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Commissioner Lisa Gropp
Resources Sector Regulation
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne VIC 8003

Via online portal

Dear Commissioner Gropp

Thank you for the opportunity to contribute to the Productivity Commission (the Commission) examination of regulation affecting the resources sector and efforts to highlight best practice. We found the opportunity to participate in a roundtable discussion with you and other representatives of the Commission at the offices of the WA Chamber of Minerals and Energy in Perth on 15 October 2019 useful and insightful.

Alcoa of Australia

For context, Alcoa of Australia Limited (Alcoa) has operated in Australia since 1963. Our operations represent one of the world's largest integrated bauxite mining, alumina refining and aluminium smelting systems. Our two bauxite mines and three alumina refineries in Western Australia produce almost 45 per cent of Australia's alumina. Alcoa Portland Aluminium Smelter in Victoria produces approximately 13 per cent of the nation's aluminium.

<u>Alcoa Key Statistics 2018</u>:

- 4,250 permanent employees, most of whom live in regional Western Australia and Victoria
- AU$668 million annual wages and benefits
- Approx. AU$2.4 billion per annum in expenditure, 76% of which is local content spend
- Approx. AU$690 million paid to local, state and federal governments

Best practice regulation

Best practice regulation is characterised by the following elements:
- builds from existing initiatives and arrangements rather than creating overlap and duplication;
- consists of a mix of legislation and non-binding instruments, including guidelines and industry codes, to produce a constructive mix of certainty for ongoing business arrangements and flexibility for requirements to change over time;
- sets out clear and distinct roles for state and federal governments;
- costs associated with the regulation are supported by a strong justification, business case and risk-based assessment;
- recognises that Australian businesses operate in a competitive international market; and
- is implemented by an appropriately resourced lead regulator.

In the last 12 months, Alcoa has entered submissions into several federal processes and inquiries in which it has drawn on the above elements in proposing ways forward for federal regulation. Below are some examples.

Building from existing arrangements and avoiding duplication

Earlier this year the Department of Jobs and Small Business led consultations on the Payment Times Reporting Framework. The framework will require large businesses with over $100 million in turnover to publish payment information on how they engage with small businesses.
In 2017, the Business Council of Australia launched the Australian Supplier Payment Code, a voluntary, industry-led initiative to affirm the importance of prompt and on-time payment to small business suppliers. Alcoa was one of the first Australian companies to sign up to the ASPC. As in many companies, the ASPC built on Alcoa's existing Local Community Policy which supports eligible local suppliers operating businesses in communities local to our regional operations with, amongst other things, 30-day payment terms.

Alcoa advocated for the federal government to consider the ASPC and, rather than overlaying a payment term framework over the ASPC, we suggested replicating the terms of the ASPC and building from that foundation. The Framework is still under consideration by the federal government and we remain hopeful of a streamlined approach.

Australian businesses in an international market

Regulation of Australian business must take in account the impact that new or complex regulation will have on the ability for mining and resource companies to compete globally for customers and market share. For Alcoa, as with many multinational companies, Australian-based entities also compete for internal capital within their global business structures to resource new and existing operations.

There are many examples of regulatory issues which challenge the ability of business in Australia to be internationally competitive, including:

- increasing complexity of environmental approvals processes; assessments that a decade ago required hundreds of pages of supporting documentation now require thousands of pages;
- further requirements in relation to local jobs and training, in excess of existing arrangements and investments, which add delays and costs to the commencement of major projects and ongoing operations; and
- uncertainty regarding federal and state climate policies and the flow on effect for energy generation the availability of internationally competitive energy prices.

These headline issues have been raised many times with successive Australian Governments by the resources sector. Less obvious examples can be found in government regulations which support interventions in markets for imported goods and raw materials, including in relation to anti-dumping provisions under the *Customs Act 1901* and associated regulations.

Alcoa made a submission in response to the recent Anti-Dumping Commission inquiry into alleged dumping of ammonium nitrate by China, Sweden and Thailand into the Australian market. The Commissioner upheld the dumping allegation and approved several anti-dumping measures. The effect of those measures will be to lower import competition from international sources into Australia and impact on Alcoa's ability to negotiate on a level playing field to source an internationally competitive contractual supply of ammonium nitrate.

