

Productivity Commission 5 Pillars

Tech Council of Australia response to the interim
reports

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Productivity Commission

5pillars@pc.gov.au

Introduction

Lifting productivity is the key to Australia's future prosperity. It is the only enduring way to raise wages, deliver better services, and maintain rising living standards amid growing demographic, fiscal, and global pressures. We welcome the Government's renewed focus on productivity as a chance to co-design a growth agenda that keeps Australia competitive and resilient in a changing world.

We support the Productivity Commission's vital work in the Five Pillars Inquiry. Our submission includes an overview of the TCA's responses to the Productivity Commission's recommendations and more detailed commentary in relation to three of the reports (Creating a more dynamic and resilient economy, Building a skilled and adaptable workforce, and Harnessing data and digital technology).

We also attach our submission to the Economic Reform Roundtable, a white paper on the AI Productivity Opportunity, to further elaborate on some of the key reforms that the TCA is calling for.

Recommendation	TCA response
Creating a more dynamic and resilient economy	
1.1 Over the long term, pivot the corporate the tax system to a lower company income tax combined with a new net cashflow tax	See comment
1.2 Initially lower the company tax rate to 20% for companies earning less than \$1b in revenue	Support
1.3 Introduce a net cashflow tax of 5% for all companies	See comment
2.1 Set a clear agenda for regulatory reform	Support
2.2 Bolster high-level scrutiny of regulations	Support
2.3 Enhance regulatory practice to deliver growth, competition and innovation	Support
Building a skilled and adaptable workforce	
1.1 Invest in a single national platform for all teachers to access lesson planning materials	Support
1.2 Lead national efforts to ensure equitable access to edtech and AI Building skills and qualifications for a more productive workforce	Support

2.1 Move toward a national system of credit transfer and recognition of prior learning	Support
2.2 Better target incentives to lift work-related training rates in small and medium enterprises	Support
3.1 Remove excessive occupational entry regulations that offer limited benefits	Support
3.2 Expand entry pathways and streamline qualification requirements for occupations	Support
3.3 Improve the regular reviews of occupational entry regulations	Support
3.4 Incentivise occupational entry regulation reform through National Competition Policy	Support
Harnessing data and digital technology	
1.1 Complete, publish and act on ongoing reviews to identify regulatory gaps posed by AI. Where gap analyses have not begun – start now	Support
1.2 AI-specific regulations should be a last resort	Support
1.3 Until gap analyses are complete, steps to implement mandatory guardrails for high-risk AI should be paused	Support

2.1 Establish lower-cost and more flexible regulatory pathways to expand basic data access for individuals and businesses	See comment
3.1 Introduce an alternative compliance pathway in the Privacy Act	See comment
3.2 Do not introduce a right to erasure	Support
4.1 Make digital financial reporting the default	Support

Creating a more dynamic and resilient economy

Corporate tax reform to spur business investment

Recommendation 1.1: Over the long term, pivot the corporate the tax system to a lower company income tax combined with a new net cashflow tax

Recommendation 1.2: Initially lower the company tax rate to 20% for companies earning less than \$1b in revenue

Recommendation 1.3: Introduce a net cashflow tax of 5% for all companies

TCA supports targeted tax concessions for SMEs, but cautions against introducing a 5% net cashflow tax for larger businesses

The TCA supports measures to reduce the company tax rate for small to medium businesses. Smaller tech companies play a crucial role in driving innovation across the broader economy driving important productivity gains. As identified in the interim report, lowering the tax burden can support greater capital expenditure for smaller firms, accelerating the pace at which new technologies are brought to market. By stimulating foreign investment, it can also support the proliferation of new ideas which can disrupt established industries.

While we support the proposed reduction of tax burdens for small to medium businesses, the impact of maintaining a comparatively high tax rate for large businesses on R&D investment must also be considered.

