

14 March 2013

Small Business Study
Productivity Commission
GPO Box 1428
Canberra City
ACT 2601

Email: small.business@pc.gov.au

Dear Sir/Madam

Submission to the Regulator Engagement with Small Business Issues Paper

Thank you for the opportunity to provide comments to the *Regulator Engagement with Small Business* discussion paper.

While well targeted and designed regulations may deliver economic, social and environmental benefits, they invariably impose costs on businesses and more importantly some of this regulatory burden may be unnecessary to achieve the outcome desired by government.

Unnecessary or poorly formulated and implemented regulation can expose Australian businesses to excessive compliance costs, reduce agility of business, stifle market competition and divert resources away from productive investment, reduce innovation and job creation, and discourage entrepreneurship.

Red tape often arises when regulators feel that they must always err on the side of caution and thus frequently manage their regulatory program by adding more demand for paperwork, increasing compliance requirements and more audits and inspections than necessary. The assumption by regulators that compliance risks for all businesses are identical is flawed, and thus imposing a "one-size-fits-all" regulatory requirement is a poor approach as it creates unnecessary compliance burdens, especially on small business.

Regulation imposes compliance costs on business by requiring them to undertake additional activities and provide information to government and third parties. Compliance costs incurred by business often exceed the level necessary to achieve the policy objectives. Excessive compliance costs can often arise when regulation is overly complex, redundant, and duplicates the regulation of other jurisdictions or other regulatory bodies.

Compared to larger enterprises, the small business sector suffers disproportionately from regulatory requirements let alone regulation that is badly designed and passed its usefulness. Thus more emphasis needs to be placed on addressing the red-tape burden currently facing Australian businesses.



AUSTRALIAN CHAMBER OF
COMMERCE AND INDUSTRY

COMMERCE HOUSE
24 BRISBANE AVE
BARTON ACT 2600

PO BOX 6005
KINGSTON ACT 2604
ABN 85 008 391 795

PH: 61-2-6273 2311
FAX: 61-2-6273 3286
WEB: www.acci.asn.au



Moreover, the growth of regulation and the weight of existing regulation is an endemic problem across all modern economies and to mitigate its growth politicians, rather than regulators, will have to be committed to resisting legislative responses as their first reaction.

Too often regulators who are at the end of the regulation making pipeline are faced with the task of enforcing unnecessary and damaging responses that should never have been developed.

More broadly lawmakers need to acknowledge it is not up to government to create a risk free society for as many of its citizens as possible as this has a very high concomitant cost.

Please find enclosed our full submission on this matter.

Yours sincerely,

Greg Evans
Chief Economist

1. The role of small business in the Australian economy¹

Small businesses play a significant role in the Australian economy representing 95.9 per cent of Australian private businesses (see Table 1). In 2010-11, small businesses:

- produced around one third of GDP;
- were the largest employers, employing 45.7 per cent of Australian labour force;
- accounted for 29.5 per cent of wages and salaries;
- contributed 31.9 per cent of sales of goods and services and 39.0 per cent of operating profits before taxes; and
- represented 41.6 per cent of Australian goods exporters, contributing a mere 0.5 per cent of the total value of goods exported.

Table 1: Contribution to the Australian economy of different-sized businesses, 2010-11

In percentage terms			
	Small Business	Medium Business	Large Business
No of Enterprises	95.9	3.8	0.3
Employment	45.7	24.3	29.9
Industry Gross Value Added	33.7	23.4	42.9
Sales of goods and services	31.9	25.4	42.7
Wages and salaries	29.5	27.7	42.8
Operating profits before taxes	39.0	17.7	43.3
No. of Exporters	41.6	48.6	9.8
Value of exports	0.5	4.5	94.9

Note: Industry gross value added excludes financial and insurance services.

Source: ABS 2012, *Australian Industry 2010-11*, Cat. No. 8155.0.

ABS 2012, *Characteristics of Australian Exporter 2010-11*, Cat. No. 5368.0.55.006.

The main source of business income for micro and other small businesses² was the general public, contributing 46.8 and 48.4 per cent respectively. Small and/or medium businesses were also likely sources of business income for micro (40.4 per cent) and other small businesses (36.8 per cent). Micro and small businesses only reported 1.6 and 2.0 per cent of business income coming from overseas customers (see Table 2).

