



National Farmers'
FEDERATION

**PRODUCTIVITY COMMISSION:
REGULATORY BURDENS ON BUSINESS
(PRIMARY INDUSTRY)**

**NFF Comments on the Productivity
Commission Draft Research Report**

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Table of Contents

Introduction	3
Strengthening the Draft Recommendations.....	3
Review timeframes	4
Accountability for action.....	4
Compulsory superannuation for overseas visitors.....	5
Taxation treatment of non-residents versus residents.....	5
Biodiesel	6
Conclusion	7

Introduction

The National Farmers' Federation (NFF) welcomes the opportunity to provide feedback regarding the Productivity Commission's (PC) Draft Research Report for the Annual Review of Regulatory Burden on Business: Primary Sector. This feedback follows comments provided by the NFF at the PC roundtable discussion, chaired by Commissioner Mike Woods on Thursday, 27 September 2007.

The NFF welcomes the Draft Research Report and the detailed analysis on many of the regulatory issues faced by the agriculture sector. However, as noted at the Commissioner's roundtable discussion, we are disappointed about what we believe are weak Draft Recommendations that, in many instances, lack the impetus to deliver genuine improvements in the primary sector regulatory environment. This disappointment has been expressed by many NFF member organisations, particularly in light of the high level of effort that industry undertook to compile input for the PC. A number of the NFF's specific issues are outlined below:

Strengthening the Draft Recommendations

While the NFF is pleased with much of the analysis provided by the PC, we are disappointed that strong positions were not translated within the Draft Responses, particularly where existing review bodies or processes are in place. We do not believe that an assumption can be made that all the existing review processes are 'adequate' in sufficiently covering all of the regulatory issues involved, prioritising the issues, or addressing industry concerns in an acceptable timeframe.

We believe that the current Draft Research Report is missing a real opportunity for the PC to play a strong role in positively influencing these review processes. Providing a more explicit description of the focus and actions needed by the existing review processes would enhance the effectiveness of the existing review bodies and place welcome pressure on achieving industry and the economy's desired outcomes.

For example, the PC correctly notes that the National Transport Commission (NTC) has carriage to work towards regulatory consistency across the national transport network. Much of the recent focus of the NTC appears to have been on 'big ticket' items such as heavy vehicle pricing, performance based standards and driver fatigue regulation, each of which are vitally important to productivity and safety within the sector. However, the NFF believes that more can be done in optimising productivity in other key areas

outlined in the PC Draft Research Report, including licensing, heavy vehicle accreditation, weight limits and volumetric livestock loading.

Locking in the lowest common denominator (e.g. NSW regulations for livestock transport) is not an option if industry truly wants to build efficiencies. This should also be made explicitly clear to bodies such as the NTC through the PC advice. Along these lines, the NFF also hopes that the PC Recommendations can play a role in helping organisations, such as the NTC, determine which state regulations are optimal for productivity. The same could also be applied in the area of state occupational health and safety, environment, food regulation, industrial relations and water management.

Review timeframes

The NFF understands that in many cases it can be difficult to stipulate an appropriate timeframe to achieve a desired regulatory reform. However, we feel that a greater level of urgency can be effectively promoted by the PC in a number of areas where existing reviews are already in place. At a minimum, industry should be made aware of the ongoing status of reviews and/or processes to provide industry with the comfort that the issues are being addressed in a timely fashion.

As raised at the roundtable discussion, it is very disappointing that industry can be left completely uninformed for prolonged periods about the status of review processes. For an example, the NFF lodged submission for the Bethwaite Review which in February 2007, however we are still yet to receive any form of feedback on its status. We believe that the PC's final report has the opportunity to make it clear that such practice is unacceptable.

Continuing on this issue, the NFF acknowledges that the PC, on page 30 of the Draft Research Report, has noted that reform, in relation to bilateral assessment agreements regarding the Environment Protection Biodiversity Conservation (EPBC) Act, is taking too long. Comments such as these should be highlighted within the key findings and recommendations of the final report rather than being buried within the analysis of the report where they can easily be overlooked.

Accountability for action

The NFF is concerned that government jurisdictions will be able to shift responsibility for actions under the current draft report. To combat this, the NFF believes that the PC recommendations should be explicit about which jurisdictions or levels of government have responsibility for actions and/or are holding up existing processes in delivering regulatory reform.

