C Government commissioned projects

A broad indicator of the quality and impact of the Commission's work is provided by the nature and breadth of the public inquiries and research studies which it is requested by governments to undertake. The acceptance rate of the Commission's findings and recommendations provides a further broad indicator of quality and impact.

This appendix updates information provided in previous annual reports on public inquiries and other projects specifically commissioned by the Government. It includes summaries of terms of reference for new inquiries and projects, and the principal findings and recommendations from reports which have been released, together with government responses to those reports.

The Productivity Commission is required to report annually on the matters referred to it. This appendix provides a summary of projects which the Government commissioned during the year and government responses to reports completed in 2008-09 and previous years. It also reports on commissioned projects received since 30 June 2009.

This appendix is structured as follows:

- terms of reference for new government-commissioned inquiries and studies
- reports released and, where available, government responses to them
- government responses to reports from previous years.

Table C.1 summarises activity since the Commission's 2007-08 annual report and indicates where relevant information can be found.

Table C.1 **Stage of completion of commissioned projects and government responses to Commission reports**

Date received	*Title*	*For terms of reference see*	*Stage of completion*	*Major findings/ recommendations*	*Government response*
Inquiries					
27-2-08	Improved Support for Parents with New Born Children	AR 07-08	Report No. 47 signed 28-2-09	page 180	page 182
20-6-08	Inquiry into Government Drought Support	AR 07-08	Report No. 46 signed 27-2-09	page 185	na
20-10-08	Australia's Gambling Industries	page 166	in progress	na	na
19-3-09	Review into the Regulation of Director and Executive Remuneration in Australia	page 168	in progress	na	na
23-3-09	Australia's Anti-dumping and Countervailing System	page 170	in progress	na	na
29-9-09	Inquiry into Wheat Export Marketing	page 172	in progress	na	na
Other commissioned projects					
28-2-07*	Annual Review of Regulatory Burdens on Business – Primary Sector	AR 06-07	Report completed 5-11-07	AR 07-08	page 191
28-2-07*	Annual Review of Regulatory Burdens on Business – Manufacturing Sector and the Distributive Trades	AR 06-07*	Report completed 29-8-08	AR 07-08	page 176
28-2-07*	Annual Review of Regulatory Burdens on Business – Social and Economic Infrastructure Services	AR 06-07*	in progress	page 189	na
5-9-07	Performance Benchmarking of Australian Business Regulation: Quantity & Quality and Cost of Business Registration	AR 06-07	Reports completed 12-12-08	page 178	na
10-4-08	2008 Review of the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Agreement	AR 07-08	Report completed 30-1-09	page 183	na

10-4-08	Review of the Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector	AR 07-08	Report completed 9-4-09	page 184	na
13-11-08	Restrictions on the Parallel Importation of Books	page 187	Report completed 30-6-09	page 187	na
23-12-08	Performance Benchmarking of Australian Business Regulation: OHS and Food Safety	page 167	in progress	na	na
17-3-09	Review of the Contribution of the Not-For-Profit Sector	page 167	in progress	na	na
15-5-09	Performance of Public and Private Hospital Systems	page 171	in progress	na	na
24-7-09	Study into Mechanisms to Purchase Water Entitlements	page 172	in progress	na	na

na not applicable. Note: References are to previous annual reports (AR) of the Productivity Commission. * Terms of reference for this project were included in those announced for the Annual Review of Regulatory Burdens on Business — Primary Sector on 28 February 2007.

Terms of reference for new projects

This section outlines the terms of reference for commissioned projects received since the Commission's annual report for 2007-08 which are in progress or for which the report has not yet been released. Full terms of reference are available on the Commission's website and in relevant reports.

Australia's Gambling Industries

On 20 October 2008, the Assistant Treasurer asked the Commission to undertake an inquiry into Australia's gambling industries, commencing on 24 November 2008. This follows an earlier gambling inquiry undertaken by the Commission in 1999.

In undertaking the inquiry, the Commission is to provide an update of the 1999 report in the following areas:

- the nature and definition of gambling and the range of activities incorporated within this definition
- the participation profile of gambling, including problem gamblers and those at risk of problem gambling
- the economic impacts of the gambling industries, including industry size, growth, employment, organisation and interrelationships with other industries such as tourism, leisure, other entertainment and retailing
- the social impacts of the gambling industries, the incidence of gambling abuse, the cost and nature of welfare support services of government and non-government organisations necessary to address it
- the contribution of gambling revenue on community development activity and employment
- the effects of the regulatory structures — including licensing arrangements, entry and advertising restrictions, application of the mutuality principle and differing taxation arrangements — governing the gambling industries, including the implications of differing approaches for industry development and consumers
- the implications of new technologies (such as the Internet), including the effect on traditional government controls on the gambling industries
- the impact of gambling on Commonwealth, State and Territory Budgets.

The Commission is also requested to provide additional research into the impacts of harm minimisation measures in the following areas:

- the impact that the introduction of harm minimisation measures at gambling venues has had on the prevalence of problem gambling and on those at risk
- the effectiveness and success of these harm minimisation measures as used by the State and Territory Governments.

The Commission is required to produce a final report by the end of February 2010.

Performance Benchmarking of Australian Business Regulation: Occupational Health and Safety and Food Safety

On 23 December 2008 the Commission received a request to commence the second year of its Performance Benchmarking of Australian Business Regulation study. This followed agreement by the COAG Business Regulation and Competition Working Group (BRCWG) that the Commission should focus on occupational health and safety (OHS) and food safety regulation in the second year of its study. In his letter, the Assistant Treasurer pointed out that the BRCWG had:

- noted the merit in continuing the benchmarking work program
- agreed that occupational health and safety and food safety regulation should be considered by the Commission in year 2
- requested that the Commission complete the OHS and food safety benchmarking reports by December 2009
- agreed to revisit the Commonwealth's future work plan in relation to the benchmarking study in 12 months time.

The Assistant Treasurer stated that he 'would be grateful if you could undertake whatever action is necessary to fulfil the BRCWG's direction' and also specified that the Commission 'may structure its work as it sees fit within the timeframe indicated'.