¹ In this submission, we follow the ABS definition and define small business as those employing fewer than 20 people; medium businesses as those employing 20 to 99 people; and large business as those employing 100 or more people.

² Micro businesses are small businesses who hire less than 4 employees; while other small businesses are those hiring 5 to 19 employees.

Table 2: Main source of business income, by employment size, by industry, 2010–11

	In percentage terms				
	Australian sources				Overseas sources
	Government organisations	Large businesses or organisations	Small and/or medium businesses or organisations	General public	
Small Business (0–4 persons)	3.3	14.9	40.4	46.8	1.6
Small Business (5–19 persons)	6.2	17.4	36.8	48.4	2.0
Medium Business	7.8	25.4	28.6	45.3	3.1
Large Business	13.3	41.2	19.2	32.6	4.1
All Businesses	4.6	16.6	38.3	47.1	1.9

Source: ABS 2012, *Selected Characteristics of Australian Business, 2010-11*, Cat. No. 8167.0

In 2010-11, almost four out of five businesses sold goods or services in the local area, with the proportion of businesses selling goods or services in the local area the greatest among small businesses with 5 to 19 employees (83.6 per cent). In the remaining three geographic markets, the proportion of businesses that sold goods or services in these markets increased with each successive employment size range (see Table 3).

Table 3: Geographic markets in which businesses sold goods or services, industry by employment size, 2010–11

	In percentage terms			
	Local	Outside of local area but within the state/territory	Outside of state/territory but within Australia	Overseas markets
Small Business (0–4 persons)	78.9	37.5	21.6	5.7
Small Business (5–19 persons)	83.6	44.2	24.6	8.4
Medium Business	81	48.1	34.7	13.7
Large Business	79	61.7	66.1	34.6
All Businesses	80.5	40.5	23.8	7.3

Source: ABS 2012, *Selected Characteristics of Australian Business, 2010-11*, Cat. No. 8167.0

More than 40 per cent of small businesses relied on a small number of clients, customers or buyers to generate a significant proportion of their business income, with 54.8 per cent for micro businesses and 43.1 per cent for other small businesses. Table 4 also highlights that business reliance on a small number of customers decreased with the increase in business size. It is also interesting to note that compared to medium (28.0 per cent) and large businesses (14.7 per cent), micro businesses (38.1 per cent) and other small businesses (31.5 per cent) were more likely to indicate that loss of one of their clients will have little or no impact on their business income as it would have been relatively easy to find alternative customers.

Table 4: Reliance on clients, customers or buyers, by employment size, by industry, 2010–11

In percentage terms

		Potential impact on business income from loss of one of these clients, customers, or buyers		
		Little or no impact on the business's income as it would have been relatively easy to find replacement client, customer or buyer	Moderate to large impact on the business's income as it would have been relatively difficult to find replacement client, customer or buyer	Extremely large impact which would have forced the business to close
	Businesses that relied on a small number of clients, customers or buyers			
Small Business (0–4 persons)	54.8	38.1	48.4	13.7
Small Business (5–19 persons)	43.1	31.5	55.5	13.0
Medium Business	37.2	28.0	57.2	15.2
Large Business	35.9	14.7	69.0	16.3
All Businesses	49.7	35.6	50.9	13.6

Source: ABS 2012, *Selected Characteristics of Australian Business, 2010-11*, Cat. No. 8167.0

Table 5 indicates that the majority of micro businesses (60.2 per cent) and other small businesses (63.7 per cent) reported five or more competitors as the amount of competition experienced by their businesses. However, compared to all other businesses, micro businesses were also most likely to report none/captive market/no effective competition (18.6 per cent).

Table 5: Amount of competition experienced by businesses, industry by employment size, 2010–11

In percentage terms

	None/captive market/no effective competition	One or two competitors	Three or four competitors	Five or more competitors
Small Business (0–4 persons)	18.6	10.9	10.4	60.2
Small Business (5–19 persons)	8.7	12.7	15.0	63.7
Medium Business	9.6	11.2	16.7	62.5
Large Business	10.4	7.7	14.0	68.0
All Businesses	14.8	11.4	12.3	61.5

Source: ABS 2012, *Selected Characteristics of Australian Business, 2010-11*, Cat. No. 8167.0

In addition, 46.2 per cent of micro businesses and 40.6 per cent of other small businesses indicated that their competitors were larger in size than their businesses; while more than half of the small businesses indicated that their competitors were about the same size as their businesses (see Table 6).

