MINERALS COUNCIL OF AUSTRALIA

SUBMISSION ON PRODUCTIVITY COMMISSION DISCUSSION DRAFT REPORT:

PERFORMANCE BENCHMARKING OF AUSTRALIAN BUSINESS REGULATION

DECEMBER 2006

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EXECUTIVE SUMMARY

The Minerals Council of Australia (MCA) **supports benchmarking of regulation across jurisdictions as a means of improving regulatory efficiency for both governments and industry**. This is critical to international competitiveness and the future prosperity of Australia. While we want the benefits of good regulation for our community, we need to ensure that the costs are minimised.

Reform of regulation has been a particular concern of the MCA for many years…

Areas of concern include:

- occupational health and safety;
- Exploration and mining project approval procedures including environmental approvals;
- tenement administration;
- land access;
- transport including transport infrastructure;
- competition policy;
- taxation;
- vocational and technical education;
- energy; and
- climate change and the duplication in energy and greenhouse gas emission reporting.

Improving regulation…

The MCA is pleased that the Commission has utilised the Council's recent audit and scorecard assessments of regulatory approval processes for exploration and mining project approvals in all Australian jurisdictions.

The current focus of regulatory burden benchmarking should be improving regulation, rather than measuring deadweight losses or 'burdens'. Since the Banks Taskforce, COAG and the Australian Government have committed to new regulation review and reporting arrangements that should improve quantitative analysis of regulation on a national basis.

The MCA has shown that **qualitative benchmarking techniques, such as inter-jurisdictional audits and expert panels and scorecards can be used effectively and at low cost to diagnose areas for closer scrutiny and reform**. In the Council's experience, most government agencies, particularly at the state and local government level, are very cost-sensitive. Any systematic approach requiring their resources must be simple, straight-forward and cost-effective.

Cost effective benchmarking…

There is a real danger that concentration on complex and costly analysis could retard the regulation reform process if it appears that the costs of benchmarking are prohibitive.

The MCA submits that the Commission should recommend that a program of low cost diagnostic inter-jurisdictional regulatory benchmarking be developed to identify those areas that should be examined more closely. Each Ministerial Council should take responsibility for reviewing its own regulatory issues.

The costs to the Australian community and to industry of current regulatory inconsistencies among jurisdictions must be addressed. For the minerals industry alone, they amount to millions of dollars every year. Benchmarking is a fundamental tool for identifying these costs and setting the agenda for nationally consistent regulatory reform.

In its future annual reporting to COAG, the Office of Best Practice Regulation will need to find ways of reporting on regulatory performance at the national level. Systematic, economy-wide analysis of areas for review should be one of its objectives.

Inter-jurisdictional and inter-sectoral benchmarking, defined broadly, will be fundamental, just as inter-industry comparisons in the IAC's Annual Report provided a foundation for the Commission's industry assistance review program thirty years ago. This current study should inform this longer-term responsibility.

In the meantime, the COAG 'hotspot' review should continue, with regular scrutiny from ministers and senior officials to ensure that it is progressing with sufficient energy. Review is, after all, just the first step to reform – the essential next step is to achieve improvements on the ground.

Stage 2 should go ahead…

The MCA strongly submits that your project should proceed to Stage 2. We believe that a few case studies, well-chosen to illustrate significant regulatory burdens, could be very influential in maintaining the reform momentum.

The MCA would be pleased to work with the Commission to develop a pilot or case study for Stage 2 of the project. **The regulatory approvals processes for mining projects, particularly the environmental regulations, would illustrate both horizontal and vertical inconsistencies and inefficiencies among jurisdictions**. The work already undertaken for the MCA is based on COAG regulatory and policy principles, so that the criteria and framework would provide a useful starting point for the Commission's own analysis.

