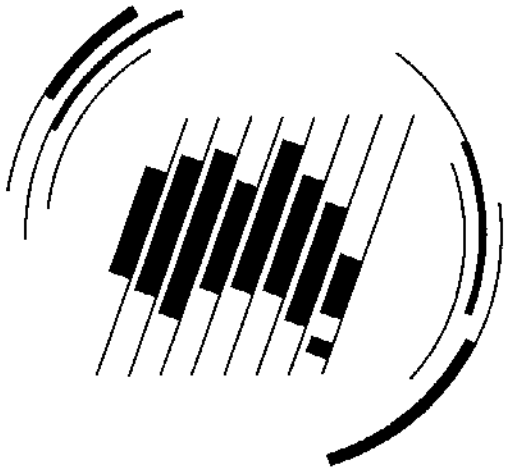


INDUSTRY
SCIENCE
RESOURCES

DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

SUBMISSION

TO THE

PRODUCTIVITY COMMISSION INQUIRY INTO COST RECOVERY BY COMMONWEALTH REGULATORY, ADMINISTRATIVE AND INFORMATION AGENCIES

Contents...

Introduction

The primary role of the Department of Industry, Science and Resources (the Department) is to foster innovation, excellence and international competitiveness in Australian industry, science, technology, tourism and sport. This is achieved through the development and implementation of a range of policy and business assistance programs. It should be noted that the split between policy and program functions advocated by the Mortimer Report[1] and subsequently endorsed by the Government[2] has been implemented.

The Department is part of the broader Industry, Science and Resources portfolio for which our Ministers have responsibility. The portfolio includes a number of statutory and other authorities: Australian Institute of Marine Science (AIMS); Australian Nuclear Science and Technology Organisation (ANSTO); Commonwealth Scientific and Industrial Research Organisation (CSIRO); Australian Industry Development Corporation (AIDC); Australian Sports Drug Agency (ASDA); National Standards Commission (NSC); Australian Tourist Commission (ATC); and Australian Sports Commission (ASC). The Department works closely and in partnership with these different organisations. The Portfolio structure is at Attachment 1.

There are a number of Government agencies within the Portfolio that, while independent from a budget perspective, come under the Department's administrative responsibilities. These agencies include: Australian Geological Survey Organisation (AGSO); Australian Government Analytical Laboratories (AGAL); Australian Surveying & Land Information Group (AUSLIG); IP Australia; and Ionospheric Prediction Service (IPS). Each of these agencies has its own corporate plan and corporate planning process.

Section 1 of this submission outlines the broad principles underlying efficient cost recovery and draws on the Best Practice Business Regulation and Cost Recovery Checklist set out in Attachment 2. Cost recovery activities are undertaken by a number of areas within the Department—principally within program areas. These activities are described in Section 2 of this Submission. Given the importance of cost recovery within government, some sub-agencies within the Department will be making independent submissions to the Commission. These are AUSLIG; AGSO; Bureau of Tourism Research; Australian Building Codes Board; and IP Australia.

Section 1: Best practice cost recovery

The use of a range of cost recovery mechanisms over the past couple of decades has increased markedly in Australia and in other countries. This growth has occurred in the context of constrained government tax revenues (resulting from macroeconomic management pressures and taxpayer resistance), and an international trend towards the use of a broader range of economic instruments to achieve greater allocative efficiency within government and the general economy.

---

[1] Commonwealth of Australia, "Review of Business Programs, *Going For Growth—Business Programs for Investment, Innovation and Export*", June 1997.

[2] Commonwealth of Australia, "Investing For Growth—*The Howard Government's Plan for Australian Industry*", 1997.

While non-tax charges have long been a feature of government revenue raising, their use in Australia seems to have expanded over the past two decades. This trend in Australia has seen the use of a broad range of non-tax revenue measures being used in respect of the goods and services provided by government business enterprises and in the provision of what, in many cases, had previously been regarded as general government goods and services legitimately funded through general tax revenue.

The trend has encompassed the provision of both intra and extra-governmental goods and services. Charges have been embedded in either general legislation (eg, charges relating to the provision of Freedom of Information services) or specific legislation (eg, charges relating to export inspection under the *Export Inspection (Service Charge) Act 1985*) while others have resulted from non-legislative policy (eg, charges relating to the services of ScreenSound Australia). Charging policies and practices have differed from agency to agency and within agencies reflecting a combination of factors, including the greater emphasis on devolution of responsibilities, and the realignment of responsibilities as the structure of portfolios and governmental agencies has evolved.

What is cost recovery?

The term cost recovery is used in this submission to refer to a broad range of measures which aim to have the beneficiaries (usually private) of government activities bear, where appropriate, some or all of the costs of those activities. The Department also recognises that the term is sometimes used more broadly to refer to any non-general taxation measure regardless of whether it is used to recover costs associated with specific activities.

The term cost recovery can be applied to government activities in a number of ways. As stated by the Productivity Commission in its discussion paper, governments have been recovering some or all of the costs of particular government services through measures other than general taxation, including, but not limited to, charges, fees, levies and specific purpose, earmarked taxes. As the Commission also notes, these charges "...can be imposed not only on businesses and private individuals, but also on other governments (foreign, State, Territory or local) or other Commonwealth agencies"[3].

The rationale for cost recovery

Cost recovery practices have been influenced by a range of considerations. It has long been recognised that initiatives have been implemented for general revenue raising purposes in situations where general tax revenue has been constrained (whether for political or economic reasons). In many instances, such initiatives have little relation to the actual costs of providing the goods and services which have given rise to the particular charges concerned. Other initiatives are explicitly linked to the costs of goods and services provided and funded from non-tax revenue in a highly transparent fashion. While the latter can be driven by political or public good considerations, they can also contribute to efficiency and equity objectives.

---

[3] Productivity Commission, *Cost Recovery: Issues Paper*, October 2000.

From an economic perspective, the principal reasons for cost recovery of government activities are to promote:

- *the efficient allocation of resources by assisting government agencies to respond to market signals;*
- *an equitable approach to financing government programs, mandatory or otherwise, by fairly charging clients or beneficiaries who benefit from services beyond the benefits enjoyed by the general public; and*
- *a focus for management on maintaining or improving service quality.*

Properly structured, cost recovery can enhance efficient resource allocation within government and within the economy more generally by allowing markets to influence the supply and demand for goods and services through efficient, transparent pricing signals. Even when there are political reasons for undertaking an activity, cost recovery may still have a place in ensuring activities are provided efficiently.

While the market is an excellent mechanism for ensuring efficiency in the pricing of government activities, it may also be necessary to use other mechanisms to ensure that the prices of government activities are commensurate with the costs of providing those services. These mechanisms may include transparent costing processes which provide consumers with avenues for querying costs; and international benchmarking of both costs and costing processes to ensure best practice. Two areas where such additional mechanisms would be particularly relevant are government monopolies and regulators where consumers are not provided with a competitive market situation and are forced to accept the government set charges.

Which government activities should be cost recovered?

In determining those goods and services which should be funded by cost recovery and those by general taxation, a distinction is usually drawn between private and public goods. Broadly speaking, cost recovery can contribute to efficient resource allocation where the relevant goods and services are rival and excludable– that is, where the provision of goods and services benefits only those who use them and where those who do not pay can be excluded. However, there are areas where it is not always possible to cost recover efficiently, for instance: where the goods and services have substantial externalities; where recovering costs would reduce the demand for a publicly beneficial activity; and where the cost recovery collection mechanisms are difficult or costly to apply.