Table 6: Size of competitors, industry by employment size, 2010–11

In percentage terms

		Competitors which were:	
		smaller in size	larger in size
Small Business (0–4 persons)	6.8	51.7	46.2
Small Business (5–19 persons)	7.9	54.1	40.6
Medium Business	12.6	50.6	39.1
Large Business	19.9	50.9	33.1
All Businesses	7.7	52.4	43.7

Source: ABS 2012, *Selected Characteristics of Australian Business, 2010-11*, Cat. No. 8167.0

The above discussion clearly underscores that:

- small businesses tend to sell their goods and services within a local area and within a single state or territory, while only a small percentage of small business sell their products overseas;
- a significant proportion of small businesses' business income is coming from the general public and other SMEs;
- while the majority of small businesses relied on a small number of customers, more than a third indicated that losing one of these clients will have little impact on their businesses as they can easily find new clients for their products. This clearly indicates that Australian small businesses are more agile or responsive to changes in business environment than their larger counterparts and thus a flexible regulatory environment is pinnacle for them to be able to respond quickly to market variability; and
- around a fifth of micro businesses operate in niche markets.

2. Small business definition

The different small business definitions currently used by different regulators has caused significant confusion for businesses. For example, Business XYZ which employs 19 workers is classified as small business under the definition of the Australian Bureau of Statistics; however with \$2.5 million annual revenue it is not eligible to access the small business tax concession, as it exceeds the annual turnover threshold of \$2 million. The *Small Business Fair Dismissal Code* also does not apply to Business XYZ as it employs 15 or more employees.

ACCI agrees that there are merits to develop a universal small business definition which will lead to:

- the collection of more reliable data that would assist better analysis of the characteristics and importance of the small business sector and promote more informed policy making;
- greater clarification of the small business eligibility criteria for government assistance programs, such as tax concession and small business exemption; and
- less confusion within the private sector as to which firms qualify for programs and policies designed to assist small business.

However, it is important to note that using a simple number of employee definition à la the Australian Bureau Statistics may exclude some businesses which are inherently small in a specific sector despite having more than 19 employees. For example, a firm employing 100 workers is considered as large in the professional service sector, but it can be considered as small in the manufacturing sector. It is also important to distinguish between full-time and part-time employees when using employee size threshold as the small business definition given some industries such as the Retail and Accommodation and food services sectors employ more casual and part-time workers than full-time staff. The US Small Business Administration (SBA), for example, has used various annual receipts and employee sizes thresholds in their small business definitions for different industry sectors³. Moreover, some of the small business definitions using nominal thresholds, e.g. business turnover and asset value should also be indexed as their real values erode over time due to inflation.

3. Small business experience in regulatory compliance

While regulations apply throughout the economy, small businesses often suffer disproportionate regulatory costs compared to their larger counterparts:

³ http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf

- regulatory cost makes up a large proportion of overhead costs and net margin. At the firm level it often implies a direct reduction in profitability and retained earnings. This may affect investments and the return to shareholders;
- the nature of the compliance cost. Administrative costs tend to be fixed, so that changes in sales have no effect on the costs in the short-run. In other words, if sales go down but the costs remain unchanged this causes the break-even point to be raised; and
- diversion of entrepreneurial attention. In small companies the owner, senior manager or director has to deal with the paperwork while they instead should focus their attention on business management.

3.1 Quantitative Evidence

Quantitative studies on the cost of small business regulatory compliance are limited in Australia. A survey commissioned by the Small Business Deregulation Taskforce (Bell 1996) reported that the compliance costs for average small businesses in 1996 were measured to be approximately \$7,000 per year, covering local, State and Commonwealth Government regulations. At that time, this represents around 1.1 per cent of small businesses' average turnover. The survey also suggested that approximately \$3,000 per year was spent on external consultants⁴.

As part of an international study, the OECD estimated that Australian compliance costs for small and medium enterprises (SMEs) – covering tax, employment and environmental regulation to be approximately \$17 billion (2.9 per cent of GDP) in 1998⁵.