Review of the Contribution of the Not-For-Profit Sector

On 17 March 2009, the Assistant Treasurer requested that the Commission undertake a study into the contribution of the not-for-profit sector.

In undertaking its study, the Commission is requested to focus on improving the measurement of the contributions of the sector and on removing obstacles to maximising its contributions to society. The Commission is to:

- assess the extent to which the not-for-profit sector's contributions to Australian society are currently measured, the utility of such measurements and the possible uses of such measurements in helping shape government policy and programs
- consider alternatives for, or improvements in, such measurements, or further quantitative and/or qualitative means of capturing the not-for-profit sector's full contribution to society
- identify unnecessary burdens or impediments to the efficient and effective operation of community organisations generally, including unnecessary or ineffective regulatory requirements and governance arrangements, while having regard to the need to maintain transparency and accountability
- consider options for improving the efficient and effective delivery of government-funded services by community organisations, including improved funding, contractual and reporting arrangements with government, while having regard to the need for transparency and accountability
- examine the changing nature of relationships between government, business and community organisations in recent times, their general impacts, and opportunities to enhance such relationships to optimise outcomes by the sector and its contribution to society
- examine the extent to which tax deductibility influences both decisions to donate and the overall pool of philanthropic funds
- examine the extent to which tax exemptions accessed by the commercial operations of not-for-profit organisations may affect the competitive neutrality of the market.

A draft and final report are to be produced and published by the end of 2009.

Review into the Regulation of Director and Executive Remuneration in Australia

On 19 March 2009 the Assistant Treasurer asked the Commission to undertake an inquiry into the current Australian regulatory framework around remuneration of directors and executives, as it applies to companies which are disclosing entities regulated under the *Corporations Act 2001*.

In undertaking the inquiry the Commission has been asked to consider the following:

- trends in director and executive remuneration in Australia and internationally, including among other things, the growth in levels of remuneration, the types of remuneration being paid, including salary, short-term, long term and equity-

based payments and termination benefits and the relationship between remuneration packages and corporate performance

- the effectiveness of the existing framework for the oversight, accountability and transparency of director and executive remuneration practices in Australia including:
  - the role, structure and content of remuneration disclosure and reporting
  - the scope of who should be the subject of remuneration disclosure, reporting and approval
  - the role of boards and board committees in developing and approving remuneration packages
  - the role of executives in considering and approving remuneration packages
  - the role of other stakeholders, including shareholders, in the remuneration process
  - the role of, and regulatory regime governing, termination benefits
  - the role of, and regulatory regime governing, remuneration consultants, including any possible conflicts of interest
  - the issue of non-recourse loans used as part of executive remuneration
  - the role of non-regulatory industry guidelines and codes of practice.
- In light of the presence of large local institutional shareholders in Australia, such as superannuation funds, and the prevalence of retail shareholders, the role of such investors in the development, setting, reporting and consideration of remuneration practices.
- Any mechanisms that would better align the interests of boards and executives with those of shareholders and the wider community, including but not limited to:
  - the role of equity-based payments and incentive schemes
  - the source and approval processes for equity-based payments
  - the role played by the tax treatment of equity-based remuneration
  - the role of accelerated equity vesting arrangements
  - the use of hedging over incentive remuneration.
- The effectiveness of the international responses to remuneration issues arising from the global financial crisis, and their potential applicability to Australian circumstances.

The Commission has also been asked to make recommendations as to how the existing framework governing remuneration practices in Australia could be improved. A final report is to be provided to the Government in December 2009.

Australia's Anti-dumping and Countervailing System

On 23 March 2009, the Assistant Treasurer asked the Commission to inquire into Australia's anti-dumping system. The Commission is to assess the policy rationale for, and objectives of, Australia's anti-dumping system, and assess the effectiveness of the current system in achieving those objectives. It is also to make recommendations on the appropriate future role of an anti-dumping system within the Government's overall policy framework.

In undertaking its assessment, the Commission is to examine the economy-wide costs and benefits of Australia's anti-dumping system, having regard to the administration and compliance costs of the system and taking account of, and where possible quantifying, the impact of the arrangements on:

- the overall performance of the Australian economy, particularly economic growth, investment and competitiveness
- importers and domestic industry, including small businesses, exporters, firms at different stages in the supply chain
- consumers and the broader community, including regions.

The Commission is also to assess the administration of the anti-dumping system, taking account of the concerns of both importers and domestic industry, including but not limited to, the costs of compliance and administration, timeliness of the process, the effect on business certainty, and difficulties in accessing the system. In doing so, the Commission is to consider:

- determination of dumping/existence of subsidies
- assessment of injury
- establishment of a connection between the dumping/subsidisation and the injury
- determination of appropriate measures
- review mechanisms.

The Commission has also been asked to consider relevant substantive studies undertaken elsewhere, including the findings of the Joint Study into Australia's Anti-Dumping System undertaken by the Australian Customs Service and the former Department of Industry, Tourism and Resources.

In making recommendations on the appropriate future role of an anti-dumping system in the Government's overall policy framework, the Commission is to:

- aim to improve the overall performance of the Australian economy, taking into account the interests of industry, importers and consumers
- consider the consistency of anti-dumping policy with the overall policy framework, in particular competition, trade and industry policies, and alternative means of achieving the Government's objectives
- have regard to Australia's international rights and obligations, including recent developments in international trade law and the current World Trade Organization Doha Round
- suggest practical ways of reducing compliance and administration costs, increasing business certainty and simplifying access to, and the timeliness and effectiveness of, the system.

The Commission is to provide both a draft and a final report, with the final report provided within nine months of receipt of the reference.

Performance of Public and Private Hospital Systems

On 15 May 2009, the Assistant Treasurer requested that the Commission undertake a study into public and private hospitals.

The Commission has been asked to examine the relative performance of the public and private hospital systems, and related data issues. This is to include a comparison of:

- comparative hospital and medical costs for clinically similar procedures performed by public and private hospitals;
- the rate of hospital-acquired infections by type, reported by public and private hospitals;
- rates of fully-informed financial consent by privately-insured patients, out-of-pocket expenses for patients who do not give such consent, and best-practice examples where fully-informed financial consent is provided for every procedure; and
- other relevant performance indicators, including the ability of such indicators to inform comparisons of hospital performance and efficiency.