Again, using transport as an example, the recommendations should indicate for example, that NSW livestock loading laws are holding up the reform process and that they should quickly move towards the same guidelines as those used within Queensland and Victoria. The same argument could be applied to the NSW occupational health and safety regulations.

Compulsory superannuation for overseas visitors

The NFF urges the PC to amend the recommendation regarding compulsory superannuation requirements for overseas visitors on page 86 of the Draft Research Report. Currently, the recommendation suggests that the Australian Government appears to have no lower-cost alternatives available to address this issue, giving the Government the justification to 'sign-off' on the issue as being finalised. However, the NFF does not believe that the PC's analysis is conclusive in making this finding and the NFF suggests the issue remain open for discussion, an option that could potentially be removed if the recommendation remains in its current form.

The Draft Research Report highlighted that the Regulation Taskforce (2006) recommended an increase to the superannuation exemption threshold to \$800, which would represent approximate indexation to average weekly ordinary time earnings since 1992. Furthermore, the Regulation Taskforce recommended that this threshold should be periodically reviewed and that employers should be given the option to use a quarterly exemption threshold.

The NFF believes that the current legislation is a prime example of regulation failing deliver the flexibility required by an ever-changing business environment. The NFF has been supportive of the recommendation by the Regulation Taskforce for an \$800 superannuation exemption threshold and believes that their suggestion merely allows the legislation to deliver on its original policy intent. That is, if a threshold of \$450 per month was appropriate in 1992, then through indexation, this threshold now equates to \$800 per month.

The NFF is disappointed that the Government does not recognise the need to provide flexibility in regulation involving exemption thresholds, such as the example listed above, and hopes that the recommendation in the final report will clearly state the PC's views on this matter.

Taxation treatment of non-residents versus residents

The NFF acknowledges that some PC recommendations may have policy implications. However, the NFF believes that the PC has a responsibility to make recommendations from a regulatory reform and productivity perspective, even though this may have implications on policy. One example

in which the NFF is looking for strong leadership from the PC, includes recommendations on the taxation treatment of non-residents versus residents. Instead, the existing recommendation on this issue is weak and appears to back away from taking a viewpoint in the fear of interfering with the views of Government.

The NFF contends that the non-resident taxation rates should be brought in line with that of Australian residents, citing the following benefits:

- Streamlining benefits to the taxation system, enhancing compliance and costs to administer.
- Agriculture, particularly horticulture, relies on foreign workers for a significant percentage of their workforce.
- The economy is facing significant labour shortages, which is inhibiting growth. Growcom estimates that due to labour shortages its members (Queensland fruit and vegetable growers) lose up to 10 per cent of their crops. In 2000, the Queensland Fruit and Vegetable Growers Association reported losses of \$90 million due specifically to a lack of casual labour.
- Figures from the Bureau of Tourism Research show that working holiday-makers spent a total of \$568.8 million within Australia during 2005. This translates to \$9,295 per visitor at \$76 per night, with an average length of stay in Australia by these visitors is 122 nights. The NFF believes that additional cash in hand for foreign residents would increase the average spend per visitor and provide an injection of income into the national economy.

Biodiesel

The PC correctly points out within its analysis that the various pieces of legislation regarding the on-farm use of biodiesel are complex and have created confusion within the agriculture sector. However, while the PC's recommendation on the issue focuses on the education needs surrounding the taxation treatment of biodiesel blends, the NFF contends that work can be also done to provide a greater level of consistency between the various pieces of legislation governing biodiesel use. Currently the *Fuel Quality Standards Act 2000* and the *Excise Tariff Act 1921* appear to have contradictory policy intents.

On the issue of biodiesel, the NFF has also recently been made aware of regulatory complications regarding the blending of diesel and biodiesel on-farm.

Under current regulations, blending diesel and biodiesel is considered to be manufacture of an excisable product and an excise license is required, even if it is simply adding newly purchased biodiesel to on-farm storage tanks

containing standard diesel. The *Excise Act 1901* allows for heavy penalties to be imposed on unlicensed activities. This regulation, if left unamended, could act as a serious deterrent for the purchase of biodiesel blends by the farm sector.

Conclusion

The PC has a genuine opportunity to make a significant improvement to the regulatory environment facing the primary sector. Yet the Draft Research Report, in its current form, will not help to achieve this goal. While the analysis provided by the PC within the Draft Research Report is sound, the key focus of the report will be on the recommendations, which currently provide little direction for regulators and industry alike. The NFF hopes that the final report will be more prescriptive in making strong recommendations for change - even when existing review bodies or processes are in place.