

Gary Banks
Chairman
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

Attention: Maggie Eibisch

Dear Mr Banks

REGULATORY BURDENS REVIEW – BUSINESS AND CONSUMER SERVICES

I refer to the Commission's 2010 review of the regulatory burdens on business, focusing on business and consumer services.

I have sought comment on the Issues Paper from my counterparts in all Tasmanian Government departments. The only response received was from Mr Mark Kelleher, Secretary of the Department of Economic Development, Tourism and the Arts. As no other departments have provided comment, I have attached a copy of Mr Kelleher's comments for your consideration. Should you require further information or clarification, I recommend that you contact Ms Diana Harrison, DEDTA on [...]

On behalf of the Tasmanian Government, thank you for the opportunity to provide input.

Yours sincerely

D W Challen
SECRETARY

March 2010

Encl

Contact: James Abbott
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Department of Economic Development, Tourism and the Arts

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Mr D W Challen
Secretary
DEPARTMENT OF TREASURY AND FINANCE

Attention: David Richardson

Productivity Commission Annual Review of Regulatory Burdens on Business – Businesses and Consumer Services

I refer to your memorandum of 21 January 2010 inviting the Department of Economic Development, Tourism and the Arts to contribute to the Tasmanian Government's submission in relation to the Productivity Commission's Annual Review of Regulatory Burdens on Business – Business and Consumer Services (the Review).

I am pleased to provide the following comments in relation to the Review, grouped according to the business category that they represent:

Call Centres

Advice to my department from several major call centre businesses indicates that the modernisation of employment awards is the current single biggest regulatory issue in relation to call centre operations. Advice to my department also indicates that the change from historical Australian workplace agreements to the current collective agreement structure has created difficulties for many call centre businesses, including:

- the application of fairness tests under the new structure
- the structure of penalty rates
- the inflexibility with shift structures for 24/7 call centre operations.

Concern was also expressed as to the regulation of awards, along with concerns that extending the Do Not Call legislation to include B2B (business to business) calls would impose an unnecessary burden on operators.

Finance

Although access to capital is frequently raised as a challenge for small or start-up businesses, it appears that this is commonly a result of the risk profile for proposals being assessed as outside the financier's parameters and not the regulatory or prudential requirements.

Property and real estate services

Non- residential

I am advised that the Property Council of Tasmania will make a detailed, national submission to the Productivity Commission inquiry, focussing on the need for better assessment of the risks, costs and benefits of regulation across all sectors of the industry.

Greater consistency between state jurisdictions in terms of building codes and standards and occupational health and safety matters is an important issue from an economic development perspective. The need to minimise compliance costs is also considered an issue. Planning reform continues to be the highest regulatory issue for the property industry, although this is largely an issue at the state and local government level.

Residential

I am advised that issues for the local residential real estate market are generally associated with regulation at the local government level, particularly in terms of the planning regime.

Real Estate Services

There appears to be little in the way of Australian Government business regulation that impacts on the real estate services industry, such as valuers and real estate agents. However, consideration could be given to placing a greater reliance on industry association-based codes, principles and practices as a mechanism to reducing the burden on business.

Professional and engineering

There is a need for national consistency in relation to occupational health and safety (OH&S) requirements, particularly in relation to compliance requirements when tendering for contracts. This is particularly an issue for firms with inter-jurisdiction offices.

Relating to the above issue is the need for businesses to meet national OH&S accreditation requirements when tendering for federally funded projects, as opposed to the less stringent state requirements. Harmonisation of state and Australian Government requirements would reduce the cost burden in this sphere.

Professional and engineering businesses are required to register their business separately in each jurisdiction – a significant cost burden if they are to operate multi-jurisdictionally. Harmonisation of registration requirements would reduce the cost burden to business.

Scientific Research Services and Scientific Testing and Analysis Services

Research on imported biological resources such as agriculture, fisheries and forestry material forms a significant component of Tasmanian research that is internationally recognised. A common issue for science and research organisations in Tasmania is the compliance and regulatory requirements of the Australian Quarantine and Inspection Service (AQIS) and the Office of the Gene Technology Regulator (OGTR). These issues include:

- the difficulty in obtaining clear, consistent, timely advice from AQIS due to the duplication of roles of authorities

- the receipt of ambiguous and conflicting advice and guidance from AQIS and OGTR in relation to roles and processes for research on quarantine biological material, and the apparently overly restrictive default position
- AQIS requirements for transporting and storage of quarantine samples are time consuming and resource intensive.