If any of the above tasks prove not fully possible because of conceptual problems or data limitations, the Commission is to propose developments to improve the feasibility of future comparisons.

The Commission has also been asked to advise the Government on the most appropriate indexation factor for the Medicare Levy Surcharge (MLS) income thresholds.

A final report is due to be provided to Government by 4 December 2009.

Study into Mechanisms to Purchase Water Entitlements

On 24 July 2009, the Assistant Treasurer requested that the Commission undertake a study into alternative market mechanisms for recovering water in the Murray-Darling Basin.

The study's focus is on identifying:

- appropriate, effective and efficient mechanisms that could be used to diversify the range of options to purchase water entitlements under the Restoring the Balance in the Murray-Darling Basin program to restore environmental flows; and
- impediments to new and established water purchase mechanisms and how these could be overcome.

In undertaking the study, the Commission is to consider a range of issues, including:

- mechanisms used nationally and internationally by governments to purchase water entitlements or similar property rights;
- the proposed pace of environmental water recovery and the depth of the water markets in the Murray-Darling Basin;
- the impact on the water market, particularly where the Government may be the dominant buyer; and
- potential methods to maximise synergies between water purchase and the Sustainable Rural Water Use and Infrastructure program.

The Commission is to complete its final report within six months of receipt of the reference.

Inquiry into Wheat Export Marketing Arrangements

On 29 September 2009, the Assistant Treasurer requested that the Commission undertake an inquiry into wheat export marketing arrangements and report before 1 July 2010.

The *Wheat Export Marketing Act 2008* (the Act) came into effect on 1 July 2008. The Act established a new regulator, Wheat Exports Australia (WEA), to formulate and administer an accreditation scheme for bulk wheat exports. The *Wheat Export Accreditation Scheme 2008* (the Scheme) also came into effect on 1 July 2008. Section 89 of the Act requires the Commission to conduct an inquiry into the operation of the Act and the Scheme.

In conducting its inquiry, the Commission is required to review:

- the operation of the Act, including the costs and benefits; and
- the operation of the Scheme, including the costs and benefits.

In conducting the inquiry, the Commission is required to assess the effectiveness of the arrangements in meeting the objectives of the Act and will consider the operation of the Act and the Scheme, including the role of WEA, as a whole. The Commission is also to consider how individual components of the Act and the Scheme affect relevant stakeholders and the costs and benefits they deliver. The Commission is also requested to provide comment on those aspects that are working effectively and identify those that require change, and take into consideration recent reports and studies into Australia's grain supply chains.

The Commission is also required to give consideration to issues that may or do affect the effective operation of the Scheme including, but not limited to:

- the suitability of the eligibility criteria required for, and conditions imposed upon accreditation;
- the appropriate level of assessment of each applicant for accreditation by WEA against these eligibility criteria;
- the appropriateness and effectiveness of the access test requirements that apply both before and after 1 October 2009;
- the effectiveness of, and level of competition existing under current arrangements for the transport, storage and distribution of wheat in contributing to a sustainable supply chain from farm gate to export load port;
- the availability and transparency of relevant market information to participants in the export supply chain; and
- any other factors that may affect the performance of WEA.

If considering changes to the operation of the Act or Scheme, the Commission is required to examine how such changes would affect arrangements to fund WEA and the use of cost-recovery mechanisms.

Commission reports released by the Government

This section summarises the main findings and recommendations of inquiry and research reports which have been released by the Government in the period to 21 October 2009. It includes terms of reference for those projects commenced and completed in that period and, where available, government responses.

Chemicals and Plastics Regulation

Research Report completed 28 July 2008, report released 7 August 2008.

The Commission's main findings and recommendations were:

- Chemicals and plastics contribute to our wellbeing, but some can pose substantial risks to health and the environment. Government intervention to manage risks is warranted where benefits materially exceed costs.
- Chemicals regulations are generally grafted onto (differing) state and territory Acts that deal with public health, workplace safety, transport safety, environment protection and national security.
- Current regimes are broadly effective in managing risks to health and safety, but are less effective in managing risks to the environment and national security. Efficiency can be improved through national uniformity in most areas.
- The Commission proposes building a governance framework that enhances national uniformity by addressing failures at four levels.
- *Level 1 — policy development and regime oversight*. A national function through ministerial councils supported by intergovernmental agreements:
  - chemicals policy coordination should be undertaken by an officer-level, cross-council standing committee on chemicals.
- *Level 2 — assessment of chemical hazards and risks*. An Australian Government science-based function undertaken under statutory independence:
  - the industrial chemicals agency should undertake assessments, not set risk management standards.
- *Level 3 — risk management standards setting*. A national function by expert-member agencies operating within the policy frameworks of the ministerial councils:
  - poisons scheduling should be separated from drugs
  - maximum residue levels for domestically produced foods that are set by APVMA should be automatically included in the food standards code, with

right of change by FSANZ and the Australia and NZ Food Regulation Ministerial Council

  - while replacement of the workplace safety agency (ASCC) by an independent agency is supported, it should not be a tripartite representative body
  - the effectiveness of new model regulations for transport needs to be monitored
  - an environmental risk management standards body should be established
  - risk management of chemicals of security concern (including ammonium nitrate) should adopt the Commission's governance framework.
- *Level 4 — administration and enforcement*. Generally jurisdiction-specific:
  - all standards should be adopted in a uniform or nationally consistent manner by administering agencies
  - control of use of agvet chemicals should be consolidated under the APVMA but delivered through service level agreements by the states and territories.
- Australia should defer adopting the Globally Harmonised System of Classification and Labelling of chemicals until the benefits from trade can be demonstrated.

Government decision

At its 3 July 2008 meeting, the COAG Ministerial Taskforce on Chemicals and Plastics Regulatory Reform announced a series of 'early harvest' reforms which endorsed elements of the reform blueprint proposed by the Commission. COAG also requested that actions in response to the Commission's final report be brought forward for COAG to consider at its October 2008 meeting.