The more recent 2009 PricewaterhouseCoopers (PWC) report on *Small Medium Enterprises Total Tax Contribution Report* commissioned by the Department of Treasury has found that the impact of the Australian taxation system differs significantly between small and medium sized enterprises⁶ (SMEs) and larger businesses, with SMEs facing higher tax rates and compliance costs. The study found that:

- Payroll tax was a significant impost on SMEs, constituting 22 per cent of all taxes borne, compared with 8 per cent for larger businesses;
- In addition to taxes borne directly, SMEs also have a substantial obligation to collect a range of taxes, such as the pay-as-you-go (PAYG) withholding tax and the GST, from employees and customers on behalf of various governments. For every dollar of taxes borne by the SME, total taxes collected on behalf of governments were \$1.29;
- The average employment taxes borne and collected per employee, including the payroll tax, fringe benefits tax (FBT) and PAYG withholding tax collected from employees, was \$36,288 for the SME sample in the study;
- The average Compliance Tax Rate Equivalent, which measures the percentage of profit that is consumed by tax compliance costs, was 12.9 per cent for SMEs compared with 3.8 per cent for large business sample;
- There is an inverse correlation between business turnover and the Compliance Tax Rate Equivalent, whereby the smaller the businesses, the larger the Compliance Tax Rate Equivalent; and
- The average tax compliance costs for the SME sample in the study was \$71,053.

A recent study by the US Small Business Administration found that the annual cost of federal regulation per employee for small firms with fewer than 20 employees was US\$10,585 in 2010, 36 per cent higher than their larger counterparts.

⁴ PC 2006, *Potential Benefits of the National Reform Agenda*, Report to the COAG, Canberra, p.147.

⁵ OECD 2001, *Businesses' Views on Red Tape – Administrative and Regulatory Burdens on Small and Medium-Sized Enterprises*, OECD, Paris.

⁶ SMEs in the PWC report are defined as businesses with turnover of less than \$100 million.

The disproportionate cost burden on small firms was significant for the manufacturing sector, with the estimated cost per employee for small firms in manufacturing 110 per cent higher than in medium sized firms (US\$28,316 versus US\$13,504) and 125 per cent higher than in large firms (US\$28,316 versus US\$12,586). Moreover, compliance with environmental regulations costs 364 per cent more in small firms than in large firms, while the cost of tax compliance is 206 per cent higher in small firms than the cost in large firms⁷.

3.2 Qualitative Evidence – What Business Tell us

Given the limited quantitative evidence on the impact of regulation on Australian small business, qualitative evidence from ACCI surveys provides useful information on the extent and impact of differential regulatory costs across firm sizes.

Table 7: Business concerns on specific aspects of regulatory burden, by employment size, 2010

Regulatory Burden	Proportion of businesses indicating major concern (%)					
	Small Business		Medium Business		Large Business	
	%	rankings	%	rankings	%	rankings
Overall complexity of the tax system	53	1	51	2	47	6
Cost of workers compensation	49	2	50	3	50	2
Complexity of government regulations	49	2	43	7	51	1
Superannuation Guarantee Charge	48	4	42	8	31	11
Frequency of Changes to tax laws and rules	48	4	45	5	37	7
Cost of compliance with government regulations	48	4	44	6	50	2
Penalties for failure to comply with government regulations	46	7	39	10	37	7
Complying with Fair Work laws	44	8	50	3	49	5
Payroll tax	40	9	64	1	50	2
Unfair dismissal claims	40	9	40	9	33	10
Personal tax	36	11	27	18	24	14
ATO administration of the tax system	36	11	29	14	24	14
Compliance with OHS requirements	34	13	35	10	34	9
Company tax	33	14	29	14	23	18
Capital gains tax	32	15	28	17	23	18

Source: ACCI 2010, *2010 Pre-Election Survey*, unpublished data.

A striking feature of the ACCI 2010 *Pre-Election Survey* results is the uniformity across different-sized enterprises for the most taxing regulatory issues. The Survey covers around 30 issues relating to regulation, compliance and level of taxation. Thirteen issues are common in the top-15, while three issues are common in the top-5. It is concerning to note that *Overall Complexity of the Taxation System* is at the top of business regulatory concern, specifically for small and medium-sized firms. *Complexity of Government Regulations* in general also ranked in the top three concerns for small and large firms.