1. INTRODUCTION

The Minerals Council of Australia (MCA) welcomes the Productivity Commission's Discussion Draft[1] for its study of Performance Benchmarking of Australian Business Regulation and is pleased to present this submission on that draft. The MCA supports the benchmarking of regulation as a means of improving regulatory efficiency for both governments and industry, especially benchmarking across jurisdictions. Regulatory efficiency is critical to international competitiveness and the future prosperity of Australia.

1.1 The minerals industry in Australia

The MCA represents Australia's exploration, mining and minerals processing industry, nationally and internationally, in its contribution to sustainable development and society. MCA member companies produce more than 85 per cent of Australia's annual mineral output.

The MCA's strategic objective is to advocate public policy and operational practice for a world-class industry that is safe, profitable, innovative, environmentally responsible and attuned to community needs and expectations.

The minerals industry accounts directly and indirectly for around 8 per cent of Gross Domestic Product. It underpins vitally important supply and demand relationships with the Australian manufacturing, construction, financial services, process engineering, property and transport sectors. The industry is one of the most technologically advanced in the world and is at the forefront of new capital investment in Australia. The minerals industry is a highly capital-intensive industry and currently accounts for over 24 per cent of total private new capital investment in Australian industry.

The Australian minerals industry is arguably better placed than at any time in contributing to wealth creation and enhanced standards of living for all Australians.

If well managed, our burgeoning minerals trading relationship with the developing world - particularly China and India - could form a lasting alliance for years to come. Along with our well-established trading relationships with Japan, Chinese Taipei and the Republic of Korea, both China's and India's economies have strong economic complementarities with Australia – a competitive and highly reliable supplier of a wide range of resources.

1.2 Background

Reform of regulation has been a particular concern of the MCA for many years, as indicated in our previous submission. Areas of concern include occupational health and safety; exploration and mining project approval procedures including environmental approvals; tenement administration; land access; transport; competition policy; taxation; vocational and technical education; energy; and environmental issues, including climate change and the duplication in energy and greenhouse gas emission reporting.

The MCA is pleased that the Commission has utilised the MCA's recent audit[2] and scorecard[3] assessments of regulatory approval processes for exploration and mining project approvals in all Australian jurisdictions. The MCA made a submission the Productivity Commission in October 2006[4].

The current focus of regulatory burden benchmarking should be improving regulation, rather than measuring deadweight losses or 'burdens'. Since the Banks Taskforce report[5], Council of Australian Governments (COAG)

[1] *Productivity Commission (2006)*, Performance Benchmarking of Australian Business Regulation, Discussion Draft, November.

[2] *URS Australia (2006a)*, National Audit of Regulations Influencing Exploration and Mining Project Approval Processes, prepared for the Minerals Council of Australia, February.

[3] *URS Australia (2006b)*, Scorecard of Mining Project Approval Processes, prepared for Minerals Council of Australia, May.

[4] *Minerals Council of Australia (2006)*, Performance Benchmarking of Australian Business Regulation, submission to Productivity Commission, October.

and the Australian Government have both committed to new regulation review and reporting arrangements that should improve quantitative analysis of regulation on a national basis.

The MCA has shown that qualitative benchmarking techniques, such as inter-jurisdictional audits and expert panels and scorecards can be used effectively and at low cost to diagnose areas for closer scrutiny and reform. In the Council's experience, most government agencies, particularly at the state and local government level, are very cost-sensitive. Any systematic approach requiring their resources must be simple, straight-forward and cost-effective.

1.3 The importance of the inquiry

Perhaps more so than any other industry, regulation impacts all stages of minerals industry activities from grant of tenure, exploration, mining, processing and closure to relinquishment of tenure.

Regulation is necessary in a modern state – it is part of the institutional framework that enables a society to achieve its objectives. Efficient regulation is a precondition for sustainable industries. However, **regulation should be the minimum necessary to achieve objectives efficiently and effectively and it should not discourage voluntary innovation and improved practices by businesses**. Australia's continued prosperity depends on the on-going efforts of both business and government to improve efficiency and to innovate. Microeconomic reform has been a significant contributor to Australia's enhanced performance and governments have realised that reforming regulation is an important part of this wider economic reform.