Efficient cost recovery requires a clear understanding of who benefits from an activity and the ability to measure and apportion the costs associated with that activity. These, in practice, are difficult tasks which have no generally accepted or established methodologies. Two particular problems in regards to these issues are:

- when those who are paying the cost of an activity are not the ones directly receiving the benefit of that activity. An example of this is where a food manufacturer may bear the cost of food regulation, but they may see the benefits of the regulation accruing to the consumers of the product, and to the community more generally. This would especially be the case if the manufacturer was unable to recover the costs through raising prices; and

- given that many government activities have multiple beneficiaries, this raises the issue of how to apportion costs when there are "split beneficiaries". This applies where there are only private beneficiaries and also when there is a mixture of public and private beneficiaries. For example, street cleaning services provide benefits to local residents and businesses, and to visitors and shoppers in the locality. But knowing how to charge these different beneficiaries is problematic. Likewise, it is difficult to determine the overall costs and benefits of a public immunisation program when the positive externalities are generally wide-spread and long-term in nature.

Even where beneficiaries can be identified, cost recovery may still not be feasible if its benefits to government do not outweigh the start-up and ongoing costs of administering the charges, or if the burden placed upon a particular industry in the short-term risks the viability of that industry in the long-term. For example, the long-term viability of a new and emerging industry may be inhibited by unduly heavy regulation and cost recovery, especially if these burdens are of an up-front kind.

It is also important to note that different types of government activities may demand different mechanisms for recovering costs. The extent to which cost recovery is used in relation to a government activity, or whether it is used at all, depends partly on the policy objective of that activity. If the activity is administrative, for example, and there are clear benefits accrued by easily identifiable beneficiaries, then full cost recovery may be the best option. However, if the policy objective of the activity is to provide information to overcome a market imperfection, or to provide information which has some major public benefit, then it may be in the best interests of the policy objective of the activity to have the information provided free or at low cost in order for its dissemination to be as widespread as possible.

Cost recovery design and delivery principles

The Department considers that the following broad principles should be used in the development and delivery of cost recovery mechanisms, taking into account the practicalities involved in individual circumstances.

- Full costs of undertaking and delivering an activity should be determined, regardless of whether the intention is to fully or partially recover those costs. If full cost recovery is not proposed, information should be provided on the level of subsidy built into the user charge.
- Pricing should be based on competitive market prices wherever possible. In other cases, prices should be based on the principles of full cost recovery for each activity unless there is a clear rationale for less than full cost recovery. Exceptions to the general rule could be where:
  - full cost recovery would represent an excessive burden on individual users;
  - administrative charges would be prohibitively large, thereby causing business hardship; and
  - the broader community may also benefit (for example through positive externalities generated by a public immunisation program).

- Where a service is subject to very high sunk costs and low variable costs, such as the provision of mapping services, the situation may arise where the competitive market price is below the full cost recovery price. In this situation, charging the competitive market price, that is the marginal cost of provision of the service, provides the greatest economic benefit but requires a subsidy to cover the full average cost. In these circumstances, government will need to consider whether the broader benefits to the economy of marginal cost pricing outweigh the costs of raising revenue to cover the necessary subsidy, and also the likely impact on any private sector providers currently in competition with government.
- Pricing should be based on the policy of "competitive neutrality" to ensure that any government activities do not compete unfairly with privately-owned businesses.
    - Competitive neutrality involves removing any unfair competitive advantage or disadvantage that government activity may experience, simply as a result of government ownership.
- Strict guidelines for determining public/private benefits should be implemented to ensure that programs with a cost recovery basis are not starved of general tax revenues (which represent public investment in that particular activity).
- Simplicity in fee structure is important. If certain government activities are provided to a class of users rather than individual users, it may be appropriate to charge each user within that class a fee to recover the costs of those services. If substantially the same service is provided to various users, a uniform fee may be appropriate.
    - If pre-determined service commitments are not met, then, where possible, cost recovery charges should be reduced.
- Comparisons with overseas cost recovery regimes should be undertaken, where possible, to benchmark the Government's cost recovery activities against best practice cost recovery regimes elsewhere.
- An explicit methodology should be established to calculate cost recovery charges. The methodology should:
    - include terms and conditions affecting charges;
    - be explained through consultation with those who will bear the charge; and
    - include all relevant costs and clearly specify how they are apportioned to those charged, and upon what basis they will be reviewed.
- Consultation, where possible, should be undertaken with users when a charge is being considered, developed or significantly altered to ensure users can:
    - understand the rationale behind the charges; and
    - assist in the design and implementation of effective and efficient charging processes.
- In cases where it is difficult and inefficient to determine a tailored cost recovery charge, it may be more appropriate for Government to adopt a standard charge which applies to all beneficiaries. Government should, however, be aware that a "one size fits all" approach should not inadvertently adversely impact upon some stakeholders. Some users of government activities may require a more "tailored" cost recovery regime.

- Reducing the associated compliance burden, including paper work burden, is an important consideration in the development of any cost recovery regime. In particular:
  - fee collection mechanisms should not cause inconvenience or add to "red tape" and company compliance costs;
  - methods of fee payment should be simple and user-friendly;
  - payment facilities should be readily available and be electronic wherever such a system proves to be cost-effective; and
  - receipt mechanisms and processes should be simple and immediate.

- Independent review of cost recovery processes that have been in place for several years is also essential to ensure that all stakeholders are getting "value for money" from government.

In addition to the above principles, the *timing* associated with recouping cost recovery charges must be a primary consideration. There could be instances where full cost recovery, even though justifiable, may not be feasible for some stakeholders (such as small businesses or businesses in the new and emerging technologies sector) due to the restricted cash flow of such businesses at the early stages of development, without putting the viability of those businesses or sectors in jeopardy. In such cases, government should consider cost recovery options that minimise the immediate cost burden on such stakeholders, but ensure that such stakeholders do eventually recompense government for its activity in a particular sector.

Finally, consideration should be given to the treatment of the proceeds of cost recovery and the implications that demand for services has for the scale and funding of the activities. It may be important for users to be clear that the charges they pay are in relation to a specific service and hence are retained by the relevant authority. In line with the economic rationale for cost recovery, it is important that organisations respond to the market signals user charges provide in terms of demand for services.

Section 2: Cost recovery practices in the Department

In accordance with the Productivity Commission's terms-of-reference, the Department has identified those areas within the Department which undertake cost recovery on administration, regulation and/or information provision. These areas have generally established processes based on the specifics of their activity, such as public policy objectives and the characteristics of stakeholders.

A number of departmental program areas and sub-agencies have presented detailed information on their cost recovery processes to assist the Productivity Commission in the course of its inquiry.

AUSTRALIAN GOVERNMENT ANALYTICAL LABORATORIES (AGAL)

Preface

In June 2000 the Departments of Industry, Science and Resources (the Department) and Finance and Administration (DOFA) decided to conduct a strategic review (the Mercer Review) of the Government's needs, objectives and priorities for public sector managed analytical laboratory and related services. Terms of reference (copy attached) have been agreed and a review committee was established in August 2000. Mr Don Mercer is chairing the review, assisted by Mr Simon Ash from DOFA and Dr Les Rymer from the Department. Among its terms of reference is a first-principles examination of AGAL's current operating model, comprising 65 per cent commercial revenue earned under competitive neutrality (CN) principles and 35 per cent budget (CSO) appropriation. Inter alia, the review will examine the nature of services provided by AGAL to government and to a range of users on a fee-for-service basis, including the basis of pricing and cost allocations. The committee has submitted a draft report for limited circulation, with a final report to be provided to government in late December 2000. The Productivity Commission may find the review committee's report to be relevant in the context of its review of cost recovery arrangements by Commonwealth agencies.

What is AGAL?

AGAL is the Commonwealth government's principal agency for the provision of analytical laboratory services in chemistry, microbiology, and materials and building science.