There are in fact only two issues that appear to demonstrate significant sensitivity to firm size – *Superannuation Guarantee Charge* and *Payroll Tax*. Small firms view the *Superannuation Guarantee Charges* as one of their top five concerns, while medium sized firms regard it as one of their top ten concerns and large firms place it well down in their list of concerns. The concern of smaller firms is understandable as the superannuation levy is one of on-cost for hiring workers and the paperwork involved in the administration of superannuation is significant, especially after the introduction of employee choice of superannuation funds. Payroll tax is also interesting as it is very highly ranked for all except small businesses, many of which are presumably exempt. It is also concerning that 64 per cent of medium-sized businesses reported that payroll tax is a major concern for their businesses.

⁷ Crain, N.V. and Crain, W.M. 2010, *The Impact of Regulatory Costs on Small Firms*, A study commissioned by the US Small Business Administration, Office of Advocacy, September.

More recently, in 2012, ACCI conducted its inaugural **National Red Tape Survey** to provide solid evidence to the debate about the need for red tape and administrative reform. The results for small firms (employing fewer than 20 employees) are revealing, finding that:

- **Almost one-half of small businesses spent on average 5 hours per week and up to \$10,000 a year attending to administrative reporting requirements;**
- **More than 60 per cent of small businesses reported that the cost of compliance and the time taken to comply with regulation have increased in the last two years; and**
- **53.9 per cent of small businesses indicated that complying with regulatory requirements has to some extent prevented them from making necessary changes to grow and expand their business.**

3.2.1 Complexity in regulatory compliance

Table 8 shows that compared to its larger counterparts, small business reported **high levels of complexity** in:

- Starting a business (32.9 per cent compared to average 29.9 per cent for all businesses);
- Employing workers (50.4 per cent compared to average 48.9 per cent for all businesses); and
- Obtaining finance or credit (36.2 per cent compared to average 31.3 per cent for all businesses).

Table 8: Complexity in areas of regulatory compliance, by employment size, 2012

Area of compliance	Proportion of businesses indicating high level of complexity (%)			
	Small Business	Medium Business	Large Business	All Business
Starting a business	32.9	23.2	27.9	29.9
Dealing with licences	25.1	21.8	32.8	25.1
Employing workers	50.4	44.4	50.8	48.9
Obtaining finance or credit	36.2	26.8	13.1	31.3
Paying taxes	30.4	33.1	31.1	31.1
Tendering for government contracts	35.4	45.1	45.9	39.0
Environmental compliance	21.7	29.6	39.3	25.6
Wages and conditions of employment	47.9	54.9	47.5	49.6
Unfair dismissal	40.4	46.5	44.3	42.3
Workplace health and safety	47.6	62.7	63.9	53.2
Building regulations and approvals	32.6	31.7	41.0	33.3

Source: ACCI 2012, *ACCI National Red Tape Survey*, unpublished data.

Moreover, all businesses specified that the **top four most costly stages of complying** with government regulatory requirements are:

- Implementing the compliance obligations and practising these within the business (26.8 per cent);
- Preparing the information and reports (24.3 per cent);
- Understanding the regulatory obligations (11.6 per cent); and
- Finding information about the regulatory obligations (10.7 per cent).

Nonetheless, small businesses reported that it is more costly for their business to find the information about the regulatory obligations than actually understanding the regulatory obligations. Compared to medium-sized and larger businesses, small business are twice as likely to report that it is more costly to find information about the regulatory obligations (see Table 9).

Table 9: Most costly stage of regulatory compliance, by employment size, 2012

In percentage terms				
Most costly stage of compliance	Small Business	Medium Business	Large Business	All Business
Finding information about the obligations	13.5	5.7	6.2	10.7
Understanding the obligations	12.4	10.8	8.6	11.6
Preparing the information and reports	21.2	30.1	28.4	24.3
Implementing the compliance obligations	22.8	33.5	34.6	26.8

Source: ACCI 2012, *ACCI National Red Tape Survey*, unpublished data.

