

Paddock to Plate

Reform of regulations to enhance competitiveness, increase productivity and decrease the cost of doing business

Retailer & Supplier Roundtable Ltd
Whole-of-industry review of regulatory hurdles
August 2014



1 Paddock to Plate regulatory hurdles: at a glance

Introduction

The Retailer and Supplier Roundtable (R&SR) brings together the producers, manufacturers, suppliers and retailers of consumer goods in Australia. At the core of R&SR's commitment to achieve policy outcomes for the sector is regulatory reform that enhances competitiveness, increases productivity, and decreases the cost of doing business and ultimately the cost to the consumer. In its *Policy to Boost Productivity and Reduce Regulation*, the Coalition has committed to reduce the regulatory burden on industry. This paper gives a snapshot overview of the regulatory concerns facing the Paddock to Plate sector as a whole, as well as the individual concerns of the industry at each gate.

Paddock to Plate Overview

The Paddock to Plate sector is comprised of industries within the production, processing/manufacturing, transportation and retail sector continuum.



Production



Processing



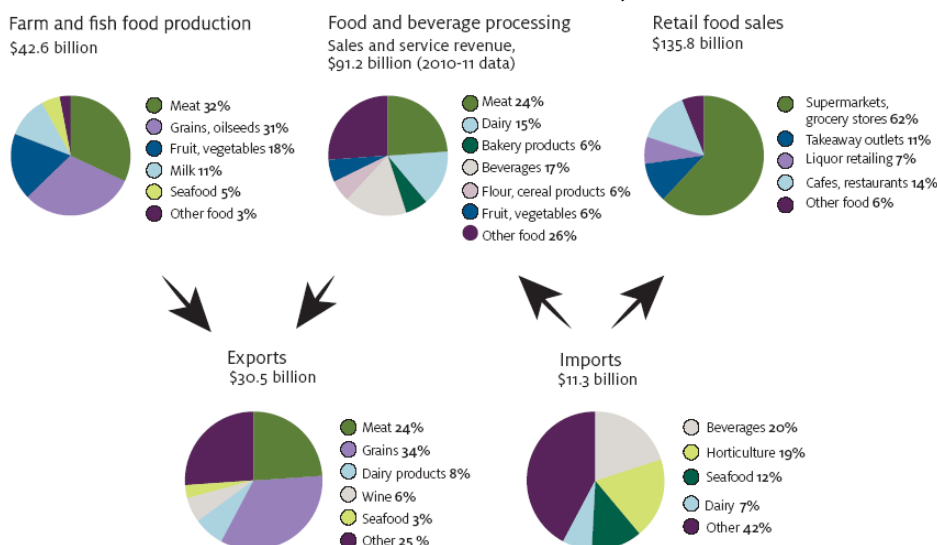
Transportation



Retail

Each industry within the Paddock to Plate sector makes a large contribution to the Australian economy. The overall value chain of food in Australia represents a total of **\$311.4 billion**, as illustrated in the chart below. This represented **21%** of total Australian GDP in the same year.

Value chain for food in Australia, 2011-12



Data sources: ABS (2012abcd; 2013ab), DAFF Australian Food statistics 2011-12

In addition, the food sector employs around 1.64 million people – approximately 15% of the total employment in Australia (ABS 2012, DAFF Australian Food Statistics 2011-12).

Current complexities of regulation

There are many national regulators and state and local government agencies in Australia contributing to the complex regulatory environment. Some of the national agencies include Food Standards Australia New Zealand (FSANZ), the Australian Pesticides and Veterinary Medicines Authority (APVMA), the Therapeutic Goods Administration (TGA), the National Industrial Chemicals Notification and Assessment Scheme (NICNAS), National Heavy Vehicle Regulator (NHVR), the National Transport Commission (NTC), the Australian Competition and Consumer Commission (ACCC), the National Measurement Institute (NMI), the Department of the Environment, and the Department of Agriculture (DoA). In addition, there are many state and local government agencies, some of which duplicate the national bodies. The National Farmers' Federation (NFF) reports¹ that analysis undertaken by AgForce Queensland found that at the state level alone, farm businesses are regulated by more than 55 Acts and Regulations amounting to over 9,000 pages. In Tasmania, it has been estimated that the cost of compliance amounts to some 14% of net farm profits.

In its 2012-13 Global Competitiveness report, the World Economic Forum ranked Australia's burden of agricultural policy costs in 20th place out of 148 economies (in terms of least burden). While this is a relatively positive result, it is noted that in 2009 Australia had ranked in 3rd place, demonstrating a worsening position relative to the rest of the world. In contrast, New Zealand has consistently ranked in 1st place in 2009 and 2013 with its agricultural policy seen to balance well the interest of taxpayers, consumers and producers. Furthermore, Australia's ranking in relation to the *burden* of regulation is at a dismal 128th versus New Zealand's 13th ranking of 148 countries.

Although various regulations have been implemented (mostly in isolation) to promote desirable outcomes in these sectors, layers of regulation, often duplicated and not always consistent across jurisdictions, have progressively emerged. In addition, the appropriateness of various regulations has not always kept pace with technological advances, or changes in ways of doing business. Also, the benefits *vis a vis* the costs of regulation have not always been clearly understood. Consequently, it is critical that regulation is regularly reviewed for appropriateness and effectiveness, and that the most efficient and cost effective measures are adopted. This is particularly relevant across the Paddock to Plate supply chain, where regulation in one sector, can impact on another, often inadvertently. It is thus important that each element of the sector is not considered in isolation, but as an element of a whole.

The benefits of review, deregulation, and reducing costs of compliance are well recognised. The Productivity Commission (PC) notes that regulatory reform can provide substantial gains for business, households, and government² and there have been various attempts by successive governments to reduce red tape, and ensure regulation is kept relevant and appropriate. Much of the Council of Australian Governments (COAG) Seamless National Economy program from 2008 was relevant to the Paddock to Plate sector, however, the issues addressed were largely generic and there has not been a specific work stream focussed on the Paddock to Plate sector. Accordingly, there is still much work to be done on key concerns such as labour supply and arrangements, food labelling, environmental approvals, shopping hours and transportation.

¹ National Farmers' Federation (2013), Issues paper: Red Tape in Australian Agriculture.

² Productivity Commission (2012), Impacts of COAG Reforms: Business Regulation and VET, Volume1 – Overview, Chapter 3.

Paddock to Plate sector priorities for reform

The following areas have been identified as impacting the productivity and competitiveness of the Paddock to Plate sector as a whole. These are:

- 1) Inflexible labour laws
- 2) Transportation inefficiencies
- 3) Duplication issues across national, state and local legislation (Coordination & Collaboration)

1. Inflexible labour laws

It is recommended that:

The Government provides increased flexibility in labour laws so that they better align to the reality of the Paddock to Plate sector. Including:

- enhanced flexibility in awards and agreements in recognition of the labour needs of the sector; and
- improving arrangements around access and administration of overseas labour through the Seasonal Workers Program and Working Holiday visa schemes.

Labour laws are highly regulated in Australia. This includes regulation of hourly pay rates, hours worked, benefits and superannuation, amongst others. The labour supply in Australia is also regulated in terms of temporary labour employment where there are gaps in local supply (i.e. in the agricultural production sector).

Generally speaking, labour laws in Australia are based on the assumption that the labour needs of the agricultural, processing, transportation and retail sector can be achieved through the standard 9 to 5 daily work schedules; whereas the reality is that the agricultural production and food processing sectors' labour needs spike significantly during short but intensive harvest times; the transportation sector's work is regularly conducted during night hours; and the retail sector services its consumers primarily during weeknights, weekends and peak seasonal times (such as holiday periods). Downstream elements of the processing sector follow seasonal fluctuations in agricultural production and must also meet the consumer-driven weekly cycles of supermarket retail sales. As a result, the real wages that are paid in these industries are significantly higher than other industries when overtime and penalty rates are considered.

The Seasonal Workers Program (SWP) is generally supported but it requires some fine tuning to make it less expensive and more accessible to the agricultural sector. It provides the agricultural production sector with access to temporary labour from the Pacific and Timor Leste but comes with restrictions on the length of stay and guarantee of minimum hours for the workers. This regulation poses a challenge to farmers when seeking labour for short but intensive harvest seasons. In addition, employers have to contribute to the international and domestic travel costs for the workers in addition to wage rates and benefits stipulated by labour laws. The administrative requirements (e.g. superannuation payments) in facilitating the schemes also increase operational costs.

2. Transportation inefficiencies

It is recommended that:

- The Road Safety Remuneration System be abolished in acknowledgement of existing and effective mechanisms and systems in place to drive safety improvement.
- Support be provided to the National Heavy Vehicle Regulator to encourage states and territories to collaborate in achieving:
 - consistency across states in regards to vehicle specifications, curfews and travel time restrictions, goods transportation and load limitations, and driver fatigue laws, however not at the expense of flexibility in national standards;
 - consistency between the national standards and guidelines of the NHVL, livestock transport (and animal welfare), and workplace health and safety standards; and
 - provision for a single national primary producer concession that acknowledges the low on-road usage of heavy vehicles by primary producers.

There have been two significant movements in the transportation industry recently, namely the introduction of the National Heavy Vehicle Regulator (NHVR) and the Road Safety Remuneration (RSR) system. While the former is welcomed as a much needed reform catalyst in the transportation sector, the latter has been heavily criticised and even condemned by many peak industry bodies.

The criticism of the RSR system includes views that its underpinning legislation is duplicative of obligations of the workplace health and safety laws and modern awards made by Fair Work laws, and that its heavily prescriptive regulations are regarded to significantly increase red tape and transport costs without any evidence that it will deliver any tangible improvement in safety. The Chain of Responsibility obligations currently being developed under the NHVR are regarded as a better key to improving safety in the industry.

The establishment of the NHVR is a step in the right direction, especially in light of a Regulation Impact Statement (RIS) undertaken in 2011 finding 368 issues arising from variations in regulations between the states and territories, and assessing that total gains of \$12.4 billion would be possible pending implementation of national standards without any state deviations.³ To achieve that end, further collaboration is needed by the various states and territories to address variations and limitations in their transport infrastructure, fatigue laws, workplace health and safety, livestock welfare regulations, and heavy vehicle charges and rates.

³ NTC, Heavy Vehicle National Law – Regulation Impact Statement, September 2011.

3. Duplication issues across national, local and state legislation (Coordination and Collaboration)

It is recommended that:

- The Productivity Commission conducts an inquiry across the Paddock to Plate sector to identify and reform duplicative national, state and local legislation, including opportunities for alignment with internationally accepted standards, in place of the pursuit of duplicative or uniquely Australian standards.
- The Federal Government seeks to enhance coordinated action between state and territory governments by setting a national approach to legislation, through incentive schemes and/or by creating a national body such as a National Red Tape Commissioner to lead the reform.

It is recommended that the Federal Government consider addressing several cross-jurisdictional issues by enhancing coordinated action between state and territory governments. While state and territory governments generally have powers to regulate over many matters relevant to rural businesses, the Australian Government often assists in coordinating a national approach, or otherwise supporting their activities.

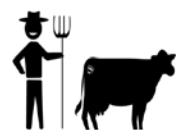
The areas outlined below all pose significant costs as a result of inconsistencies in regulations across federal, state and local levels of government. They are explored in detail in the body of this paper.

Duplications in regulations across federal, state and local levels of government

Production



- Land development and expansion are constrained by regulations on land use, which is governed by both the *Federal Environmental Protection and Biodiversity Conservation Act 1999* (EPBC) and by state regulations. The duplication in governing bodies have resulted in inconsistencies between threatened species and ecological communities at a state and federal level, which have delayed and/or stalled development processes such as approvals to clear patches of native vegetation.



- Implementation of regulations such as the *Water Act 2007* has required multiple entities to collect water data, using various formats and reporting mechanisms. The lack of a standardised collection and reporting system has imposed burdens on farmers as they are subject to excessive water data collection requests.

Processing



- The regulation by both national agencies and state governments on food health and safety (e.g. cleanliness, hygiene and aspects associated with the preparation and provision of food) have posed regulatory burdens on the sector through excessive and overlapping assessment and audits, and inconsistent approaches by the various entities in their regulations, resulting in unnecessary large costs for food manufacturers.
- States and territories set their own individual regulatory requirements for waste management (e.g. definitions, waste classification systems and exemption processes), creating inconsistencies and problems for industry and discouraging resource recovery. Also, as waste management systems are under local government purview, outcomes can be inefficient with a lack of sophistication in planning and use of technology.

Duplications in regulations across federal, state and local levels of government

Transportation



- States and territories set their own road access and transport conditions, creating inconsistencies between jurisdictions that result in lowest common denominator measures adopted and lengthy processes, minimising efficiencies. This includes heavy vehicle road access permit processes, vehicle specifications, loading limitations, curfew and travel times, and fatigue management systems.
- Inconsistency between fatigue laws, workplace health and safety (WHS) and livestock welfare regulations confuses heavy vehicle operators and constrains productivity.

Retail



- Duplication of regulation of trading hours across states and territories results in supermarket operational inefficiencies on a national level. The inefficiencies arise out of the need to arrange alternate delivery options and deal with consumer demand spikes during weekends and public holidays. This can result in additional negative impacts for the community.
- State-based regulations on retailing of products that are introduced without full impact analysis prior (e.g. unit labelling, sale of tobacco products) can unnecessarily increase costs to retailers and consumers.

Each of the sections outlined above are explored in greater detail in the body of the report along with other areas of concern in the Paddock to Plate sector.

Detailed discussion of regulatory hurdles

Production



- **Labour framework:** Agricultural production is constrained by a low supply, high cost and low skilled labour force;
- **Land development, sustainable intensification and expansion** is constrained by regulations on land use;
- Costly and time consuming testing of agricultural and veterinary chemicals and medicines constrains the introduction of new products, and increases the cost of products to farmers; and
- Excessive data collection (e.g. water) poses burdens on production.

Processing



- **Non-adherence to best practice regulatory practices results in net costs to industry and consumers;**
- **Technological advances are disregarded in regulatory practices;**
- **Regulations constrain industry access to product and technology innovations, reducing industry's global competitiveness;**
- **Duplication and overregulation in public health and safety regulations has increased compliance costs for little or no demonstrated gain in consumer protection; and**
- **Waste management systems are inefficient and often lack sophistication due to inefficient local jurisdiction management.**

Detailed discussion of regulatory hurdles

Transportation



- The Road Safety Remuneration system constrains industry and drives up costs;
- Road access variations and infrastructural limitations between states result in lowest common denominator measures adopted and lengthy processes, minimising efficiencies;
- Inconsistency between fatigue laws, workplace health and safety (WHS) and livestock welfare regulations; and
- Heavy Vehicle Charges and reduction of Concessional Registration Rates increase operating costs.

Retail



- Regulation of trading hours in some states result in supermarket operational inefficiencies, loss in economic outcomes and restricts response to consumer demands;
- Restrictions on labour flexibility as applied by the General Retail Industry Award is inconsistent with the reality of the retail industry; and
- State-based regulations on retailing of products that are introduced without full impact analysis prior, unnecessarily increase costs to retailers and consumers (e.g. unit labelling, expiry dates).

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3 Production

Australian Government and state and territory government regulations combine to affect farm business operations at each stage of production. Regulation of agricultural inputs covers aspects of land acquisition, land preparation and cropping, and animal husbandry operations. An increasingly important area is regulations and standards that respond to community concerns about various aspects of agriculture, such as environmental sustainability, animal welfare and new technologies.

Despite a volatile operating environment, Australian farmers have demonstrated greater self-sufficiency than their international competitors in both the domestic and international markets. At 0.2% of National Gross Domestic Product (GDP), Australian agriculture has the lowest level of support in the world,⁴ therefore the area where government can contribute towards the competitiveness of the production sector is through the reduction in costly red tape and regulatory burden.

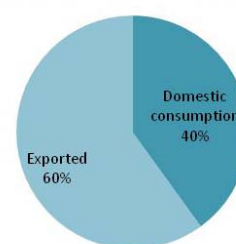
The Australian farm sector is subject to a large number of regulations that touch upon all aspects of their business. It has been estimated that the total cost of complying with all farming regulations constitutes 4.5% of total expenses incurred by farming businesses, and approximately 20 working days are consumed per annum in administration time⁵. Addressing ineffective or duplicate regulations between different levels of government is essential to the long term international competitiveness of the Australian agriculture sector.

Agriculture is a major industry in Australia with approximately 61% of Australian land used for production, with approximately 134,000 farm businesses in Australia⁶. The farms produce 93% of Australian daily food consumption. This proportion represents just 40% of farm production, with the remaining 60% exported to other countries, with the Asian market (e.g. Japan, China, Korea) representing the largest share of the export market.