R&D investment is a key driver of productivity and economic growth—it enables the creation of new technologies, processes, and products that enhance efficiency across industries. Recent research has found that large businesses make an outsized contribution to R&D ecosystems, with just 5% of Australian businesses accounting for 48% of total R&D expenditure through the R&D tax incentive. However, R&D investment by large businesses in Australia has fallen by \$2.9bn (24%) in the last decade and is continuing to decline.¹

A high effective tax rate diminishes the profitability of R&D expenditure. This ultimately discourages R&D spending and reduces opportunities to capitalise on our country's strong research foundations. Any reform to the company tax rate should consider downstream effects on innovation, particularly its impact on large businesses driving R&D expenditure, alongside other tax levers such as the R&D tax incentive.

¹ Mandala Partners, [Unlocking Australia's R&D Potential](#), July 2025.

The proposal to introduce a 5% net cashflow tax for all companies must also be considered in this context. Imposing this additional tax on top of the comparatively high corporate tax rate for large businesses exacerbates already uncompetitive domestic tax settings, deterring R&D spending by the businesses who contribute the most in an environment where such investment is already declining. Further, a new cashflow tax sitting alongside a separate income tax creates administrative complexity, which can be particularly burdensome for small businesses with limited resources to navigate multifaceted tax settings.

Regulating to promote business dynamism

Recommendation 2.1: Set a clear agenda for regulatory reform.

Recommendation 2.2: Bolster high-level scrutiny of regulations.

Recommendation 2.3: Enhance regulatory practice to deliver growth, competition and innovation.

TCA supports the recommendations

The TCA agrees with the PC's finding that there is a need to reform the current approach to regulation. Dynamism in the tech sector is driven by rapid innovation and the proliferation of new ideas. Increasing regulatory complexity and uncertainty stifles this activity and creates barriers for smaller innovators entering the Australian market, hampering productivity growth.

A cultural overhaul and holistic reform is needed to address inefficiencies in existing regulation and ensure that new regulations at both state & territory and national levels are developed with consistency, interoperability and coherence.

Information request 2.1: The taxonomy proposed above represents regulatory failures that have been raised regularly with the PC during consultation. We have heard of a number of broad examples that align with these categories – for example, duplicate and inconsistent regulations emerge when regulators are unable to adopt standards from comparable regulators from other states, or from overseas. We would like to hear specific examples of regulations that you think align with the categories above, and that could easily be fixed by government.

Under the new merger control regime, transactions subject to the Foreign Investment Review Board (**FIRB**) approval process will now also need to be notified to the Australian Competition and Consumer Commission (**ACCC**) for an additional layer of review if they

meet required thresholds. This gives rise to duplicative competition considerations which are required under both FIRB and ACCC frameworks, increasing deal complexity and timeframes.

Additionally, as noted in the PC's 'Harnessing data and digital technology' interim report, many businesses have found the *Privacy Act 1988* (Cth) overly burdensome, ineffective in providing meaningful protections where obligations are controls-based, and costly to comply with. Compliance burdens are exacerbated by bespoke additions to our privacy regulation that are out of step with international best practice, such as the statutory tort for serious invasions of privacy, and a shifting privacy landscape creates regulatory uncertainty which can deter international data flows and investment.

Finally, the proposed ex-ante regime for digital platforms is also an example of overly risk averse regulation which threatens to deter investment and innovation without delivering meaningful benefits to Australians. Technology-specific regulation will drive high compliance and operational costs and is unjustified where risks can be effectively addressed under existing regulatory frameworks including the *Competition and Consumer Act 2010* (Cth), the Australian Consumer Law, and the *Privacy Act 1988* (Cth).