3.2.2 Impact of regulatory compliance on small business

More than one-half of small business respondents (54.1 per cent) considered that complying with government regulatory requirements has a moderate to major impact on their business. Comments from small business reflect significant frustration with the compliance requirement and/or their inconsistency:

“As a new business, simply knowing what to do, when to do it and how to report has been problematic.”

“The information that we have to compile for building licenses is repetitive and not used by the councils that demand it, is one example.”

“Forms and paperwork take my time away from doing what I should be doing. Inventing recipes, preparing and cooking [as] such.”

“There is a subtle increase in requirements from state and federal governments, besides the mandatory BAS and PAYG responsibilities, and there is no pattern to changes in these compliance requests and responsibilities, with many coming due at inconvenient and busy times.”

“The time it takes and generally with a cut off [date]. The specific information is not always something you knew ahead of time you would need to itemise so gathering it is very time consuming. This takes you away from your core tasks.”

“Recently AQIS/DAFF implemented a new database of importing country requirements for the meat, fish, dairy, plant, plant products and live animal export industries. But it appears they did not export the data they already held in the previous program called EXDOC. Therefore it is left up to the Exporter to chase up this information from their customer or the importing country's responsible body. Irrespective of how long the exporter may have been doing business with a particular country or product it is required the exporter inform and/or provide evidence of what the importing countries requirements are.”

“Requirement to hand deliver DA's to Council as hard copy (+ excessive extra copies) AND on CD. NO email lodgement available. Costs of compliance with compulsory professional development [and] costs of constantly changing Practice Regulations.”

“Keeping up to date with changes in legislation and ensuring you are still compliant.”

“The [Personal Property Securities] PPS Act is a red tape nightmare which has increased paperwork and costs with no benefit whatsoever.”

It is alarming that more than one in two small business owners (53.9 per cent) reported that complying with regulatory requirement has to some extent prevented them from making necessary changes to grow and expand their business. Two major themes emerged from small business comments. Some small businesses report the immediate resource implications:

“Huge amount of time spent conforming to various legislation[s] affecting manufacturing means less time spent working on the business.”

“The time required to learn new regulations prevents time to grow the business.”

“The high cost of compliance has reduced cash flow to the extent that there is little left over for business development.”

“We would like to expand our business however costs to meet local government charges and red tape to get approval has meant we just can't afford to expand.”

“The cost of employing people as an Australian manufacturer is very high and the consequences of getting it wrong [are] high. As I don't have the time to thoroughly research the new Fair Work laws and we're not big enough to have an agency or law firm [to] do contracts for us, our employment is ad-hoc and to be honest I don't know enough about it all to just proceed full steam ahead. With the amount of regulation for pretty much every area the government get involved in - tax, employment, electricity etc. You need multiple degrees, unlimited time or tens of thousands of dollars to get someone else who has the degrees or time enough to care. In small business we don't have any of that.”

“Efforts and resources that would have been directed towards the growth of the business and initiatives to expand our capabilities are diverted to institute and implement the new forms and practices to ensure we comply.”

While for some it is the regulators' engagement approaches or cumulative impact of red tape burden on businesses:

“We would like to expand our business, but finding an appropriate building with the appropriate zoning that doesn't have to go through the new building standards will be impossible. We would have to change the use, which means a big cost to [comply with] the new standards and we don't have that. Also the change of use/zoning required could take from 2 - 18 months.”

“Employment laws - penalty rates and restrictive "work week" definitions, which are not appropriate for agriculture.”

“Complexity and vagueness of AQIS requirements has discouraged us from developing new products and trade.”

“In order to renovate the premises there are five different and conflicting governmental regulatory bodies to thread a way through - ranging from heritage WHS traffic, local council zoning, state and federal workplace rules and then building codes - it is much easier to do nothing!”

Almost one-half of small businesses (42.6 per cent) believed that their industry is over-regulated, compared to only 7.3 per cent indicating that their industry is under-regulated. The cumulative impact of regulation is often reported as a concern:

“There is a breakdown in communication and information sharing across 3 levels of governments. There is a strong silo mentality amongst government officers. Perhaps all government officers must have private sector experience to truly understand how difficult it is to make things work without having to repeat your story to 50 different bureaucrats across three government agencies.”

“Licencing rules are often overly complicated and leave little room for common sense. The recent addition of an annual return which requires us to document all subcontractors we use each time we pay them seems pointless and an example of getting small business taxpayers to do the accounting for the government.”