Global food demand is anticipated to almost double by 2050. Although Asia contains some of the world's largest agricultural economies, the projected increase in consumption in the region will require greater food imports. Australia's agriculture and food sector is well-placed for this due to its proximity to markets in Asia, complementary production systems, strong bio security system, reputation for high-quality and safe food products, and a skilled workforce.

To meet the growing global food demands, productivity needs to be lifted to increase output. The Department of Agriculture (DoA) has identified key areas, including the following:

Australian Farm Produce



Australian Daily Food Consumption



⁴ OECD, Agricultural Policy Monitoring and Evaluation 2013, September 2013

⁵ Homles Sackett, AgInsights 2014

⁶ National Farmers Federation, NFF Farm Facts: 2012

- Industry development and innovation to find solutions to the challenges of production uncertainty and climate change, and reduce energy costs;
- Industry investment, which may require foreign capital;
- Reform of environmental regulation, undertaking agricultural and veterinary chemical reforms and improving the biosecurity system;
- Infrastructure investment that supports rather than impedes sustainable agricultural development; and
- Continued investment in sustainable food production to maintain the health of natural resources.

This section reviews regulations that constrain the productivity, competitiveness, development and innovation of the agriculture industry in Australia. The following issues are highlighted:

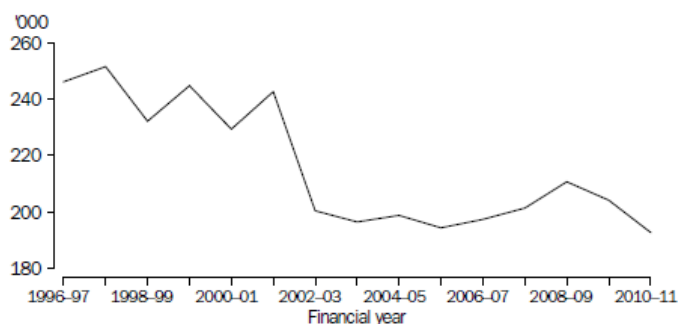
- Labour issues: Agricultural production is constrained by a low supply, high cost and low skilled labour force;
- Land development, sustainable intensification and expansion is constrained by regulations on land use;
- Costly and time consuming testing of agricultural and veterinary chemicals and medicines constrain introduction of new products, and increase cost of products to farmers; and
- Excessive data collection (e.g. water) poses burdens on production.

3.1 Labour issues: supply, costs and skill shortages

Low labour supply

Addressing Australia's agricultural labour issues is central to improving sectoral production. In 2010, the agriculture industry experienced a shortage of 96,000 full-time workers and 10,000 part-time workers⁷, and over the period of 2008 to 2012 employment in the industry has dropped by 1.5% per annum.⁸ The ABS 2012 Year Book noted the following decreasing labour force of farmers in Australia.

Australian farmers and farm managers (employed total), 1996 - 2011



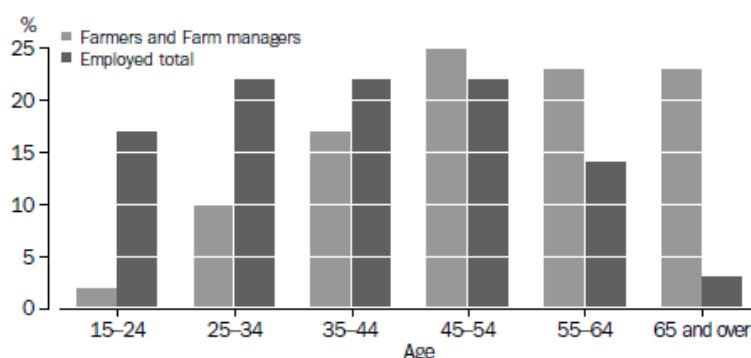
Source: ABS Labour Force survey, 2012

⁷ AgriFood, 2012 Environmental Scan of the Agrifood Industry (Canberra: 2012).

⁸ Hume Workforce Development Committee, Agriculture Labour Snapshot: Workforce Planning Australia (Wangaratta: Hume Regional Development Australia, 2012).

The issue of a decreasing supply of labour in agriculture production is compounded by a fast ageing workforce. The ABS noted that in 2010-11, the median age of farmers was 53, compared to 39 for all employed persons in Australia, and that 23% of farmers were aged 65 and over⁹. The NFF's Farm Facts 2012 report estimates that by 2018, the proportion of farmers aged over 65 years will increase to one third of the existing agricultural, forestry and fisheries workforce.¹⁰ On the other hand, the replacement rate is very low as well, with a report from the Australian Council of Deans of Agriculture finding that approximately 4,000 jobs are available for, at best, 700 graduates.¹¹ This is shown in table below sourced from the ABS, where only 12% of farmers and farm managers are less than 35 years of age.

Australian farmers and farm managers by age group, 2010-11



Source: ABS, Labour force survey, 2012

Seasonal Workers Program and Working Holiday visa schemes: Inflexibilities and high costs

To counter the low supply of labour, farmers are given access to temporary and permanent overseas labour through a variety of programs and visa arrangements, including the Seasonal Worker Program (SWP), the working holiday-maker (WHM) and temporary business visa schemes. However these measures come with significant limitations and costs.

The SWP provides the agricultural sector with temporary workers from the Pacific and Timor Leste, while the WHM does this with backpacker labour. The SWP program is currently capped at 2,500 workers (scheduled to increase to 4,250 in FY 2015-16), which does not cover the labour supply shortage. It is noted that New Zealand's equivalent program Recognised Seasonal Employer is capped at 8,000 workers and took on 7,456 workers in 2012-13, compared to Australia's 1,473 workers in the same period.

The experience in New Zealand shows that the SWP is a strong solution to the labour shortage issue during peak seasons. However, the uptake on the SWP has been low. Issues relate to the high red tape involved in applications, the low annual cap, the low level of awareness of the program due to lack of promotion, and the high costs of the program due to employers paying for the cost of transfers (which can be particularly significant in remote farms). Most importantly, the SWP requires the employer to guarantee the SWP worker a minimum length of time and hours of work. Options available are either six months work at 30 hours per week; five months

⁹ ABS, Labour Force and Other Characteristics of Farmers 2010-11.

¹⁰ NFF, 'National Farmers Federation Farm Facts', 2012, <http://www.nff.org.au/farm-facts.html>.

¹¹ Jim Pratley, Professional Agriculture: A case of supply and demand (Melbourne: Australian Farm Institute, 2012), 7.

work at 35 hours per week; or four months' work at 38 hours per week. This is a significant challenge for farmers as most agricultural crops that require picking tend to have a fairly defined, relatively short season. It is also inflexible as it does not permit variations necessary to accommodate seasonal conditions.

In contrast, the WHM program provides more flexibility to farmers to cater for short intensive labour periods. The WHM offers backpackers the incentive of a twelve month extension on their holiday visa if they work for three months in the agricultural sector, thus ensuring a high popularity. This has resulted in a high supply of backpackers, but farmers note that the productivity, consistency and quality of backpackers can be lacking as they are largely there for a holiday rather than work.

In addition, the labour regulations add costs to the SWP and WHM programs through high minimum wages, penalty rates and superannuation payments. In 2013, Australia had the world's highest minimum wage at \$16.37 an hour, and the rate for a fruit picker is approximately \$20.50 per hour. Under the Pastoral award, farmers need to employ a worker for a minimum of three continuous hours per work session, even if the work is interrupted by storms, or if it is finished sooner than anticipated, thus not reflecting the farm realities that some jobs take less than three hours. There is also a maximum of 38 hours per week per worker, which is an issue during harvest seasons where work is often required to be continued over the weekend. As a result, penalty rates apply taking the hourly rate up to \$45 per hour. To put this into context, if an hour's work is required on a Sunday, the farmer will have to pay the worker \$135 (\$45 times three hours), which is six times the effective hourly rate. Overtime rates also apply. These combine to significantly increase costs to farmers. And, obviously, significantly increase the end cost to consumers.

Superannuation payments

Farmers are also required to pay superfund contributions to the temporary workers which are then refunded to the workers by the Australian government upon exit from Australia. This process clearly circumvents the intention of superannuation policy more broadly. The superannuation payment and administrative processes involved add to already substantial employment costs that farmers pay.

Accordingly, it is recommended that the current superannuation system for temporary residents is reviewed, in particular, the sole purpose test for superannuation, increasing the minimum threshold for contributions under the superannuation guarantee charge (SGC), and visa holders' access to funds.

Skill shortages

In addition to supply shortages, are significant skills shortages that exist across the agricultural industry, hindering productivity growth. In 2011-2012, only 48% of job vacancies were filled with an average of just 1.2 suitable applicants per job.¹²

There is a lack of emphasis on education and training in the industry, reflecting a disconnect between employer needs and the availability or structure of training offered. There is thus low levels of industry participation in vocational education and training and a lack of time to train, compounded by the need to travel significant distances to and from structured learning activities

¹² DEEWR, Skills Shortages – Summary 2011 - 2012, Canberra: 2012

(among other factors)¹³. ABARES research has shown that farmer educational attainment has a positive and significant impact on farmers' innovativeness, in terms of the number of new practices or technologies implemented by farm businesses that they are likely to continue using¹⁴. As farm systems become more complex, farmers will need more advanced skills to better manage risks, and to identify and apply new technologies and management practices. Demand for skilled farm labour will increase as farm businesses seek to capture the benefits of more sophisticated technologies, and raise farm capacity for innovation and adoption.¹⁵

There is also scope for established farmers to invest in improving their productivity by continuing more targeted education and training. Given constraints on farmers' time and travel, advanced communication technologies may increase their access to, and engagement with, more flexible learning opportunities.

Recommendation

Wider labour market reforms are potentially a high priority for Australia. Improving flexibility in wage determination and recruitment, and enabling businesses to make organisational changes more easily, could yield productivity improvements for many rural businesses. To this end, the agricultural sector calls for enhanced flexibility in awards and agreements, in particular as they apply to temporary labour in the workforce. In addition, improving arrangements around access to overseas labour, including temporary and permanent migrant workers, could also serve to improve agricultural productivity.

The agricultural sector also seeks support in promoting study of agriculture in tertiary educational institutions, educational programs for farmers, and research and development into technology and innovation in farming to counter labour issues (e.g. advanced mechanical systems to replace manual work; farming technologies to reduce the intensity of labour). In summary, the following actions are recommended:

- The Government should seek to enhance flexibility in labour awards and agreements, with additional consideration given to regulations on seasonal labour and workers in the transportation and retail sector;
- Arrangements around access and administration of overseas labour should be improved, including the Seasonal Workers Program and Working Holiday visa schemes, and review of superannuation payment requirements.
- The Government should seek to encourage agricultural studies through its higher education policy levers (such as FEE-HELP and Commonwealth Subsidised Places).

3.2 Land use regulations

Approximately 61% of Australia's total land area is reported as agricultural holdings. The ABS reported that in 2011-12, 88% of this land was used for grazing purposes, of which only 12%

¹³ IDC, *Workforce, training and skills issues in agriculture: final report*, report to the Primary Industries Ministerial Council by the Industries Development Committee Workforce, Training and Skills Working Group, Canberra, 2009

¹⁴ Nossal, K & Lim, K, *Innovation and productivity in the Australian grains industry*, research report 11.06, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, 2011.

¹⁵ ABARES, *Australian agricultural productivity growth: Past reforms and future opportunities*, February 2014

was on improved pasture. Crops represented 8% of agricultural land. This indicates that a significant portion of agricultural land is unimproved.

Farmers play an important role in managing Australia's natural resources. Over half of Australia's land is managed by farmers and much of Australia's remaining native vegetation is found on this land.¹⁶ Any development on farming land such as vegetation changes, clearing of native vegetation, subdivisions, and dam development requires approval. The key issues facing farmers is the lack of clarity regarding environmental regulation, and duplicative and overlapping processes requiring separate environmental and planning approvals from federal and state governments.

Matters of national environmental significance are governed under the Federal *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC), while farmers may also be required to have state approval: a completely separate set of guidelines, rules and requirements sometimes for the same species of plant or animal or indeed ecological community¹⁷.

In a submission to the Senate Standing Committee on Environment and Communications dated January 2013, the NFF cited the following:

One of the major issues confronting land managers is the confusion that abounds between threatened species and ecological communities at the state and territory level compared to the federal jurisdictional level. For example, while an individual species or ecological community may be listed on both the state/territory and federal lists, these are very likely to have different scientific definitions, different geographic coverage and different thresholds that determines if a landholder needs to refer and subsequently apply for an approval under the relevant jurisdictional legislation.

In practice, the overlapping regulations can result in major development projects being stalled due to drawn out application processes to clear a patch of native vegetation. Farmers may be required to complete multiple applications to get a simple approval. These regulatory burdens can constrain development and expansion.

While such 'command and control' approaches can increase the provision of socially valued ecosystem services on private land, they are typically inefficient because of the heterogeneity of the ecosystem services (however assessed) and opportunity costs across rural landscapes. In contrast, greater use of market-based instruments (such as biodiversity tenders) would exploit this heterogeneity and may achieve similar (and, in some instances, potentially greater) levels of ecosystem services, at a lower cost to farmers¹⁸. While some governments have sought to lower the cost to farmers of seeking approvals to change native vegetation management (such as in New South Wales), there nevertheless remains scope to improve the efficiency with which many states achieve socially acceptable levels of environmental outcomes.¹⁹

As of the 1 July 2014, the Australian Government passed legislation to facilitate the one stop shop policy and to allow for cost recovery for environmental assessments under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act).²⁰ The establishment of a 'One-Stop Shop' under this legislation to accredit state planning systems

¹⁶ Harris-Adams, K, Townsend, P & Lawson, K, *Native vegetation management on agricultural land*, research report 12.10, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra, November 2012.

¹⁷ NFF Issues Paper: Red Tape in Australian Agriculture, September 2013.

¹⁸ Davidson, A, Lawson, K, Kokic, P, Elliston, L, Nossal, K, Beare, S & Fisher, BS, *Native vegetation management on broadacre farms in New South Wales: impacts on productivity and returns*, eReport 06.3, Australian Bureau of Agricultural and Resource Economics, Canberra, 2006.

¹⁹ ABARES, Australian agricultural productivity growth: Past reforms and future opportunities, February 2014

²⁰ <http://www.environment.gov.au/epbc/cost-recovery>

under national environmental law to create a single environmental assessment and approval process for nationally protected matters is welcome and supported. However, it is noted that the cost recovery structure (based on the Cost Recovery Impact Statement (CRIS) completed by the Department of the Environment²¹) requires that a simple landholder referral and assessment will cost \$7,352 plus base costs and complexity costs ranging from tens to hundreds of thousands of dollars (assessed on a case-by-case basis), and will be applicable regardless of assessment outcomes. The high costs resulting from the Cost Recovery regulations will likely constrain development of agricultural land with farmers reluctant or unable to meet the high costs required. It is noted that individuals and small businesses with an annual turnover of \$2 million or less will be exempt from the cost recovery system, however this may be insufficient.

Recommendation

The creation of a single national environmental and approval process is supported with emphasis on reviewing the Environmental Protection and Biodiversity Conservation (EPBC) Act in regards to regulatory limitations on agricultural land development and investment, however the Cost Recovery system should be reviewed to reduce costs involved to ensure that development is not constrained.

3.3 Regulation of agricultural and veterinary chemicals

The major challenges arising from the regulations of agricultural and veterinary (agvet) chemicals are:

- The cost of and access to permits for minor use of agvet chemicals and medicines due to time-consuming and costly requirements for testing and registering new products; and
- Overlap, inconsistency and duplication in agvet chemical and medicine regulation across jurisdictions and the Work, Health and Safety (WH&S) requirements.

The expenditure on Agricultural and Veterinary (AGVET) chemical products represented 35% of total farm cash costs for broad acre farms and 10% of dairy farms in the period of 2012-13²². The table below shows that sales and prices of agvet chemicals have increased significantly with a compound annual growth rate of between 4.5% and 20.8% in the period of 2010 and 2012.

Australian sales and prices of agricultural chemicals (\$'000s)				
Year	Herbicides	Fungicides	Insecticides	Animal Health Products
2003	916,272	161,830	300,576	597,882
2010	1,192,623	182,085	329,894	820,437
2012	1,301,905	256,096	481,349	944,350
10 yr CAGR (%)	4.0%	5.2%	5.4%	5.2%
3 yr CAGR (%)	4.5%	18.6%	20.8%	7.3%

Source: ABARES, *Agriculture Commodities Statistics*, 2013

²¹ Department of the Environment, Cost Recovery Impact Statement: Cost recovery for environmental assessments under the Environment Protection and Biodiversity Conservation Act 1999, July 2014-June 2015

²² DoA, Farm Survey Results 2013.