Information request 2.4: *How should regulators and policymakers balance risk with growth objectives? What guidance should governments give? What are the constraints which impede regulators and policymakers from better balancing risk and growth objectives? What guidance can governments give to help?*

To support innovation while safeguarding public interest, governments should encourage flexible, outcomes-based regulatory frameworks that focus on principles rather than prescriptive controls. This allows for risks to be addressed in a proportionate manner while encouraging the experimentation and rapid iteration needed to drive technology-led growth. Due to the global nature of the tech sector, regulation should also strive for interoperability with key international jurisdictions. Regulatory consistency encourages investment into Australia and facilitates the growth and expansion of local businesses into overseas markets.

Building a skilled and adaptable workforce

The best resources to improve school student outcomes

Recommendation 1.1: Invest in a single national platform for all teachers to access lesson planning materials

Recommendation 1.2: Lead national efforts to ensure equitable access to edtech and AI

TCA supports the recommendations

To prepare young Australians to thrive in a technologically advanced world, it is essential to bring a focus on AI and technology careers as well as skills development into our school system. The proposed recommendations provide the framework to do this.

In Australia, industry is already partnering with schools and governments to pioneer the responsible, secure, and innovative adoption of new technologies in education. This collaboration is positioning the nation as a global centre of excellence in technology-enabled learning. To be successful, this approach must incorporate both foundational digital literacy and advanced technical training for learners and educators alike.

There is a strong role for industry to partner with schools and education providers to ensure education technology tools align with industry best practice. TCA and its members are eager to play an active role in supporting this objective.

A good example of such collaboration is Canva, which is actively supporting teachers through Canva for Education, a platform that is provided 100% free for all K–12 teachers, students, schools, districts, campuses, ministries, and school systems. This initiative empowers teachers to create visual lessons, streamline their work, and unlock creativity in the classroom

Building skills and qualifications for a more productive workforce

Recommendation 2.1: Move toward a national system of credit transfer and recognition of prior learning

Recommendation 2.2: Better target incentives to lift work-related training rates in small and medium enterprises

TCA supports the recommendations

Australia's long-term prosperity will be shaped by how well we prepare people to apply new technologies across the economy. Our education and training system is central to that task, but its current structure is not well suited to the speed, complexity, or industry-driven nature of technological evolution.

The challenge is not simply to expand existing programs. It is to rethink how we design, deliver, and recognise training to ensure it is fast, flexible, and aligned with real-world deployment.

This means embracing a more plural, system-wide view of skills development. In particular, industry-led training programs are often more adaptive and closely aligned with commercial needs. Formal recognition of these pathways can ensure they are seen as credible routes into high-value employment, not as secondary alternatives.

Critically, more agile training models also support greater inclusion and diversity. When learners can access skills development on flexible terms—without having to pause work, relocate, or invest in lengthy full-time study—the system better reflects the varied realities of Australian workers and communities.

Sustaining a culture of continuous innovation also demands incentives that reward workers for deepening and formalising their expertise. Because much training today occurs in applied, project-based settings, employees often acquire valuable skills that sit outside traditional qualifications—and short-term pressures can often discourage them from pursuing full accreditation.

Targeted employer incentives, such as wage subsidies for trainees, matched training grants or refundable tax credits, can de-risk investment in technology experimentation and skills development. This will accelerate adoption among smaller firms, spreading productivity gains across the economy's most resource-constrained segments and helping SMEs leapfrog into technology and AI-enabled workflows.

Fit-for-purpose occupational entry regulations

Recommendation 3.1: Remove excessive occupational entry regulations that offer limited benefits

Recommendation 3.2: Expand entry pathways and streamline qualification requirements for occupations

Recommendation 3.3: Improve the regular reviews of occupational entry regulations

Recommendation 3.4: Incentivise occupational entry regulation reform through National Competition Policy

TCA supports the recommendations

Australia's tech sector is, in most respects, an open-entry labour market. This has supported innovation, competition and workforce mobility. We support the current licence-free approach for most of the tech sector.

There are narrow but consequential exceptions where licensing applies that could benefit from review—particularly at the interface between digital systems and the physical world. These include electrical trades, and data and telecommunications technicians who build and maintain the essential infrastructure our digital economy relies on.