“Everything is now the businesses responsibility and there is no common sense left in this world. Workers comp, product safety, consumer law, GST, FBT, CGT, Fair Work, unfair dismissal. No wonder there are only small and micro businesses or large corporates left. The mediums are disappearing. Too hard to grow.”

“Where regulations are applied by local government authorities how they are interpreted can vary massively from one LGA to the next - meaning it is hard to get consistency in meeting requirements. There are too many "grey" areas or contradictions in some legislation.”

3.2.3 Small business perception on regulator performance

In the 2012 survey, small businesses were asked to rate the level of complexity in dealing with Federal and State regulatory authorities.

Table 10 shows that the top five Federal agencies that were considered to have a moderate to high level of red tape burden are as follow:

- Australian Taxation Office (73.1 per cent);
- Fair Work Australia (50.5 per cent);
- Centrelink (42.9 per cent);
- Department of Education, Employment and Workplace Relations (38.2 per cent); and
- Australian Securities and Investments Commission (31.8 per cent).

Table 10: Small business perception on Commonwealth Regulators, 2012

Level of complexity when dealing with Commonwealth Regulatory Authority	In percentage terms				
	High	Moderate	Low	Not complicated	N/A
Australian Competition and Consumer Commission	6.6	15.5	13.2	2.8	61.8
Australian Quarantine and Inspection Service	6.3	10.1	6.3	1.6	75.7
Australian Securities and Investments Commission	8.5	23.3	19.9	9.1	39.1
Australian Skills Quality Authority	4.7	5.7	5.7	0.9	83.0
Australian Taxation Office	31.5	41.6	14.2	8.8	3.8
Centrelink	24.9	18.0	6.9	3.5	46.7
Department of Education, Employment and Workplace Relations	16.1	22.1	10.1	3.5	48.3
Department of Families, Community Services and Indigenous Affairs	6.9	9.5	6.6	2.2	74.8
Department of Health	8.8	10.4	8.2	1.3	71.3
Department of Immigration	8.2	5.0	6.9	0.6	79.2
Department of Sustainability, Environment, Water, Population and Communities	10.7	8.5	8.8	1.9	70.0
Fair Work Australia	24.3	26.2	10.1	4.1	35.3
Fair Work Ombudsman	12.6	13.9	11.4	2.5	59.6
Office of Environment and Heritage	7.6	6.9	6.3	2.2	77.0

Source: ACCI 2012, *ACCI National Red Tape Survey*, unpublished data.

Table 11 reports the top five State agencies that were considered to have a moderate to high level of red tape burden are as follow:

- Local Government (52.4 per cent);
- Safety Regulator, e.g. Safe Work, WorkCover etc. (49.6 per cent);
- Office of Industrial Relations (40.4 per cent);
- Fair trading/ Consumer affairs (35.9 per cent); and
- Roads / Transport Authority (34.1 per cent).

Table 11: Small business perception on State Regulators, 2012

Level of complexity when dealing with State Regulatory Authority	In percentage terms				
	High	Moderate	Low	Not complicated	N/A
(Department of) Education / Training /Workforce Development	10.7	17.0	12.3	5.4	54.6
(Department of) Environment	10.4	10.7	10.7	2.8	65.3
(Department of) Health	9.1	12.6	8.8	2.8	66.6
(Department of) Planning	18.6	11.4	6.0	2.5	61.5
(Department of) Regional Development	8.8	10.7	9.5	2.8	68.1
(Department of) Trade	5.4	10.4	9.8	2.2	72.2
Fair Trading / Consumer Affairs	12.9	23.0	18.0	5.0	41.0
Food Authority	5.7	6.9	6.9	0.6	79.8
Industrial Relations	17.4	23.0	12.6	4.1	42.9
Local Government	25.9	26.5	13.6	6.6	27.4
Regulation Office	6.6	7.9	10.1	2.5	72.9
Safety Regulator (e.g. Safe Work, WorkCover)	19.9	29.7	15.8	4.1	30.6
Roads / Transport Authority	16.4	17.7	12.0	5.7	48.3
State Revenue Office	13.9	19.9	12.9	4.1	49.2

Source: ACCI 2012, ACCI National Red Tape Survey, unpublished data.