To retain its competitiveness in highly competitive, international markets the minerals sector relies on the efficiency of the economy providing it with key inputs. The minerals industry therefore has two particular areas of interest in the current inquiry:

(a) to ensure regulation of the overall economy achieves desired outcomes efficiently with minimum necessary direct control of economic agents by government authorities; and
(b) to ensure that necessary economic regulation of the minerals industry is applied in the most economically efficient manner to achieve identifiable outcomes but not further inhibit what otherwise would be voluntary actions.

The importance of this inquiry lies with the potential that it will benchmark regulatory performance to identify leading practice and enable the promotion of nationally consistent and efficient regulation by improving the processes of regulation making, operation and review.

1.4 The minerals industry priorities

In a world economy where energy security is dominating resource trade, Australia is in a position of economic strength - but as always, there are a number of risks to this position. In particular, it is important for Australia to recognise the ongoing reform imperative and pursue long-term benefits for the Australian economy including through delivery of the challenging and broad Council of Australian Government's reform agenda.

Supply capacity constraints have been the key economic policy problem preventing Australia from fully benefiting from the strongest global growth in a generation – including the complex and inconsistent regulation governing project approvals and occupational health and safety.

Regulations impacting on exploration, mining and mineral processing inevitably involve a multitude of controls at all three tiers of government which vary from jurisdiction to jurisdiction. The priority areas for regulatory reform are:

[5] Rethinking Regulation (2006), Report of the Taskforce on Reducing Regulatory Burdens on Business, Australian Government, Canberra, January.

- Project approvals: As it can take ten years, or more, from discovery to commissioning of a major mining project, the Government project approval processes are critical. An audit of regulations influencing mining and exploration project approval processes commissioned by the MCA found the industry continues to be shackled by regulations for exploration, mining project and environmental approvals, which are so complex and inconsistent they have become a capacity constraint in themselves. Federal and State regulations should be overhauled to ensure ''minimum effective regulatory'' outcomes through:
  - national consistency and reduced Federal/State duplication;
  - continuous improvement;
  - adequately resourced regulators;
  - a single instrument of approval through a single agency;
  - risk management; and
  - ongoing process to review legislation and ongoing consultation with industry.

- Occupational health and safety: Priority needs to be given to the implementation of the National Mine Safety Framework as the basis for achieving national consistency in occupational health and safety regulation:
  - legislation should be risk management based;
  - standards applied and actions by regulators should be nationally consistent; and
  - codes of practice and guidelines should also be consistently applied nationally.

- Access to Land: The minerals industry is involved in the recovery and beneficiation of a wasting asset. So access to land is crucial for ongoing discovery and rejuvenation of the minerals inventory.

2. BENEFITS AND COSTS OF BENCHMARKING REGULATION

The Discussion Draft and a number of the submissions raise the question of whether the benefits of benchmarking regulatory burdens exceed the costs.

2.1 The benefits of benchmarking

The MCA is a strong believer in the benefits of benchmarking regulation. Benchmarking is a tool and should be used judiciously to achieve clearly defined objectives; it can play a very useful role in enhancing the efficiency of the Australian economy, but that it is important to use the right methodology for the particular purpose.

The MCA is pleased to see that the Commission utilised the two benchmarking studies, the Audit of exploration and mining approval processes in all Australian jurisdictions, and the Scorecard (*URS 2006a and b*). These studies have identified areas of strength and weakness in the design and administration of regulations in all jurisdictions. While they are not definitive, they were undertaken at relatively low cost, and provide a useful agenda for reviews at both the national and individual jurisdictional level. If the regulatory inefficiencies are rectified, mining projects will proceed with fewer delays, at lower financial cost and with enhanced environmental outcomes. The problem with inefficient and/or ineffective regulation is that it imposes costs but does not achieve commensurate benefits. The economic, social and environmental benefits that will result from more effective and efficient regulation of mining projects will be very substantial, particularly in regional Australia, and would contribute to more timely project development and increased production and export revenue.

