

**SENATE STANDING COMMITTEE ON ECONOMICS QUESTION**  
(Supplementary Budget Estimates 20 October – 21 October)

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Question: SBT 206

Topic: Project undertaken by PC

Senator Bushby asked:

**Senator BUSHBY**—That is a good example. How big a job would it be to identify the types of issues that you might have put together over the last three years in various reports, speeches or papers—without the detail, just the headline; this is what it was?

**Dr Kirby**—We could go back and look at our—

**Senator BUSHBY**—If you could take that on notice and, without placing an unreasonable requirement on you, that would be appreciated.

**Dr Kirby**—Sure. That information would be available through our website, where there is a complete listing of all the projects and inquiries that we have done. That is fairly straightforward.

**Senator BUSHBY**—As a general principle, do you think it is advisable that large public infrastructure projects are preceded by a cost-benefit analysis?

Answer:

Most of the Productivity Commission's inquiries involve some examination of regulations in the area being studied. The following reports have been more specifically directed at regulation and regulation making processes.

### **Annual review of regulatory burdens on business**

In February 2007 the Australian Government asked the Productivity Commission to undertake, over five years, a series of annual reviews of the burdens on business from the stock of Commonwealth regulation.

#### *Annual Review of Regulatory Burdens on Business: Business and Consumer Services (October 2010)*

The industry sectors covered included financial and insurance services, accommodation and food services, hiring, real estate, professional and personal services, arts and recreation, and repair and maintenance services. Some of the main issues raised by industry in the report were that:

- Consultation processes are lacking with respect to transparency and continuity, short consultation timeframes, and a lack of credible evidence in the current regulation-making process. The Commission recommended that the Australian Government should improve consultation processes.
- There is duplication, overlap and inconsistency in the regulation of certain occupations such as architects, lawyers acting as migration agents, and personal and corporate insolvency practitioners.

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- There are unnecessary regulatory burdens in relation to Foreign Investment Review Board (FIRB) assessments, mutual recognition of responsible service of alcohol training, the importation of endangered species, and holiday surcharges in restaurants.

*Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services (August 2009)*

The Commission identified issues with the overall regulatory structure for providing aged care services. These included the need to explore options to free up the supply constraints on aged care services. Also the responsibilities between regulatory bodies should be clarified and a more targeted risk-management approach adopted in administering regulations in aged care and child care.

The concerns with regulations raised by business to this review were varied, but many stemmed from broader ongoing shortcomings in regulatory processes. The Commission recommended that there be greater transparency and consultation with stakeholders when developing and administering regulations.

The Commission concluded that significant benefit would arise from increased regulatory flexibility of local presence and content requirements for radio, and reducing the TV sports antisiphoning list. Similarly, the announced reforms in the education sector should include approaches to streamline reporting requirements across the sector.

*Annual Review of Regulatory Burdens on Business: Manufacturing and Distributive Trades (August 2008)*

A common concern of businesses was poor communication with regulators. Information from regulators was often found to be difficult to access, inconsistently communicated or costly to interpret. Small businesses, in particular, could be disadvantaged by such poor communications.

The Commission identified a number of areas requiring action, including food regulation and its consistency across jurisdictions, and assessment processes for medical devices.

*Annual Review of Regulatory Burdens on Business: Primary Sector (November 2007)*

The industry sectors examined included agriculture, aquaculture, forestry, fisheries and mining. Significant issues included the duplication in applying for drought assistance, wheat marketing arrangements, petroleum regulation, and the slow progress in implementing the National Mine Safety Framework, recognising skills acquired in other jurisdictions, and inter-jurisdictional inconsistencies in the regulation of road transport.

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**Benchmarking Business Regulation**

In February 2006, the Council of Australian Governments (COAG) agreed that all governments would aim to adopt a common framework for benchmarking, measuring and reporting the regulatory burden on business. Since that agreement, four reports on benchmarking have been published by the Commission.

*Performance Benchmarking of Australian Business Regulation: Occupational Health and Safety (March 2010)*

This report identified significant differences in regulation and in the actions of regulators across the jurisdictions that are hard to justify. Areas where the report identified significant differences include record keeping requirements, worker consultation, dealing with a range of workplaces hazards, and the resourcing and strategies of the regulators.

*Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety (December 2009)*

New Zealand accepted an invitation from the Advisory Panel to participate in this study. The report identified differences in burdens imposed on business by the food safety regulatory regimes at all levels of government in Australia and New Zealand. Issues which emerged during the inquiry include inconsistencies between jurisdictions, slow progress in developing national standards under the Australia New Zealand Food Standards Code for primary production and processing, and higher costs and regulatory duplication for Australian food exporters compared to the regulation of New Zealand food exporters.

*Performance Benchmarking of Australian Business Regulation: Quantity and Quality (November 2008)*

This report provided indicators of the stock and flow of regulation and regulatory activities, and quality indicators for a range of regulatory processes, across all levels of government. The indicators provide some baseline information for each jurisdiction, against which trends in the quantity and quality of regulation might be assessed in the future. It is apparent that there are significant differences across jurisdictions, reflecting different regulatory approaches as well as the characteristics of the jurisdictions themselves.