Access to safe and effective agvet chemicals is important to Australian agricultural and livestock industries, the community and the environment. However, Australian farmers sometimes have trouble getting access to agvet chemicals that are available to their competitors overseas²³. A factor of this is the complex regulatory processes involved with registering an agvet chemical for its use in Australia. Due to the small size of the Australian market this can make it uncommercial for chemical manufacturers, and often the costs are passed on in the form of higher chemical costs to farmers.

The recent experience of the agvet legislation also highlights much room for improvement in regulatory reforms, in particular, performing due diligence by involving industry in consultations and undertaking regulatory impact assessments prior. The *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013* commenced on 1 July 2014. The major impact of this reform was the introduction of mandatory re-registration of agvet chemicals every 7 - 15 years. There was immediate concern and criticism from industry that this would result in many existing chemicals becoming either temporarily or permanently unavailable to farmers. Further it was argued that the legislative amendment requirements duplicated the Chemical Review Program already undertaken by the Australian Pesticides and Veterinary Medicines Authority (APVMA)²⁴, presenting an unnecessary burden to industry.²⁵ The DoA immediately proposed bill amendments to remove the compulsory re-approval and re-registration of chemicals and streamline the process, which ultimately passed through the Senate on 14 July 2014.

Considerable effort and expense were required from industry and government to fix an issue that resulted from poor regulatory practices. Should the *Agvet Chemicals Legislation Amendment Act 2013* have remain unchallenged, this would have reduced farmer access to currently used chemicals; a problem compounded by Australia already having a lower number of new chemicals available for crops relative to comparable agricultural economies, such as the United States and Canada. Between 2008 and 2012 the number of new chemical registrations was similar between the three sampled countries, although the number of crops attached to chemical labels was approximately a third of the number attached in the United States and Canada.

Chemical	Australia		United States		Canada	
	No. of new chemicals	Average no. of crops per label	No. of new chemicals	Average no. of crops per label	No. of new chemicals	Average no. of crops per label
Fungicides	10	7	9	32	7	21
Herbicides	8	2	7	11	5	11
Insecticides	7	9	6	25	4	30
Plant Growth Regulators	1	1	0	0	0	0
Total	26	19	22	68	16	62

Source: Grain Producers Australia, 2014

It is noted that many major chemicals available in the United States and Canada are not registered in Australia, or those which are available in Australia have crop limitations which are not applied in the United States or Canada. The perceived driver for the reduced number of registered crops in Australia relative to other countries stems from the long time frames and

²³ DoA, Improved Access to agricultural and veterinary chemicals, May 2014

²⁴ National Farmers Federation, Red Tape in Agriculture, 2013

²⁵ This viewpoint was supported by the various submissions made to DoA's proposed amendments (<http://www.daff.gov.au/agriculture-food/ag-vet-chemicals/better-regulation-of-ag-vet-chemicals>)

significant costs incurred in the testing and verification process per chemical and crop per label performed by APVMA. These time delays and registration costs increase the economic cost of registering new products in Australia and may be acting as a disincentive to chemical companies in bringing in these chemicals or limiting the number of crops in Australia. As a result, some feel that they have been denied access to cleaner, softer chemicals readily available to their industries internationally.

Other issues impacting farm businesses include the need for harmonisation of control-of-use of agricultural and veterinary chemicals across state borders.

Recommendation

It is recommended that better regulatory practices be undertaken where industry consultation and appropriate regulatory impact assessments are undertaken prior to legislative review. It is also recommended to review and incorporate United States, Canadian and New Zealand chemical registration findings to facilitate Australian chemical registration processes and reduce testing timeframes.

3.4 Excessive data collection

As managers of almost 60% of all Australian land, farmers are often requested to assist with the provision of information to various federal, state and local governments. There are a number of inefficiencies in the system resulting in farmers having to devote substantial time and effort to comply with the burdens imposed on them. An example of this is the collection of water data.

With the Australian Government's implementation of the *Water Act 2007*, there are now several Australian government agencies and authorities collecting water data. These include the Murray-Darling Basin Authority, National Water Commission, Bureau of Meteorology, Australian Competition and Consumer Commission, ABS, and the Department of Environment. State agencies also collect water data. Issues that increase the regulatory burden to farmers include the following:

- 1) In terms of organisations specified to provide information, nine categories are specified, which include various federal and state governmental agencies, local councils and other entities. The majority of entities are specified in multiple categories (e.g. the Cairns Regional Council is specified under categories D, F and H while Sunwater is specified under categories D, E, F and H). In many cases, the different entities/categories require slightly different water data. This means that a farmer may be requested by multiple local, state or federal entities to provide water data, and also to provide different data to the same entity; and
- 2) The format by which the data is to be reported in varies according to the organisation needing the data. The lack of a standardised format or system means that information provided to a local entity under one format cannot be shared with a federal or state entity, resulting in the farmer needing to provide similar data to the other agencies in a separate step.

All of these different data requirements increase the administrative costs for the irrigation organisations and farmers who are required to provide the information – or they pay the costs of doing so through water charges.

This regulatory burden could be *significantly* decreased with a standardised collection system, where all necessary information can be reported efficiently in a single format and in a single session and then distributed as needed. Farmers have also discussed that education on the benefits resulting from the information collected would assist in lifting the burden of this regulation. The sharing of the data analysis outcomes would also be welcome in assisting farmers with drought and water management.

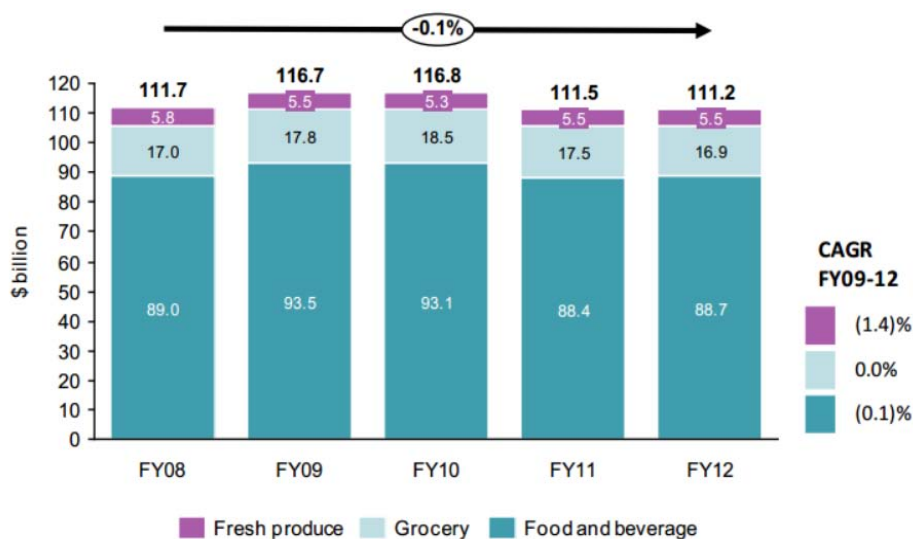
Recommendation

Standardised national collection systems should be reviewed and implemented to reduce duplicative efforts and ease burdens on farmers.

4 Processing

The food and beverage, grocery and fresh produce sectors account for over one quarter of the total manufacturing industry turnover in Australia. In 2012, it represented approximately 25,700 enterprises and employed close to 300,000 people in Australia. In FY 2011-12, the combined turnover of the industry was \$111.2 billion, which represents a decrease from previous years, as shown in the graph below.²⁶

Food and beverage, grocery and fresh produce industry turnover (FY08-12)



After peaking in FY 2010, food and grocery manufacturing industry sales have continued to decline in recent years.

Note: In FY12 dollar value. FY13 data was not available.
 Source: Australian Food and Grocery Council and KPMG | State of the Industry 2013

A comparator analysis done by KPMG and AFGC in June 2014 across 17 international food and beverage companies on their financial performance revealed two major findings which are of concern to the agri-food manufacturing industry, as shown in the following graph:²⁷

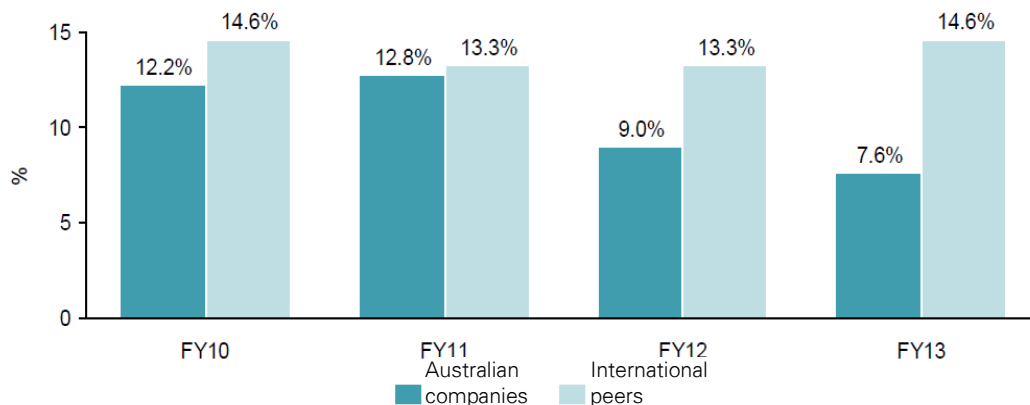
- 1) On an Earnings Before Interest and Tax (EBIT) level, the Australian companies record a relatively low EBIT mean margin of 7.6% of net sales in FY13 versus a 14.8% margin attained by international peers; and
- 2) The gap between Australian and international peer profitability has widened significantly over the past four years, from just 2% in FY10 to 7% in FY13.

The above facts indicate a declining processing industry due to increasing cost bases. As the processing sector is a key component of the Paddock to Plate sector, its decline will adversely impact all other sectors.

²⁶ KPMG and AFGC, State of Industry 2013 report

²⁷ KPMG and AFGC, Competitiveness and Sustainable Growth: Challenges for the Australian Food and Grocery Industry, June 2014; KPMG, Competitive Alternatives: Guide to International Business Location Costs, 2014

EBIT margin of Australian food and grocery manufacturers versus international peers (FY10-13)



Note: Analysis is based on the mean of EBIT margin for manufacturers
Source: Participant data (n=16), CapitalIQ database, KPMG analysis

Australia's higher and rising cost base in agri-food manufacturing can be primarily attributed to issues affecting the whole Paddock-to-Plate sector, namely:²⁸

- Wages & salaries which are amongst the highest in the world, with a wage price index that has increased by 15.5 points from December 2009 to December 2013.²⁹
- Utility costs which has risen by 70% between 2008 and 2012.
- Transportation and distribution costs which are amongst the highest globally for cost of surface freight per load and air freight price per kilogram.

In addition to these challenges is the cost imposed upon the agri-food manufacturing industry due to the burden of regulation. The World Economic Forum ranked Australia a dismal 128th place out of 148 countries in its 2012-13 Global Competitiveness report specifically for regulatory burden (see Appendix 4, part 2).

The competitive challenge raised by Australia's high cost base for manufacturing is exacerbated by globally exposed national markets and highly competitive international markets. This highlights the sensitivity of the Australian food and grocery manufacturing industry to any impacts on its cost base. As such, it is of particular importance that any additional costs imposed upon industry through regulatory impositions, reforms or constraints must therefore be reviewed and justified prior to implementation to enable the industry to remain competitive in a global context. Any existing inefficiencies must also be reviewed to reduce unnecessary cost burdens on industry, which are ultimately passed onto consumers in the price of food. The following issues are discussed:

1. Improvements are required in regulatory processes to reach best practice standards, in particular due diligence processes and enabling of technology innovation;
2. Reducing constraints for manufacturers' access to product and technology innovations;
3. Need to rationalise public health and safety regulations; and
4. Addressing inconsistencies and inefficiencies in waste management.

²⁸ Competitive Alternatives 2014 compares business costs and other competitiveness factors in more than 100 cities, in 10 countries: Australia, Canada, France, Germany, Italy, Japan, Mexico, the Netherlands, the United Kingdom, and the United States.

²⁹ ABS Wage price index: Ordinary hourly rates of pay excluding bonuses (Private sector: Manufacturing industry), 2014

4.1 Best practice regulatory processes

"The current regulation of food and grocery manufacturing falls well short of best practice and may indeed be one of the poorest examples of industry regulation in Australia."

Deloitte Access Economics - Reforming regulation of the Australian food and grocery sector, October 2011

Australia's regulatory burden on the agricultural industry is amongst the highest in the world, contributing to its high and rising cost base. A key factor in helping Australia to improve its efficiency, profitability and growth is the imperative to improve the quality and reduce the quantity of regulations. Due regard should also be given to ensure access to technological innovation is not constrained.

The experiences of food labelling regulations demonstrate areas for improvement. A global overview on labelling regulations show that Australia was one of thirteen countries (out of 79 countries reviewed) that makes food labelling mandatory.³⁰ The majority of countries make food labelling voluntary unless a nutrition or health claim is made. As any regulatory intervention in Australia will result in mandatory action for manufacturers, it is important that regulators ensure that the intervention is reasonable, rational and results in net economic and social benefits.

In recent years there has been a trend towards using the food regulation system to influence lifestyle choices, with the most recent one being the Health Star Rating (HSR) system signed off in June 2014. The HSR is expected to result in significant costs to industry to develop ratings for their product and modify label designs, however no regulatory impact assessment was undertaken to determine the impact upon industry. As a result, the Office of Best Practice Regulation assessed an early version of the regulation as being not compliant with best practice regulation requirements.³¹

The recently approved Health Star Rating (HSR) system was not compliant with best practice regulation requirements as no regulatory impact assessment was undertaken.

Office of Best Practice Regulation, 21 January 2014

The system is now to be implemented voluntarily over the next five years with a review of the progress of implementation after two years. The implementation time frame was originally two years but had been extended to five years following industry input to enable cost effective implementation and the potential for food reformulation and consultation with small and medium sized enterprises.

While it is encouraging that industry views were accounted for in the implementation timeframe, the fact that a labelling scheme with significant cost impacts was approved by government without due diligence done on the net economic and social impact implies lack of regulatory transparency and accountability. The AFGC estimates the HSR implementation cost to range from \$5,000 to \$15,000 per product, meaning millions of dollars in compliance costs to industry. The impact is particularly detrimental on small-to-medium sized businesses.

Another example for the need for best practice regulation lies in Country of Origin Labelling (CoOL) experience, or more specifically the regulatory changes or clarifications made in recent

³⁰ C Hawkes, Government and voluntary policies on nutrition labelling: A global review, 2010

³¹ <http://ris.dpmc.gov.au/2014/01/21/non-compliance-with-coags-best-practice-regulation-requirements-front-of-pack-nutrition-labelling-legislative-and-governance-forum-on-food-regulation-2/>

years over the use of the terms 'Made in Australia', 'Product of Australia' and 'Grown in Australia'. These requirements need first to be placed in context: CoOL represents only one of eleven matters that must be labelled on almost every package of food (see following diagram), and have on its own caused significant debate and resulted in significant cost to industry as several manufacturers have had to repeatedly change or create multiple labels to comply with the Food Standards Australia New Zealand (FSANZ) requirements.

Current food labelling requirements



In addition to costs to manufacturers, the regulatory overview and enforcement cost involved in CoOL is also unreasonably high with the involvement of multiple entities including FSANZ, the ACCC, the Department of Agriculture, Australian Customs and Border Protection Service, and State and Territory governments regulating it under both food and consumer law. Policy for origin labelling is also split across portfolios including Health, the Treasury, Industry and Agriculture. The current inquiry into CoOL announced by the House of Representatives is also likely to consume much resources.

A 2014 Catalyst survey of Australian buyers found that as few as one in six (and possibly only one in nine) shoppers cite country of origin or "Australian" as a top three driver of their purchasing decisions, implying that the significant costs of regulating CoOL greatly outweigh benefits to consumers. Given the cost pressures already faced by manufacturers, it is critical that any regulatory changes or impositions undergo a rigorous regulatory impact assessment process to ensure a clear and justifiable case prior to policy decision-making.

Embedding technological solutions

Food labelling regulations are primarily based on the assumption that food products are sold in physical stores, and that written information on food packaging is required to communicate information. Consumer preferences and practices are evolving, leading to desire for more customised information (e.g. allergies, vegetarian information, processing information and recipes), increase in online shopping, diversity of languages and global markets, and widespread use of smartphone technology. This provides opportunities for using modern technology such as barcode scanning and online channels that are capable of delivering consumer driven personalised content more effectively, flexibly and at an incremental cost than physical food labels. These platforms are also easier for manufacturers to update with regulatory and product changes, and for regulators to monitor and enforce.