The COAG communiqué of October 2 2008 welcomed the Commission's final report and:

> agreed that improved and better coordinated governance structures are required to advance reform in this area. (COAG 2008c, p. 7)

Accordingly, it directed the Ministerial Taskforce on Chemicals and Plastics Regulatory Reform to develop a governance structure for oversight of regulatory reform for further consideration. It also announced that relevant ministerial councils would report in November 2008 on responses and implementation plans for the relevant recommendations in the Commission's report.

Subsequently, at its meeting on 29 November 2008, COAG agreed to a new governance structure to oversee chemicals and plastics regulatory reform as

proposed in the Commission's report, including the establishment of a COAG Standing Committee on Chemicals (COAG 2008d). At the same meeting COAG also agreed to an interim response to the recommendations in the Commission's report (COAG 2008e). Of the 30 recommendations responded to, COAG welcomed or supported 20 and noted progress on the remaining recommendations. These covered chemicals and plastics regulatory reform in a range of areas, including national policy formulation and governance, national hazard and risk assessment, public health, occupational health and safety, transport safety, agricultural and veterinary chemical products, environment protection and national security.

At its November 2008 meeting COAG also welcomed progress on implementing the 18 early harvest reforms which endorse elements of the reform blueprint proposed by the Commission.

Annual Review of Regulatory Burdens on Business — Manufacturing Sector and the Distributive Trades

Research Report completed 29 August 2008, report released 16 September 2008.

On 28 February 2007, the Treasurer announced a program of annual reviews of the burdens on business arising from the stock of Australian Government regulation. The cycle commenced in April 2007 with a review of regulatory burdens on businesses in Australia's primary sector.

The second yearly review reported on regulatory burdens in the manufacturing sector and distributive trades. The Commission's main findings and recommendations were:

- Regulation of the manufacturing and distributive trades sectors is complex and diverse, involving all tiers of government. This study proposes the reduction of specific Australian Government regulations which are unnecessarily burdensome for businesses in these sectors. These initiatives build on the significant amount of reform currently underway, including the expanded COAG regulation reform agenda.
- Many of the concerns raised by businesses related to jurisdictional differences in the implementation and enforcement of regulations. While governments are pursuing greater uniformity, this process is ongoing but incomplete, leading to a level of frustration by businesses.
- A common concern of businesses was poor communication with regulators. The information provided by regulators could be difficult to access, inconsistently communicated or costly to understand. Poor communication can also be a barrier

to small businesses entering markets as they may be less able either to employ or to contract expert assistance to understand the regulations affecting them.

- Concerns which were the subject of other reviews (such as chemicals and plastics) have been referred to the relevant agency. This review has identified and addressed three main areas.
- Food regulation can be made less burdensome by
  - increasing national consistency of regulation
  - improving timeliness and transparency of decision making by the Australia New Zealand Food Regulation Ministerial Council
  - ensuring public health issues are considered by the Health Ministers' Conference before referring any food regulation-related issues to the Australia New Zealand Food Regulation Ministerial Council.
- The frameworks for approving and registering new medicines and medical devices can be streamlined by
  - reducing the time and cost, and improving the transparency, of assessment processes by the Therapeutic Goods Administration (TGA)
  - improving coordination between regulators where regulatory processes overlap
  - removing the TGA's monopoly on conformity assessment for Australian manufacturers of medical devices by allowing manufacturers to choose a certification body approved by the TGA
  - a comprehensive review of health technology assessment processes.
- Compliance and enforcement of environmental regulations can be improved to ensure the policy objectives are being achieved and that complying businesses are not disadvantaged. These regulations include
  - the Water Efficiency Labelling and Standards Scheme
  - energy labelling and minimum energy performance standards.

Government decision

On 18 March 2009 the Government released a detailed response to the report (Australian Government 2009c). Of the Commission's 23 responses, the Government accepted or accepted in principle 19 responses, noted two and did not accept a further two.

The Government accepted responses across a range of areas, including pricing processes in the Pharmaceutical Benefits Scheme, the Health Technology

Assessment System for medical devices and technologies, the Water Efficiency Labelling and Standards (WELS) Scheme, and requirements for energy labelling and minimum energy performance standards.

The Government did not support two responses:

- In relation to the Commission's proposal that the Australian Building Codes Board (ABCB) determine whether compliance programs on structural plywood are effective, the Government noted that compliance in this area is a State and Territory responsibility. As such, the Government stated that the Chair of the ABCB will write to the relevant state and territory bodies outlining industry concerns in this area.
- Regarding the Commission proposal that businesses report and pay excise and excise equivalent customs duties on a monthly basis, the Government noted that it will introduce measures allowing small businesses to report and pay excise and duties on a monthly rather than a weekly basis.

Performance Benchmarking of Australian Business Regulation: Quantity and Quality; and Cost of Business Registrations

Research reports completed 28 November 2008, reports released 12 December 2008.

Key points from the report on Quantity and Quality of Regulation were that:

- The quantity of regulation that business must comply with is one indirect indicator of compliance costs
  - as regulation is not classified in any jurisdiction by who is regulated, only the total quantity of regulation can be measured
  - significant differences were found across jurisdictions in the number of acts and other regulation and their size, and the relative use of different regulatory instruments.
- The number and scale of regulators, and the extent of their interaction with businesses is another such indicator. Estimates provided by business regulators showed considerable differences in the number of regulators, their average size, the number of business licences issued and the value of fees and charges collected, not fully explained by the relative sizes of the jurisdictions.
- The quality of the processes for developing and administering regulation was used as a proxy for the quality of regulation itself. There are significant variations across jurisdictions in the processes for developing and reviewing

regulations and in the way regulators interact with businesses. However, some common patterns emerged:

  - there are few mandatory requirements for consultation on regulatory proposals
  - the proportion of regulatory proposals actually subjected to regulatory impact analysis or compliance cost estimation is generally low
  - few regulators have facilities for online lodgement of forms, renewal of licences, and payment of fees and charges
  - few regulators will allow businesses licensed in another jurisdiction to operate in their jurisdiction without obtaining a separate licence.