While the discrete impact of this type of regulations is modest, the combined effect of these and the broader regulatory hurdles present material challenges to the competitiveness of Australian operations in a global context. The World Bank's recent "Doing Business 2019" report, which compares business regulation for 190 economies, reflects the challenges Australian businesses face, in light of notable progress made by regional competitors, including India and China.

Implementation by a lead regulator

The administration of the Australian shipping industry by the Department of Infrastructure, Regional Development and Cities (DIRDC) under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* and its associated regulations is a good example of the benefits to industry of implementation of regulation by a lead regulator.

Alcoa's engagement with DIRDC has generally been helpful and timely; DIRDC's strength is its case officers that have built people-to-people links and relationships with individuals within our business. DIRDC also offers the opportunity to participate in training courses for industry representatives. The online Coastal Trading Licensing System portal is simple to use and aids in the submission of applications and timely authorisations. These outcomes are possible because of DIRDC's clear mandate and resourcing to implement the relevant regulations.

Resourcing regulators

Best practice regulation relies on the quality of the underlying processes and also the capacity for regulators to deliver on their roles and responsibilities. While in many cases there is a clear opportunity to improve on current processes, there are also opportunities for regulators to be appropriately resourced to implement existing regulations in support of an improved outcome for industry.

Alcoa's recent submission to the Select Senate Committee inquiry into the Northern Australia agenda focused on an example of this in the context of the Northern Land Council. While changes may usefully be made to the Aboriginal Land Rights Act to streamline and clarify existing processes, more fundamentally, the NLC needs to be funded to fulfil its legislated role; including the number of positions it has, its ability to seek out, attract and retain high-quality staff, and resourcing for its officers to deepen their understanding of its stakeholders, including the ability to offer further training and more frequent travel into remote areas. This would undoubtedly improve prospects of business investment in the NT.

A question was asked by the Commission during our recent discussion in Perth: where does political will stop in efforts to drive best-practice regulation? In some contexts, the answer is: at the point in which government is required to consider increased public spending on government bureaucracy. While not always politically palatable, sometimes more government officials and resources are needed to expedite existing processes rather than amending or reworking processes.

Cost and benefit

Increases in the cost to business from regulation for licensing and other fees or levies must be accompanied by a business case, risk-based application and improvement in the quality of service. The importance of this is best highlighted using the example of the Biosecurity Levy (the Levy) proposed by the Department of Agriculture earlier this year and set out in the 2019-20 Federal Budget.

The rate of the Levy on types of imports is unrelated to the biosecurity risk created, it is not clear that the funds collected from the Levy will be set aside for biosecurity purposes, there are no specific new initiatives in biosecurity to be funded directly by the Levy and no suggestion of improvements in the time it takes to undertake biosecurity screening or other related services.

Imposing a $1 per tonne levy on imported bulk commodities which represent a very low biosecurity risk, like the caustic soda Alcoa's uses in its alumina refineries, and without any other rationale is effectively a tax. This again raises issues around the competitiveness of Australian business when viewed in a global context.

The Biosecurity Levy Steering Committee made several recommendations that would assist the Government in improving current regulations to more closely resemble best practice. In particular, its key recommendation that an "authoritative, science-based, biosecurity risk analysis" be completed as "a matter of urgency" aligns with Alcoa's position. We remain hopeful that Government adopts the Committee's recommendations and refines the focus and application of the Levy.

Moving forward

When regulation does not set out clear processes, including timelines, deliverables and accountabilities, this leads to higher costs to business, extended project delivery periods, longer lead times for new job creation and reputational damage for the sector which continues to work hard to grow and sustain its social licence to operate. Best practice regulation reduces risks to business, including risks to project costs, risk to project schedule and risk to reputation.

We are encouraged by the work of the Commission and thank you for the opportunity to contribute. We look forward to the results of your work.

Yours sincerely

Joanna McKenzie

Vice President, Government Affairs – Asia Pacific
Alcoa of Australia