3.2.4 Information and its role in reducing red tape burden

From the 2012 Survey, it is also evident that the majority of Australian businesses are particularly concerned about their ability to remain up to date with changes in regulatory requirements. Small businesses in particular rely on their chamber of commerce or industry organisation to inform them about changes in regulation that affect their businesses. Table 12 highlights that compared to larger enterprises, less than half of the small businesses surveyed received information about regulatory changes directly from the regulator or government agency; while small business owners are more likely to receive information from other business owners/colleagues/friends.

Moreover, information from government agencies about changes to regulation is not always effective. Almost one-third of small businesses indicated that information from Federal (29.2 per cent), State (29.8 per cent) and Local governments (37.0 per cent) are inadequate, as business rarely knows about new regulatory developments and reviews, with Local governments being the worst. It is disappointing that less than 7 per cent of small business respondents indicated that they are fully aware of new developments and reviews in Federal (7.0 per cent), State (6.1 per cent) and Local (6.2 per cent) governments.

Table 12: Source of information about changes in regulations, by employment size, 2012

Source of Information about regulatory changes	In percentage terms			
	Small Business	Medium Business	Large Business	All Business
I seek out the information myself – I don't wait to be advised	43.5	45.1	47.5	44.3
Directly from the regulator or government agency	45.4	52.1	60.7	48.8
Your state or local chamber of commerce	49.9	52.8	57.4	51.4
Industry association	50.7	66.2	59.0	55.5
Newsletters (including on-line publications)	38.7	43.7	49.2	41.1
Other business owners/ colleagues/ friends	43.7	38.0	31.1	40.9
As a result of an audit or inspection	17.3	21.8	26.2	19.4

Source: ACCI 2012, *ACCI National Red Tape Survey*, unpublished data.

The feedback from the small business sector is that much of the red-tape burden can be alleviated by better or more effective communication:

- 61.1 per cent of small business owners indicate that the compliance burden would be reduced if communication about how to comply with regulations improved;
- 54.3 per cent believe that the number of existing regulations need to be reduced; and
- 52.7 per cent believe that more consultation with businesses, when new regulations are developed, would help.

In addition, 53.7 per cent of small businesses believe that increasing compliance thresholds so that low risk small businesses do not have to comply would reduce their cost of compliance.

4. Regulation – the way forward

Governments and businesses recognise that effective and efficient regulation is paramount to achieve its public interest objective without imposing excessive cost and burden on the business community. Australian businesses recognise the importance of regulation especially those operating in high risk industries, such as food and chemical production. However, most businesses felt that some regulations and their implementation are excessive and impose significant costs on their business.

ACCI argues that government should address the “cumulative effect” of red tape as businesses are often required to deal with a variety of regulators in the course of operating their business. The cumulative burden of regulation occurs when regulatory policy development is done on a departmental basis rather than a whole of government basis. This problem is exacerbated due to jurisdiction overlap and duplication. Therefore, government should find ways to resolve the problem of cumulative regulatory burden after taking into account the real impact of regulation on business operation. For example, through greater coordination of regulatory compliance and enforcement activities for businesses in the same industry; regulators operating in common business sectors/industries should streamline their respective compliance and enforcement activities; and regulators should find ways to maximise the use of existing business data and improve information sharing between regulators, after considering legal and other cost implications.

While there is a need to take stock of current regulatory reporting and compliance regimes, the best place to stop red tape is at the source. Thus, any future reform in this area will need to ensure that new regulatory proposals do not simply add to the existing reporting and compliance burden. The current regulatory impact analyses (RIAs) process should be improved and strengthened further. A RIS should examine all feasible options to address the public policy objectives and ensure that the preferred option is the one that generates the greatest net benefit to the community. In addition, the option of 'no regulation' should always be considered when deciding whether to impose additional regulation or not.

Finally, when designing regulatory responses, regulators should also recognise that, unlike larger businesses, small businesses have limited capacity to comply with regulatory requirements. ACCI argues that it is important for regulators to demonstrate that their regulatory approach is the most efficient means to achieve its policy intent and they have selected the policy options that best minimise compliance costs on small businesses while achieving the required level of compliance risk protection. Thus, robust engagement with business including small business stakeholders is imperative in the regulatory design process.