- Local governments play a major role in business regulation. Limited survey responses meant benchmarking quality and quantity of regulation was only possible for the capital cities. Large capital city councils appear to exhibit similar characteristics to business regulators of similar size.
- The exercise points to significant differences across jurisdictions in the quantity and quality of regulation. These reflect some inherent differences, such as in business structures and industry intensity, as well as different approaches to regulation by the jurisdictions.
- Indirect indicators have limitations in providing a measure of comparative regulatory burdens across jurisdictions. However, the lessons from this study are that such benchmarking could be improved:
  - for quantity indicators, by targeting more closely business regulation
  - for quality indicators, by assessing the application of best practice principles in each jurisdiction's regulatory decisions.

Key points from the report on the Cost of Business Registrations were that:

- This benchmarking study estimates the compliance cost to businesses of obtaining a range of generic and industry-specific registrations required by the Australian Government, and state, territory, and selected local governments:
  - generic registrations relate to incorporation, taxation and business name registrations; industry-specific registrations covered are those needed to operate a café, domestic builder, long day child care, real estate agent and winery.
- No patterns of consistently high or low costs of business registration were found across industries or jurisdictions. Nevertheless, the differences point to opportunities that jurisdictions can explore to reduce compliance burdens.

- The estimated time costs of business registration were low for generic business registrations and generally low for industry-specific registration
  - businesses almost universally reported that the activities related to registration processes were either 'easy' or 'not difficult'.
- Most of the differences in costs were attributable to differences in fees, with jurisdictions taking different approaches to setting fees and charges. For example, some jurisdictions did not charge fees for registering a child care business.
- Processing times for applications showed considerable variation across industries and jurisdictions. But they were generally not excessive and often were very quick.
- The approach aimed to 'triangulate' data from regulators, synthetic analysis by consultants and business feedback to establish representative estimates. In practice, synthetic analysis was not sufficiently comprehensive and business response rates too low for the data to provide reliable comparisons across jurisdictions. Consequently, the aggregate time cost estimates needed to be based on data provided by the regulators.
- The study acted as a 'pilot' for the methodology and approaches to data collection. It highlighted several areas for improvement:
  - ways are needed to improve business participation. Benchmarking regulation that imposes more significant, ongoing compliance costs should motivate greater business engagement
  - understanding in detail differences in the processes of each jurisdiction is central to developing appropriate synthetic analysis and regulator questionnaires
  - sequencing is important in data collection, as early business feedback can help to inform the design of the regulator survey and synthetic exercise
  - regulators are well placed to collect data from businesses on compliance costs, so options to work with them to collect business feedback cost-effectively should be explored
  - support from a central coordinating agency in each jurisdiction is crucial to achieving comprehensive and timely responses.

Paid Parental Leave: Support for Parents with Newborn Children

Inquiry Report No 47 signed 28 February 2009, report released 12 May 2009.

The Commission's main findings and recommendations were that:

- The Australian Government's statutory paid parental leave scheme should be taxpayer-funded, and should:
  - provide paid postnatal leave for a total of 18 weeks that can be shared by eligible parents, with an additional two weeks of paternity leave reserved for the father (or same sex partner) who shares in the daily primary care of the child
  - provide the adult federal minimum wage (currently $543.78) for each week of leave for those eligible, with benefits subject to normal taxation.
- All those employed with a reasonable degree of attachment to the labour force should be eligible, including the self-employed, contractors and casual employees.
- A broad range of family types should be eligible, including conventional couples, lone parents, non-familial adoptive parents, same sex couples, and non-parental primary carers in exceptional cases, so long as they meet the employment test.
- Those families not eligible for paid parental leave may still be eligible for paternity leave, the baby bonus ($5000) and other financial support through the social transfer system.
- Employers should participate in the scheme by:
  - acting as paymasters where the employee had sufficient workplace tenure, with the government prepaying employers by instalment to avoid cash flow impacts
  - providing superannuation contributions for long-term eligible employees, though this measure should be deferred for at least three years and reviewed at that time.
- Such a scheme would meet a range of commonly agreed objectives. It would:
  - generate child and maternal health and welfare benefits by increasing the time parents take away from work. The Commission estimates that the average absence will increase by ten weeks. Many more families would have an increased capacity to provide exclusive parental care for children for six to nine months
  - promote some important, publicly supported social goals, and in particular, that having a child and taking time out for family reasons is viewed by the community as part of the usual course of work and life for parents in the paid workforce
  - counter some of the incentives against working posed by the tax and welfare system — potentially contributing around six months of net additional employment for the average woman over her lifetime

  - increase retention rates for business, with reduced training and recruitment costs.
- The Commission estimates that the government scheme will cost taxpayers around $310 million annually in net terms (with an additional net cost to the economy of $70 million if super contributions are introduced in the future).
- These costs take account of significant offsets from reduced social welfare payments (including removal of the baby bonus for parents using the scheme) and the tax revenue from paid leave. The costs would be much higher without these offsets.

Government decision

As part of the 2009-10 Budget, the Australian Government announced its intention to introduce a Paid Parental Leave scheme. The scheme being introduced is closely based on that proposed in the Commission's final inquiry report.

In introducing its scheme, the Government stated:

> The Productivity Commission recommended a scheme designed to provide wide coverage and modest financial benefits to working mothers, and to ensure minimal impact on employers. The Commission also recognised the current economic environment in Australia and concluded that the best option for Australia was a Government financed scheme.
>
> In addition, the Commission recommended two key features for the scheme:
>
> - in most cases employers should make the payments to their employees to ensure primary carers (predominantly women) stay connected with the workplace; and
> - the scheme should cover 18 weeks of leave as it estimated that, coupled with other leave arrangements, this would allow most infants to be exclusively cared for by their parents for the first six months of life (without undue financial stress).
>
> The Government accepted these recommendations and its Paid Parental Leave scheme has each of these three key features. (Australian Government 2009b)

The Government included an income test in the eligibility rules which was not recommended by the Commission, and the Government deferred consideration of the two weeks paternity leave that was recommended by the Commission. Otherwise, the features of the Government's scheme reflected those recommended by the Commission.

The scheme will be open to new parents who are the primary carers of a child born or adopted on or after 1 January 2011.

2008 Review of the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement

Research Report completed 23 January 2009, report released 6 February 2009.

