



Victorian
Chamber of Commerce
and Industry



Red Tape Committee inquiry into policy and process to limit and reduce red tape

Victorian Chamber Submission

October 2018

Introduction

The Victorian Chamber of Commerce and Industry has been a strong and consistent supporter of reducing the burden of regulation on business to lower both direct and indirect costs.

We are pleased to make a submission to this inquiry of the Select Committee on Red Tape which provides an important opportunity to examine state and federal policy and process to limit and reduce red tape.

Red tape is costly for business, not just in time and money spent filling out forms but also in terms of reduced productivity and innovation. It is particularly burdensome to smaller businesses and may even discourage people from starting up a new business. These effects are costlier in global markets, where the efficiency of the domestic regulatory and administrative environment can affect business competitiveness.

The operation of Australia's and Victoria's regulatory regime is critical to underpinning business success, confidence and investment. Business recognises the important role that regulation plays in helping achieve social, economic and environmental policy objectives.

Regulation can provide benefits for business including competitive advantages through improving economic stability, operating and governance arrangements. Well-designed regulation increases public and investor confidence and provides operational certainty.

Conversely, unnecessary, poorly designed and poorly implemented regulation can also be a major barrier to business and jobs growth. It can distort the allocation of resources within firms, limit flexibility of inputs and provide disincentives to increase output. The effects of numerous changes to regulations - or the prospect of changes - can be similarly damaging, leading to lost confidence, lost markets and a disincentive to risk-taking and entrepreneurship.

The regulation of dairy farming in Victoria demonstrates the multitude of regulatory requirements confronting the sector with a dairy business requiring potentially 34 licenses and permits (see Appendix 1.)

The Victorian Chamber works with government to improve the regulatory environment for business by:

- Facilitating consultation with business on regulation
- Identifying problematic areas of regulation that require reform
- Holding governments to account for the delivery of regulatory reforms and red tape reduction targets
- Helping members to understand their regulatory requirements and navigate red tape issues
- Providing expert technical advice to businesses on compliance with their regulatory obligations in areas such as workplace relations, occupational health and safety, environmental regulation and international trade.

The Victorian Chamber receives regular feedback from members on red tape through our program of business events, our quarterly Survey of Business Trends and Prospects, our Workplace advice line, policy taskforces and business consultation forums.

This submission draws on input from members and responds to key elements of the terms of reference for this inquiry that we consider important. Our approach to regulation policy draws on principles of good regulation, including those in the *Victorian Guide to Regulation*¹, the *Australian Government Guide to Regulation*² and guidance from the

¹ <http://www.betterregulation.vic.gov.au/Guidance-and-Resources>

² https://www.pmc.gov.au/sites/default/files/publications/Australian_Government_Guide_to_Regulation.pdf

Organization for Economic Co-operation and Development (OECD)³.

Stronger Business Stronger Victoria

The Victorian Chamber's 2018 State Election priorities, *Stronger Business Stronger Victoria*,⁴ contains recommendations aimed at reducing the regulatory burden on business, including:

- Set an ambitious target for red tape reduction and publicly report on progress. Priority must be given to introducing 'Tell Us Once' processes, reducing the number of regulators, and reducing the number of licenses, registrations, permits and approvals impacting on business
- Strengthen the Regulatory Impact Statement process
- Improve the way regulators interact with business and implement regulation
- Accelerate the Service Victoria project to create a whole-of-government, one-stop shop that provides business with easier access to government services, faster service and a single point of contact
- Repeal the Grand Final eve public holiday and the Easter Sunday public holiday.

Specific areas of red tape that are particularly burdensome, complex, redundant or duplicated across jurisdictions

Our members have identified the following areas of regulation as priorities for reform. Feedback from our members indicates these areas are the most complex, costly and difficult for businesses to comply with:

- Planning
- Licenses and permits
- Administration of state taxes
- Environmental regulation
- Occupational health and safety regulation
- Food safety regulation.

Our members regularly tell us that red tape is impeding business competitiveness and adding unnecessary costs that adversely affect investment decision-making and employment.

