforms have not yet occurred.

Recommendation 4

2.150 **The committee recommends that the Australian Government publish an update on the progress of industry consultations and work on reforms to the restrictions on the parallel importation of books, including any timeline on implementation.**

2.151 On the matter of differences between Australian and international standards on clothing labels, namely the placement of tags and symbols used, the committee agrees that business efficiencies could be gained by bringing Australian Standards in line with international standards.

2.152 The issue of clothing labelling is one on which an updating of Australian Standards could provide practical benefit to Australian businesses.

Recommendation 5

2.153 **The committee recommends that the Australian Standards on clothing labels be updated to bring them in line with international standards.**

Australia’s workplace relations system

2.154 Australia’s Fair Work system provides important protections for employees, including minimum employment standards that must be met. While not seeking to compromise these standards to the detriment of Australian workers, there is scope to streamline regulation and compliance to make it easier for businesses to understand and comply with the Fair Work system.

2.155 The committee notes that in particular SMEs lack the scale and resources to navigate Australia's complex Fair Work system. It agreed that governments should do more to foster an environment that encourages these businesses to take on that first employee and then more employees in order to grow their businesses.

Recommendation 6

2.156 **The committee recommends that the Australian Government, when identifying areas for streamlining business engagement with governments as set out in Recommendation 1, should include small business engagement with governments on workplace relations matters.**

When considering options, the governments should have regard to the Australian Small Business and Family Enterprise Ombudsman's proposals in the *Workplace Relations – simplification for small business* paper and the recommendations from the government joint project looking at how governments might encourage small business employment.