The issue of duplication of regulation and the overlapping roles of AQIS and OGTR is highlighted by a Tasmanian business which noted:

The guidelines issued by AQIS were difficult to interpret, with extensive referencing to standards and other documentation not provided. By contrast, the Plant Containment level 2 (PC2) requirements issued by the OGTR are clear, with simple checklists provided. However, the PC2 and AQIS 5.2 requirements for the same facilities are not consistent. Thus we must meet two sets of standards and two different regulatory authorities' inspections and reporting requirements for the same facilities. 5.2 standard also required us to have a third party AQIS certified inspection (which the OGTR did not), at our expense. The nearest certified inspector is in Melbourne, thus we also had to meet the inspector's travel costs.

In moving to AQIS class 5.2 status, we received conflicting advice over the requirements for this and the processes involved. The requirement for us to move to 5.2 status provides examples of the inherent misunderstanding of the role of plant research as opposed to more general industry requirements (our analysis procedures usually involve destructive analysis of plant material which appears to flag a requirement for 5.2 status, whereas seed for sowing status appears to require a lower level of containment).

Excessive costs in liaising with AQIS and OGTR and staying abreast of changing compliance and reporting requirements was also identified as an issue.

Small business in general

Around 95 percent or 35 805 of all business in Tasmania are classified as small businesses (employing 20 people or less), with the property and business services sector comprising 19 per cent of this group. My department consulted with the Tasmanian Chamber of Commerce and Industry, the Tasmanian Small Business Council and Business Enterprise Centres during compilation of the following key areas of concern for small businesses across the business and consumer services sector.

Administration and operational costs – changing the decision-making environment

Recordkeeping

Taxation compliance continues to be highlighted as a key burden on small business, including the collection of, and reporting on, GST and preparation of BAS statements. Many small businesses in the business and consumer sectors continue to express concerns that reporting and cash flow management in relation to GST receipts is unnecessarily burdensome, requires valuable administrative time and is therefore costly. A simplification of the regulatory requirements on small business would be welcome.

Superannuation compliance – the choice of fund for employees has created additional burden and complexity in reporting to various superannuation funds. For companies in the services sector which employ largely casual and part-time workers, often on a seasonal basis, this can create a substantial cost imposition.

Education, training and compliance

The above mentioned industry bodies all report a general lack of understanding of the *Fair Work Act 2009* (Commonwealth) and other modern awards legislation and subsequent impact on their constituents' workplace arrangements. Given that approximately 64 per cent of Australia's private sector labour force is employed by small to medium size enterprises, small businesses are most impacted by the new legislation. Many businesses in the services sector (such as tourism and hospitality) see the new structure of penalty rates as a key cost burden. The administrative costs to small business of understanding the new legislation also appears to be an issue, with many businesses having to 'buy-in' specialty human resource and industrial relations advice on staffing arrangements.

It appears that the Fair Work legislation unevenly impacts the services sector more than other sectors in the economy.

I am advised that the Tasmanian Small Business Council has indicated OH&S is a problematic area of regulation for many small business operators. The complexity of the regulations and lack of clarity of obligations of small business owners creates uncertainty as to whether they are complying with the requirements of the legislation.

Investment decision-making

Although the federal government's carbon pollution reduction scheme (CPRS) legislation is not yet in place, there is concern and uncertainty as to the impact of the legislation on the costs of doing business. This includes concern among small business as to the impact on input costs (raw materials) and supply chain costs. A recent survey of 400 businesses by KPMG found that 72 per cent expect to experience an increase in regulatory burdens in relation to greenhouse gas emissions and energy over the next three years (KPMG Report 'Gearing Up: Business Readiness for Climate Change' prepared for the Australian Industry Group, July 2009). The inclusion of transport fuels in the CPRS is considered a further impact, adding significantly to the total cost for businesses in the business and consumer services sector.

My department's nominated contact officer in relation to this matter is Ms Diana Harrison. Should you require further information Ms Harrison can be contacted by telephone on [...] or by email at [...].

Mark Kelleher
Secretary

April 2010