The rapid expansion of strategic industries, including the construction of data centres and the rollout of 5G, has created unprecedented demand for these professions. This has led to critical worker shortages that risk delaying projects and constraining national growth.

TCA supports review of the entry and qualification requirements for these specific roles. Priority should be given to professions with the most severe skills gaps as identified in the Occupation Shortage List. Making these careers more accessible will alleviate critical shortages and ensure Australia's digital economy is built on a strong and sustainable foundation.

Harnessing data and digital technology

Enable AI's productivity potential

Recommendation 1.1: Complete, publish and act on ongoing reviews to identify regulatory gaps posed by AI. Where gap analyses have not begun – start now

Recommendation 1.2: AI-specific regulations should be a last resort

Recommendation 1.3: Until gap analyses are complete, steps to implement mandatory guardrails for high-risk AI should be paused

TCA supports the recommendations

As a technology that cuts across a wide range of sectors and regulatory issues, there are already existing economy-wide laws, as well as sector-specific laws that apply to AI and its uses. We agree that AI-specific regulation risks creating overlaps and unnecessary complexity which can stifle its productivity potential. Any gap analysis of existing regulation should be informed by appropriate technical expertise to ensure a robust and accurate assessment of AI-related risk is made.

Additionally, any review should also consider aspects of our regulatory framework which are holding back AI innovation or adoption. Overly prescriptive or complex rules can hinder the very productivity gains that AI promises. Excessive regulation can create significant compliance burdens, particularly for smaller businesses and startups with limited resources, making it difficult for them to develop and adopt new AI technologies. This can lead to reduced investment in domestic AI infrastructure, discourage local innovation, and prevent Australia from fully realising the economic and societal benefits of AI.

Unlocking AI productivity through digital infrastructure

Ensuring that we have forward-leaning AI regulation is only part of the work needed to unlock the technology's productivity potential. Broader policy and regulatory settings to enable the digital infrastructure needed to support technological transformation is crucial.

Future national digital infrastructure will be built upon the three interconnected pillars of cloud computing, AI software and 5G connectivity. Data centres (the cloud) provide both the sovereignty of data and the computational capacity required to enable AI. 5G provides access to, and the acceleration of, AI by delivering reliable, programmable connectivity services for AI to enterprises and consumers alike.

The reliability and programmability of 5G provides technical capabilities that support AR/VR, real-time translation, live video understanding, responsive assistants and rich inputs such as 4K/8K video and multi-sensor fusion. 5G also overcomes the challenges of interoperability, regulation and ubiquitous access to these capabilities. Data storage and processing in AI-enabled datacentres are the heart of a complex digital infrastructure that starts and ends with everyday Australians.

Leading digital economies are already applying these integrated capabilities in a variety of different ways such as; safety-critical communications, medicine, industrial automation, robotics, city services, precision agriculture, remote education and telemedicine.

For Australian industry to maximise AI's benefits requires continued and targeted investment in secure, resilient connectivity and data centres, streamlined planning and regulatory reform, within a coordinated national strategy. A fragmented approach to data, processing and connectivity risks slowing AI innovation, digital adoption and economic gains.

Information request 1.1: *The PC is seeking feedback on the issue of copyrighted materials being used to train AI models.*

- *Are reforms to the copyright regime (including licensing arrangements) required? If so, what are they and why?*

The PC is also seeking feedback on the proposal to amend the Copyright Act 1968 (Cth) to include a fair dealing exception for text and data mining.

- *How would an exception covering text and data mining affect the development and use of AI in Australia? What are the costs, benefits and risks of a text and data mining exception likely to be?*
- *How should the exception be implemented in the Copyright Act – for example, should it be through a broad text and data mining exception or one that covers non-commercial uses only?*
- *Is there a need for legislative criteria or regulatory guidance to help provide clarity about what types of uses are fair?*

The TCA supports amending the Copyright Act 1968 (Cth) to allow for the training and fine tuning of AI models in Australia. We believe that this can be done in a way that supports artists and creators, and protects copyrighted content from uses that undermine the incentives of copyright holders. We consider that any reforms should be considered in light of market-led initiatives, such as through the use of opt-outs (which give artists and creators control over whether their material is used to train or fine tune AI models), and through

commercial deals that allow market dynamics to set the price for the use of copyrighted materials.