As part of best practice regulatory outcomes, consideration should be given to expand the use of these technologies as an alternative to the traditional and increasingly limited labelling systems.

Recommendation

The Government should continue its program of regulatory reform to drive a culture of regulatory best practice including reducing “red tape” compliance costs, repealing unnecessary and duplicative regulation and requiring full regulatory impact assessment for new regulatory proposals, including full cost benefit analysis and consideration of non-regulatory measures to achieve market outcomes. A review should also be undertaken on the use of technological solutions as a market-based alternative to labelling regulations.

4.2 Access to product and technology innovations

A best practice approach to regulation is to be focused on outcomes rather than process driven, and to encourage uptake of proven technological innovation in agri-food manufacturing. Regulatory processes should thus be aimed at reducing or removing the likelihood that:

- low risk/impact transactions are regulated onerously due to standardised processes;
- regulatory ‘dead ends’ occur where innovative products are denied market entry simply because they fall outside current regulatory categories; and
- new and innovative products are delayed market entry due to regulatory demands for complex and detailed product dossiers for composition and product claims.

The following case study demonstrates where regulation that is process-driven rather than outcome-driven can result in negative outcomes for industry and consumers. In addition, it discourages the entry and development of new innovative products.

Case study: High Pressure Processing: Process-driven regulations can inhibit technological advances

CSIRO, Australia's national science agency and one of the foremost research agencies in the world, is currently leading in High Pressure Processing (HPP) technology for sterilising meat and seafood products. Unlike the traditional retorting process, HPP does not significantly affect the flavour and nutritional value of foods. Therefore the technology has the potential to produce safe fresh foods with enhanced organoleptic (smell, taste, etc.), nutritional and functional properties with an extended shelf life.

The successful development of HPP in Australia would make it possible to commercialise high quality foods such as meats, seafood, and horticultural and dairy products, which will contribute to greater financial returns to the Australian agri-food industry. CSIRO has assisted one manufacturer to introduce HPP juice to the Australian market, which has received international recognition with top awards from the beverage industry.

However, Australian import regulations (C9451) state that packaged food containing more than 5% meat ingredients must be sterilised via a heat-treated canning/retorting process, a traditional sterilisation method dating back to the 19th century. This is a clear indication of the failure of regulation to keep pace with even an Australian innovation in food technology, effectively prohibiting its use in relation to imported foods when the products are allowed when domestically produced. Similarly, meat products sterilised through processes such as hot fill and low-electron beam are likewise excluded.

Another limitation that agri-food manufacturers face relates to the risk conservative approach that FSANZ takes to 'novel' products, additives and food processing aids. The statutory objectives for the food standards agency FSANZ are the protection of public health and safety and the provision of information to consumers to enable them to make informed choices. This is the desired outcome. However, extreme risk conservatism which manifests through onerous and lengthy assessment processes, zero-tolerance rules and prescriptive regulations is more likely to result in negative outcomes for both industry and consumers.

FSANZ is responsible for carrying out safety standards on new food additives, chemicals and novel foods. Submissions made by the AFGC on behalf of their members discuss issues that the testing and approval process can take several years, implying the need for a better solution to increase manufacturers' access to innovation. Given that safety assessments on many of these new products are already undertaken by credible, well-resourced and expert overseas agencies such as the European Union's European Food Safety Agency (EFSA) and the US Food and Drug Administration (FDA), it is recommended that FSANZ takes a more collaborative approach and adopts approvals issued by both those agencies rather than delay access by requiring its own independent assessments and testing.

The following case study demonstrates where Australia's processes limit both manufacturers and consumers from accessing innovative products.

Case study: Onerous testing processes disadvantages manufacturers and consumers

Phytosterol esters, recognised for its documented cholesterol-lowering properties, has been approved as a 'novel' food for use in Australia since 2001, but originally with the limitation that it could only be used for edible oil spreads. Each expanded use of the product required rigorous testing and approval by FSANZ. In 2006 it was approved for high-fibre breakfast cereals, low-fat milk and low-fat yoghurt. In 2007 this was expanded to low-fat yoghurt mini-drinks. Each testing required several months and costly resources.

It is noted that the EU's EFSA which is highly-regarded for its rigorous testing processes, has already approved the product for salad dressings, cheeses, milk-based fruit drinks, soy drinks, spicy sauces and rye bread in addition to the Australian approved categories in its 27 member countries. A current assessment is being undertaken in the UK by its independent committee of scientists appointed by the Food Standards Agency, the Advisory Committee on Novel Foods and Processes (ACNFP) for its use in liquid vegetable fat-based products for cooking and baking. None of these 'novel' products would be allowed into Australian markets unless the FSANZ completes testing for each of these categories.

Essentially this serves as an example of the limitations faced by Australian manufacturers and retailers relative to the rest of the world due to regulatory constraints. This adversely impacts Australian manufacturers' competitiveness, and also restricts consumer access to innovative products. FSANZ may be better served to adopt approvals that have been ratified by credible overseas agencies.

Recommendations

The regulatory system should be expanded to incorporate relevant overseas approvals by credible agencies such as the European Union's European Food Safety Agency (EFSA) and the US Food and Drug Administration (FDA) in the areas of food additive permissions, processing aids and health claims. To avoid excessive risk conservatism from hindering innovation and development, it is also recommended that statutory statements of regulatory objectives be amended to incorporate reference to social and economic goals.

4.3 Health and food safety regulations

The food industry is regulated under laws administered at all three levels of government – federal, state and local. In addition, supermarkets place a further layer of safety requirements on food suppliers. At the federal level the Food Regulation Agreement 2000 (as amended 2002 and 2008) (the FRA) establishes a national approach to food regulation within Australia. The *Model Food Act 2000* is designed to harmonise regulatory principles and approach across Australian jurisdictions.³² The various states have their own regulations to cover areas such as cleanliness, hygiene and aspects associated with the preparation and provision of food.

Regulatory burdens in this sector arise through:

1. The number and frequency of assessments and audits: The Food Processing Industry Strategy Group notes that the information sought by the audits undertaken across all levels of government and the private sector (i.e. retail groups) can be duplicated by up

³² Annex A of the Model Food Act forms the core provisions which each state and territory agreed to adopt. (Productivity Commission, Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety, December 2009)

to 80%, the number of audits appears to be excessive, as does the significant direct and indirect costs.³³ A survey undertaken by the Australian Food and Grocery Council (AFGC) indicated a substantial overlap of audits costing the 'average' food business around \$100,000 per annum.³⁴

2. The inconsistency in approach across local government authorities and inconsistencies between state and territory jurisdictions: Despite recent reforms, including the FRA and the *Model Food Act 2000*, differences in food safety regulations are still evident between the states and territories (Productivity Commission, 2009³⁵) as each state and territory maintains their own regulations, audit processes and have varying levels of priority and resources assigned to enforcement. The Food Processing Industry Strategy Group asserts that these differences across the jurisdictions 'cause large unnecessary costs for food manufacturers operating in multiple jurisdictions'.³⁶
3. Inefficiencies and unnecessary regulatory burden arising from multi-agency and multi-level regulation: Mandatory notification of safety-related incidents to the ACCC under the Australian Consumer Law serves as the exemplar, where despite almost three and half thousand reports lodged by industry, just 2% required further action by the company involved and not a single report required regulatory intervention.³⁷

A further example of regulatory inefficiency is shown in the small business case study below.

Case Study – Compliance costs: Cambray Cheese, Western Australia

Cambray Cheese is a family operated business located in Nannup, Western Australia. The business has experienced considerable regulatory hurdles in establishing and maintaining its operations:

- Cambray Cheese had to register with Dairy Australia to operate a commercial dairy business. This involves payment of an annual industry levy which contributes to dairy research and development.
- As a dairy food producer, Cambray had to develop a Food Safety Plan under the Food Act. Synergies was advised that this was a confusing process as minimal guidance was available from the Department of Health on exactly what was required for the plan.
- The business must take fortnightly samples of its cheese products for testing by the Department of Health. Cambray Cheese has experienced a number of false positive test results. There has been an instance where the Department of Health recalled Cambray's products, only to find that the contamination came from the Department's own laboratory. The recall cost time and lost income.
- The business sells much of its produce at farmers' markets across a number of shires. Cambray Cheese must be registered with each shire in which the farmers' market is located. This is contrary to the initial advice received by Cambray Cheese from the Department of Health, which advised that they would only need to be registered with the Department to sell products at farmers' markets.
- Furthermore, despite initial advice that the registration fee charged by shires would only be a one-off fee, some shires are charging this fee on an annual basis. Fees can range from \$60 - \$600, with most being in the \$150 - \$200 range.

(Source: Synergies Economic Consulting, Cost of Red Tape in Western Australia, April 2014)

³³ Food Processing Industry Strategy Group, Final Report of the Non-Government Members. September 2012

³⁴ AFGC, State of the Industry 2013

³⁵ Productivity Commission, Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety, December 2009.

³⁶ Food Processing Industry Strategy Group, Final Report of the Non-Government Members. September 2012

³⁷ FSANZ Annual Report 2013

Recommendation

A regulatory review of the various audit requirements on agribusinesses' health and safety standards should be undertaken to streamline auditor responsibilities and processes. The review should also consider introducing national health and safety standards that would supersede state or territory standards for new or redeveloped facilities; and

It is further recommended that the current threshold for mandatory notification of suspected safety incidents be amended to address the current level of unnecessary and inefficient over-reporting.

4.4 Waste management systems

The Productivity Commission's inquiry into Waste Management in 2006 described a number of challenges regarding waste management regulation, namely:

- 1) Inconsistencies in the regulatory requirements of the states and territories are creating problems for industry and discouraging resource recovery. In particular, differences in definitions, waste classification systems and exemption processes mean that some materials are being more heavily regulated in some jurisdictions compared to others.
- 2) Inefficiencies in waste management systems under local government purview, especially in urban areas when there are multiple local governments, resulting in tension over where facilities should be located and lack of sophistication in planning.

The report noted that other main alternatives for disposing of some wastes such as incineration is tightly regulated, and in some Australian jurisdictions effectively banned altogether. Although capital intensive, incineration can be combined with energy recovery facilities and appropriate flue gas treatment to provide an environmentally acceptable alternative to landfill. In Europe, where incineration is common, regulations require the use of technologies that have effectively eliminated damaging levels of pollution. Lifting the effective bans on the use of incineration of certain wastes in Australia, while insisting on appropriate performance standards, would appear to be long overdue.³⁸

The case of the National Container Deposit Scheme also serves as another example where best practice regulation needs to be adhered to ensure net beneficial outcomes.

³⁸ Productivity Commission, Waste Management, 2006

Case Study – National Container Deposit Scheme: best practice regulation requires transparency and industry consultation

The current proposal for a National Container Deposit Scheme (where consumers are refunded cash for recycling cans and bottles at recycling machines) has been contested by several major businesses and industry bodies on the grounds that it carries a high cost, focuses on a relatively small sector of used packaging and would replicate and undermine the kerbside collection system. Industry further states that as it will be covering the high cost of the scheme, this will end up being passed on to consumers in product prices.

A regulatory impact assessment (Packaging Impacts Decision Regulation Impact Statement) was completed in early 2014. In a statement by the Environment Ministers several months ago (dated 29 April 2014), it was agreed that the DRIS would be made public after jurisdictions assess the report. To date, this has not been released. It is noted that media reports speculated that the National Container Deposit Scheme could cost as much as \$8 billion.

Industry has released media statements that the DRIS be released publicly to enable a fully informed debate on the true cost of a National Container Deposit Scheme, compared to more efficient proposals to drive higher recycling rates and reduce litter based upon an extension of Australia's successful kerbside recycling schemes. No policy decision should be made until this is done.

Recommendation

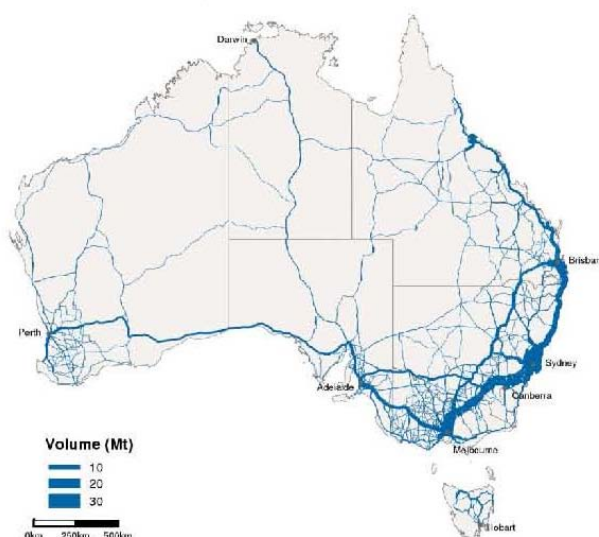
Research should be undertaken into effective and modern waste management technologies, and rigorous regulatory impact assessment should be required for any regulatory proposals to ensure outcomes cannot be better delivered through non-regulatory means.

As a matter of urgency, support should be given to ensure the public release of the Packaging Impacts Decision Regulation Impact Statement to enable a fully informed debate on the true cost of a National Container Deposit Scheme, compared to other industry-led proposals to drive higher recycling rates and reduce litter.

5 Transportation

The Australian agriculture sector depends on a robust and efficient transportation system to move agricultural produce around the country at low costs. Transport is particularly important in Australia given the wide-spread and largely rural location of the majority of agricultural production, and the vast distances between many farms, processing plants and transport hubs. According to available data on freight flow from the Australian Bureau of Statistics (ABS), the total freight of food and livestock in Australia in 2001 amounted to 26 billion tonne kilometres which represented 30% of the national freight task that year.³⁹ Road transport represented 35% of all domestic freight in Australia, with the major inter-regional road freight network shown in the diagram below.⁴⁰

Australian Inter-regional road freight task, 2000-01



Source: ABS, 2002 and BITRE estimates

With escalating rationalisation taking place within the agricultural processing sector, farmers are increasingly required to cross state borders when taking their produce to market. This intensifies the importance of providing consistency between the regulations imposed by the various tiers of government. Nowhere is this better demonstrated than by transport regulations where state rules often conflict, causing confusion for farmers and their supply chain partners. In such a circumstance, industry is looking for the Federal Government to take a leadership role in providing consistency across borders.

In July 2009, following an extensive consultation process, the Council of Australian Governments (COAG) agreed to establish a National Heavy Vehicle Regulator (NHVR) and a national body of law governing the regulation of all vehicles weighing more than 4.5 tonnes. COAG decided that the Heavy Vehicle National Law (HVNL) should be based on existing model laws, including the Compliance and Enforcement (C&E) Bill, rather than starting from scratch. The intent was not to revisit previously agreed reforms and/or make new policy decisions. The

³⁹ ABS, Transport Infrastructure for Australia's Agricultural Needs, 2002

⁴⁰ Ibid.

HVNL consolidates existing provisions from the model laws and existing state and territory laws, but it does not rationalise and reframe all provisions from first principles. It commenced in NSW, Victoria, Queensland, South Australia, Tasmania and the ACT on 10 February 2014 and covers matters relating to vehicle standards, mass dimensions and loadings, fatigue management, the Intelligent Access Program, heavy vehicle accreditation and on-road enforcement. Western Australia and the Northern Territory are not participating in the national system.

In addition to the establishment of the NHVR, the Federal Government also passed the *Road Safety Remuneration Act* (the Act) in March 2012. The Act, dubbed 'Safe Rates', sets up a new industrial relations and safety regime headed by a Road Safety Remuneration Tribunal (effective since July 2013), with the power to inquire into all segments of the road transport industry and issue binding industry-wide orders, including orders relating to minimum rates of pay and other entitlements. The Act has received much criticism from the transportation industry since establishment due to its underpinning legislation being seen to be duplicative of obligations of the workplace health and safety laws and modern awards consistent with the Fair Work legislation. Its heavily prescriptive regulations are also regarded as significantly increasing transport costs without delivering any tangible improvement in safety. The Chain of Responsibility obligations currently being developed under the NHVR is regarded to be a better key to improving safety in the industry.