The Commission's main findings and recommendations were that:

- Mutual recognition is a low-cost, decentralised means of dealing with interjurisdictional differences in laws and regulations.
- The Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Arrangement (TTMRA) have increased the mobility of goods and labour around Australia and across the Tasman.
  - Greater mobility of goods and labour is a potential source of economic benefits, and is consistent with a move to a seamless Australian economy and a single trans-Tasman market.
- The schemes operate less effectively on the occupations side than on the goods side.
  - Differences in occupational standards between jurisdictions are a source of regulator concern, due to the potential for deficient standards to cause harm.
  - Allowing ongoing professional development and criminal record checks for mutual recognition registrants, that already apply to local registrants, would mitigate some of the risks created by interjurisdictional differences in standards.
- On the goods side, the efficiency and effectiveness of the schemes could be improved through an expansion of their coverage.
  - A range of goods are currently exempted but could now be mutually recognised. They include most gas appliances under the TTMRA and goods covered by Australian ozone protection laws under the MRA.
- In some areas, the impetus towards trans-Tasman mutual recognition or harmonisation has stalled, creating unnecessary costs for stakeholders.
  - Unless the New Zealand Parliament can soon pass legislation enacting a joint regulatory regime, the special exemption for therapeutic goods should become a permanent exemption, so as to avoid uncertainty.
- Aspects of the machinery of the schemes should be improved to reduce the administrative and legal burden they create for governments and other stakeholders.
  - Cooperation programs associated with special exemptions under the TTMRA should have a rollover and reporting period lasting up to three years.

- Regulators often do not meet their mutual recognition obligations, and firms and individuals do not make full use of the schemes.
  - Two specialist units should be created to facilitate the operation of mutual recognition of goods and occupations, through the provision of advice, complaint resolution, monitoring and awareness raising.
- Bilateral engagement by Australia and New Zealand with third countries creates more opportunities than risks for the mutual recognition partner, as long as mutual recognition implications are taken into account before agreements are made.
- Amendments to the mutual recognition legislation are urgently needed to remedy ambiguities and omissions in the Acts, as well as to enable the schemes to reach their full potential.

Review of the Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector

Research Report completed 9 April 2009, report released 30 April 2009.

The Commission's main findings and recommendations were that:

- Oil and gas projects are large and complex. From the community's perspective, it is important that they meet reasonable requirements for the environment, heritage, land access, and occupational health and safety. It is also important to achieve these objectives without imposing unnecessary costs on companies or the broader community.
- Currently, duplication and overlap, and inconsistent administration of the 22 petroleum and pipeline laws and more than 150 statutes governing upstream petroleum activities impose significant unnecessary burdens on the sector.
  - Project approvals are taking longer than a streamlined approval process would allow, potentially diminishing the present value of petroleum resource extraction in Australia by billions of dollars each year.
- There is no simple, single answer to reducing the unnecessary regulatory burdens on the upstream petroleum sector. A suite of changes will be needed. The Commission's proposals fall into two broad groups: implementing regulatory best practice and reforming institutional arrangements.
- Key recommendations for improving existing regulatory arrangements include:
  - reducing unnecessary delays (particularly for environmental and heritage processes) through setting statutory timelines, ensuring legislative objectives

are clear, promoting clear guidelines on information requirements, and introducing a 'lead agency' approach for approvals

  - clarifying and clearly articulating the objectives for intervention in resource management and ensuring the costs of intervention are the minimum necessary.

- To cut through regulatory duplication and overlap, the Commission proposes the staged establishment of a new national offshore petroleum regulator to undertake resource management, pipeline and environmental regulation in all Commonwealth, State and Territory waters (including islands).
  - The Australian Government initially would establish the new national offshore petroleum regulator in Commonwealth waters, and then provide State and Territory Governments, on a bilateral basis, the option of conferring their petroleum regulatory responsibilities. States and Territories would also have the option of conferring responsibility for regulating cross-jurisdictional onshore pipelines to this body.
  - The National Offshore Petroleum Safety Authority should remain a separate entity with an exclusive focus on occupational health and safety regulation, with its remit extended to offshore pipelines, subsea equipment and wells. Its geographical coverage should include all Commonwealth, State and Territory waters (including islands).

The Commission also observed that many of the recommendations for 'best practice' regulation in its report repeat recommendations made by previous, yet for the most part, unimplemented, reviews. This simply reinforces that strong political will and leadership will be essential if meaningful improvement in the way this sector is regulated across multiple jurisdictions is to be successfully implemented, and sustained.

Inquiry into Government Drought Support

Inquiry Report No 46 signed 27 February 2009, report released 12 May 2009.

The Commission's main findings and recommendations were:

- Many Australian farmers and rural communities have been experiencing hardship from the latest severe and prolonged drought. While this is not new to dryland farming, 'irrigation drought' is uncharted territory.
- Australia has always had a variable climate, with drought being a recurring feature. Looking to the future, experts predict higher temperatures and for some regions, more frequent periods of exceptionally low rainfall.

- Most farmers are sufficiently self-reliant to manage climate variability.
  - In 2007 08, 23 per cent of Australia's 143 000 farms received drought assistance, totalling over $1 billion, with some on income support continuously since 2002.
  - However, even in drought declared areas, most farmers manage without assistance. From 2002-03 to 2007-08, on average, about 70 per cent of dairy and broadacre farms in drought areas received no drought assistance.
- The National Drought Policy's (NDP) Exceptional Circumstance (EC) declarations and related drought assistance programs do not help farmers improve their self-reliance, preparedness and climate change management.
  - EC interest rate subsidies and state-based transactions subsidies are ineffective, can perversely encourage poor management practices and should be terminated.
  - EC household relief payments are limited to those in drought who are in declared areas, ignoring hardship elsewhere or for other reasons. They should be replaced.
  - The EC declaration process is inequitable and unnecessary. It should not be extended to new areas. Current declarations should lapse as soon as practicable.
- Governments need to commit to a long term reform path that recognises that the primary responsibility for managing risks, including from climate variability and change, rests with farmers. To this end:
  - Research, development, extension, professional advice and training to improve farmers' business management skills and build self-reliance warrant significant government funding where they deliver a demonstrable community benefit.
  - Farm Management Deposits, notwithstanding their use for tax management, have encouraged farmers to save and to be more self-reliant, and should be retained.
  - Policies relating to water, natural resource management and climate change, which all impact on farm businesses and local communities, are often at cross purposes and need to be better coordinated and integrated.
  - All farm households in hardship — regardless of cause or location — should have access to an income support scheme that is designed for farming circumstances.
- Similar recommendations from the previous reviews of the NDP have not been adopted. To ensure that this new policy direction is credible and enduring:

- the NDP should be replaced with extended objectives for Australia's Farming Future
- an intergovernmental agreement with independent monitoring and financial incentives for complying with agreed commitments should be established.