Reforms could include a fair dealing exception for text and data mining (**TDM**). The TDM exception should cover commercial activity—that is where the most significant benefit will be realised not only in terms of innovation and productivity growth, but also in ensuring that our country's unique contexts, values and experiences are embedded in next generation AI tools.

We note that there are multiple approaches to potential copyright reform in Australia. For example, a TDM exemption is not the only form of amendment that can provide legal clarity on AI training and other jurisdictions such as the US adopt a broader 'fair use' doctrine which can facilitate training on legally obtained materials. The Australian Law Reform Commission has previously recommended that Australia's Copyright Act be amended to introduce a 'fair use' exception.²

Copyright reforms would facilitate local development of specialised AI tools which can deliver wide-ranging technological benefits and efficiencies, with significant flow-on consequences for the Australian economy. For example, at the moment, AI models which could help automate development applications cannot be developed in Australia using infrastructure, as they would need to be trained on architectural plans that are otherwise subject to copyright. Copyright reforms that would enable the development of this sort of AI application would not only deliver benefits for the building and construction industry but also equip local councils with the means to deliver public-facing services more efficiently.

Introducing reforms such as a TDM exception would also bring Australia closer in line with comparable jurisdictions which adopt a similar approach in their copyright frameworks (e.g. Singapore and Japan) and create the regulatory certainty required to attract significant investment in domestic AI infrastructure. Global businesses are actively exploring regional hubs outside the US to invest in AI-enabling infrastructure such as data centres. Without this clarity, Australia risks falling behind overseas jurisdictions where use of Australian copyright-protected content is already permitted under local copyright laws.

Australia is uniquely placed to host AI infrastructure with abundant land mass and renewable energy generation potential, paired with our global reputation as a safe and stable trading partner. Not only will this bolster our nation's ability to innovate with AI, it also leads to the creation of jobs required to construct and maintain this infrastructure such as builders,

² Australian Law Reform Commission, Copyright and the Digital Economy Final Report, November 2013.

engineers, electricians and technicians. The fact that our restrictive copyright framework prevents foundational LLM training means that we face a real risk of losing out on such opportunities, as many large-scale long-term AI infrastructure investment decisions are occurring now. This will also have flow-on impacts for the competitiveness, innovation possibilities, and growth opportunities further down the tech stack, including in relation to Australia's significant opportunities in app development in the new AI economy.

The TCA supports using works and datasets in AI training in a way that is fair to rightsholders. However, we do not support the introduction of statutory or mandatory licensing regimes. Given the scale of works that can be used in AI training, compulsory licensing regimes have high administrative burdens and are unlikely to result in meaningful payments to creators. More importantly, such a system deprives copyright owners of their right to contract freely in the market. Government intervention is only warranted where there is a clear market failure. Yet, the market is developing meaningful solutions as demonstrated by recent commercial arrangements between AI businesses and organisations such as the Australian Associated Press, The Guardian, and Shutterstock.

We also understand that there are clear examples of market-led opt out solutions that tech companies are using to empower creators to choose whether their material is used for training AI models. For example, creators can opt out of having their works used to train Adobe's AI models by specifying their preferences using Content Credentials, an industry standard metadata type attached to digital content. Additionally, website publishers can opt out of training for Google's Gemini and Vertex AI platforms without affecting search rankings by setting the Google Extended flag in the website's robots.txt file. Web publishers should be able to control the use of their content by opting out of having their content from being used to train AI models using industry standards like robots.txt.

