



Australian Industry Group submission
Future COAG Regulatory Reform Agenda

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Introduction

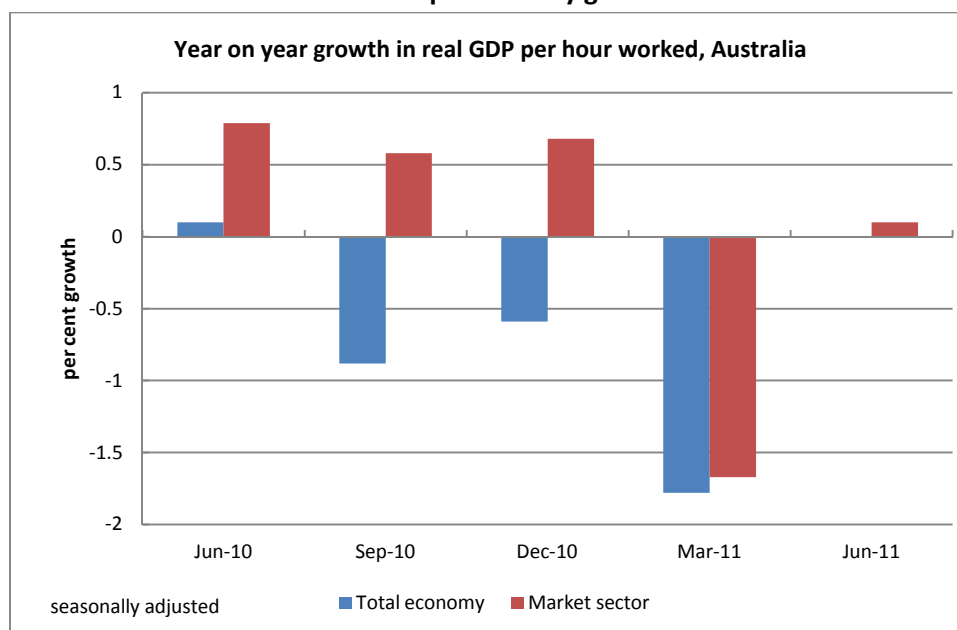
The Australian Industry Group welcomes the opportunity to provide a submission to the Business Regulation and Competition Working Group (BRCWG) consultation into a *Future Council of Australian Governments (COAG) Regulatory Reform Agenda*.

The Australian Industry Group has been supportive of the COAG seamless national economy initiative across 27 deregulation priorities, eight areas of competition reform and improvements to regulatory processes. This is because the productivity and competitiveness of Australia's economy hinges on the achievement of an efficient and low cost regulatory environment that promotes investment, entrepreneurship and dynamic flexibility so that businesses can take advantage of emerging opportunities.

Australia's recent productivity performance has been weak. Chart 1 shows that labour productivity did not grow in the year to June 2011 while for the market sector it grew by only 0.10 per cent. Further, labour productivity declined by 1.8 per cent in the year to March 2011 for the economy as a whole and declined by 1.7 per cent for the market sector over the same period.

Australia's recent weak productivity performance suggests that the regulatory reforms implemented to date under the seamless national economy initiative are yet to translate into meaningful productivity gains and that there is much still to do in order to implement the remaining elements of the initiative.

Chart 1: Australia's recent labour productivity growth



Source: Australian Bureau of Statistics.

Australia's recent performance also suggests there is a need to ensure an ongoing reform program is in place beyond the first tranche of the seamless national economy initiative to ensure ongoing and lasting benefits are achieved. Hence, the BRCWG initiative to help define the next tranche of reform is most welcome.

This submission outlines the Australian Industry Group priorities for a second tranche of reforms in the context of the progress of the first tranche of reforms, findings of recent Australian Industry Group research regarding business regulation and the four themes identified by the BRCWG: environmental regulation reform, enhanced workforce mobility and participation, improving sectoral competitiveness and ensuring the benefits of national reform are maintained.