2.2 Choosing the benchmarking methodology

The point is made in the Discussion Draft and submissions such as that of the Western Australian Government, that benchmarking can exacerbate the administration and compliance costs of regulation, with the suggestion that it may not be worthwhile. **In the MCA's view, the objective of regulatory benchmarking should be to improve the quality and efficiency of regulation**.

Businesses in general are interested in ensuring that policy objectives are achieved effectively, efficiently and equitably with the minimum of regulation and that problems can be identified and rectified. While the size of the 'regulatory burden' may be interesting and provide a wake-up call on the need for regulation reform, the MCA does not believe that this is the highest priority at the moment. With the report of the Banks Taskforce (*Rethinking Regulation, 2006*) and the COAG and Australian Government response to it, **governments have recognised the need for improving the rigor of regulatory processes**. They have set in train new arrangements to ensure that the effort remains energised. The annual reporting function of the office of Best Practice Regulation should lead to analyses of regulation that will maintain the momentum. It is now time to get the review process under way and achieving results on the ground.

Some methodologies are data intensive and costly. With the thousands of regulations in each jurisdiction, the costs of comprehensive quantitative benchmarking to measure the deadweight losses of inefficient regulation could indeed be daunting. However, it is not necessary to do this if the aim is simply to improve regulation. This can be done at modest cost on an issue-by-issue basis. The MCA has used benchmarking techniques as a tool to diagnose areas for improvement in regulation. In the MCA's experience, an inter-jurisdictional audit and scorecard using an expert panel can identify, at relatively low cost, areas of good practice and significant areas for improvement. This can set the agenda for regulatory reform. More detailed or data intensive methodologies might then be used for particular issues as part of the review. However, it is not necessary to undertake such analysis to get the process underway. There is a real danger that concentration on complex and costly analysis could retard the regulation reform process if it appears that the costs of benchmarking are prohibitive. Concentration on elaborate and costly benchmarking methodologies could play into the hands of those who wished to curtail it.

The MCA submits that the Commission should recommend a program of qualitative diagnostic regulatory benchmarking, to identify those areas that should be examined more closely.

2.3 Stage 2 case study

The MCA's experience with assessing regulations leads us to believe that it is both desirable and feasible to benchmark business regulation as a basis for improving its consistency, efficacy and efficiency. We appreciate that in the short time to the end of Stage 1, the Commission's ability to undertake benchmarking of complex regulatory issues, such as those involved in mining approvals, is limited. **The MCA therefore recommends that the Commission's benchmarking project proceed to Stage 2. If it does, the MCA would be pleased to work with the Commission to develop a significant case study that could be completed in the limited time available for Stage 2.**

A Commission case study benchmarking mining regulations would be a valuable contribution to microeconomic reform in Australia. Efficient and effective regulation of the minerals sector is vital to the sustained prosperity of this country in the long term. The costs to industry, regional communities and the economy of delays, inefficiencies and inappropriate requirements run into the millions of dollars. They are large enough to be noticeable and to be modelled. Even in one policy area, such as environmental regulation, the economic, social and environmental impacts of inefficient regulation are substantial.

The previous audit and scorecard (*URS, 2006 a and b*) for regulatory approval processes for mining projects could provide a useful starting point. They relied on the analytical framework of the COAG regulatory principles and the Office of Regulation Review's *Guide to Regulation*, which presumably would be the starting point for a Commission study. The MCA and its consultants could quickly provide information to enable the Commission to develop performance indicators and to engage with stakeholders to obtain their views. Mining projects tend to be large in value but concentrated in particular places, so that the number of stakeholders for any project is relatively small. This makes stakeholder consultation within a short period feasible. Furthermore, as mining companies operate across the country and internationally, they bring a national and international perspective.

