Business Set-up, Transfer and Closure
Productivity Commission Inquiry Report
No. 75, 30 September 2015
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Publications enquiries

Media and Publications, phone: (03) 9653 2244 or email: maps@pc.gov.au

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| The Productivity Commission |
| The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.  The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.  Further information on the Productivity Commission can be obtained from the Commission’s website ([www.pc.gov.au](http://www.pc.gov.au/)). |
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The Hon Scott Morrison MP

Treasurer

Parliament House

CANBERRA ACT 2600

Dear Treasurer

In accordance with Section 11 of the *Productivity Commission Act 1998*, we have pleasure in submitting to you the Commission’s final report into *Business Set-up, Transfer and Closure*.

Yours sincerely

|  |  |  |
| --- | --- | --- |
| Warren Mundy's signature | Melinda Cilento's signature | |
| Dr Warren Mundy  Presiding Commissioner |  | Melinda Cilento  Commissioner |

# Terms of reference

I, Joseph Benedict Hockey, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission (Commission) undertake an inquiry into barriers to business entries and exits and identify options for reducing these barriers where appropriate, in order to drive efficiency and economic growth in the Australian economy.

### Background

Firm entry and exit plays an important role in fostering innovation, competition, and thereby driving productivity and economic growth. Competition from new firms, or even the threat of potential entry, forces existing firms to be more efficient. The exit of inefficient firms can provide for greater allocative efficiency as their former resources can be put to higher value uses.

Certain barriers to entry and exit have the potential to hinder the efficient operation of markets, with negative consequences for economic growth. Barriers to entry and exit can be a function of market structure, government regulation, industry specific sunk costs or geography. Cultural appetite for risk is also an important determinant of the level of business entry and exit in an economy.

Business insolvency also results in losses to equity and debt holders, and to employees. Different approaches to managing insolvency can affect the efficient provision of finance and labour.

### Scope of the Inquiry

The Commission is to conduct a broad ranging investigation into barriers to business entries and exits and how or where it might be efficiency-enhancing to reduce such barriers. In undertaking this inquiry, the Commission is to investigate, analyse and propose recommendations on the following:

1. The nature and scale/extent of barriers to entry and exit that currently exist for firms and their impact on economic performance.
   1. Consideration could also be given to the variance in entry and exit rates, for example, between industries, locations, or firm size.
2. Identify appropriate options for reducing these entry and exit barriers, including, but not limited to, advice on the potential impacts of:
   1. The regulation of product and service markets;
   2. Transfers and subsidies to businesses, including import barriers;
   3. Regulations affecting the ease of starting, operationalising or closing a business;
   4. Time spent on and cost of complying or dealing with government regulation, licensing and bureaucracy; and
   5. The personal/corporate insolvency regimes on business exits.

### Process

The Commission is to undertake an appropriate public consultation process, inviting public submissions and releasing a draft report to the public. A final report should be provided to the Government within nine months of receipt of the reference.

J.B. HOCKEY  
Treasurer

[20 November 2014]

Letter of extension

Letter of transmittal

Disclosure of interests

The *Productivity Commission Act 1998* specifies that where Commissioners have or acquire interests, pecuniary or otherwise, that could conflict with the proper performance of their functions during an inquiry they must disclose the interests.

Dr Warren Mundy has advised he is a Fellow of the Australian Institute of Company Directors and the Chair of a Subject Advisory Committee for a course that is part of the Governance Institute of Australia’s Diploma of Applied Corporate Governance. He played no role in the preparation of the submissions made by these organisation to this Inquiry. He is also the director of a number of private companies, none of which participated in any way in this Inquiry.

Ms Melinda Cilento has advised she is a graduate of the Australian Institute of Company Directors. She played no role in the preparation of the submission made by that organisation to this Inquiry. She is also the director of a number of public and private companies, none of which participated in any way in this Inquiry.

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# Acknowledgments

The Commissioners would like to express their appreciation to the staff who worked on the inquiry report and underlying analysis. The staff team was led by Rosalyn Bell and included Joanna Abhayaratna, Monika Binder, Mark Bryant, Bronwyn Fisher, Bill Henderson, Timothy Hewett, James Hunter, Andrew Irwin, Paulene McCalman, Daniel McDonald, Troy Podbury, other staff in the Canberra office, and Dessy Bonita, a visiting researcher from the Indonesian Ministry of Finance, Fiscal Policy Office.

# Abbreviations and explanations

Abbreviations

ABA Australian Bankers’ Association

ABN Australian business number

ABR Australian Business Register

ABS Australian Bureau of Statistics

ACCC Australian Competition and Consumer Commission

ACCI Australian Chamber of Commerce and Industry

ACN Australian company number

ADI authorised deposit-taking institution

AFSA Australian Financial Security Authority

AICD Australian Institute of Company Directors

APRA Australian Prudential Regulation Authority

ARITA Australian Restructuring Insolvency and Turnaround Association

ASIC Australian Securities and Investments Commission

ASX Australian Securities Exchange

ATO Australian Tax Office

AUSTRAC Australian Transaction Reports and Analysis Centre

BAS business activity statement

CAMAC Corporations and Markets Advisory Committee

CAUSEE Comprehensive Australian Study of Entrepreneurial Emergence

CCIQ Chamber of Commerce and Industry Queensland

CGT capital gains tax

COAG Council of Australian Governments

CPA Certified Practising Accountants

CSIRO Commonwealth Scientific and Industrial Research Organisation

FSI Financial System Inquiry

GDP gross domestic product

GFC global financial crisis

GST goods and services tax

ICT information and communications technology

IP intellectual property

IPO initial public offering

MIT Massachusetts Institute of Technology

NAB National Australia Bank

OECD Organisation for Economic Co-operation and Development

PC Productivity Commission

RBA Reserve Bank of Australia

SME small and medium-sized enterprise

STEM science, technology, engineering and mathematics

TFN tax file number

VC venture capital

Explanations

|  |  |
| --- | --- |
| Billion | The convention used for a billion is a thousand million (109). |