While the Road Safety Remuneration (RSR) system has been criticised and even condemned by many industry bodies, the NHVR is welcomed as a step in the right direction, especially in light of the Regulation Impact Statement (RIS) undertaken by the National Transport Commission (NTC) in September 2011. The study found 368 issues arising from variations in regulations between the states and territories, and assessed that total gains of \$12.4 billion would be possible pending resolution of the identified issues.⁴¹ The report noted that this would only be possible if the states and territories were to implement the HVNL *without change*. However, while the Commission developed model laws in consultation with the states and territories with the intent that all states and territories would regulate registration, licensing and allied processes in the same way, the reality is that differences in state legal and law enforcement systems, drafting preferences, local requirements, and operational realities, have meant that sometimes laws have been partially implemented, or not implemented at all. In other instances, local productivity variations have gone beyond thresholds in the model laws. Consequently, despite significant progress towards national consistency, important variations remain between states and jurisdictions.⁴²

The areas discussed include:

- The Road Safety Remuneration Tribunal constrains industry and drives up costs;
- Road access variations and infrastructural limitations between states result in lowest common denominator measures being adopted and lengthy processes, minimising efficiencies;
- Inconsistency between fatigue laws, workplace health and safety (WHS) and livestock welfare regulations; and
- Heavy Vehicle Charges and reduction of Concessional Registration Rates increase operating costs.

⁴¹ NTC, Heavy Vehicle National Law – Regulation Impact Statement, September 2011.

⁴² NTC, Heavy Vehicle National Law – Regulation Impact Statement, September 2011.

5.1 Road Safety Remuneration Tribunal

The Road Safety Remuneration Tribunal commenced in July 2013 with effective powers to inquire into all segments of the road transport industry and to issue binding industry-wide orders such as the following⁴³:

- Conditions about minimum remuneration and other entitlements for road transport drivers additional to those in modern awards;
- Conditions about minimum rates of remuneration and conditions of engagement for road transport drivers who are independent contractors;
- Conditions for loadings and unloading vehicles, waiting times, working hours, load limits, payment methods and payment periods;
- Orders that reduce or remove remuneration-related incentives, pressures and practices that contribute to unsafe work practices;
- The power to approve collective agreements between a company and its road transport drivers who are independent contractors setting remuneration and related conditions; and
- Dispute resolution between drivers or contractors and a company about remuneration-related conditions or dismissals.

The overall aim of the RSR system is stated as reducing the economic incentives for drivers to make unfair and unrealistic deadlines, cut corners on safety and maintenance, or take illicit substances to keep them awake to get to destinations on time. However it is difficult to see how extending employee protection to contractors has this effect and many peak trucking industry bodies have raised concerns about the potential burdens of the tribunal versus potential safety gains, calling for its full abolition:

"The RSR system is distracting Government and industry attention and resources away from the measures which are widely recognised as improving road safety, towards a regime which is not widely supported nor underpinned by robust economic modelling. There is the risk that the system will significantly increase transport costs without delivering any tangible improvement in safety."

Australian Industry Group, 2014

"The legislation underpinning [the RSR system] duplicates obligations already contained in workplace health and safety laws as well as modern industrial awards made by Fair Work Australia."

*Australian Logistics Council,
 2014*

"The RSR Order issued by the tribunal is nothing more than an administrative control. It burdens businesses with onerous paperwork and ignores the impact other legislation has in relation to the order ... Owner operators in particular will have to record additional administrative tasks as work under the fatigue legislation, drastically cutting their productivity."

*Australian Trucking Association
 NSW, 2014*

⁴³<http://www.mondaq.com/australia/x/182092/Employee+Benefits+Compensation/Controversial+Safe+Rates+Laws+commence+on+1+July+2012+what+will+be+the+impact+of+these+industrial+reforms>

The case study below shows two examples of how the issued RSR Tribunal Order impacts industry.

Hypothetical examples – Impact of RSR Tribunal Order on industry

Bob, the owner-driver, and Dave, the employed driver, and their operational outcomes use the draft RSR Order (which is not significantly different to the order finally imposed). Because Bob is required to record all of those administrative activities in his National Driver Work Diary (such as preparing a safe driving plan and liaising with consignors and consignees) as 'work', he is legally not able to complete the delivery in our example until some 17 hours after Dave. The reason? Dave isn't required to complete all that documentation, because as an employed driver, someone else can do it all for him, meaning his fatigue legislation requirements are not impacted as much as Bob's. It becomes farcical to believe that anyone waiting for freight would be happy to receive their goods some 17 hours later simply because Bob is required by law to record those administrative activities as work; Bob would quickly find himself unable to secure customers for his business.

Further, there are operators who load freight and quite literally have no idea where they will be delivering that freight until they receive further instructions from their schedulers. For example, the freight is loaded, the driver is sent in the general direction of a customer, and some time prior to arrival, the driver is informed how much product the customer needs, where to deliver to first, and the delivery schedule is developed 'on the go'. If a safe driving plan is required, that driver now cannot leave the loading point until businesses open and he is made aware of where he needs to deliver, meaning a reduction in productivity. This type of loading occurs in many industries that use road freight, such as livestock, bulk, and some retail transport.

(Source: ATANSW submission to Jaguar Consulting for the Review of the Road Safety Remuneration System, 15 January 2014)

There is currently movement on this issue with the Australian Government commissioning Jaguar Consulting to undertake an independent review of the RSR system to assess its operation and advise if it represents an effective and appropriate means of addressing safety concerns in the road transport industry. The review was due to be completed in the first quarter of 2014. Pending the outcomes of the review, further action may need to be taken to ensure that regulations imposed on industry do not unnecessarily constrain the industry and drive up costs.

Recommendation

It is recommended that support is provided for the Road Safety Remuneration system to be abolished in acknowledgement of existing and effective mechanisms and systems in place to drive safety improvement, namely the National Heavy Vehicle Regulator system, workplace health and safety laws, and the Fair Work Commission's modern awards.

5.2 Road access and infrastructure between states

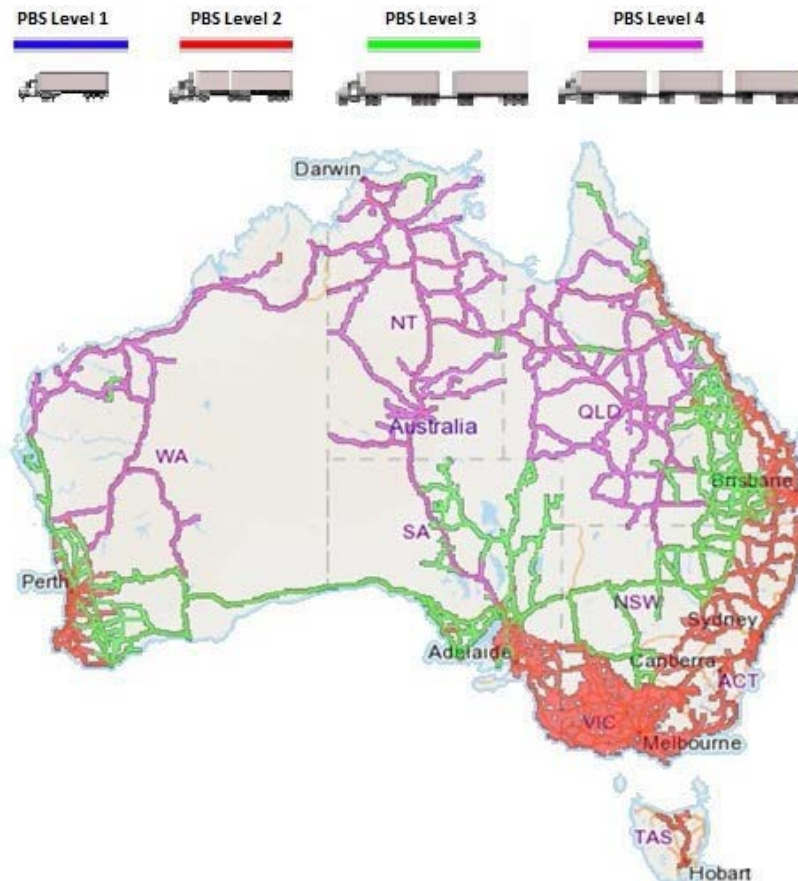
There are significant variations existing between states and territories, which limit the efficiency of the heavy vehicle transport sector.

Road access limitations on use of High Productivity Vehicles constrains development

A primary constraint on agricultural productivity imposed by transport-related regulation is the lack of widespread road access for vehicles that can carry Higher Mass Limits (HML). Opening up more routes for these vehicles would allow for freight movement demands to be met more

safely, with less road wear, and at a lower cost to business. The following diagram demonstrates the road access network for different classes of heavy vehicles in Australia, and shows the limited utilisation of larger, more efficient vehicles in a large number of major freight corridors.

Road access as specified by Performance Based Standards (PBS) road class



Source: Productivity Commission – Local Government as Regulator, 2011

As can be seen in the above diagram, Queensland and the Northern Territory have the greatest road length accessible to the widest range of vehicles. Generally, the Northern Territory does not regulate heavy vehicle access — meaning that road trains (PBS 3 and 4) have 'as of right' access across the road network. In New South Wales, there is no access for road trains east of the dividing range; in Victoria, only PBS Levels 1 and 2 vehicles are permitted in the north of the state; and Tasmania allows no road trains at all. In those areas where road trains are not permitted, they need to be broken down or de-coupled outside the restricted road network area, with transportation continuing on smaller approved truck combinations.

The suitability and use of HML articulated vehicles fitted with Road Friendly Suspension (RFS) was endorsed by the Australian Transport Council in 2000. However, numerous local governments are yet to agree with this decision and implement the required amendments.⁴⁴ In many instances, these new truck technologies have been demonstrated to reduce the impact on roads from larger vehicles, and as such, allow for major productivity efficiencies in the

⁴⁴ Australian Trucking Association, Submission to the Agricultural Competitiveness Issues Paper, 23 April 2014

agricultural supply chain to be realised.⁴⁵ Access constraints for the PBS level 3 and 4 vehicles can impact on the efficiency of the entire supply chain and the economic productivity of freight industries and their customers. Most often, access issues centre around non-standard heavy vehicles and local roads used at the start and/or end of freight transport — the so-called ‘first and last mile’ problem.⁴⁶

The ‘first and last mile’ access problem is an example of the inefficiencies and additional costs that are created when a truck or truck configuration is prevented from driving the full distance of a freight journey.⁴⁷ Time and money is often wasted as drivers are required to de-couple at designated depots in order to meet vehicle length requirements. Access constraints for particular vehicle configurations can impact on efficiency of the entire supply chain and the economic productivity of freight industries and their customers.⁴⁸

The next generation of freight vehicles, such as long, double-stacked trains and B triple or super B double trucks at higher mass limits, offer significant improvements in freight efficiency. However, their usage is currently restricted as larger combinations are, in many instances, required to de-couple trailers in order to pass through particular local government areas either to leave the point of origin or to reach their destination. The Productivity Commission noted in its review on the role of local governments as regulators that ‘heavy vehicle operators often need to apply to local governments, as road owner and manager, for access to some roads, bridges and associated structures... except in WA where local governments have no regulatory responsibilities relating to restricted access vehicles’.⁴⁹

Another adverse effect of the ‘first and last mile’ problem is that many operators turn to less productive heavy vehicle combinations for the entirety of the journey in order to avoid the time delay associated with decoupling. Allowing access for High Productivity Vehicles (HPV) to operate on suitable roads would not only improve the efficiency of the current Paddock to Plate supply chain, but also improve safety and reduce road wear.

Inefficiencies involved in organising road access permits

About 80% of Australia’s 811,000 kilometre of public road network is managed by the various local councils.⁵⁰ Heavy vehicles over a certain size are subject to restricted access (restricted access vehicles) on many roads, and there are essentially two means of gaining approval to access the road network:

- by complying with the conditions of a state/territory notice scheme; and
- by applying to a state/territory road agency for an access permit.

A particular improvement that the NHVR brought to industry is its role and function as a one-stop-shop for operators to apply for road access permits through a single national online business portal. The following diagram shows this process:

⁴⁵ National Farmers Federation, Productivity Commission: Regulatory Burdens on Business (Primary Industry), June 2007

⁴⁶ Productivity Commission – Role of Local Government as Regulator

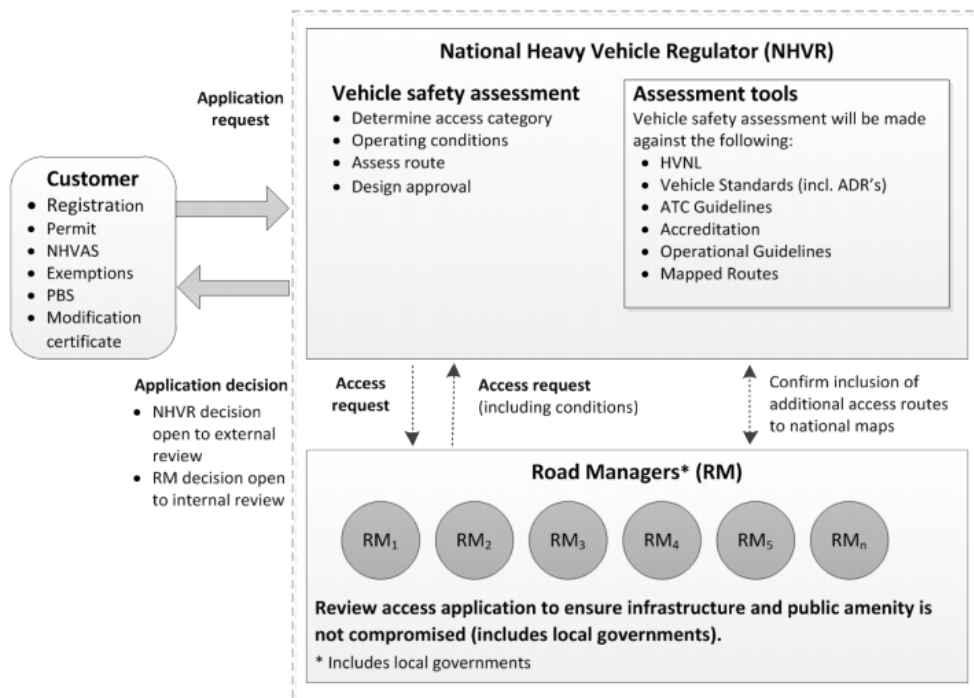
⁴⁷ National Farmers Federation, Issues Paper – Red Tape in Agriculture, September 2013.

⁴⁸ Productivity Commission – Role of Local Government as Regulator

⁴⁹ Ibid

⁵⁰ Productivity Commission – Role of Local Government as Regulator, 2011

Decision making relationship between the National Heavy Vehicle Regulator and the road manager



Source: NTC, 2011

While the NHVR's services have greatly reduced the regulatory burden that vehicle operators previously faced in organising the many road access approvals, the process of organising approvals is still an unnecessarily lengthy and onerous task, but one made necessary by other limitations described further below.

Curfews and time travel restrictions

The lack of harmonisation of curfews and travel time restrictions which are imposed on heavy and oversized vehicles is another example of productivity constraining regulation. The difficulties the transport sector experiences with the various laws which regulate travel times, is the disparity between the dimensions of the vehicles they apply to, as well as the nature of the restrictions themselves, as shown in the following table.

Differences in regulations imposed on New South Wales, Queensland and Victoria

Category	New South Wales		Queensland		Victoria	
Applicable Vehicles	Special-purpose or combinations not wider than 2.5 metres and no longer than 22 metres	Special-purpose or combinations wider than 2.5 metres or longer than 22 metres	Oversized vehicle or combination that does not exceed 3.1 metres in width and/or 25 metres in length	Oversized vehicle or combination that exceeds 3.1 metres in width and/or 25 metres in length	Vehicles up to 3.1 metres wide and up to 22 metres long	Vehicles more than 3.1 metres wide but no more than 3.5 metres wide and/or more than 22 metres long but not more than 25 metres long
Time Travel Restriction	Travel between sunset and sunrise is permitted	Travel is not permitted between sunset and sunrise, or after 8.30am on Sundays or state-wide public holidays unless special permit is received, or a range of conditions are satisfied (e.g. special route, or pilot and police escort)	Permitted to travel at night-time unless otherwise restricted	Permitted to travel up until 7:00pm provided a range of conditions are satisfied. Permitted to travel within the boundary of the city of Brisbane or within the boundary of any city from 12:00am provided a range of conditions are satisfied.	No travel time restrictions	In rural areas: not permitted to travel between sunset and sunrise. In the Melbourne and Geelong urban areas travel is permissible as follows: Monday to Friday (not public holidays) 6:00am – 9:00am 4:00pm – 6:30pm Sunset – 11:00pm Saturday, Sunday and public holidays Sunset – 11:00pm

The table illustrates the differences in the relevant regulations imposed in New South Wales, Queensland and Victoria. Between these three states, there are six different size classifications for vehicles that may be subject to travel time restrictions. Vehicles up to 3.1 metres wide and up to 22 metres long, would be under no travel time restrictions in either Queensland or Victoria. However, they would be restricted if travelling in particular areas of New South Wales. The disparity between these restrictions creates another layer of regulatory burden which negatively affects both the agricultural and transport sectors.