It is important to the credibility of a benchmarking study that all jurisdictions be covered. Most areas of regulation are the responsibility of either the Federal government, the states and territories or local government. An added advantage for a benchmarking study of some areas of mining regulation, such as environmental regulation, is that the Commonwealth, the states and territories and even local governments, are active regulators in the field. This may not be an advantage for the mining sector itself, but it does illustrate the potential inconsistencies, overlaps, gaps and duplication between levels of government. It also illustrates clearly the differences in administration and compliance of different governments for similar types of regulation.

3. THE BENEFITS OF NATIONAL CONSISTENCY

The MCA is pleased to see the attention given in the Discussion Draft to the burdens imposed by inconsistent regulations across jurisdictions (Chapter 6). The suite of regulations affecting the minerals industry is much the same across Australia. Jurisdictions usually seek to achieve similar, if not identical, policy objectives in areas as diverse as exploration and mining tenement allocation, tenement administration, land access, occupational health and safety and the environment. However, in virtually every area of mining-relevant regulation, each jurisdiction does things differently.

While in many policy areas, responsibility is allocated to a particular level of government, some areas of regulation of minerals activities involve both the Commonwealth and the states and territories, and in some cases, even local government as well. So the horizontal inconsistency between the states and territories may be compounded by vertical inconsistency among the levels of government. Benchmarking opens the way not only to assess regulatory performance, but also to clarify roles and responsibilities among the levels of government.

Inter-jurisdictional differences not only increase the costs and complexity of doing business in this country, but, paradoxically, are also likely to reduce the achievement of regulatory objectives.

3.1 Benchmarking for jurisdictional consistency

The MCA supports the Commission's proposal (p.91) that 'compliance requirements in each jurisdiction be benchmarked against either the operation of mutual recognition or nationally consistent regulation.' The MCA has advocated such standards benchmarking in a number of areas, including occupational health and safety and mining project approval processes.

It would surprise many people that mutual recognition of occupations and professional standards has not eliminated different requirements for occupational regulation among Australian states and territories. Such differences apply in a range of mining industry occupations. The MCA would be pleased to provide additional information on these to the Commission on request. Their impact is to exacerbate the current shortage of skilled and professional staff by inhibiting the inter-state transfer of personnel. This also inhibits mining companies' efforts to promote excellence and best practice across the country. Company experts and centres of excellence provide services to all parts of the business, regardless of jurisdiction. Prohibiting highly qualified staff from working in a particular state has a particularly severe impact on occupational health and safety, where critical staff are subject to state-specific licensing or registration arrangements.

In its response to the Banks Taskforce (*Rethinking Regulation, 2006*), COAG identified occupational health and safety regulation as a regulatory 'hot-spot' for work by all jurisdictions. The MCA is participating in the COAG program to reform the occupational health and safety regulations through a tripartite committee of the Ministerial Council for Minerals and Petroleum Resources. The MCA supports a nationally consistent approach to occupational health and safety regulation in the minerals sector. The current approach based on eight separate State/Territory legislative regimes is inefficient, adds cost, complexity and uncertainty for industry, and undermines the industry capacity to share information and learn from experience. Priority should be given to the implementation of the National Mine Safety Framework as the basis for achieving national consistency in occupational health and safety regulation. In particular the MCA considers that:

- all legislation should be risk management based and framed around the concept of acceptable risk;
- regulatory regimes should encourage reporting of incidents to share lessons learned and provide the basis for continuous improvement in safety outcomes;
- standards applied and actions taken by regulators should be consistent across jurisdictions; and
- codes of practice and guidelines should be developed and applied on a national basis and provide consistent parameters for mining operators;

In addition, there should be a nationally consistent approach to occupational health and safety enforcement policies and their implementation should be based on the existing legislative regime for negligent, wilful or reckless behaviour causing fatalities or other serious injuries under the *Crimes Act*.