The TCA is aware of the need to carefully calibrate copyright reforms to enable Australians to capture the benefit of both increased AI innovation in Australia, and the vital contributions of Australia's artists, creators and copyright holders. While we support a TDM exception, and the need to develop regulatory guidance to provide innovators with clear guidance regarding the use of copyrighted material, we are also open to exploring targeted solutions.

New pathways for data access

Recommendation 2.1: *Establish lower-cost and more flexible regulatory pathways to expand basic data access for individuals and businesses*

TCA supports the recommendation in principle

The TCA supports measures to increase data access as a means of promoting competition and innovation in the tech sector. The TCA advocates for the use of existing mechanisms, such as the Consumer Data Right (CDR), for improved access to data in sectors with a demonstrated data access deficit. To enable this, it is critical that the shortcomings in the design of the current CDR system be addressed.

We agree that data access regimes must be flexible enough to account for the varying settings, capabilities and needs of different sectors, and must recognise sectors in which data access is already sufficient. However, new pathways must be designed to avoid increasing regulatory complexity and compliance burdens, particularly where data may be collected, processed and shared between sectors. The scope of data covered by new access pathways should align as much as possible with existing mechanisms such as the CDR and international regimes to promote operational efficiency and encourage adoption.

While expanding data access regimes to additional sectors via new pathways can create economy-wide productivity gains, this should not detract from the current review of the CDR which was designed to provide an economy-wide framework. For example, the CDR's nominated representative process contains duplicative and inconsistent requirements to authorise data-sharing, with paper-based forms required for some banks even where businesses already manage access through secure online banking. This creates confusion and complexity that undermines the efficiency gains of streamlined data access, particularly for small businesses with limited resources. Addressing shortcomings in adoption and uptake of the existing regime is key to avoiding regulatory duplication and inefficiency.

Support safe data access and handling through an outcomes-based approach to privacy

Recommendation 3.1: *Introduce an alternative compliance pathway in the Privacy Act*

TCA supports the recommendation in principle

While an outcomes-based approach to privacy regulation can better facilitate innovation by accounting for the diverse contexts in which privacy regulations apply, the introduction of an alternative compliance pathway into the Privacy Act, whether by way of a defence or safe

harbour model, risks increasing operational complexity and costs and creating regulatory uncertainty.

We support a flexible approach to privacy regulation with clear obligations and compliance expectations. However, any measures to introduce outcomes-based privacy protections must be underpinned by clear, measurable standards to prevent regulatory guesswork. There must be clear regulatory guidance as to how entities should navigate a 'dual track' compliance regime in light of the existing Australian Privacy Principles. In particular, the interaction of compliance pathways with the self-contained privacy regime in the CDR must be considered. Unnecessary layers of privacy regulation creates unnecessary friction, undermining the adoption of data-sharing regimes.

Any reforms to privacy regulation must have regard to interoperability with international approaches. Introducing an alternative compliance pathway in the Privacy Act should not require businesses to introduce separate compliance models for Australia, which would be costly and deter local investment and innovation.

Recommendation 3.2: Do not introduce a right to erasure

TCA supports the recommendation

Introducing a GDPR-style right to erasure as another piecemeal addition to the Privacy Act will create significant operational and compliance burdens. It may also lead to regulatory uncertainty where it may conflict with existing data retention obligations. Australia's privacy regulation should focus on delivering meaningful protections for individuals through clear and coherent obligations. It is not clear that a general right to erasure would deliver substantial additional benefits to individuals beyond available existing deletion and correction rights to justify the increased regulatory complexity.

A general right to erasure also creates risks in relation to data integrity and security. In large and complex systems, deleting certain pieces of information can unintentionally break connections between records. This makes it harder for businesses to keep accurate historical data and can weaken measures that help detect fraud or cyber attacks.

Enhance reporting efficiency, transparency and accuracy through digital financial reporting

Recommendation 4.1: Make digital financial reporting the default

The TCA supports the recommendation