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#### *Performance Benchmarking of Australian Business Regulation: Cost of Business Registrations (November 2008)*

This report provided estimates of compliance costs for business in obtaining a range of registrations required by the Australian, state, territory and selected local governments. The registrations include generic requirements for incorporation, taxation and business name registrations. In addition, the Commission benchmarked specific registration costs incurred for five types of business (a café, builder, long day child care, real estate agent and winery). It emerged that the estimated time costs of business registrations were generally relatively low, with most costs and differences across jurisdictions relating to fees and charges.

#### **Some Specific inquiries**

#### *Contribution of the Not-for-Profit Sector - Productivity Commission Research Report (February 2010)*

The Commission identified a need for wide-ranging reforms to remove unnecessary burdens and costs faced by the not-for-profit sector and improve its accountability. Better regulation, improved funding arrangements and enhanced opportunities for innovation would improve outcomes for the community and the public's confidence in the sector. The Commission identified issues relating to:

- the multiplicity of regulatory requirements
- poor collaboration between the sector and governments
- emerging capacity constraints.

The Commission proposed a 'one-stop shop' for Commonwealth-based regulation in the form of a Registrar for Community and Charitable Purpose Organisations and the establishment of an Office for Sector Engagement established to drive reform and policy development at the Commonwealth level. The report made a number of other recommendations aimed at building a better knowledge base, smarter regulation, promoting giving, facilitating innovation, and reforming government purchasing and contracting arrangements.

#### *Review of Regulatory Burdens on the Upstream Petroleum (Oil and Gas) Sector (April 2009)*

The report examined Australia's regulatory framework for oil and gas projects involving more than one jurisdiction. The Commission found that reducing unnecessary regulatory burdens could provide gains to the community amounting to billions of dollars each year.

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These would come principally through reducing delays which increase project costs, reduce flexibility in responding to market conditions, impede the financing of projects, and defer production and revenues. Reforms have the potential to provide significant benefits to both the sector and the broader community.

The report concluded that current regulatory requirements are overly complex, often overlapping and duplicative, and that collectively they impose significant unnecessary burdens. Reforms proposed included:

- the establishment of a national offshore petroleum regulator. States and Territories would be able to 'opt-in' and transfer their responsibilities in state and territory waters and for pipelines.
- streamlining existing arrangements through greater use of statutory timelines and enhanced reporting of performance to improve transparency and accountability, and also by introducing a lead agency within the States and the Northern Territory for petroleum approval processes.

*Review of Mutual Recognition Schemes (February 2009)*

The mutual recognition schemes linking Australian States and Territories and New Zealand have contributed to the creation of a seamless national economy in Australia and a single economic market across the Tasman. In its report the Commission found that the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Arrangement (TTMRA) brought benefits through increased mobility of labour and greater movement of merchandise between jurisdictions.

However, the Commission found that ambiguities and omissions in the legislation create frictions in the operation of the schemes. Moreover, a lack of awareness of mutual recognition means that businesses, individuals and regulators do not always use the schemes fully or appropriately.

The Commission recommended a suite of administrative, regulatory and legislative changes to mutual recognition arrangements which, if implemented in the near-to-medium term, would reinvigorate the schemes and allow them to reach their full potential.

*Chemicals and Plastics Regulation (August 2008)*

The Commission found that a national approach to chemicals and plastics regulation in Australia would reduce unnecessary costs for industry and improve compliance. Governments have regulated chemicals in different ways, even though the hazards and risks they pose vary little across the country, and this has resulted in unnecessary complexity

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under our federal system. Key recommendations in the report include establishment of a standing committee on chemicals to promote consistency, giving the scheduling of poisons separate consideration, consolidation of control-of-use regulation of agricultural and veterinary products under the APVMA (but delivered through the States and Territories), and avoiding further use of the inconsistent framework regulating security sensitive ammonium nitrate.

As a general principle, the Commission considered that standard setting is best undertaken by expert-based, rather than representative, bodies. The Commission proposed a four-tiered governance model for chemicals and plastics regulations, which would allow all governments to participate in developing and implementing regulation. The standards would be flexible enough to accommodate circumstances facing individual governments, while achieving national uniformity in many instances.

*Review of Australia's Consumer Policy Framework (May 2008)*

The Commission found that the division of responsibility for the framework between the Australian and State and Territory Governments led to variable outcomes for consumers, added costs for businesses and a lack of responsiveness in policy making. Addressing these problems would have significant direct benefits for consumers. Also, by better engaging and empowering consumers and furthering the development of nationally competitive markets, reform would enhance productivity and innovation.

The Commission considered that greater responsibility for consumer policy development and enforcement should reside with the Australian Government. The Commission's recommendations included the introduction of a single generic consumer law applying across Australia, that the Australian Government be responsible for enforcing product safety provisions, joint enforcement by the ACCC and State and Territory consumer regulators of other provisions, and responsibility for regulating the provision of consumer credit and related advice should also be transferred to the Australian Government with ASIC as the primary regulator.

COAG, in consultation with the Ministerial Council on Consumer Affairs, should oversight a general reform program for industry-specific consumer regulation to identify and repeal unnecessary industry-specific consumer regulation, identify other areas of specific consumer regulation where there are costly divergent requirements and/or lack of policy responsiveness, and determine how these costs should be reduced.

The Commission estimated that reform package could provide a net gain to the community of between \$1.5 billion and \$4.5 billion a year.