As a business unit within the Analytical and Mapping Division of the Department, AGAL employs 170 ongoing staff and approximately 110 contractors. AGAL's major laboratories are located in Sydney, Melbourne and Perth, with shop-fronts in Brisbane and Adelaide. Head office is located in Canberra.

AGAL aims to deliver to government and the community an internationally recognised chemical and microbiological measurement infrastructure that has the capability and capacity to respond to national needs (environment, trade, public health and safety). It does this through the management and delivery of analytical laboratory services, chemical reference methods and materials (standards), and appraisals and listing schemes (information).

In 1997, the National Analytical Reference Laboratory (NARL) was established within AGAL, with the aim to improve the chemical measurement system within Australia. Other specialist facilities include the Australian Sports Drug Testing Laboratory (ASDTL), and the Australian Forensic Drug Laboratory (AFDL).

AGAL clients

In addition to AGAL's fee-for-service clients, a number of other important clients include:

- the Commonwealth Government and its agencies;

- the Australian testing laboratory industry;
- Australian industry and exporters;
- various Australian scientific and academic bodies;
- various Australian regulatory and conformance bodies; and
- the Australian public.

AGAL's commercial and consulting services are generally restricted to four sectors.

- *Food and Agriculture*

  Compliance with national and international, import/export standards and quality assurance program verification.
- *Environment*

  Compliance with the Environment Protection Authority and other health based standards.
- *Drugs*

  Detection/identification of illicit/banned drugs but excluding pharmaceuticals.
- *Materials*

  Consultancy and compliance with building product standards, particularly in fire technology and coatings, and appraisal and listing schemes in this field.

In addition to the above sectors, AGAL conducts limited work on emerging techniques which may also have application in other sectors.

Cost recovery arrangements within AGAL

AGAL operates in a mixed environment where it obtains approximately one-third of its revenue from budget (appropriation) sources and the remaining two-thirds from fee-for-service work conducted on behalf of a variety of government and private sector clients.

AGAL, as the Commonwealth's crisis response analytical and chemical standards laboratory, has to respond to a range of new demands, including:

- Olympics drugs testing;
- the Prime Minister's 'Tough on Drugs Strategy';
- the provision of Australia's contribution to the development of international and national chemical measurement standards through the establishment of the NARL; and
- Government and industry stakeholder concerns about genetically modified foods and dioxins.

These new demands leaves AGAL exposed to increasing competition in the marketplace under the current hybrid-funding model[4]. For example, downturns in the mining industry in recent years have "freed" analytical capacity in Australia, which has negatively impacted on market price.

[4] AGAL's funds are derived from two main sources: fee-for-service activities and Government appropriations, with fee-for-service activities accounting for about two-thirds of the funds.

While AGAL has been able to meet the challenges of increasing competition, and has encountered relatively small reductions in its revenue to date, it has no reserves to call on. These reserves are necessary where, for example, laboratory equipment has been increasing in price and technical sophistication, and stakeholder needs have been increasing with respect to the breadth of chemical analysis. Hence, without the development of new revenue-raising capabilities, the maintenance of current analytical capabilities is under threat. It is through the maintenance of a broad range of capabilities that AGAL achieves the critical mass to respond to national needs.

Operating at the industry/government interface delivers considerable benefit to key stakeholders

AGAL's involvement in the marketplace provides AGAL with knowledge of the needs of industry and the community and how Government needs to react to those needs (both market failure and market opportunity). Hence, it identifies and reaffirms AGAL's priorities in a synergistic manner that would not be present if AGAL did not operate at the interface. For example, market intelligence may indicate a need for more attention to be paid to knowledge gathering in a particular area of endeavour (for example dioxins, genetically modified foods). The knowledge gained may indicate the need to rapidly build up capacity (through operation in the marketplace) in response to an increased risk of a crisis, and that work may indicate the need for appropriate remedial measures (such as appraisal and listing of quality materials and products).

AGAL's involvement in the marketplace also effectively subsidises the benefits AGAL provides to the community.

Thus, operating at the industry/government interface delivers considerable benefit to key stakeholders. This allows AGAL to deliver best practice in work culture. With prices and costs effectively being benchmarked through the competitive process, the Government can be confident that AGAL is providing a value-for-money service to the Australian community.

Review of cost recovery arrangements

Consequential to Government policy changes in 1987, AGAL provides services on a fee-for-service basis to a range of public and private sector clients. The arrangements have been examined on a number of occasions.

- In 1992, Ernst and Young reported on the nature of AGAL's commercial services and made recommendations with respect to pricing and costing of activities.
- In 1996, the report of the Department of Administrative Services' (DAS) commercialisation task force [5] recommended, among other things, that AGAL's commercial activities were to be costed and charged on a basis of full competitive neutrality and provide a return on total assets.
    - A 1996 Budget decision retained AGAL within Government and agreed that a range of restructuring and outsourcing options be undertaken. AGAL

[5] AGAL was assessed against the draft "Principles for the delivery of Commercial Activities and Services by DAS".

further agreed that a full review of the cost of providing Community Service Obligations (CSOs) would be conducted at some future time.

- The Mercer Review will provide the opportunity to review service delivery arrangements for both CSO and fee-for-service activities from a broad national interest perspective.
- Finally, AGAL reviews its prices regularly as part of its strategic business management. Customers and other key stakeholders are consulted as part of price reviews. The most recent price review was undertaken in June 2000 to reflect the impact of the Goods and Services Tax.

AGAL STRATEGIC REVIEW (THE MERCER REVIEW):TERMS OF REFERENCE: JUNE 2000

Purpose

To enable Government to determine AGAL's mandate and operating model for the next 10 years.

Context

- AGAL's current operating model, comprising 65 per cent commercial revenue earned under competitive neutrality (CN) principles and 35 per cent budget (CSO) appropriation, has been operating for 10 years. It was partially reviewed in 1996, resulting in some commercial restructuring, but now requires a first-principles examination.
- Demand for CSO services, particularly crisis response/management and reference laboratory services, is growing. AGAL is unable to satisfy this demand under its current operating model. The food, drug, environment and public health and safety sectors of Australian industry and government are increasingly dependent on AGAL capabilities.
- AGAL has operated on an accrual basis over the past decade. In that period the organisation has had a history of trading losses. In some areas, AGAL is operating in direct competition with the commercial analytical services industry. In other areas, it is supporting that industry.
- A recent PriceWaterhouseCoopers review confirmed that AGAL's commercial operations are subsidising its CSO activities.
- AGAL occupies three Commonwealth-owned laboratories, none of which meet likely future needs and two of which have significant Occupational Health and Safety limitations.

Scope

The review should:

- identify the Government's needs, objectives and priorities for public-sector-managed analytical laboratory and related services, including risk management and crisis response;

- examine AGAL's responsibilities and operations, particularly in terms of meeting the Government's requirements, and the extent to which its outcomes have been achieved;
- identify the strengths (advantages) and weaknesses (disadvantages) of AGAL's operations in terms of both the national interest and competition policy; and
- make recommendations to Government on:
  - the future role (mandate), outputs and outcomes of AGAL;
  - the appropriate delivery mechanism (particularly in-house and outsourced capabilities, corporatisation, funding, and governance); and
  - implementation of the preferred model (including infrastructure needs and the measures to monitor performance and link output proposals to planned outcomes).

Management and resources

- An independent expert with commercial expertise and/or a background in one of AGAL's stakeholder industries will be appointed to chair the review (part-time).
- A Review Committee will be established comprising the independent expert and a representative from each of DISR and DOFA.
- The Review Committee will be supported by a secretariat comprising nominees of DISR and DOFA (experienced, senior and full-time) and AGAL a senior person designated by AGAL with scientific and operational knowledge of AGAL, to provide technical support.
- Consultant costs (Review Chair and any specialist studies) will be met 50/50 by AGAL and DOFA.
- Staff and other support costs will be met by the home agency.