Restrictions on the Parallel Importation of Books

Research Report completed 30 June 2009, report released 14 July 2009.

On 13 November 2008 the Commission received a reference from the Assistant Treasurer asking it to examine the provisions of the *Copyright Act 1968* that restrict the parallel importation of books into Australia.

In undertaking this study, the Commission was requested to examine the present provisions with respect to the parallel importation of books — which include exceptions to copyright — having regard to, and where possible quantifying:

- the extent to which the provisions promote and achieve the objectives of the Copyright Act;
- whether the provisions amount to a restriction on competition;
- if so, the costs, benefits and effects of the restriction;
- whether the benefits to the community from the present provisions outweigh any costs from restricting competition; and
- any identified options for reform, including non-legislative approaches, and any transitional arrangements.

The Commission's main findings and recommendations were that:

- Parallel Import Restrictions (PIRs) provide territorial protection for the publication of many books in Australia, preventing booksellers from sourcing cheaper or better value-for-money editions of those titles from world markets.
- From the available quantitative and qualitative evidence, the Commission has concluded that the PIRs place upward pressure on book prices and that, at times, the price effect is likely to be substantial. The magnitude of the effect will vary over time and across book genres.
- Most of the benefits of PIR protection accrue to publishers and authors, with demand for local printing also increased.
- Most of the costs are met by consumers, who fund these benefits in a non-transparent manner through higher book prices.

- Some of the effects represent transfers from book purchasers to local copyright holders, but the restrictions also cause economic inefficiencies and a significant transfer of income from Australian consumers to overseas authors and publishers.
- Consumers of culturally significant books directly benefit from their cultural value. At the same time, the PIRs make a contribution to the 'cultural externalities' of books that benefit the broader community.
- PIRs are a poor means of promoting culturally significant Australian works.
  - They do not differentiate between books of high and low cultural value.
  - The bulk of the assistance leaks offshore, and some flows to the printing industry.
- Reform of the current arrangements is necessary, to place downward pressure on book prices, remove constraints on the commercial activities of booksellers and overcome the poor targeting of assistance to the cultural externalities.
- The reform option proposed in the discussion draft was for a 12 month territorial protection within the existing framework. Many participants claimed that it would cause undue distortions between different genres of books. There was also mixed, but critical, commentary about its impact on the industry.
- Having considered industry feedback and undertaken further analysis, the Commission is recommending that the PIR provisions be repealed, and that:
  - Three years notice should be given to facilitate industry adjustment.
  - Current financial assistance for encouraging Australian writing and publishing should be reviewed immediately, and any changes implemented prior to the repeal of the PIRs. The new arrangements should be reviewed after five years.
  - To assist in monitoring the impact of these changes, the ABS should undertake a revised version of its 2003-04 industry survey as soon as possible and update it prior to the five year review.

Annual Review of Regulatory Burdens on Business — Social and Economic Infrastructure Services

Research Report completed 31 August 2009, report released 15 September 2009.

On 28 February 2007, the Treasurer announced a program of annual reviews of the burdens on business arising from the stock of Australian Government regulation. The cycle commenced in April 2007 with a review of regulatory burdens on businesses in Australia's primary sector.

The third yearly review reported on regulatory burdens in the social and economic infrastructure services. The Commission's main findings and recommendations were:

- Regulation of the social and economic infrastructure services sector is particularly heavy. This resort to a heavy regulatory presence arises because:
  - regulation is used to promote competitive behaviour where natural monopolies exist, for example, telecommunications and energy
  - of considerable government funding of service delivery, for example, aged care
  - there is information asymmetry with service users, for example, medical services
  - some service recipients, for example, the frail and aged and young children, are seen as vulnerable and requiring protection
  - many businesses in the sector operate across jurisdictions, for example, transport and energy retailers.
- Many industries in this sector are subject to review or reform activity, for example, transport, energy, higher education, telecommunications, aged care and child care. It is important to ensure that the reforms are implemented in a timely fashion and in a way that minimises the regulatory burdens. Much of the reform agenda relies on co-operation between governments. Reforms need to move beyond high level agreement on guiding principles to genuinely reduce the regulatory burden at the individual business level.
- This review has identified seven main areas — aged care, child care, information media, telecommunications, energy, air transport and education — where regulations can be made less burdensome.
- Regulation in aged care
  - without tackling the underlying policy framework that constrains the supply of aged care services, it is unlikely that the regulatory burden in the industry can be substantially reduced. To reduce the burden associated with regulation and price controls, and to improve the quality and diversity of aged care services, the government should explore options for: relaxing supply constraints in the provision of aged care services; providing better information to older people and their families so they can make more meaningful comparisons in choosing an aged care service; and removing the restriction on bonds as a source of funding
  - the aged care regulatory framework is fragmented due to regulation by numerous government agencies. This should be addressed by the current

reviews of the accreditation process and standards in consultation with state and territory agencies. There also needs to be more effective communication with the industry on the delineation of responsibilities between the Department of Health and Ageing and the Aged Care Standards and Accreditation Agency regarding monitoring of provider compliance with these standards.