Many businesses tell us that the regulatory compliance burden has increased in recent years and small and medium sized businesses report increased costs from seeking external 'expert' advice to assist them meet their regulatory requirements. Too often members describe situations where they have been forced to defer investment plans because of the compliance burden. Others tell us that regulation has led them to alter their hiring plans.

The following examples highlight the types of issues that businesses face. They also point to changes that could help address issues.

Focus on regulatory processes, not outcomes

³ <http://www.oecd.org/gov/regulatory-policy/2012-recommendation.htm>

⁴ <http://www.strongerbusiness.com.au>

Often a regulatory burden arises not due to the intent of the regulation itself, but the defined processes that firms must follow in order to achieve compliance. For example:

- A medium-sized regional employer reported receiving a breach notice under liquor licensing regulations because their employee register was in an incorrect format
- A medium-sized manufacturer reported that a building inspection revealed that their fire exit signs could have 'Exit' or the running man symbol, but not be a mix of both. They were forced to replace 40 per cent of their signs at significant cost.

In these examples, businesses were forced to spend time and money on issues that did not affect the achievement of regulatory outcomes but related to unnecessary paperwork or overly onerous requirements that did not improve safety.

Another example, highlighted by the Nous Group in its work for the Victorian Government's *Small Business Retail Regulation Review*, relates to food safety requirements which require businesses to keep records of fridge temperatures so that the business operator can prove that the temperature of refrigerated food was maintained at appropriate levels, even though the maintenance of the record does not contribute to the objective of ensuring safe food.⁵

Clearly, there is a need for a stronger focus on achieving outcomes rather than regulatory processes.

Over-regulation is damaging business competitiveness

While regulation plays an important role in ensuring consumer and worker safety, and a fair business environment, over-regulation can add unnecessary costs and stifle innovation and growth opportunities.

Examples of over-regulation provided by Victorian Chamber members include:

- A private childcare provider, who pointed to exhaustive, prescriptive regulations, along with ever increasing staffing qualifications, pushing up the cost of providing childcare. For example, any child incident must be reported to the Victorian Department of Human Services (DHS) and records kept for 20 years
- A private school canteen operator who is limited in the products they can sell, and the prices they can sell them at, while also facing higher wage costs than school-run equivalents as their workers are deemed to fall under a different award
- A small wholesaler raised the change from Retention of Title to the Personal Property Securities Register, which also applies to business-to-business invoices. As well as the new registration fees, the firm faced

What Victorian Chamber members are saying about the effects of red tape

"We really want to be compliant and have a full understanding of the regulations, but the current system makes that incredibly difficult."

"Governments do nothing to assist companies as far as educating them on these requirements and guidance on how to comply. They impose rules and companies are basically expected to sink or swim."

"An increase in project overheads only increases costs to build and reduces investment in the industry. Fewer opportunities to build can only result in job losses."

"[Planning] applications are lodged in fear rather than comfort and the response times and issues raised waste time and money"

"...we are constantly thinking of penalties if we get it wrong but there are no incentives to get it right."

"The increasing pressure to pass on these costs threatens to dilute our client base as we become unaffordable..."

⁵ https://engage.vic.gov.au/download_file/6839/1382

thousands of dollars in legal fees to draft new Terms and Conditions of Sale and updating sales forms

- A small regional manufacturer reported that the combined effect of the Workplace Health and Safety Acts and Australian Consumer Law appears to be that jacks manufactured to European Union standards must be de-rated for sale in Australia if they might be used as vehicle jacks. This requires extra testing and labelling – leading to extra costs and delays
- A large construction firm pointed to over-regulation of areas that were previously managed by companies, over-burdening site managers with paperwork and expecting detailed legislative knowledge. Rules are imposed without assisting companies as far as educating businesses on how they can comply.