Methodology

The AGAL Strategic Review shall:

- examine recent internal and external reviews of AGAL operations including operating accounts for the past five years;
- examine the role and operations of similar overseas laboratories;
- consult with:
  - stakeholder Commonwealth agencies, including Department of Agriculture, Fisheries, Forestry Australia (National Residue Survey); Australian Quarantine Inspection Service; Australian Federal Police; Australian Sports Drug Agency; Australia New Zealand Food Authority; Environment Australia; Department of Health and Aged Care; and the Australian Customs Service;
  - relevant food, drug, environment and materials industry associations; and
  - relevant national and international standards bodies including National Association Testing Authorities Australia; National Standards Commission; and the Consultative Committee of Amount of Substance etc; and

- commission studies by independent consultants, if required (with approval of Review Committee).

Timing and reporting

- Strategic Review to commence in July/August 2000.
- Draft report to be presented October 2000.
- Final report due November 2000.
- Decision by Government in December 2000.
- Review Committee to meet at least monthly, or more frequently if determined by the Chair.

SPACE LICENSING AND SAFETY OFFICE (SLASO)

Preface

The *Space Activities Act 1998* (the Act) provides for regulation of commercial space activities through the Space Licencing and Safety Office (SLASO).

The Act provides for this regulatory body to charge fees and, as was noted by the Parliamentary Secretary to the Minister for Industry, Science and Resources in debating the Act, once operational SLASO's ongoing cost is intended to be met by space licence and launch permit fees.

The objectives of the Act are to:

- establish a system for the regulation of space activities undertaken either within Australia, or by Australian nationals outside Australia;
- provide for the payment of adequate compensation for damage caused to persons or property as a result of space activities regulated by this Act; and
- implement certain of Australia's obligations under the UN Space Treaties.

Setting of cost recovery charges

SLASO is not yet in a position to charge fees, pending the making of regulations under the Act. This is expected to occur in the first half of 2001.

To set the fees, the Department initially determined both SLASO's budget (SLASO's activities) and, in cooperation with the space launch industry, the anticipated space launch activity. Using this information, fees for the various instruments were determined.

Following legal advice, the methodology for setting the fees is calculated on the basis of the expected full operating costs of SLASO over the relevant period divided by the expected total number of applications for launch related activities. The fees set are not aimed at obtaining aggregate revenues exceeding the total costs of operating the licensing system, as the Act provides that the fees are not to be such as to amount to taxation.

Legal advice is that it is not essential to achieve precise equivalence between the fee for a particular licence or permit and the costs of dealing with the licence or permit. It was the view that if fees were calculated in good faith on that basis, they would be valid whether or not the actual full costs, or the actual number of applications, varied from the forecasts used in determining the fees.

The advice also noted that if fees received in one period exceeded the full costs of SLASO for that period, it would not be necessary to reduce the fees in the next period so as to attempt a "balance" over the two periods. It is the view that fees for the second period would be valid if calculated in good faith.

Level of charges

Based on the methodology of calculating the expected full operating costs of SLASO, divided by the expected number of applications for launch related activities, a proposed fee regime has been determined. This regime assumes that two space licences will be granted in 2000-01 and one application for a space licence will be received in 2000-01 and granted in 2001-02. The number of licencing requests is expected to rise in subsequent years, and the expected operating costs of SLASO were amortised over 5 years.

The proposed fee regime is set out in the table below.

INSTRUMENT	FEE STRUCTURE	FLAT FEE VALUE (A$)	WHEN FEE IS PAID
Space Licence	Flat Fee	$310 000	$10 000 on application for a Space Licence
		Plus external expenses	$150 000, within 7 days of notification of the amount of the external expenses
			$150 000, plus external expenses, within 70 days of notification of the amount of the external expenses
Launch Permit - Single Launch	Flat fee*	$44 000	After grant of a Launch Permit for a single launch
Launch Permit - Series of Launches	Flat fee - Permit plus one launch*	$44 000	After grant of a Launch Permit
	Flat fee for each subsequent launch*	$11 000	After the subsequent launch
Overseas Launch Certificate	Flat fee*	$11 000	On application
Exemption Certificate	Flat fee*	$11 000**	On application

*GST inclusive

**Additional fees may attach to any contracts entered into by the Commonwealth as a prerequisite to the grant of an Exemption Certificate.

The figures provided in the table cover the specific direct costs of SLASO's activities (the flat fee). SLASO will also be outsourcing certain activities, including, for example, the technical assessment of certain documents provided by the launch proponent.

The cost of these outsourced activities (external expenses) will be dependent on the amount of work undertaken for each activity. The total fee for these activities will have to be recovered from the applicant prior to the grant of the relevant instrument. SLASO will determine these expenses during a pre-assessment period and provide a "quote" for these expenses to the applicant who will then decide whether or not to

proceed with the application process. The Department will consult with the applicant during this process.

Additional Fees: Amendment of the *Space Activities Act 1998*

It is proposed to introduce a Space Activities Amendment Bill into the first parliamentary sitting period in 2001. This Bill will seek to make a number of general amendments to the Act.

Included in this Bill will be a series of amendments providing for three further types of fees:

- a Space Licence - Annual Renewal fee;
- a Space Licence - Major Variation fee; and
- a Return Permit Authorisation fee.

The purpose of these fees will be to allow SLASO to:

- continue to monitor launch safety activities in between launches;
- continue to monitor range safety activities in between launches (ie safety of the launch facilities);
- assess major and minor variations to the Space Licence;
- assess applications requesting authorisation to return overseas-launched space objects;
- maintain the Register of Space Objects;
- provide Ministerial advice and support for Ministerial accountability;
- provide information to the public; and
- provide administrative support.

The following table sets out the expected fees to be charged in respect of these activities.

Proposed additional fees for space launch operations not presently allowed under the Act.

Instrument	Fee Structure	Flat Fee Value (A$)	When Fee is Paid
Space Licence - Annual Renewal (includes fees for minor variations to the Licence)	**Flat fee** External expenses	$190 000	• $95 000, on application for a Space Licence renewal. • $95 000, 6 months after application. • External expenses on grant of a Space Licence renewal.
Space Licence - Major Variation - Complete New Module	**Flat Fee** External expenses	$75 000	• $75 000, on application for the variation. • External expenses on grant of the licence variation.

Return Permit Authorisation	Flat fee* External expenses	$44 000	• $44 000, on application. • External expenses on grant of authorisation.

*GST inclusive.

Review of charges

In line with operational requirements, the fee structure for activities under the Act will be subject to continuous monitoring by SLASO. A formal review of the fee structure will be undertaken within 2 years of operation.

Impact of cost recovery on industry stakeholders

The Department has undertaken consultations with the space launch industry and other stakeholders based on the proposed fee regime. The major concern of stakeholders, especially scientific and research organisations, is the level of the proposed charges. The Department is currently considering its concerns.

While it may seem that the level of the fees is large, the fees do not represent a significant proportion of the cost of a launch.

Scientific and educational launches

We are working to develop a concessional fee structure for non-commercial scientific and educational launches. This will need to be achieved within certain legal constraints that impinge on constitutional matters.

Impact of cost recovery on SLASO

SLASO faces the possibility that it may either not be able to cover its costs because of insufficient demand, and the requirement to levy regulatory fees could be argued to be a disincentive to investment in the emergent space industry. Another possibility is that SLASO may collect more than it needs to cover its costs.

In the first case, while SLASO was approved by the Government with the clear intention that it recover its costs, there was an acknowledgement that the costs of establishing the Office would be borne by the Government, and this was confirmed with the allocation of funds for this purpose in the 1998-99 Budget. A revenue shortfall is more likely to be faced by SLASO in the early years of its operation than that it collects more than it needs to cover its costs. Note that there will be a formal review of the fee structure undertaken within 2 years of the operation of SLASO, which will provide an opportunity to reassess assumptions that have had to be made about its activities with the benefit of hindsight.

