Dear Sirs,

I write to provide a personal submission in support of the Productivity Commission's review into access and regulatory barriers within the Australian audit profession. I have been an auditor for many years, with substantial experience across private company audits, AFSLs, large proprietary entities, and SMSFs. However, despite having the skills and experience required under the law, I have been unable to obtain Registered Company Auditor (RCA) status due to ASIC's overly narrow and restrictive interpretation of the legislative requirements.

The core issue is ASIC's application of section 1280(2) of the Corporations Act 2001, particularly its insistence that an applicant must have **supervised staff** while conducting audits of companies. This interpretation is not only **unsupported by the wording of the legislation**, but it also contradicts the Federal Court and AAT interpretation in *Birdseye v ASIC* [2006], which confirmed that "supervising audits" does **not require the supervision of staff**, but rather an appropriate level of oversight over the conduct of audit engagements themselves.

Like many small practitioners, I operate in a lean professional structure, engaging peers and contractors for independence or technical collaboration. I have supervised company audits directly—ensuring compliance with auditing standards, overseeing audit procedures, and signing reports—yet ASIC continues to reject my application on the basis that I did not employ staff. This narrow reading creates a **structural barrier** that disproportionately harms experienced small firm auditors and **distorts competition**, favouring large firms with embedded staff hierarchies.

It is especially troubling that overseas-trained auditors can be fast-tracked into RCA registration via migration programs, while qualified local auditors face years of delay and uncertainty. I have also incurred significant cost in complying with ASIC's shifting expectations, and have made formal complaints to Treasury, ANAO, and professional bodies, none of which have yet addressed the inconsistency in ASIC's approach.

Australia urgently needs more company auditors—particularly with new obligations emerging around ESG and sustainability assurance. The current RCA framework is incompatible with future workforce needs. Reform is required to ensure ASIC applies the legislation in line with the law and allows genuinely experienced auditors like myself to contribute.

I urge the Commission to recommend:

- A review of ASIC's interpretation of "supervising audits" in light of *Birdseye v ASIC*
- Recognition of diverse audit experience, including those conducted without permanent staff
- Structural support for small firms to access RCA registration pathways
- Independent oversight of ASIC's licensing decisions to ensure they are lawful and fair

Thank you for the opportunity to contribute to this important review.

Best regards,

Kirk Davis