While the need to appropriately manage traffic flow and general road usage across Australia is acknowledged, the lack of consistency between the states in relation to travel time restrictions continues to stifle productivity and increase operational costs. As it stands, the system results in the lowest common denominator being adopted as the standard for all trans-border operations, resulting in significant inefficiencies.

Goods Transportation and Load Limitations Regulations

Currently each State and Territory has different regulations relating to load requirements. While the National Transport Commission is endeavouring to introduce uniform model legislation; this has not yet been adopted by all States and Territories. An example is given by Woolworths. As a national operator, Woolworths transports products from warehouses located in one state to locations in another state, over a distance in which it may be subject to two or more jurisdictions' regulations. As a result of these differences between the load limitations in the states and territories, Woolworths and other national operators are faced with onerous and costly

requirements to ensure its vehicles comply with the jurisdiction that imposes the highest standards in order for the vehicles to transport products across jurisdictional boundaries.⁵¹

National Fatigue Management System

In regards to driver fatigue regulation, the NHVL requires drivers who engage in work that takes them more than 100km from their base to complete a work diary. However this requirement poses a challenge for some operators from Queensland as the previous regime in that state imposed a 200km radius limit. It is noted that the geographical realities of operating in Queensland mean that for many operators the nearest town or depot may be more than 100km away. The Northern Territory (NT) and Western Australia share similar characteristics, whereas NSW and Victoria are considerably more compact.

Both the NT and Western Australia are not participating in the NHVR system, in part due to the National Fatigue Management System. The NT has advised the Commonwealth and other governments that it will not implement the national fatigue laws, until it is clearly demonstrated that the laws are workable in remote Australia, and the benefits can be measured.⁵² This was in response to concerns voiced by NT operators in the tourism industry and livestock carriers, that the national fatigue management system will be an impost on operators in remote Australia. The NT Government has stated that it will continue to recognise both the National Heavy Vehicle Accreditation Scheme fatigue modules, and Western Australia's Fatigue Management System for operators crossing borders. This will allow NT operators to opt into the system that best suits their business needs, without compromising safety.

In contrast, Queensland's participation in the NHVR system has introduced significant regulatory burdens on its operators. This is another example of how the lowest common denominator is adopted, resulting in more inefficiencies using a standardised approach.

Recommendations

It is recommended that efforts be made to achieve consistency across states in regards to vehicle specifications, curfews and travel time restrictions, goods transportation and load limitations, and driver fatigue laws. However, the national standards should incorporate flexibility where possible so as to not curtail efficiencies by adopting the lowest common denominator as the standard. The system should in particular, consider the needs of operators in rural, regional and remote areas so as to facilitate the effective participation of all Australian states and territories. As a priority, reviews should also be undertaken where regulations create impediments to the use of High Productivity Vehicles.

5.3 Regulatory inconsistencies

The HVNL is being implemented at a time when seven of the eight Australian jurisdictions have enacted new harmonised work health and safety laws based on the model *Work Health and Safety Act* as agreed by the Workplace Relations Ministers Council in 2009. The HVNL will co-exist with those laws.

⁵¹ Woolworths, submission to Productivity Commission's Annual Review of Regulatory Burdens on Business - Manufacturing and Distributive Trades, April 2008

⁵² http://www.transport.nt.gov.au/__data/assets/pdf_file/0017/34280/NHVR-Newsletter-March-2013.pdf

In addition, efforts are also being made to develop nationally consistent cattle and sheep welfare standards and guidelines. The Land Transport of Livestock code of practice is an example of this.⁵³

An area for concern is where there are inconsistencies in fatigue management laws, workplace health and safety standards, and the animal welfare requirements for transport of livestock. The greatest impact of this is in remote areas where drivers work, sleep, and live in their trucks and are required to comply with both fatigue management laws, and also standards for transport of livestock, in regions often without facilities to rest livestock within the specified period.⁵⁴ Again, it is in these situations where rigid rules can have perverse outcomes and a certain level of flexibility and common sense is required to ensure positive outcomes for both the welfare of the driver and the livestock.

It is noted that in September 2012, the Australian Trucking Association, Australian Logistics Council, and Australian Livestock and Rural Transporters Association jointly wrote to Commonwealth and State Ministers, requesting that certain provisions in the HVNL be re-drafted, consistent with the *Work Health and Safety Act*.

Recommendation

It is recommended that the interconnecting elements of the national standards and guidelines of the NHVL, livestock transport (and animal welfare), and workplace health and safety standards be reviewed for consistency and is applied with a degree of flexibility and common sense to ensure that productivity is not constrained.

5.4 Excessive Heavy Vehicle Charges

All heavy vehicles in Australia are subject to an annual registration fee as well as a road user charge which is levied on each litre of diesel fuel used. The determination of these fees is made in accordance with a framework known as PAYGO or 'pay as you go'. PAYGO is intended to deliver a nationally consistent set of heavy vehicle charges that efficiently recover the cost of providing and maintaining the road network.⁵⁵ After the completion of a comprehensive heavy vehicle charges determination by the National Transport Council (NTC), the Standing Council on Transport and Infrastructure announced the adoption of a new set of heavy vehicle charges.⁵⁶

While the new charges determination implements a set of national heavy vehicle charges, these are non-binding recommendations which means that the states and territories have the ability to modify the national charges through rebates and concessions.⁵⁷ The discretion to provide a rebate or concession is generally targeted towards certain classes of operators that are deemed disadvantaged by national charges.⁵⁸ Primary producers have traditionally received concessions of this nature as it has been recognised by the NTC, as well as state and territory

⁵³ Cattle and Sheep Standards and Guidelines Q&A - <http://www.animalwelfarestandards.net.au/cattle-and-sheep-standards-and-guidelines-qa/>

⁵⁴ NFF, Issues paper: Red Tape in Australian Agriculture, September 2013.

⁵⁵ NTC, 2014 Heavy Vehicle Charges Determination – Regulatory Impact Statement, February 2014

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ NTC, 2014 Heavy Vehicle Charges Determination – Regulatory Impact Statement, February 2014

governments, that the on-road use of heavy vehicles by farmers is relatively low.⁵⁹ While the continuation of concessional registration rates is supported, the fact that these concessions vary between the states and territories again causes a range of inefficiencies, as well as increasing costs for business.

Recommendation

The national heavy vehicle system should have the capacity to provide for a single national primary producer concession that appropriately acknowledges the low on-road usage of heavy vehicles by primary producers. This reform would ensure equity between the states and territories which is currently lacking.

⁵⁹ National Farmers Federation, A National Framework for Regulation, Registration and Licensing of Heavy Vehicles

6 Retail

The Australian food retail industry is highly competitive and faces a complex regulatory environment. The main regulations affecting supermarket retailers are those governing shop-trading hours, labour, new supermarkets, and display and sale of food. Some of these regulations unnecessarily restrict supermarkets from responding to consumer needs, discourage development, and increase costs to retailers and consumers through measures that may not carry sufficient net benefits.

The report identifies the following regulatory burdens facing the Australian retail sector:

- Regulation of trading hours in some states result in supermarket operational inefficiencies, loss in economic outcomes and restrict response to consumer demands;
- Restrictions on labour flexibility as applied by the General Retail Industry Award which is inconsistent with the reality of the retail industry; and
- State-based regulations on retailing of products that are introduced without full impact analysis prior, unnecessarily increasing costs to retailers and consumers.

6.1 Regulation of trading hours

Trading hour regulations directly impact customers' accessibility to stores, preventing them from shopping at a time best suited to their needs. The impact of trading hour regulations on physical stores is an increasingly important regulatory hurdle as customers can purchase products online at any time of the day or night.

The regulation of trading hours differs by states and territories in Australia, with Western Australia and South Australia amongst the most restrictive states, while the ACT and Northern Territory are fully deregulated. The experiences of deregulated states and studies show a strong case for the full deregulation of trading hours across Australia. The costs associated with retail trading hour regulations include:⁶⁰

- For consumers, restrictions on trading hours impinge on consumer choice regarding when (and where) to shop, causing inconvenience and congestion costs; and
- For retailers, there are efficiency costs and administration costs in complying with state trading regimes, and the largest costs are reserved for those retailers who are prevented from trading to the extent they would like: they forego trade to other retailers and also to other avenues of discretionary consumer spending.

The argument for fully deregulated trading hours is not about operating 24 hours a day, seven days a week, but simply allowing retailers the flexibility to be open to meet the needs of consumers, at times when the retail outlet can also trade profitably. Industry consultation suggests that in some areas where trading hour restrictions were removed, some retailers benefitted by changing their hours to match peak demand times, with an overall decrease in open hours after deregulation.

⁶⁰ Productivity Commission, Economic Structure and Performance of the Australian Retail Industry, Chapter 10: Retail Trading Hours Regulation, December 2011.

The Productivity Commission recommended that retail trading hours be fully deregulated following its review of the Australian Retail Industry in 2011. It cited the following reasons:

- Increased consumer welfare benefits associated with greater convenience and product choice;
- Reduced discrimination between retailers;
- A less artificially distorted retail industry; and
- Potentially lower retail prices and higher retail employment.

"Retail trading hours should be fully deregulated in all states (including on public holidays)."

Productivity Commission, 2011

The following table shows the various retail trading regulations in Australian states:

Trading hours restrictions for general retail stores, capital cities				
Jurisdiction	Monday - Friday	Saturday	Sunday	Public Holidays
ACT	No restrictions	No restrictions	No restrictions	No restrictions
NT	No restrictions	No restrictions	No restrictions	No restrictions
VIC	No restrictions	No restrictions	No restrictions	2.5 restricted trading days — only exempt shops can open
TAS	No restrictions	No restrictions	No restrictions	2.5 restricted days — only those businesses with less than 250 employees can open
NSW	No restrictions	No restrictions	No restrictions	4.5 restricted trading days — only small shops and exempt shops can open (a)
QLD	8am - 9pm	8am - 5pm	9am - 6pm (b)	5 restricted trading days — only exempt shops can open all days and independent retail shops 2.5 days
SA	Until 9pm	Until 5pm	11am to 5pm, except partially exempt shops which can open from 9am to 5pm	11 restricted trading days — only exempt shops can open all days and partially exempt shops 9 days from 9am to 5pm
WA	8am - 9pm	8am - 5pm	Closed, except special trading precincts (c) which can open from 11am to 5pm	Closed, except special trading precincts can open from 8am to 5pm other than on Christmas Day, Good Friday and Anzac Day

(a) Only retailers within the Sydney Trading Precinct are permitted to trade on Boxing Day so there are only 3.5 restricted trading days for those shops that are not small shops or exempt shops. Shops which are not small shops or exempt shops may only trade on a restricted day if an exemption has been granted. Shops which are closed for business are prevented from employing staff to clean, maintain or restock their stores.

(b) South-East Queensland area only.

(c) Special trading precincts include Armadale, Fremantle, Joondalup, Midland and Perth.

Information sourced from various government sites. May 2014

It is noted that while Queensland may not seem as regulated as South Australia and Western Australia, retailers may incur more difficulties with Queensland as the trading hours can drastically differ by local council areas, resulting in a patchwork quilt of trading hour regulations.

The restrictions on public holiday trading in South Australia and Western Australia can result in significant consumer issues in gaining access to food. For example, during the Good Friday and Easter Monday weekend, supermarkets - as well as restaurants and cafes in WA and SA - are closed to consumers three out of four days, giving the local population and tourists limited access to food and supplies. On the Saturday when the stores are open, staff and consumers are negatively impacted by the high traffic demands due to supplies running out, long queues, parking issues, etc. Fresh food items that remain unsold at the end of the day may also need to be disposed of as the supermarket would be closed for the following two days. This often results in food spoilage and makes inventory management difficult.

The differences in public holiday trading arrangements between states can also cause negative impacts upon the community, especially for towns located close to state borders. Woolworths cited an example of its store in Echuca (VIC) located close to the NSW-VIC border. The store was opened on Boxing Day and received so much traffic from nearby NSW towns (where trading was restricted), that significant road congestion on the town's bridge occurred, negatively affecting tourism and the community. Woolworths was required to engage the services of the local police to direct traffic.

Supermarkets like Coles and Woolworths, which trade in all states, incur high compliance and operational costs in interpreting and implementing the patchwork of inconsistent trading hours and public holiday laws across Australia. During public holidays, retailers have to interrupt 'normal' trading arrangements and put in place different arrangements to comply with the diverse public holiday trading arrangements set down in different states, regions and local trading precincts across Australia. For example, Woolworths estimated that the cost of additional administration tasks involved in preparing its supermarkets stores for the 2010 Christmas trading period (including setting staff and delivery rostering and making changes to store processes etc.) was \$3.4 million. A similar cost was incurred during the 2011 Easter/Anzac Day trading period and for other public holidays and restricted trading days.

It should be noted that various states such as South Australia and New South Wales accept applications for special exemptions to trade on restricted trading days. The following case study describes the states' onerous and costly compliance processes which results in high administrative costs and inefficiencies for supermarket retailers which generally apply in the interest of consumers.

The Productivity Commission contrasted the NSW and SA systems, stating that NSW rejected the majority of applications thus causing the exemption application process to have negative value. On the other hand, the SA exemption application process approved almost all applications in the lead up to Christmas 2010, which led to complaints that the government should have just declared those days open to trading, instead of subjecting retailers to a time consuming and costly application process.⁶¹

⁶¹ Productivity Commission, Economic Structure and Performance of the Australian Retail Industry, Chapter 10: Retail Trading Hours Regulation, December 2011.

Case Study – Seeking an exemption to trade on a restricted day in New South Wales and South Australia

New South Wales

The Director-General of the Department of Services, Technology and Administration may grant an exemption to a shop enabling it to trade on restricted days. In dealing with any application for an exemption, the Director-General must not grant an exemption for a shop unless satisfied that there are exceptional circumstances and that it is in the public interest to grant the exemption. In considering an application, the Director-General must have regard to the following:

- the nature of goods sold;
- the need for the shop to be kept open on the day concerned;
- the likely effect of the proposed exemption on the local economy, tourism and small and other businesses in the area; and
- the likely effect of the proposed exemption on employees of, or persons working in, the shop.

An application seeking an exemption to trade on a restricted day must be made no later than 28 days before the restricted day. Any application received within 28 days of the restricted day will not be considered for that day.

All applications will be displayed for a period of at least 21 days on the departmental website. During this 21 day period, public comment is invited regarding any application received by the Department. The Director-General must have regard to any public comment received during the 21 day period. The Director-General's decision to grant or not grant an exemption is published on the departmental website.

South Australia

The Minister for Industrial Relations may grant temporary exemptions, subject to the applicant satisfying the criteria for exemption. The Minister must consider such matters as the outcome of community consultation, the requirements of tourists and the extent of prior notice of the exemption given to the public. As part of the assessment process for exemption applications, applicants are required to undertake consultations with the community, which should involve the following elements:

- public advertisements seeking comments about the proposed exemption;
- local government consultations;
- consultations with employees or their representatives (union);
- police consultations; and
- in some circumstances, advice from public transport operators (major shopping precincts only) about the impact of increased shopping hours on public transport.

Evidence of consultations and their outcomes must be provided with the application.

(Source: NSW and SA Government websites)

Deregulating trading hours would generate greater opportunities for retail employees to earn income, in particular when being paid penalty rates for working on weekends and public holidays. A recent Australian National Retailers' Association-commissioned survey, which included 330 past or current retail employees from WA, found that over half of all WA respondents (60%) indicated they are prepared to work on public holidays⁶². Deregulating trading hours would also create more employment opportunities for employees who want to work outside traditional 9-5 hours because of family and study commitments. Woolworths reported that it increased its WA employment by 700 employees as a result of the introduction of Sunday trading hours in Perth. Woolworths also assessed that the impact of NSW reducing

⁶² ANRA submission: Inquiry into Microeconomic Reform in Western Australia, 13 December 2013

its restricted public holidays from 4.5 to 2.5 days would result in additional 180,000 work hours for its NSW staff, amounting to over \$7.5 million in wages into the local economy⁶³.

It is noted that in 2013 the Queensland Competition Authority released its *Final Report – Measuring and Reducing the Burden of Regulation* and recommended liberalising retail trading hours in Queensland. The report found that the net potential benefit to Queensland of removing the current restrictions was \$200 million per annum, which was the largest benefit of any of the priority reform areas proposed by the Queensland Competition Authority. This shows further support for the full deregulation of trading hours.