Legal advice also noted that if fees received in one period exceeded the full costs of SLASO for that period, it would not be necessary to reduce the fees in the next period so as to attempt a "balance" over the two periods. It is the view that fees for the second period would be valid if calculated in good faith.

Consistency with best practice benchmarks

Apart from the United Kingdom (UK), no other country specifically charges a fee to licence a space launch. The UK prescribes a fee of £6500 payable on application for a licence. However, the payment of the fee does not apply to applications for a licence made by, or to licences granted to schools, institutions for the provision of higher education, or an institution for the provision of further education, for the purpose of scientific research or teaching. No information is known as to whether other fees or charges apply.

Other countries that licence space launch activities do not specifically charge a licence fee as such, but charge for the use of government-owned space launch facilities.

Guidelines for setting of charges

Guidelines will be developed to demonstrate to stakeholders how the charges were set. Consultations with stakeholders were conducted during the development of the proposed fee regime. Stakeholders will also be involved in any fee review process.

AUSTRALIAN DIVING ACCREDITATION SCHEME (ADAS)

The Petroleum Industry Branch administers the Australian Diver Accreditation Scheme (ADAS). The Scheme provides an Australia-wide training and accreditation system to ensure that occupational divers are competent to undertake underwater construction and maintenance tasks in the offshore petroleum exploration and development industry. Occupational diving in this sector had an early history of serious accidents and high injury and mortality rates, due to the complex nature of the diving tasks, the generally extreme depths and the need to employ gas mixtures other than air.

To improve the safety of offshore diving, the Commonwealth, through the Australian New Zealand Minerals and Energy Council (ANZMEC) Upstream Petroleum sub-committee, created ADAS and instituted the mandatory requirement for a certificate of competence issued by ADAS to ensure acceptable standards of diving occupational health and safety in the offshore industry as from 1 July 1987.

The Commonwealth, through ADAS and in close consultation with industry, employees and the State/Territory regulators, developed demanding training and assessment requirements for occupational diver training. ADAS accredited a number of Diver Training Establishments (DTEs) under strict guidelines to conduct that training and assess the competence of the divers, and issues certificates of competency to competent occupational divers.

Employment as a diver in the offshore petroleum sector requires the highest level of occupational diving competence and qualification, and this is underpinned by a mandatory formal structure of graduated training, qualification and work experience in less demanding occupational diving situations that provide inexperienced divers with the competence development to undertake offshore activities. To achieve safety in the offshore diving sector, ADAS accredits, by default, occupational divers and diver training for all occupational diving sectors in Australia.

The administration of the Scheme was initially undertaken on behalf of the Commonwealth by the Victorian and Queensland Governments until 1997, when the States handed back all responsibility to the Commonwealth.

The Commonwealth at that time sought legal opinion as to whether or not it was obliged to continue administering the Scheme. It was advised that it could not resile from the responsibility, due to a number of international agreements requiring government oversight of ADAS, the requirement for ADAS accreditation as proof of competence for undertaking occupational diving under some State and Commonwealth laws, and the dependence of industry on the Scheme.

The Commonwealth has sought the ongoing involvement of stakeholders with the management of ADAS through the establishment of the ADAS Management Advisory Committee (MAC). The MAC comprises representatives of working occupational divers (through relevant unions), industry (through onshore and offshore diving contractors), and State/Territory diving regulators. The MAC meets regularly

and provides a mechanism for advice and feedback of occupational diver training and accreditation issues.

The Safety & Security Section within the Petroleum and Electricity Division of the Department administers the ADAS by performing the following functions:

- Auditing and accrediting ADAS occupational DTEs;
- accrediting occupational divers;
- issuing certificates of competence to divers;
- undertaking on-going quality control of DTEs;
- representing the Commonwealth in national and international occupational diving regulatory forums; and
- maintaining a national database to underpin regulation in the onshore and offshore occupational diving sectors.

Cost-recovery activities

The cost for accreditation of an occupational diver under the Scheme is $100 for a five year occupational certificate of competency.

Originally, ADAS divers were awarded a lifetime certificate of competency. On legal advice and as a quality control measure to ensure the ongoing competence of ADAS divers, the Commonwealth decided in 1999 to require renewal of accreditation on a recurring 5 yearly basis, dependent on satisfactory proof of diving competence. This costs $100 every five years on all ADAS divers.

When the Commonwealth took direct responsibility for ADAS in 1997, the charge was $50 and had not been increased since the Scheme was instituted in 1987. This amount was deemed to be insufficient to recover costs at an acceptable level. An increase from $50 to $100 was proposed to, and accepted by, the MAC as a necessary increase that would enable recovery of the direct costs incurred by the Commonwealth in administering the scheme, and reduce the cost to the Commonwealth in accepting and maintaining direct administrative responsibility for the Scheme.

MAC also considered the increase as being in keeping with the benefit afforded by the possession of the certificate of competency (ie, provision to an employee of a high standard of training, the guarantee to employers of an employee's diving competence, compliance with State and Commonwealth law and international portability). The unions made a strong case at that time that diver members should not be burdened with any higher level of accreditation costs than $100 as occupational divers were already subject to numerous recurring ancillary training and re-certification costs and they would be unfairly penalised. It is the Department's assessment that the current accreditation fee is optimal in that it results in a satisfactory level of cost-recovery without being an undue impost on individuals.

The administration of the Scheme is estimated to have direct costs of approximately A$48,400 a year and a relatively minor level of indirect costs which are absorbed by the supporting infrastructure.

The income for the Scheme is based entirely on the accreditation fees paid by new divers being accredited and existing divers renewing their accreditation. The estimated annual income for MAC over the next five years is about A$55,600, but this figure is highly variable, subjective and dependent on a number of factors outside the control of the Scheme. Any surplus from the Scheme's income has been retained to provide an operating budget for lean times and to offset the cost of proposed administrative outsourcing as detailed below.

Audits of the accredited ADAS DTEs which conduct training and assessment of occupational divers and recommend their accreditation under the Scheme are conducted on a full cost recovery basis.

Basis of cost recovery

There is no legislative basis for the current cost recovery policies with respect to the ADAS, and accordingly there are no legislative constraints on the level of cost recovery charges. The basis for introducing the cost recovery measures was first proposed by the Victorian Government to cover the costs of administering the Scheme and has been accepted by the tripartite ADAS Management Advisory Committee which advises the Commonwealth on operational and training procedures and standards. The major beneficiaries of this activity are occupational divers.

Impact of cost-recovery

The cost recovery policy allows ADAS to function with little if any impost on government. These charges and practices are consistent with best practice benchmarks for such activities.

Divers receive a recognised accreditation that allows them to comply with industry standards and State/Commonwealth legislation. The stakeholders in general are very desirous of maintaining the Commonwealth management of the accreditation scheme because of the safety and quality benefits they perceive. They have argued strongly against any move by the Commonwealth to step back from ADAS management.

Some divers were not pleased with the change from lifelong accreditation to 5-yearly certification on the basis that it was a change to the status quo and a financial imposition which they would prefer not to have. The change was, however, supported by the MAC, and in particular the unions, on the basis that it makes the industry safer and is consistent with the way other competency accreditation schemes (eg, for the training and accreditation of air pilots, for non-destructive testing, etc) were structured. The majority of stakeholders have supported the change on the basis that periodic certification was the only way to raise the safety standard of occupational diving in Australia.

The impact of cost recovery on the accredited divers at $100 every 5 years is minimal. The Scheme is highly regarded by State and Territory regulators and offshore and onshore employers. The DTEs regard the cost recovery of their mandatory compliance activities and quality control audits as a cost of business which increases their credibility in the market place, and as having no negative impact on them.