One of the benefits of benchmarking is that it helps to clarify policy objectives and the roles of government and regulated industries. In some of the more complex and newer areas of regulation, such as environmental regulation, both horizontal and vertical inconsistencies are apparent in both the design of the regulations and in their administration. **Benchmarking environmental regulation of the mining industry would illustrate many of the issues confronting business in Australia today**:

- Duplication between the Commonwealth and the states/territories;
- Failure to mutually accredit environmental impact assessment processes;
- Failure to complete the development of national standards (NEPMs), leaving jurisdictions to use their old inconsistent standards that have been acknowledged as deficient, or draft new standards that have not been through full regulatory processes;
- Inappropriate application of regulations, e.g. urban environmental standards (e.g. noise, dust) to regional and remote mining situations;
- Inadequate administrative provisions, processes and staff; and
- Administrative inconsistency and inequity.

The MCA reports *(URS, 2006 a and b)* detail many of these issues.

3.2 The costs of inconsistency to business

Inconsistencies in regulations impose considerable costs on the mining industry. While the MCA has not been able to quantify these costs, across the full spectrum of regulation, they would be measured in multiple millions of dollars every year. Establishing nationally consistent regulation is therefore a key objective of the MCA.

The mining industry operates at a national, if not global scale. Corporate systems apply to a company's entire operations. Against this background, state differences in requirements often make it impossible to use national company computer, accounting, environmental reporting and occupational health and safety systems without modifications. This is not only costly, for little, if any benefit to the community, but more importantly also inhibits company efforts to improve performance. Mining companies report on and benchmark the performance of their individual operations. Inter-jurisdictional differences in regulatory standards and reporting arrangements often require companies to essentially operate two reporting systems. Where Australian jurisdictions do not adopt accepted international standards, the costs to businesses are even greater.

The section above outlined some of the costs to companies from lack of mutual recognition of occupations and skills in exacerbating the national skills shortage. This also increases labour costs in an already pressure cooker environment. It also takes a human toll, as staff are frustrated in their desire to achieve and to advance in their careers. Aspects of regulation, such as the use of criminal penalties (industrial manslaughter) for breaches of safety regulations, can deter well-qualified staff from wanting to work in those jurisdictions where such penalties apply. This does little to advance the cause of health and safety in the workplace.

In summary, **inconsistencies in regulatory requirements between jurisdictions for the same issue create additional burdens for national (and international) businesses such as mining companies.** Different state and territory regulatory requirements for dealing with essentially the same issue, prevent companies from having efficient nationally consistent monitoring, administrative and compliance systems. Not only is this an unnecessary cost, but it inhibits improved performance by making it more difficult to benchmark a company's performance from one jurisdiction to another. This leads to dynamic efficiency losses for the economy as well as increased costs and poorer performance for individual firms.

Failure of regulators to use accepted international standards can also exacerbate these costs.

3.3 The costs of inconsistency to the community

Governments justify tailoring their regulations in terms of meeting their own specific policy objectives and administrative arrangements. In practice, the policy objectives of most jurisdictions are quite similar – the things

that unite them are much more significant than their differences. These differences, however small, are costly for the community as well as business. They stop jurisdictions from learning as much from each other as they might. A 'We're different because we are the best' culture does not encourage continuous improvement and quality approaches to regulation and policy development.

Regulatory inconsistencies designed to perfect the achievement of a government's objectives can have the paradoxical result of reducing the effectiveness of the regulations. The MCA sees such impacts frequently in areas such as environmental regulation and occupational health and safety, as referred to above.

A key component is achieving a nationally consistent approach to mine safety based on a strong partnership between employers, employees and regulators. Although the health and safety issues do not vary from one state boundary to another, each jurisdiction has different requirements and regulatory arrangements. These not only inhibit the implementation of best practice across the country, but also impede the use of highly skilled and scarce staff across the country. Thus, regulations designed to promote occupational health and safety can have the paradoxical result of impairing performance in achieving safe and healthy workplaces, and at a high cost.