Planning and building red tape

Several Victorian Chamber members have told us about their red tape experiences relating to planning and building processes:

- A small metropolitan property services firm reported that the process of town planning takes far too long, with multiple handling and change requests requiring additional time for redesign each time with applications being sent to the Victorian Civil and Administrative Tribunal (VCAT). The VCAT waiting list is also too long, leading to additional costs in holding charges
- A large property services firm raised the need for greater national harmonisation of strata laws, to address overlaps and inconsistencies between various state jurisdictions. Discrepancies, including different terminology, or the same term having different meanings in different states, inevitably leads to delays, frustrating investment planning
- A medium-sized construction firm in regional Victoria said that red tape arose because town planners are inconsistent in their methodologies in processing applications. Slow response times and issues raised relating to design waste time and money.

These examples point to the need to streamline processes within VCAT to reduce waiting times. It also shows better engagement is needed between local governments, businesses and planners to ensure planning objectives and concerns are quickly understood and effectively communicated.

The effectiveness of the Abbott, Turnbull and previous governments' efforts to reduce red tape

Strong leadership on red tape reform agenda is important. The Hon Josh Frydenberg MP, in his role as Parliamentary Secretary to the Prime Minister, championed and raised the profile of red tape reform across government through initiatives such as the red tape repeal day, establishing deregulation units in each department and publishing the Australian Government Guide to Regulation.

Victorian experience shows that the best results on red tape reform are achieved when there is strong leadership within government to ensure that all Ministers, departments and agencies contribute to reducing the cost of regulation on business.

As such, the Victorian Chamber recommends that regulatory reform be elevated to cabinet at both state and federal levels.

Alternative institutional arrangements to reduce red tape, including providing subsidies or tax concessions to businesses to achieve outcomes currently achieved through regulation

All too often the tendency for policy-makers is to respond with a prescriptive, 'regulate first' mindset.

However, the Victorian Chamber considers regulation should be thought of a 'last resort' that sets the minima in terms of required behaviour and standards of conduct and reporting, where clear evidence of market failure or net public interest is found to exist.

Even in such cases, the important role of stakeholder education and information is often overlooked as a powerful behaviour and practice-changing tool, as highly successful advertising campaigns to improve road safety, conserve water and improve workplace safety have demonstrated.

The Victorian Chamber also considers there should be greater use of negative licensing and 'as of right' approvals. Using such approaches, a person or business would have a right to undertake an activity without a licence or permit if they meet certain conduct requirements and can be excluded or penalised on specified grounds.

The Victorian Chamber also calls for alternative approaches, such as discounts to be applied to workers compensation insurance premiums to provide a further incentive for good workplace safety performance.

How different jurisdictions in Australia and internationally have attempted to reduce red tape

Successive Victorian governments have achieved 25 per cent reductions in Victoria's gross regulatory burden, including by:

- Simplifying and streamlining the way local governments require, access and collect developer contributions to pay for infrastructure
- Giving small business more information starting and growing a business, making retail leases fairer and easier to understand, and simplifying food safety regulation through the *Small Business Regulation Review Program*
- Making it easier for businesses to set up events and festivals and foster innovative ideas, and simplifying tourism road sign applications through the *Visitor Economy Action Statement*
- Undertaking liquor licensing reforms relating to licensed venues that are changing hands and simplifying licenses for spirit producers.

A strength of Victoria's approach is the use of a Red Tape Commissioner to facilitate consultation with business on red tape reform priorities. Victoria's Red Tape Commissioner has spearheaded key reforms including:

- Streamlining the process for returning rehabilitation bonds to mining companies
- Liquor licensing reforms facilitating the growth of the live music industry
- Lifting the restriction on the sale of plastic knives to people under the age of 18, reducing staffing requirements for supermarkets
- Changes to building standards regarding the height of boundary walls
- Changes to vehicle registration requirements to facilitate Segway (upright scooter) tours of Melbourne.

The recent creation of a 'one-stop shop' for red tape and regulatory improvements by merging the Red Tape Commissioner and Commissioner for Better Regulation has also improved the institutional environment for regulation reform.