The Commonwealth does not regard the day-to-day administration of ADAS as a core activity and plans to outsource this aspect of the Scheme in the near future, whilst maintaining responsibility for the overall management of the Scheme. It is unlikely that this outsourcing will have much impact on the level of cost recovery.

Review of cost-recovery arrangements

As is apparent from the above, the level of cost recovery for of ADAS is designed to ensure that the cost of administration of the Scheme does not become an undue impost on the Commonwealth.

The Commonwealth accepts that it has an ongoing responsibility to continue to administer this program whilst present circumstances continue. It has undertaken to stakeholder representatives to keep the accreditation fee to individual divers at the current level if at all possible, consistent with CPI increases and an acceptable level of resource impact, and to consult them through the MAC on any proposal to change the status of the current cost recovery arrangements.

In regard to the cost recovery of mandatory compliance activities and quality control audits on DTEs, transparent guidelines have been developed by the Commonwealth for the accreditation of ADAS DTEs and the conduct of ADAS training and assessment programs. These guidelines include the full cost recovery requirements for these activities. Furthermore, these guidelines are currently being reviewed by the Commonwealth, with the MAC being consulted throughout the review, and the review process has been well received by all stakeholders.

The review is being conducted by a tripartite body consisting of members from the DTEs, regulators and the Commonwealth Government. It has been conducted throughout 2000 and will continue into the first quarter of 2001, concluding in March. The review will report on the following:

- Training standards;
- Accreditation requirements;
- Mandatory compliance; and
- Quality control.

IONOSPHERIC PREDICTION SERVICE (IPS)

IPS radio and space services

IPS is a small budget funded group operating within the Department of Industry Science and Resources. IPS provides technical space weather services and recovers some marginal costs from customers.

IPS cost recovery activities

Marginal costs are recovered on:

- consultancy tasks that are specialised in nature and require analysis tailored for an individual customer;
- specialised technical software;
- technical training courses; and
- the handling costs of general prediction services.

Costs recovery activities for specialised services have been undertaken since 1985. In 1995 a general service handling charge was instituted to recover the costs of handling and dispatch of services delivered in hardcopy.

There is no legislative or other basis for undertaking this recovery of costs.

Charges levied

Consultancy charges are levied on all customers who require specifically tailored tasks undertaken unless the outcome can be to the advantage of other customers (given that the original customer is willing to release the output). The charges quoted are based on a graded rate as appropriate to the task undertaken. For example, the yearly charge, from which all the other charges are derived, is set at the level of 2x salary at the EL1 range and increases for shorter periods of work (the present hourly rate equates to 3.4x EL1 salary). These charges were originally set in accordance with Department of Finance and Administration guidelines and generally match current rates of professional engineers.

Software prices are set at a market value for specialised technical IT programs. The marginal costs of marketing, handling and dispatch are recovered. The software is sold through agents in North America, the United Kingdom, Europe and South Africa. Discounts are allowed on multiple copy purchases.

Charges for customer training courses are set so as to meet outgoing costs such as travel, venue, and supporting materials. Training courses delivered to customers are subsidised by IPS because there are opportunities for IPS to promote the infrastructure advantages of its services.

Charges are reviewed annually in the last quarter of the calendar year. Stakeholders and customers have not been included in the review of charges.

All those customers requiring consultancy, software, training or standard services are charged the set rates, with the exception of customers identified in the IPS database as providing data to IPS.

Apart from recovering some costs, the charges have been established to prevent frivolous or ill-considered excessive demands on IPS services. An audit of the costing of IPS standard services was completed in 1995 and showed that the consultancy and general service charges were at about the right level to recover costs.

Customer impacts

The major users of IPS space weather services are other Commonwealth and State Government agencies, such as Defence, Customs, Air Services, Emergency Services, and Transport agencies.

The general impact of the present level of charges on customers is minimal. As intended, many customers now receive IPS services via the Internet, thereby reducing hardcopy delivery. At the introduction of the general service handling charge there was some resentment from small private businesses, such as rural aviation companies and from several individuals. Some small businesses have since refused to pay and services to them ceased. Some clients claim that the price of IPS services causes them an unjustifiable administrative effort in making payments.

The impact of cost recovery on IPS has been to:

- speed up delivery of services to avoid cost over-runs;
- increase awareness of total costs;
- seek smarter methods for service delivery; and
- increase administrative costs.

In a benchmark study (January 2000) with similar organisations in the United States and Japan the costs of IPS compared favourably. Neither external organisation recovers costs.

Summary

Marginal costs are recovered on customer services. This level of cost recovery has the benefit of increasing cost awareness, creating a climate of initiative for improving service delivery without causing an outstanding overhead. It also minimises frivolous or ill-considered requests for services.

MANUFACTURING IN BOND (MiB) AND TRADEX

Manufacturing in Bond (MiB) and TRADEX are schemes aimed at waiving duty and other taxes for goods imported for subsequent export.

The Australian Customs Service (Customs) has a general policy of applying cost recovery to services it provides for imported goods. Services such as: reporting and import entry processing, essentially wherever there is a private benefit from the activities rather than a public benefit.

Manufacturing in Bond (MiB)

MiB is a provision to allow the manufacture of goods in a Customs licensed warehouse. A firm with MiB approval will be able to import dutiable goods into a licensed warehouse free of duty and other taxes. If these goods are subsequently exported, either in their original or manufactured form, no duty or sales tax liability is incurred.

Currently, Customs general cost recovery charges apply to those services provided by Customs in relation to the scheme. However, there is an amending Bill before Parliament that proposes to provide a special exemption from Customs process charges for the MiB scheme. This Bill is part of a package of amendments to MiB.

There has been no activity under the MiB program since it was set up. Only one organisation has a licence to manufacture in bond and it has not made use of this licence. It could be argued that the initial warehouse licence fee amounts to cost recovery and this justifies the proposed cost recovery concessions.

TRADEX

TRADEX has many similarities to MiB and could be viewed as an alternative program. It provides many of the benefits of MiB, including an 'up-front' exemption from duty and other taxes on imports, provided that at the time of importation the intention is to export the goods either in their original or modified form. Applicants for TRADEX do not need a warehouse licence, but they will need to satisfy Customs' requirements to account for goods held and any duty or sales tax liability.

TRADEX is administered by the Department, with no charge to the customer to join or use the scheme. However, general Customs cost recovery charges apply for Customs services provided to users of the scheme.

Currently there are 478 users of TRADEX.

NATIONAL BUSINESS INFORMATION SERVICE (NBIS)

What is NBIS?

The National Business Information Service (NBIS) arose out of the Prime Minister's *More Time For Business* statement in 1997. The objectives of the NBIS are:

- to reduce the compliance burden that business faces in accessing government information; and
- to integrate business information from all three levels of government into a comprehensive national information service.

The NBIS is a Commonwealth Government initiative aimed at providing business and business advisers with access to comprehensive information about a wide range of government information and services.

The NBIS is essentially a package of services/initiatives which enable business to easily locate all the relevant information it needs to start and run a business (including information about business assistance programs). The main elements of the package are:

- web-based software to assist business to collect information;
- a telephone hotline to answer business queries and provide guidance;
- an Internet based facility which automatically collects and disseminates information electronically from all levels of government and industry associations;
- a CD-ROM (BizLink OffLine) containing a sub-set of the national collection of information for business without net access;
- a national electronic collection of industry licensing requirements and codes of practice.

To date more than 5 million requests have been made by business and their advisers to the web site, which recently equates to approximately 6,500 requests per day. The hotline in 1999-2000 received over 30,000 requests for information from business. With increasing exposure and acceptance in the market these numbers continue to increase significantly. More than 98% of users have stated in surveys they are very pleased with the service which has been of considerable assistance to them.