Mining companies have been making great improvements in environmental management and are proud of their achievements. They have been employing highly trained scientific staff who are able to think outside the square and develop innovative approaches to solving environmental issues. However, inconsistent regulation inhibits learning from other jurisdictions. It also tends to be prescriptive, rather than performance- or risk-based. Under-resourced and inexperienced regulatory staff who are not prepared to risk innovative approaches resort to rigid adherence to rules or simply paralysis. This can lead to excessive demands for studies in a cycle of bureaucratic delay, with costs to regional communities and the state that are denied valuable economic opportunities. When companies are frustrated in their attempts to exceed minimum standards through innovation, their natural reaction is to retreat to the standard. This reduces the achievement of the environmental policy objectives themselves.

In summary, **benchmarking can be a valuable tool in identifying inter-jurisdictional inconsistencies and inefficiencies and highlighting best practice**. Robust, high quality regulation and administration depends on learning from both successes and failures. The costs to the Australian community and to industry of current regulatory inconsistencies among jurisdictions must be addressed. For the minerals industry alone, they amount to multiple millions of dollars every year. Benchmarking is a fundamental tool for identifying these costs and setting the agenda for nationally consistent regulatory reform.

In its future annual reporting to COAG, the Office of Best Practice Regulation will need to find ways of reporting on regulatory performance at the national level. Systematic, economy-wide analysis of areas for review should be one of its objectives. Inter-jurisdictional and inter-sectoral benchmarking, defined broadly, will be fundamental, just as inter-industry comparisons in the Industries Assistance Commission's Annual Reports provided a foundation for the Commission's industry assistance review program thirty years ago. This current study should inform this longer-term responsibility.

In the meantime, the COAG 'hotspot' review should continue, with regular scrutiny from ministers and senior officials to ensure that it is progressing with sufficient energy. Review is, after all, just the first step to reform – the essential next step is to achieve improvements on the ground.

4. PUTTING THE CASE FOR A CASE STUDY

The MCA is pleased that the Commission has utilised the MCA's recent audit and scorecard (*URS, 2006 a and b*) assessments of regulatory approval processes for exploration and mining project approvals in all Australian jurisdictions.

The current focus of regulatory burden benchmarking should be to improve regulation, rather than measuring deadweight losses or 'burdens'. Since the Banks Taskforce (*Rethinking Regulation, 2006*), COAG and the Australian Government have committed to new regulation review and reporting arrangements that should improve quantitative analysis of regulation on a national basis.

The MCA and its consultant, URS, have shown that qualitative benchmarking techniques, such as inter-jurisdictional audits and expert panels and scorecards can be used effectively and at low cost to diagnose areas for closer scrutiny and reform. In the MCA's experience, most government agencies, particularly at the state and local government level, are very cost-sensitive. Any systematic approach requiring their resources must be simple, straight-forward and cost-effective in order to be addressed.

There is a real danger that concentration on complex and costly analysis could retard the regulation reform process if it appears that the costs of benchmarking are prohibitive. A program of low cost diagnostic inter-jurisdictional regulatory benchmarking is likely to have greater success. This will require the identification of those areas that should be examined more closely. It is appropriate that each Ministerial Council take responsibility for reviewing its own regulatory environment.

The MCA strongly submits that the Commission's benchmarking project should proceed to Stage 2. We believe that a few case studies, well-chosen to illustrate significant regulatory burdens, could be very influential in maintaining the reform momentum.

The MCA would be pleased to work with the Commission to develop a pilot or case study for Stage 2 of the project. The regulatory approvals processes for mining projects, particularly the environmental regulations, would illustrate both horizontal and vertical inconsistencies and inefficiencies among jurisdictions. The work already undertaken for the MCA is based on COAG regulatory and policy principles, so that the criteria and framework would provide a useful starting point for the Commission's own analysis.

ENDS