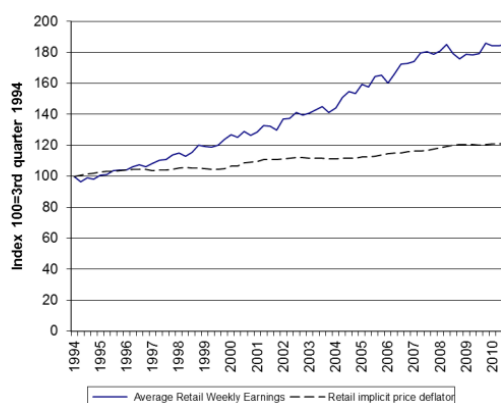
Recommendation

It is recommended that all states fully deregulate trading hours for the retail sector (including during public holidays), thus removing the need for states and local governments to administer trading hour regulations. This would be on the basis that the various retailers may choose which days and hours to trade and will need to be supported by employment legislation that employees maintain full discretion to decide if they wish to work on those days, with no discriminatory action to follow if they choose otherwise.

6.2 Restrictions on labour flexibility

The Australian supermarkets' labour falls under the General Retail Industry Award 2010. This award significantly restricts labour flexibility for supermarkets as it is based on the assumption that shopping occurs Monday to Friday between 9am and 5pm. This indirectly impacts customers because whilst retailers can negotiate flexibility to open stores outside this period, there is a considerable cost in doing so, as retailers must negotiate higher average wage rates. These increased costs are passed onto customers in the form of higher prices, as described in the Productivity Commission's report based on evidence that labour costs as a percentage of sales revenue and rates of profit have remained fairly stable over recent years.⁶⁴

Growth in average weekly earnings and implicit price deflator for retail in Australia



Source: ABS *Average Weekly Earnings, Retail Trade Australia*, 2011

⁶³ Woolworths submission: NSW Trading Hours Review, 25 October 2011

⁶⁴ Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry*, Chapter 11: Workplace Relations Regulation, December 2011.

The table below shows a summary of the General Retail Industry Award, applicable since 1 July 2013.

A particular concern of employers relates to the overtime and penalty rates described in the table above. This significantly impacts the retailers' ability to trade profitably at times many consumers now prefer to shop. The staffing needs of supermarkets are much greater after 5pm on weekdays and all-day on weekends and public holidays, which are the same hours in which penalty rates apply. The Australian National Retailers' Association notes that this situation is acting as a disincentive to retailers to retain their relatively low-skilled workforce, motivating supermarkets to invest in technology such as self-serve checkouts in efforts to reduce dependence on human employment. The hours of work and associated overtime penalty arrangements in the retail industries can also operate to discourage employers from offering additional hours of work to part-time employees, and employing part-time permanent employees rather than casual employees.

High minimum award wages are also constraining the ability of employers to restructure employee remuneration in ways that could enhance productivity, for example, through greater use of performance-related commission or incentive payments.

“The high minimum labour cost precludes retailers from rewarding the best and most productive staff. This is a restraint on retailers’ abilities to optimise resources in their businesses. Many retailers would like to offer incentives but the already high basic wages prevent them from doing so.”

Westfield, 2011

The award requirement that casuals be engaged for no less than three hours has also constrained workplace flexibility in responding to unpredictable consumer demands.⁶⁵ Recent changes, such as the Fair Work Commission’s decision to remove junior award rates for 20 year old retail employees, similarly result in cost increases to supermarkets.

The industry remains relatively award-reliant despite the availability of the Individual Flexibility Arrangements (IFAs) which potentially allow variations to the penalty and overtime rates negotiated individually with employers. This is primarily due to the provisions under the *Fair Work Act 2009*, in particular the ‘every worker must be better off overall’ test (BOOT test), which increases the cost and complexity involved in negotiating both IFA and enterprise agreements. This makes productivity improvements more difficult to achieve.

Other issues that increase the regulatory burden for supermarkets are differences in occupational health and safety regulations in the states and jurisdictions, affecting training and operational efficiencies.

Recommendation

It is recommended that the General Retail Industry Award be subject to a full review to increase labour flexibility, in particular as it relates to evening, weekend and public holiday work.

6.3 Inefficient state-based regulations

State-based regulations on retailing of products that are introduced without full impact analysis prior and/or introduced without consideration of its impact on retailers, can unnecessarily increase costs to retailers and consumers, while potentially not resulting in net benefits. Examples of these regulations include age restrictions on the sale of products, and other labelling or display restrictions, which can vary by state. The resulting costs from having to comply with a multitude of different regulations are then passed on by Australian retailers to the consumers.

Examples of areas where regulations differ by state include the sale and display of tobacco in supermarkets, and the introduction of schemes such as the Standardised Unit Pricing Scheme which is discussed below.

⁶⁵ Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry*, Chapter 11: Workplace Relations Regulation, December 2011

Standardised unit pricing scheme

The standardised unit pricing scheme is an example where a state may choose to apply a regulation without first assessing the regulatory impact of the decision, or taking into consideration the greater ramifications to the retailer in their national approaches.

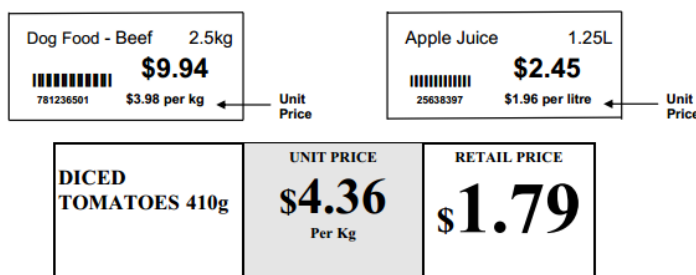
As part of the 2008 Grocery Inquiry by the ACCC, it was recommended that a mandatory, nationally-consistent unit pricing regime be introduced for standard grocery items both on in-store price labels and in print advertising. This was to apply to significant supermarkets, including Coles, Woolworths, ALDI and large independent supermarkets. The ACCC also stated in their recommendation that, before unit pricing is introduced, a detailed cost-benefit analysis should be undertaken to determine to which supermarkets mandatory unit pricing should apply. The *Fair Trading (Unit Pricing) Amendment Regulation 2008's* Regulatory Impact Statement was publicly posted in June 2008, with comments to be submitted by 28 July 2008. Further review was also to be undertaken on the scheme, with a range of other recommendations surrounding its promotion and application.

While this process was being undertaken at a federal level, the Queensland government announced its intention to introduce unit pricing in June 2008, with a Coles store in Brisbane chosen as the first store to launch unit pricing. The formal Unit Pricing Code (the 'Code') was only released in 2010 under the *Competition and Consumer Act 2010 (Cth)*. This implies that stores that were required to follow the unit pricing scheme in Queensland in 2008 effectively had to amend their methods to be consistent with the national code released just two years later.

While there has been positive response to the introduction of the unit pricing scheme, there are still aspects of the code that are seen to lack clarity, resulting in inconsistency in its application. The Code outlines that unit items are based on the most appropriate unit of measurement being:

- Volume (per 100 millilitres)
- Weight (per 100 grams)
- Length (per metre)
- Supplied by a number of 40 or fewer items (per item)
- Beverage (per litre)
- Supplied by a number of 41 or more items (per 100 item)
- Fruit and vegetable (per kilogram or per item)
- Meat, seafood and poultry (per kilogram)

Examples of shelf labels with unit pricing information



The measurements per broad category have led retailers to apply the Code inconsistently as some items in a broad category may be subject to differing unit measurements. An example of this treatment is that cheese has a per kilogram measurement, whilst a cheese snack (i.e. dip) made out of cheese is measured per 100 grams.

In implementing the Code a number of administration costs were incurred by suppliers in providing information to retailers. It is also noted that many suppliers undertook cost shifting and increased product loss or waste through providing larger quantities in order to provide lower unit prices. The Federal Treasury conducted a post-implementation review of the Unit Pricing Code of Conduct and noted that the initial compliance costs to retailers ranged from \$1 million to \$22.1 million during the 30 month implementation period.⁶⁶ Furthermore, post implementation ongoing compliance costs for unit pricing were found to range up to \$50k per annum.

Recommendation

Regulations that vary by state should be considered for national standards where inconsistencies impact retailers significantly. A Regulatory Impact Assessment which assesses the cost of inconsistencies between states should be introduced as a mandatory step in advance of introducing or substantially modifying state regulations.

⁶⁶ Department of Treasury, Post implementation review of the Unit Pricing Code of Conduct, October 2012

Recommendations



7 Recommendations

Coordination & Collaboration



Regulatory hurdles

- Duplication and inconsistencies between local, state and federal bodies

Recommendations

- The Productivity Commission conduct an inquiry across the Paddock to Plate sector to identify and reform duplicative local, state and federal legislation.

- Varying state and territory commitment to reform

- The Federal Government seeks to enhance coordinated action between state and territory governments by setting a national approach to legislation. This could be driven by:
 - Incentive schemes: Initiatives to kick start regulatory reform including the re-introduction of National Competition Payments (but renamed as National Productivity Payments) to entice States to reform.
 - Leadership: Creation of a national body such as a National Red Tape Commissioner to lead the reform, similar to Victoria's initiative in appointing a Red Tape Commissioner.

Production



Regulatory hurdles

- Labour framework: Agricultural production is constrained by a low supply, high cost and low skilled labour force

- Land development, sustainable intensification and expansion is constrained by regulations on land use

- Costly and time consuming testing of agricultural and veterinary chemicals and medicines constrains introduction of new products, and increases cost of products to farmers

- Excessive data collection (e.g. water) poses burdens on production.

Recommendations

- The Government should seek to enhance flexibility in labour awards and agreements, with additional consideration given to regulations on agricultural seasonal workforce, including in the transportation and retail sector.
- Arrangements around access and administration of overseas labour should be improved, including the Seasonal Workers Program and Working Holiday visa schemes, and review of superannuation payment requirements.
- The Government should seek to encourage agricultural studies through its higher education policy levers (such as FEE-HELP and Commonwealth Subsidised Places).

- The creation of a single national environmental and approval process is supported with emphasis on reviewing the *Environmental Protection and Biodiversity Conservation (EPBC) Act* in regards to regulatory limitations on agricultural land development and investment, however the Cost Recovery system should be reviewed to reduce costs involved to ensure that development is not constrained.

- Better regulatory practices should be undertaken where industry consultation and appropriate regulatory impact assessments are undertaken prior to legislative review.
- Review and incorporate United States, Canadian and New Zealand chemical registration findings to facilitate Australian chemical registration processes and reduce testing timeframes.

- Standardised national collection systems should be reviewed and implemented to reduce duplicative efforts and ease burdens on farmers.

Processing



Regulatory hurdles

- Non-adherence to best practice regulatory practices results in net costs to industry and consumers
- Technological advances are disregarded in regulatory practices
- Regulations constrain industry access to product and technology innovations, reducing industry's global competitiveness
- Duplication and overregulation in public health and safety regulations has increased compliance costs for little or no demonstrated gain in consumer protection
- Waste management systems are inefficient and often lack sophistication due to inefficient local jurisdiction management

Recommendations

- The Government should continue its program of regulatory reform to drive a culture of regulatory best practice including reducing "red tape" compliance costs, repealing unnecessary and duplicative regulation and requiring full regulatory impact assessment for new regulatory proposals, including full cost benefit analysis and consideration of non-regulatory measures to achieve market outcomes.
- A review should be undertaken on the use of technological solutions as a market-based alternative to labelling regulations.
- The regulatory system should be expanded to incorporate relevant overseas approvals by credible agencies such as the European Union's European Food Safety Agency (EFSA) and the US Food and Drug Administration (FDA) in the areas of food additive permissions, processing aids and health claims.
- Statutory statements of regulatory objectives should be amended to incorporate reference to social and economic goals.
- A regulatory review of the various audit requirements on agribusinesses' health and safety standards should be undertaken to streamline auditor responsibilities and processes. The review should also consider introducing national health and safety standards that would supersede state or territory standards for new or redeveloped facilities; and
- It is further recommended that the current threshold for mandatory notification of suspected safety incidents be amended to address the current level of unnecessary and inefficient over-reporting.
- Research should be undertaken into effective and modern waste management technologies, and rigorous regulatory impact assessment should be required for any regulatory proposals to ensure outcomes cannot be better delivered through non-regulatory means
- As a matter of urgency, support should be given to ensure the public release of the Packaging Impacts Decision Regulation Impact Statement to enable a fully informed debate on the true cost of a National Container Deposit Scheme as compared to other industry-led proposals to drive higher recycling rates and reduce litter.

Transportation



Regulatory hurdles

- The Road Safety Remuneration Tribunal constrains industry and drives up costs
- Road access variations and infrastructural limitations between states result in lowest common denominator measures adopted and lengthy processes, minimising efficiencies
- Inconsistency between fatigue laws, workplace health and safety (WHS) and livestock welfare regulations
- Heavy Vehicle Charges and reduction of Concessional Registration Rates increase operating costs

Recommendations

- Support should be provided for the Road Safety Remuneration Tribunal to be abolished in acknowledgement of existing and effective mechanisms and systems in place to drive safety improvements.
- Efforts should be made to achieve consistency across states in regards to vehicle specifications, curfews and travel time restrictions, goods transportation and load limitations, and driver fatigue laws, however the national standards should incorporate flexibility where possible so as to not curtail efficiencies by adopting the lowest common denominator as the standard. The system should in particular, consider the needs of operators in rural, regional and remote areas so as to facilitate the effective participation of all Australian states and territories. As a priority, reviews should also be undertaken where regulations create impediments to the use of High Productivity Vehicles.
- The interconnecting elements of the national standards and guidelines of the *National Heavy Vehicle Law* (NHVL), livestock transport (and animal welfare) and workplace health and safety standards should be reviewed for consistency and applied with a degree of flexibility and common sense to ensure that productivity is not constrained.
- The National Heavy Vehicle System (NHVS) should have the capacity to provide for a single national primary producer concession that appropriately acknowledges the low on-road usage of heavy vehicles by primary producers. This reform would ensure equity between the states and territories which is currently lacking.

Regulatory hurdles

Recommendations

- **Regulation of trading hours in some states result in supermarket operational inefficiencies, loss in economic outcomes and restrict response to consumer demands**

- It is recommended that all states fully deregulate trading hours for the retail sector (including during public holidays), thus removing the need for states and local governments to administer trading hour regulations. This would be on the basis that the various retailers may choose which days and hours to trade and will need to be supported by employment legislation that employees maintain full discretion to decide if they wish to work on those days, with no discriminatory action to follow if they choose otherwise.

- **Restrictions on labour flexibility as applied by the General Retail Industry Award which is inconsistent with the reality of the retail industry**

- **The General Retail Industry Award should be subjected to a full review to increase labour flexibility, in particular as it relates to evening, weekend and public holiday work.**

- **State-based regulations on retailing of products that are introduced without full impact analysis prior, unnecessarily increasing costs to retailers and consumers (e.g. unit labelling, expiry dates)**

- **Regulations that vary by state should be considered for national standards where inconsistencies impact retailers significantly. A Regulatory Impact Assessment which assesses the cost of inconsistencies between states should be introduced as a mandatory step in advance of introducing or substantially modifying state regulations.**

Retail



Appendices



A.1 Appendix: Key Australian government agricultural programs

Key Australian Government agricultural programs *(Source: Department of Agriculture)*

Program	Elements
<i>Funding for rural research and development</i>	The Australian Government has a range of programs, spread across several departments, which provide funding for rural R&D (R&D for the agricultural, fishery and forestry industries). The Australian Government invests around \$715 million in rural R&D annually.
<i>Biosecurity</i>	The Australian Government Department of Agriculture primarily manages biosecurity risk at the border and offshore. This involves inspecting vessels, goods and passengers as they enter Australia, and assessing risks posed by proposed import of goods, including plants, animals and their products. While the <i>Quarantine Act</i> does not provide powers for the Australian Government to manage post-border pests and diseases in general, it does allow the Australian Government to play a role during emergency situations.
<i>Drought-related programs</i>	Assistance provided to farmers under drought programs aims to help farmers prepare for and manage the effects of drought and other challenges.
<i>Rural Financial Counselling Service</i>	Provides free financial advice for primary producers, fishers and small rural business experiencing financial hardship.
<i>Transitional Farm Family Payment</i>	Provides payments to farmers experiencing significant financial hardship, paid at a fortnightly rate equivalent to the Newstart Allowance. ^a
<i>Taxation assistance^b</i>	A number of special tax measures and concessions are available to primary producers, including: <ul style="list-style-type: none"> • tax averaging across years • Farm Management Deposits (allowing farmers to set aside pre-tax income to smooth income across years) • ability to access a range of other offsets, deductions and concessions to reduce their assessable income.
<i>Farm finance initiative</i>	Announced in April 2013, this program aims to support farmers currently struggling with high levels of debt, who nevertheless demonstrate long-term viability. Eligible farmers are able to access short-term (up to five year) concessional loans.
<i>Carbon Farming Futures and the Carbon Farming Initiative</i>	Programs aim to create opportunities for land managers to enhance productivity, gain economic benefits and help the environment by reducing greenhouse gas emissions. Through the Carbon Farming Futures program, funds are available for research, on-farm demonstration, extension and outreach activities. The Carbon Farming Initiative operates as a voluntary offset scheme to facilitate the sale of carbon credits generated from eligible activities within the land sector to international and domestic carbon markets. It funds eligible on-farm activities that generate carbon credits.
<i>Caring for our Country</i>	The program aims to protect Australia's natural environment and sustainability. Farmers and other land managers can apply for funding to undertake projects that improve biodiversity and sustainable farm practices. This includes funding for Landcare, a community-based organisation that has worked to raise awareness and influence farming and land management practices since the 1980s.
<i>Disaster income recovery subsidy</i>	Provided to assist farms (and other businesses) who experience a loss of income as a result of a disasters such as bushfires and flooding.