The operation of the NBIS is fully consistent with both the Government's rural and regional policy objectives and the Government Online agenda.

Cost recovery activities

All the information brought together by NBIS are public goods. The NBIS value add is the aggregation into the national data set which removes the need for individual sites to poll up to 3000 separate sites nightly for data, or in response to queries from users. With NBIS doing the aggregation "once for many" it reduces substantially the impact on source sites.

The cost recovery activities undertaken within NBIS relate only to a small element of the NBIS Program –BizLink OffLine (a CD ROM).

BizLink OffLine began in 1994 in response to the need to provide business advisers, businesses/intenders with offline access to business information. Originally the product was produced on disc; but the CD ROM was introduced in 2000 when up to 17 discs were needed to provide the content covered.

Prior to 2000 BizLink was available on an annual subscription basis: A$200 pa for individual users; A$2000 pa for a network installation (e.g. banks); and free to government agencies who were providing the information. In 1999-2000 NBIS revenue was A$71,000.

The subscription rates were struck in 1994 after discussion with DOFA, and were only intended to cover the marginal costs in providing access to the BizLink data set offline. With the introduction of the CD version the charge covers the cost of a CD; art work; the CD burn; data manipulation to produce the CD; and licence for the CD search engine. The cost is now A$35 per CD per quarterly update. Network users buy additional licences by packs of 10.

Basis for cost recovery

There is no legislative basis for the NBIS cost recovery policies and accordingly there are no legislative constraints to the level of cost recovery charges. The basis for introducing the cost recovery measures in 1994 was an administrative decision cleared with DOFA at that time. The major beneficiaries of the BizLink OffLine CD ROM are businesses or business intenders and access to the CD avoids issues with poor access to the Internet, as well as providing the regular user with quicker and more customised access than is possible through the web or HotLine.

Impact of cost recovery

No negative impacts have been evident to date. Subscriber numbers have grown steadily to around 1800 by end 1999.

Review of cost recovery arrangements

The cost recovery policy allows NBIS to provide an offline service to users where it is appropriate. The next review of the level will be in first half 2001 where the CD search engine will be replaced by a freeware engine.

THE COMMERCIALISING EMERGING TECHNOLOGIES (COMET) AND INNOVATION INVESTMENT FUND (IIF) PROGRAMS

COMET and IIF are innovation programs administered by the Department's program provider AusIndustry.

COMET PROGRAM

COMET aims to increase the commercialisation of innovative products, processes and services. COMET supports individuals, early growth stage companies and spin-off companies to better manage innovation by assisting them to develop and implement a strategy for commercialisation and/or providing them with the skills necessary to successfully manage innovation and the commercialisation process. Strategies for commercialisation may include attracting capital, entering into joint ventures or other partnerships or licensing intellectual property.

COMET applicants pay a application fee of A$250. The rationale behind introducing an application fee was to ensure that only serious applicants would apply for COMET assistance. A 5-minute self-assessment test was also established for customers to identify if they were likely to be eligible and competitive. While the application fee helps to offset minimal costs, it was not established for cost recovery reasons.

The sum of A$250 was selected as a sufficiently large disincentive for inventors to lodge application-after-application, but not large enough to deter innovators with serious business opportunities.

IIF PROGRAM

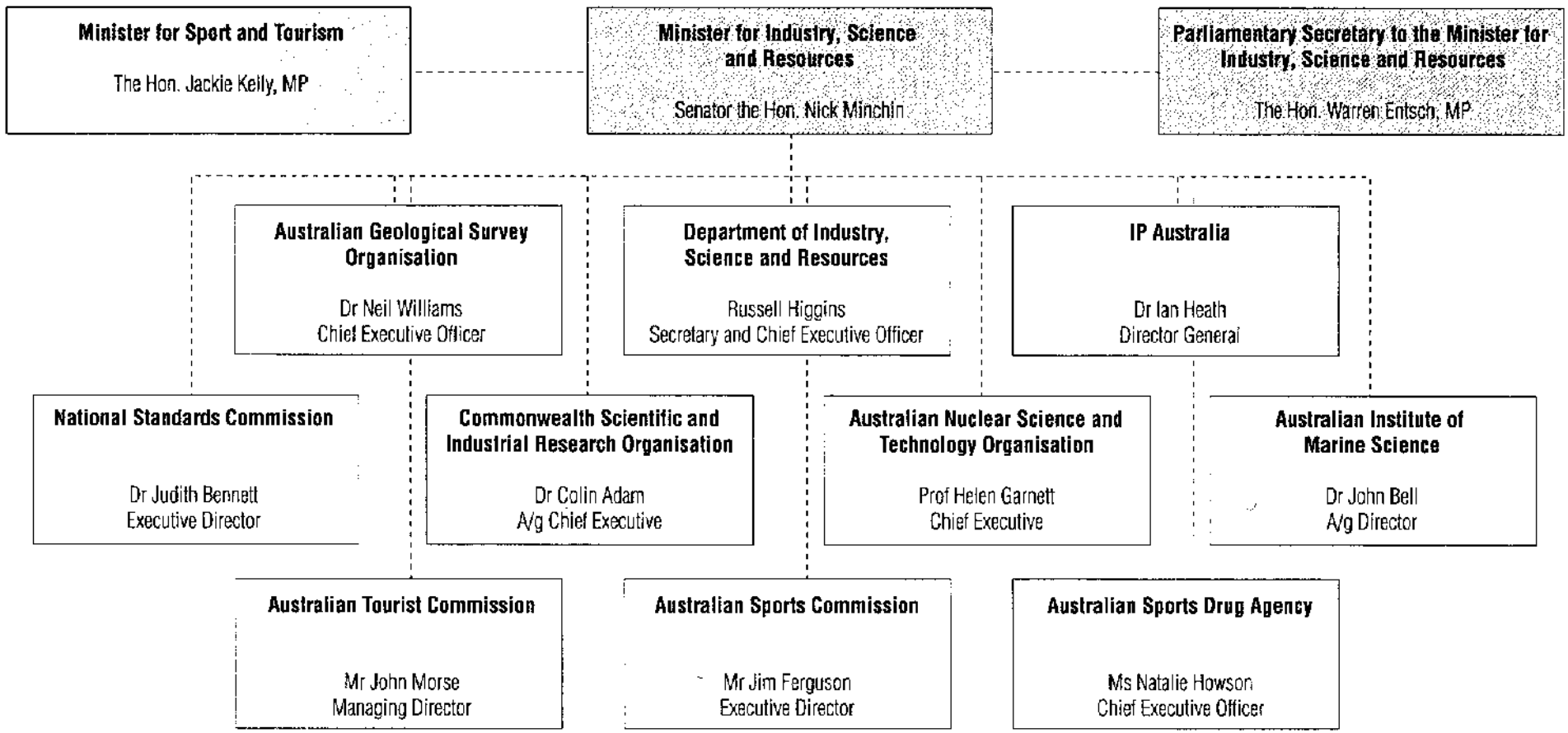
The IIF Program aims to provide access to equity capital to encourage new technology companies to improve the commercialisation outcomes of Australia's strong research and development capabilities and to create a self-sustaining early stage technology based venture capital market. The IIF Program makes both Commonwealth and private sector funding available to innovative firms through licensed private sector fund managers.

Cost recovery for the program is levied on potential fund managers for the program, not on the small innovative firms who are the ultimate recipients of program funds.

The Guidelines for Round Two of the IIF Program (No. 1 of 1999), 'Part 3 - Application Process' clause 40 states that 'The *Board* may levy fees to recover part or all of the costs incurred by the *Board* and *AusIndustry* in assessing licence applications.' For Round Two the assessment process comprised an initial assessment (for which the fee was A$5,000) and (where the application proceeded beyond the initial stage) a further and more detailed assessment (for which the fee was a further A$5,000).