- Regulation in child care
  - clarify regulations to ensure a provider can have its Child Care Benefit approval removed if it is not accredited by the National Childcare Accreditation Council
  - streamlining of the accreditation arrangements should take place now, prior to the implementation of the proposed COAG reforms.
- Regulation in information media
  - the anti-siphoning regime imposes regulatory burdens because of the protracted commercial negotiations required for listed events. This burden should be reduced by substantially reducing the anti-siphoning list
  - radio local content rules and disclosure standard should both be made more flexible and associated reporting requirements reduced
  - additional local presence and content requirements triggered by ownership changes of radio stations should be abolished
  - the Australian Communications and Media Authority should have broader discretion to not investigate some code complaints.
- Regulation in telecommunications
  - the telecommunications consumer information obligations should be streamlined
  - the identity check requirements for prepaid mobile phones should be revised to lower costs to business while achieving their policy objective of allowing law enforcement agencies to identify mobile phone owners.
- Regulation in the energy sector
  - the Ministerial Council on Energy should commission work to consider the practicalities of implementation of the recently agreed pass-through to consumers of cost increases associated with the Carbon Pollution Reduction Scheme
  - governments should amend the Australian Energy Market Agreement to ensure clearer commitments to competition reviews by the Australian Energy

Market Commission and ongoing price monitoring by the Australian Energy Regulator

  - all levels of government need to work cooperatively to reduce the burden associated with excessive reporting obligations, including through the adoption of a methodology consistent with Standard Business Reporting (SBR).

- Regulation in air transport
  - shift from a 'one size fits all' approach in aviation security regulation and develop arrangements that satisfy regulatory requirements at lower compliance cost.
- Regulation in education and training
  - reforms to streamline reporting obligations in the education sector, including in response to recommendations from the Bradley Report and the anticipated changes to reporting by schools, should be undertaken consistent with the methodology of the SBR initiative. Electronic reporting and secure on-line sign-on to the agencies involved should be introduced.
- Many industries complained of overly burdensome, duplicative and redundant reporting requirements. Extending the SBR principles and methodology to many of the sectors covered in this review could substantially reduce the reporting burden.
- The best practice regulation requirements should be strengthened by increasing transparency and providing greater scope for consultation with business.

Government responses to reports from previous years

Annual Review of Regulatory Burdens on Business — Primary Sector

Research Report completed 5 November 2007, report released 19 December 2007.

On 28 February 2007, the Treasurer announced a program of annual reviews of the burdens on business arising from the stock of Australian Government regulation. The cycle commenced in April 2007 with a review of regulatory burdens on businesses in Australia's primary sector.

The Commission's first annual review dealt with regulatory burdens on business in the primary sector, which in broad terms includes agriculture, aquaculture, forestry, fisheries and mining. The report proposed 61 'responses' to industry concerns. The concerns covered a wide range of regulated schemes and activities, ranging from

marketing schemes, infrastructure access and animal welfare through to transport and fish stock preservation.

On 18 December 2008, the Government released a detailed response to the report (Australian Government 2008a). Of the 61 Commission responses, the Government accepted 36 responses and provided in principle acceptance to a further 13 responses.

- The Government stated that eleven responses have been fully actioned, 18 were substantially completed or have reforms underway and reviews are planned or are underway for a further 18. The Government noted that a number of the responses that were substantially completed or have reforms underway were being addressed through the Council of Australian Governments (COAG) Business Regulation and Competition Working Group (BRCWG) or other COAG working groups. These included matters relating to food regulation, a nationally consistent occupational health and safety framework, mine safety regulation, chemicals and plastics regulation, and licences of tradespeople.
- The Government noted four responses and did not accept eight responses. For example, the Government did not support bringing forward the timeframe for the review of reporting thresholds for National Pollution Inventory (NPI) substances from 2012 to 2009. The Government also did not support increasing the monthly earnings threshold for the superannuation guarantee requirements of overseas visitors engaged in casual and seasonal work. In the government's view, maintaining the superannuation guarantee threshold at $450 a month has led to a steady increase in superannuation coverage and therefore strikes a balance which the Government considered appropriate between concerns regarding compliance costs and retirement income considerations.

Review of Australia's Consumer Policy Framework

Inquiry Report No. 45 signed 30 April 2008, report released 8 May 2008.

In its communiqué of 2 October 2008, COAG announced that it had agreed to a new consumer policy framework comprising a single national consumer law based on the *Trade Practices Act 1974* and drawing on the recommendations of the Commission and best practice in State and Territory consumer laws (COAG 2008c, p. 2). As part of this new framework:

- The Commonwealth is to assume responsibility for the making of permanent product bans and standards under the *Trade Practices Act 1974*, with the ACCC and States and Territory offices of fair trading sharing responsibility for enforcement of product safety law.

- Transfer of responsibility of remaining areas of consumer credit to the Commonwealth will occur via a phased implementation plan, following an earlier COAG decision that the Commonwealth would assume responsibility for the regulation of mortgages, mortgage broking, margin lending and all remaining areas of consumer credit, such as pay-day lending and financial counselling services.

In addition, COAG noted that it was also reviewing occupational regulations only applying in one or two jurisdictions, which the Commission indicated warranted early attention.

In accordance with a further Commission recommendation, on 22 July 2008 the Assistant Treasurer also announced changes to the configuration of the Commonwealth Consumer Affairs Advisory Council (CCAAC). In announcing these changes, the Assistant Treasurer stated:

> … I want to address the Productivity's Commission's recent recommendation that the operations of CCAAC should be enhanced through ensuring that the Council has members who have consumer policy expertise and bring a national perspective to its advisory functions. (Bowen 2008b)

Subsequently, on 24 June 2009, the *Trade Practices Amendment (Australian Consumer Law) Bill 2009* was introduced into Commonwealth Parliament to establish the framework for the new Australian Consumer Law and introduce the unfair business to consumer contract terms law and new penalties, enforcement powers and options for consumer redress in the *Trade Practices Act* and the *ASIC Act*.

On 2 July 2009, COAG signed an Intergovernmental Agreement, which included agreement to: a national consumer protection law based on the existing consumer protection provisions of the *Trade Practices Act 1974*; a new national product safety regulatory and enforcement regime; and improved enforcement, cooperation and information sharing arrangements between Commonwealth, State and Territory agencies (COAG BRCWG 2009a).

Legislation to fully implement the new consumer law (including new provisions based on best practice in existing State and Territory laws); and to implement the new national legislative and regulatory framework for product safety, will be introduced in early 2010.