Victoria achieves its red tape reform objectives with a well-developed policy framework that limits the growth of the regulatory burden, tackles the existing stock of regulation and improves the administration of regulation through:

- The *Subordinate Legislation Act 1994* which requires that a regulatory impact statement process be undertaken for new and sunseting regulation
- Cabinet requirement for a legislative impact statement be prepared for primary legislation
- Red tape reduction targets – successive governments have committed to reducing the overall regulatory burden by a nominated percentage
- The Commissioner for Better Regulation whose role is to provide independent advice to the Government on improving Victoria's regulatory performance and to assist Departments and agencies undertaking impact assessments
- The Red Tape Commissioner whose role is to consult with businesses and not-for-profit organisations on red tape issues impacting their operations and propose improvements to government
- Targeted reviews into specific sectors such as the current series of small business regulation reviews examining the retail, tourism and construction sectors⁶
- A strong institutional framework supporting better regulation with the Office of the Commissioner for Better Regulation (and previously the Victorian Competition and Efficiency Commission)
- Measures aimed at improving the administration of regulation such as regulatory improvement studies and ministerial statements of expectation.

However, the Victorian Chamber considers there are several ways in which Victoria's approach could be improved. This includes:

- Better consideration of the findings of regulatory impact analyses. For example, the 2015 RIS on two new Victorian public holidays found that their economic cost significantly outweighed the quantified benefits. However, the government proceeded to implement the holidays in the face of this advice⁷
- Publication of and public consultation on Legislative Impact Assessments which are currently treated as cabinet-in confidence. A number of recent Victorian legislative proposals with significant regulatory impacts on business have been passed without going through a public regulatory impact analysis process including, the *Labour Hire Licensing Act 2018*, the *Long Service Benefits Portability Act 2018* and the *Long Service Leave Act 2018*
- More comprehensive and transparent reporting on measures being undertaken to implement red tape reduction targets
- Reforms that help business navigate the regulatory requirements of multiple regulators.

Internationally, OECD countries have adopted a wide range of tools and approaches to reduce administrative burdens, depending on the history and culture of the individual country as well as the government's main aim in cutting red tape. However, the following summarises "best practice" tools that have been found to be useful by most governments in reducing administrative burdens:

⁶ <https://engage.vic.gov.au/smallbizreview>

⁷ <http://www.betterregulation.vic.gov.au/files/55dcc432-fd4c-4723-8556-a5a200c4336c/Public-Holidays-RIS-2015.pdf>

- Measuring the likely burden of new regulations before they are implemented and using this information to trace burdens to their source (however, there are different measurement methodologies available)
- Information about the extent of estimated administrative burdens is increasingly being included in Regulatory Impact Analysis prior to the introduction of new regulations
- Targets for burden reduction are being set and used to promote simplification in the first place and to monitor progress and maintain the momentum for further simplification and burden reduction
- Political oversight of very burdensome measures
- Codification (grouping together existing regulations in a particular area in a single regulation) remains an important tool for simplification
- Information technology is an important tool for reducing burdens, for example, through data sharing, and simplifying license procedures
- Results must be communicated. Measurement can help show that progress has been made.⁸

Related matters

Improving the administration of existing regulation

The way regulations are implemented is often as important to business as the substantive obligations of the regulations themselves. This view is supported by feedback from our members.

It is through engagement with regulators in their role of administering and enforcing regulation that businesses primarily 'experience' regulation and much of the associated compliance burden.

Even well-designed regulation can result in high costs and a negative experience for business if they are poorly communicated and implemented.

Improving the administration of regulation is an important area for governments to focus on as it can be achieved often with cost savings to regulators and without legislative change. Cost savings can be redirected to other activities that support the realisation of regulatory objectives, or different activities altogether.

The Victorian Small Business Regulation Review (Retail Sector) Action Statement⁹ outlines actions that are being undertaken to improve approvals processes across local governments through:

- Introducing a concierge service within local councils to help applicants understand approvals requirements and to help businesses understand and lodge correct and complete applications
- Pre-application meetings with relevant regulatory areas within council
- Single application forms
- The use of concurrent rather than sequential approvals processes.

The 2013 Productivity Commission research report, Regulator Engagement with Small Business¹⁰ also makes a range of valuable recommendations on improving the administration of regulation, particularly around the greater use of industry associations to disseminate regulatory information to business.