The levied fees only partially recover the costs associated with the selection process which involves undertaking detailed due diligence on all applicants. The levy also works to ensure that only serious applicants apply for IIF licenses.

Chart 1 Portfolio Structure as at 30 June 2000



Attachment 2

Best Practice Business Regulation and Cost Recovery Checklist

Part One - What Is The Problem?

Has the problem been clearly defined?

- What is the risk of the problem occurring?
- Is it recurring? Is it significant? Is it widespread?
- Have the consequences of no action been considered? What are they?
- Is the problem one for government or of purely private interest?
- Is there a clear articulation of the objectives and outcomes sought by Government action?

Part Two - Do You Need Regulation?

- Can relying on the market in conjunction with the general application of existing laws solve the problem? If not, why not?
- Will the market self correct within a reasonable timeframe?
- Are there alternatives to regulation that could solve the problem? Are these viable alternatives?
- Can a regulatory scheme improve the situation?
- Are there deficiencies in the existing regulatory system that, if corrected, might fix the problem?

Part Three - What Sort Of Regulation Is Required?

Once the need for some form of regulation has been established, have alternative forms of regulation been considered? Options include self-regulation, quasi-regulation and explicit government regulation.

Self-regulation

Should be considered where:

- there is no strong public interest concern, in particular, no major public health and safety concern, the problem is a low risk event, or the problem is of low impact/significance

- the problem can be fixed by the market itself ie there is an incentive for individuals and groups to develop and comply with self-regulatory arrangements (industry survival, market advantage).

Quasi-regulation

Quasi-regulation is regulation where there is some government involvement in its development or monitoring, but where industry has a critical role in formation and/or administration of codes, guidelines and standards.

Should be considered where:

- there is a public interest in some government involvement in regulatory arrangements and the issue is unlikely to be addressed by self-regulation

- there is a need for an urgent, interim response to a problem in the short term, while a long-term regulatory solution is being developed

- government is not convinced of the need to develop or mandate a code for the whole industry

- there are cost advantages from flexible, tailor-made solutions or less formal mechanisms such as access to a speedy, low cost complaints handling and redress mechanism

Explicit government regulation

Should be considered where:

- the problem is high risk, of high impact/significance, for example, a major public health and safety issue

- the government requires the certainty provided by legal sanctions

- universal application is required (or at least where the coverage of an entire industry sector or more than one industry sector is judged as necessary)

- there is a systemic compliance problem—for example, a history of intractable disputes and repeated or flagrant breaches of fair trading principles and no possibility of effective sanctions being applied

- existing industry bodies lack adequate coverage of industry participants, are inadequately resourced or do not have a strong regulatory commitment.

Common Characteristics of Good Regulation

Regardless of the type of regulation that is selected, does the proposed regulation contain all the characteristics of good regulation?

The characteristics of good regulation are:

- the public benefit of regulations should always outweigh the public costs imposed
- regulations should only be adopted where they are the most effective and efficient means of achieving the desired outcome
- regulations should only be introduced if they are clearly defined and outcome-oriented
- regulations must be the minimum required to achieve the stated objective
- regulation must be designed to have minimal impact on competition
- regulation should be performance-based, unless prescriptive requirements are unavoidable
- regulation should be comparable to international standards and practices
- regulation should be designed to standardise bureaucratic discretion, as this will reduce discrepancies between government regulators, reduce uncertainty and lower compliance costs
- costs for those who must comply with regulations should be kept to a minimum
- regulation should be designed to ensure administration processes, and therefore costs, for the regulator are kept to a minimum.

Part Four - How Should Regulation Be Developed?

- Have all the main affected parties been identified and consulted?
- Have all consultations been from an early stage?
    - The principle of "no surprise" should apply to those affected. They should be consulted from an early stage to ensure they, and the actioning agency, understand what the problem is and what the options are to solve it.

- Consultation should be up-front, broad and open to ensure the process is transparent.

Part Five - Have All Relevant Effects Been Assessed?

- How will each proposed option affect existing regulations and the roles of existing regulatory authorities?

- Have the expected impacts of the proposed options been identified and categorised as likely benefits or likely costs?

  - Costs include those associated with compliance and administration, licence fees or other charges levied, costs associated with changes required in production, transportation and marketing procedures, shifts to alternative sources of supply and delays or restrictions in product availability.

  - Beneficiaries of regulations must be identified and benefits estimated and quantified where possible.

- Have the outcomes for each option been examined?

Part Six - How Should Charges Be Structured?

- Have consultations been held with users if a charge is being considered (or significantly altered)?

- Has the full cost of administering a regulation been determined?

  - Full costs should be established regardless of whether the intention is to fully or partially recover those costs. If full cost recovery is not proposed, information should be provided on the level of subsidy built into the user charge.

  - Full costs include salary and wages, materials, operating expenses, accommodation, corporate overheads, set-up and capital costs directly attributable to the administration of the regulation.

- Have costs been apportioned efficiently and equitably to those regulated?

  - Efficient and equitable apportionment involves estimating the number of potential users and attributing a proportion of the one-off costs to potential users over a finite period.

- Has the charge been set in accordance with a visible methodology?

- The methodology should be explicit, include terms and conditions affecting charges, and explained to those affected.

- Are all users of the regulation charged the same for the same service?

  - As a general rule, charges for the same regulation services should not differentiate among users if they receive the same benefit. The exception may be where administrative costs are prohibitively large for certain users, thereby causing hardship. In such cases, a clear explanation needs to be provided as to why and how different charges have been developed for different users.

- Have charges been set at a reasonable level?

  - Pricing should be based on competitive market prices wherever possible. In other cases, prices should be based on the principles of full cost recovery for each activity unless there is a clear rationale for less than full cost recovery.
  - Where a service is subject to very high sunk costs and low variable costs, such as the provision of mapping services, the situation may arise where the competitive market price is below the full cost recovery price. In this situation, charging the competitive market price, that is the marginal cost of provision of the service, provides the greatest economic benefit but requires a subsidy to cover the full average cost. In these circumstances, government will need to consider whether the broader benefits to the economy of marginal cost pricing outweigh the costs of raising revenue to cover the necessary subsidy, and also the likely impact on any private sector providers currently in competition with government.

- Are the charges simple in structure?

- Have collection costs and inconvenience been minimised? Is the collection system effective, efficient and transparent?

- Has the issue of timing been considered when seeking to recoup charges?

  - There could be instances where full cost recovery, even though justifiable, may not be feasible for some stakeholders (such as small businesses or businesses in the new and emerging technologies sector) due to the restricted cash flow of such businesses at the early stages of development, without putting the viability of those businesses or sectors in jeopardy. In such cases, government should consider cost recovery options that minimise the immediate cost burden on such stakeholders, but ensure that such stakeholders do eventually recompense government for its activity in a particular sector.

- Have specific financial, service and other performance targets been established for the regulating agency?

- How do proposed charges compare to those of other agencies, both domestic and international, in the same area of regulation?

Part Seven - What Implementation Practices Apply?

- How will the preferred option be implemented?
- What publicly available information will be produced on the proposed changes, enforcement mechanisms, charges, collection mechanisms?
- Are there contact points for further information?

Part Eight - What Review Practices Apply?

- If the preferred option takes the form of regulation, is there a built-in provision to review or revoke the regulation after it has been in place for a certain length of time?
- How will the effectiveness of the preferred option be assessed?
- Will charges be reviewed regularly, for example, every twelve months?
- How frequently are assessments and reviews proposed?
- How will those affected by regulation be involved in the assessment process?