A.2 Appendix: Agriculture value chain and regulatory impact

Agriculture value chain and the impact of regulations (Source: Updated from Productivity Commission (2007))

Key Australian Government involvement/regulation	Key stages of agricultural cycle	Key state/territory government involvement/regulation
<ul style="list-style-type: none"> Aboriginal land rights/native title environmental protection and biodiversity conservation 	acquisition of arable land	<ul style="list-style-type: none"> land use and planning regulation Aboriginal land rights/native title
<ul style="list-style-type: none"> Aboriginal and Torres Strait Islander cultural heritage natural heritage, world heritage international treaties and conventions covering natural and cultural heritage licensing and approval of chemicals, fertilizers and pesticides environmental protection and biodiversity conservation 	preparation of land	<ul style="list-style-type: none"> land use and planning regulation native vegetation legislation water regulation weed and vermin control regulation laws relating to Aboriginal and Torres Strait Islander cultural heritage, archaeological and Aboriginal relics, sacred sites use of chemicals, fertilizers and pesticides natural heritage environmental protection/assessment building regulations
<ul style="list-style-type: none"> chemical and pesticide supply and registration access to drought support fuel tax regulation national pollutant inventory biosecurity regulation immigration regulation water access and regulation research and development funding and support 	farming <ul style="list-style-type: none"> cropping animal husbandry 	<ul style="list-style-type: none"> animal welfare regulation transport regulation affecting use of farm machinery vehicle and machinery licensing regulation livestock regulation and identification access to drought support workplace, health and safety regulation fire control regulation weed and vermin control regulation livestock disease control regulation livestock movement regulation water access and regulation chemical and pesticide use
<ul style="list-style-type: none"> export certificates industrial relation regulations immigration regulation environmental regulation industrial relations regulation national pollutant inventory 	on-farm processing	<ul style="list-style-type: none"> building regulations machinery operations certification and labelling industrial relations regulation workplace health and safety regulation
<ul style="list-style-type: none"> national land transport regulatory frameworks shipping and maritime safety laws international maritime codes and conventions competition laws/access regimes animal welfare 	transport and logistics	<ul style="list-style-type: none"> transport regulations government-owned public/private transport infrastructure access regimes
<ul style="list-style-type: none"> marketing legislation (mandatory codes and acquisition) food safety regulation quarantine regulation export controls export incentives WTO obligations market access and trade agreements taxation 	marketing <ul style="list-style-type: none"> boards customers 	<ul style="list-style-type: none"> interstate certification arrangements taxation

A.3 Appendix: ABARES review of regulatory burdens

Summary of findings from the ABARES Review of Selected Regulatory Burdens on Agriculture and Forestry Businesses *(Gibbs, Harris-Adams and Davidson, 2013)*

Under the regulatory reform stream of the National Reform Agenda (see appendix), the Australian Government asked the Productivity Commission to undertake a series of reviews of the burdens on business from Australian Government regulation. The Productivity Commission explored regulatory burdens on primary sector businesses in 2007, finding that, from the perspective of farmers and other primary sector businesses, governments impose a heavy burden of regulation. It recommended removing or reducing Australian Government regulations that are unnecessarily burdensome, complex or redundant, or are duplicated across portfolios or with state and territory regulation (Productivity Commission 2007).

Recently, ABARES re-examined and updated the Productivity Commission's review under the Agricultural Productivity Work Plan of the Productivity and Regulatory Reform Committee, a subcommittee of the Primary Industries Standing Committee. The ABARES review aimed to identify areas of unnecessarily burdensome regulation which, if improved, could raise productivity in Australia's rural industries. Specifically, ABARES assessed the effectiveness and efficiency of 20 policy areas covering 32 regulatory issues relating to agriculture and forestry. Its remit was limited to regulatory issues affecting these sectors to which the Productivity Commission (2007) had responded and, in turn, to which the Australian Government had accepted or noted. Following the Productivity Commission's approach, ABARES did not assess whether the underlying policy objectives were necessarily appropriate.

Current policy arrangements were viewed through the lens of efficiency and effectiveness with their underlying objectives treated as a given. The results suggested that potential future action by the Australian Government to improve regulatory arrangements typically fell within three broad categories:

- further action could potentially reduce unnecessary regulatory burdens
- further action could complement state and territory government efforts to reduce unnecessary regulatory burdens
- no further action required at this stage (beyond ongoing commitments).

ABARES found that further Australian Government action could reduce unnecessary regulatory burdens for 8 of the 32 issues investigated. For these, there is merit in the Australian Government considering additional action to improve current arrangements. In doing so, the next step would be to consider the overall costs and benefits involved in committing to further reform activities. The policy issues are:

- overly prescriptive animal health and welfare requirements of Marine Orders Part 43, relating to the transport of live animals on ships
- the lack of clarity about what constitutes a 'significant impact' under the *Environment Protection and Biodiversity Conservation Act 1999*
- overlap in regulation of live animal imports
- building regulations and the energy efficiency of timber (in particular, the incomplete representation of a building's energy use over its life cycle under current energy efficiency rating schemes)
- inconsistent taxation of non-resident and resident workers
- inconsistent work health and safety regulation between states and territories
- the cost of and access to permits for minor use of agricultural chemicals and veterinary medicines
- overlap, inconsistency and duplication in agricultural chemical and veterinary medicine regulation across jurisdictions.

While there is a prima facie case for reform in these areas, it is important to note that further analysis is needed to determine the merit associated with potential regulatory changes. In other words, scope for regulatory improvement does not necessarily justify reform activity. Regulatory reform can be costly and its benefits can vary significantly in magnitude and distribution. The implications of further Australian Government involvement and the likelihood of society realising a net benefit require additional consideration.

Australian Government involvement typically occurs through the Standing Council on Primary Industries and other intergovernmental bodies.

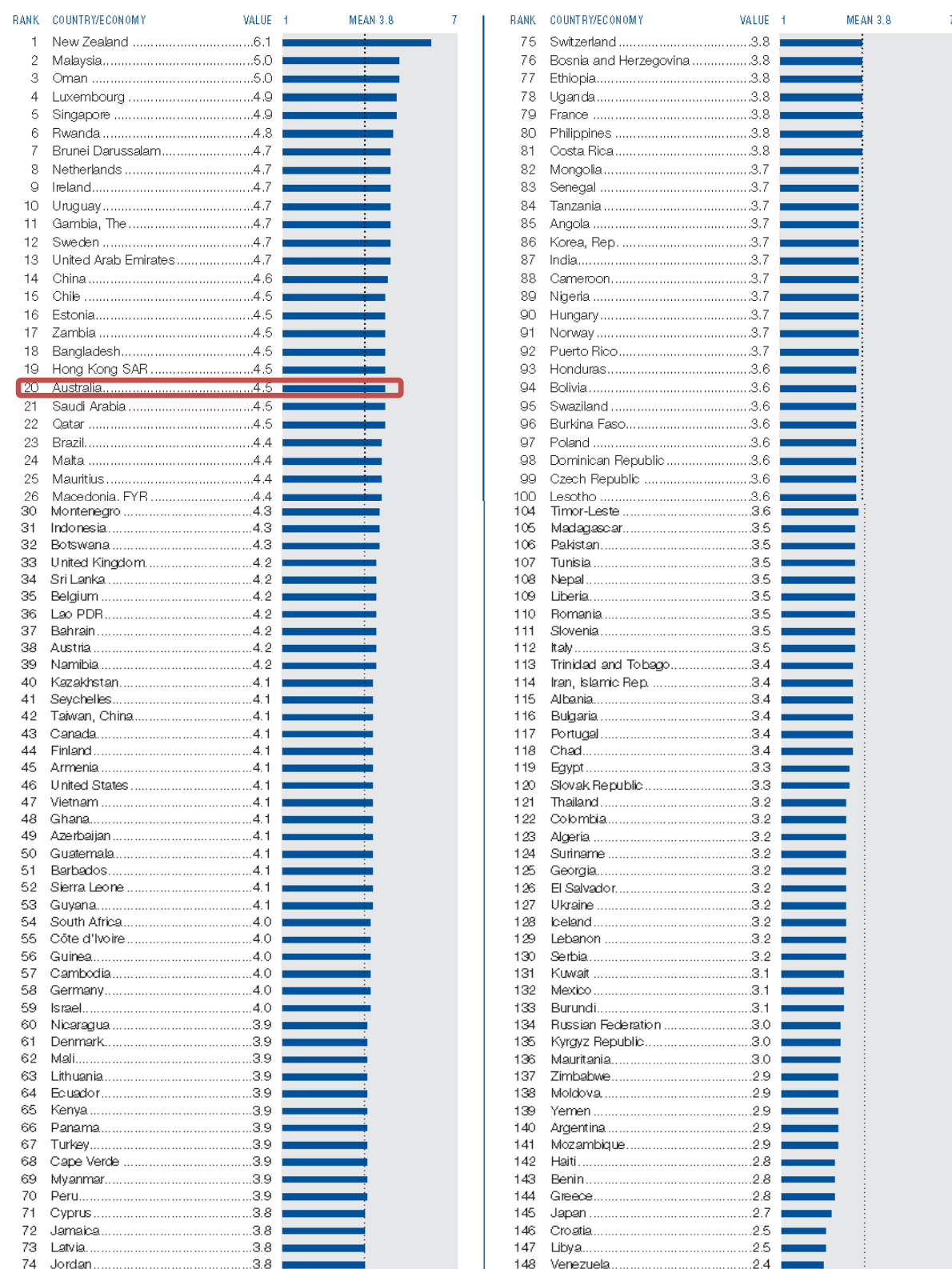
For the majority of issues investigated (20 of 32), ABARES concluded that further action by the Australian Government to reduce unnecessary regulatory burdens was unlikely to significantly improve the productivity of rural businesses. Four broad reasons stood out:

- the regulatory burden is no longer a concern for industry
- major reforms have recently occurred or are planned
- the regulatory burden is solely an issue for state and territory governments
- the regulatory burden is necessary to achieve broader policy objectives.

A.4 Appendix: World Economic Forum 2014, Agricultural Policy Costs and Burden of Government Regulation

6.08 Agricultural policy costs

In your country, how would you assess the agricultural policy? [1 = excessively burdensome for the economy; 7 = balances well the interests of taxpayers, consumers, and producers] | 2012–13 weighted average



1.09 Burden of government regulation

In your country, how burdensome is it for businesses to comply with governmental administrative requirements (e.g., permits, regulations, reporting)? [1 = extremely burdensome; 7 = not burdensome at all] | 2012–13 weighted average

RANK	COUNTRY/ECONOMY	VALUE	1	MEAN 3.5	7	RANK	COUNTRY/ECONOMY	VALUE	1	MEAN 3.5	7
1	Singapore	5.4				75	Timor-Leste	3.4			
2	Qatar	5.2				76	Mozambique	3.4			
3	Rwanda	5.0				77	Cameroon	3.4			
4	Finland	5.0				78	El Salvador	3.4			
5	Hong Kong SAR	4.9				79	Latvia	3.4			
6	United Arab Emirates	4.9				80	United States	3.4			
7	Oman	4.7				81	Japan	3.4			
8	Malaysia	4.6				82	Pakistan	3.4			
9	Bahrain	4.4				83	Ethiopia	3.4			
10	Georgia	4.4				84	Haiti	3.4			
11	Estonia	4.3				85	Swaziland	3.4			
12	Zambia	4.3				86	Malta	3.4			
13	New Zealand	4.3				87	Trinidad and Tobago	3.4			
14	China	4.3				88	Austria	3.4			
15	Taiwan, China	4.3				89	Mali	3.4			
16	Brunei Darussalam	4.3				90	Thailand	3.3			
17	Switzerland	4.2				91	Mauritania	3.3			
18	Luxembourg	4.2				92	Uruguay	3.3			
19	Barbados	4.2				93	Madagascar	3.3			
20	Gambia, The	4.2				94	Costa Rica	3.3			
21	Azerbaijan	4.2				95	Korea, Rep.	3.2			
22	Sweden	4.1				96	Egypt	3.2			
23	Liberia	4.1				97	Bangladesh	3.2			
24	Cyprus	4.1				98	Philippines	3.2			
25	Seychelles	4.1				99	Suriname	3.2			
26	Chile	4.1				100	Kyrgyz Republic	3.2			
27	Panama	4.1				101	Denmark	3.2			
28	Netherlands	4.0				102	Zimbabwe	3.1			
29	Ireland	3.9				103	Nepal	3.1			
30	Iceland	3.9				104	India	3.1			
31	Indonesia	3.9				105	Bulgaria	3.1			
32	Sierra Leone	3.9				106	Vietnam	3.1			
33	Albania	3.9				107	Lithuania	3.0			
34	Armenia	3.9				108	Chad	3.0			
35	Mauritius	3.8				109	Israel	3.0			
36	Jordan	3.8				110	Honduras	3.0			
37	Saudi Arabia	3.8				111	Mexico	3.0			
38	Macedonia, FYR	3.8				112	Yemen	3.0			
39	Botswana	3.8				113	Peru	2.9			
40	Paraguay	3.8				114	Colombia	2.9			
41	Uganda	3.8				115	Lebanon	2.9			
42	Lesotho	3.8				116	South Africa	2.9			
43	Guyana	3.8				117	Burundi	2.9			
44	Côte d'Ivoire	3.8				118	Puerto Rico	2.9			
45	United Kingdom	3.7				119	Mongolia	2.9			
46	Cape Verde	3.7				120	Russian Federation	2.9			
47	Burkina Faso	3.7				121	Libya	2.9			
48	Gabon	3.7				122	Moldova	2.8			
49	Malawi	3.7				123	Iran, Islamic Rep.	2.8			
50	Guinea	3.7				124	Benin	2.8			
51	Senegal	3.7				125	Spain	2.8			
52	Canada	3.7				126	Jamaica	2.8			
53	Tanzania	3.7				127	Romania	2.8			
54	Kazakhstan	3.7				128	Australia	2.8			
55	Lao PDR	3.7				129	Angola	2.8			
56	Germany	3.6				130	France	2.7			
57	Bolivia	3.6				131	Myanmar	2.7			
58	Nicaragua	3.6				132	Portugal	2.7			
59	Montenegro	3.6				133	Poland	2.7			
60	Kenya	3.6				134	Belgium	2.6			
61	Bosnia and Herzegovina	3.6				135	Czech Republic	2.6			
62	Norway	3.6				136	Slovenia	2.6			
63	Nigeria	3.5				137	Ukraine	2.6			
64	Morocco	3.5				138	Algeria	2.5			
65	Bhutan	3.5				139	Slovak Republic	2.5			
66	Guatemala	3.5				140	Hungary	2.4			
67	Namibia	3.5				141	Argentina	2.3			
68	Ecuador	3.5				142	Serbia	2.3			
69	Dominican Republic	3.5				143	Croatia	2.3			
70	Cambodia	3.5				144	Greece	2.2			
71	Tunisia	3.5				145	Kuwait	2.2			
72	Turkey	3.5				146	Italy	2.2			
73	Ghana	3.5				147	Brazil	2.0			
74	Sri Lanka	3.4				148	Venezuela	1.8			

SOURCE: World Economic Forum, Executive Opinion Survey