⁸ Improving the business environment for SMEs through effective regulation, Policy Note, OECD 2018 SME Ministerial Conference, February 2018

⁹ <https://engage.vic.gov.au/smallbizreview>

¹⁰ <https://www.pc.gov.au/inquiries/completed/small-business/report>

Both of the above reviews also highlight the importance of regulator culture in shaping businesses experience of regulation. High performing regulators demonstrate a user focused culture, from senior managers down to enforcement staff.

The Victorian Chamber considers that improving the administration of regulation to be the highest deregulation priority, along with a change in approach whereby regulators take on responsibility as business enablers.

Improving access to information

Our members also tell us that they struggle to access clear and tailored information about regulation that is relevant to their situation.

Information is held in many different places and by many different regulators making it hard for small business owners to understand where to go. In addition, addition information is often organised from a regulator's perspective making it complicated and difficult for users to navigate, adding time, cost and frustration to business.

The Victorian Chamber supports efforts to improve business access to regulatory information by:

- Better use of industry associations to disseminate regulatory information to business
- Ensuring that there is 'no wrong door' and that information is organised in a way that is logical to businesses and easy to find
- Improving the quality and consistency of guidance information, ensuring it is business friendly, uses plain English and simple video content that is short and succinct, features small businesses, and is based on real world experiences
- Involving businesses in the preparation of information and guidance material.

Conclusions

Countries and economies that make effective inroads into reducing red tape are in effect, building a new competitive advantage in the global marketplace by creating an attractive environment for innovation, investment and trade.

While it is good news that regulation reform is a high priority for most governments, we need to encourage wider and deeper progress. Regulation reform, by its nature, needs to be an ongoing process.

The Victorian Chamber will continue to work with business and governments at all levels to drive improvements in regulation.

We would welcome the opportunity to take part in a hearing or to brief the Select Committee on this submission.

Appendix 1: Victorian Chamber case study on regulatory overload: Dairy farming

10 regulators, potentially 34 licences/permits

	Permits/licences/registrations	Regulator
1	Code of Practice for Dairy Food Safety	Dairy Food Safety Victoria
2	Dairy Farmer Licence	Dairy Food Safety Victoria
3	Food Standards Code	DHHS
4	Registration of Cooling Tower Systems	DHHS
5	Approval of Underground Disposal	DELWP
6	Code of Accepted Farming Practice for the Welfare of Cattle	DEDJTR, Biosecurity Vic
7	Code of Practice for the Tethering of Animals	DEDJTR, Biosecurity Vic
8	Code of Practice for the Welfare of Animals at Saleyards	DEDJTR, Biosecurity Vic
9	Dairy Carrier Licence	Dairy Food Safety Victoria
10	Dairy Manufacturer Licence	Dairy Food Safety Victoria
11	Licence to Take and Use Water	DELWP
12	National Vendor Declaration	DEDJTR, Agriculture Vic
13	Permit to Graze Animals on Road Verges	Local government
14	Permit to Keep Animals	Local government
15	Permit to Move or Drive Animals / Livestock on Roads	Local government
16	Property Identification Code	DEDJTR, Agriculture Vic
17	Water Share Application or Transfer	DELWP
18	ABN and Business Name Registration	CAV
19	Registration of Limited Partnerships	CAV
20	Vehicle Registration	VicRoads
21	Fire Services Property Levy	SRO
22	Land Tax	SRO
23	Payroll Tax	SRO
24	Application for WorkSafe Insurance	WorkSafe
25	Code of Practice for Manual Handling	WorkSafe
26	Registration of a Training Contract	VRQA
27	Building Permit	Local Government
28	Certificate of Compliance - Planning Scheme	Local Government
29	Certificate of Final Inspection	Local Government
30	Occupancy Permit - Victoria	Local Government
31	Permit to Erect / Occupy Minor Structures or Temporary Dwellings	Local Government
32	Planning Certificate	Local Government
33	Planning Permit	Local Government
34	Permit to Place Signs	Local Government

Source: Compiled from the Australian Business Licence and Information Service, courtesy of Business Victoria and the Victorian Department of Premier and Cabinet