Context – the growing burden of business regulation

The Australian Industry Group has recently published the National CEO Report, *Business Regulation*. This report finds that despite the efforts of governments across Australia, the burden of regulation is rising. For example, the average Australian business spends close to 4 per cent of total annual expenditures on complying with regulation; close to 70 per cent of businesses have experienced a rise in compliance costs over the past three years; and around 75 per cent expect a rise in compliance costs in the next three years.¹

Business regulation is acting as a barrier to growth and innovation. Around one-third of CEO respondents to the survey indicate regulations are a substantial barrier to employing more staff – a critical area for business growth. Regulations are also hindering exporting and importing activities. Moreover, two-thirds of respondents report that waiting for regulatory decisions is associated with the greatest costs.

Occupational health and safety (OHS) and workers compensation schemes require the most compliance time according to 15 per cent of respondents. Complying with regulations associated with importing and exporting activities is the most time consuming compliance activity for around 10 per cent of businesses. Also 9.2 per cent of respondents said that compliance with other regulations associated with employing workers (superannuation, monitoring award changes) is highly time consuming. Complying with regulations associated with building and construction activities is also time intensive for a significant proportion of businesses.

Close to 20 per cent of businesses believe there should be some consolidation of information provided to regulatory agencies, including: workers compensation and workplace incident reports to State and national OHS regulators; payroll tax paperwork across different States; and business activity statements.

CEOs ranked the following policy measures to address regulatory compliance burdens most highly:

- Reduce the frequency of reporting requirements.
- Establish reliable electronic and web-based reporting.
- Single location or website for all regulatory information and announcements.

¹ A copy of the Australian Industry Group report can be downloaded from: www.aigroup.com.au/policy/reports/

Moreover, the report highlights the importance of the following actions to address the regulatory burden across all jurisdictions:

- Review State government based initiatives and programs related to reducing the regulatory burden for effectiveness and robustness of claimed estimates of burden reductions achieved.
- The regulatory impact statement process needs to be applied consistently and transparently to reduce inefficient regulation.
- Improve regulatory agency interaction with the business community on regulatory changes and proposals. Consultation is crucial and governments should introduce less onerous consultation processes which attract business participation. Further, the consultation process should be completely transparent, available to industry and the regulatory agencies should remain open to industry views. If regulatory agencies believe industry submissions require more detail then this should be additionally requested.
- Examine the quality and nature of regulation and how efficiently regulatory agencies administer these regulations. International comparisons can prove useful in looking at overall expenditure versus compliance as well as strategies. Exchange of enforcement action information may increase compliance rates internationally. The United Kingdom approach to enhancing the performance of regulators in administering regulation is worth considering.

Unfinished business – the first tranche of the seamless national economy reforms

Before substantial effort is directed towards a second tranche of seamless national economy reforms, governments need to take a step back and consider the unfinished business associated with the first tranche. While the COAG Reform Council performance report for 2009-10 indicates there have been some key achievements, a renewed effort is required across a whole number of areas where progress has been slow.

Key areas of the existing tranche of reforms that the Australian Industry Group argues requires a renewed effort include:

- **Harmonisation of occupational health and safety (OHS) regulations:** legislation is still to be enacted across all the jurisdictions and the associated administrative reforms for agencies to administer the harmonised legislation are not yet in place. It is imperative that the OHS reforms under COAG are implemented sooner rather than later in order to reduce the regulatory burden currently being experienced across Australia.

The recent Australian Industry Group research into business regulation also highlight the need to simultaneously emphasise the importance of OHS performance while trying to find ways to make it easier for businesses to understand obligations and to meet them. Businesses do not have unlimited capacity to absorb the regulatory burden across all the areas where government seeks to influence corporate behaviour. Results that show an increasing regulatory cost to industry in the absence of a commensurate outcome in terms of injury reduction, is a sign that regulation, or its enforcement, is far less effective than policy makers assume.

- **Cross border trading and labour sourcing:** Businesses also report that complying with regulations associated with trading across national borders and employing labour is also time intensive. Both of these areas are particularly important given the current economic environment. This suggests that the phased approach to the National Licensing System reforms is yet to deliver tangible benefits on its implementation needs to be accelerated.
- **Standard Business Reporting (SBR):** The SBR reforms under the seamless national economy initiative are essentially regarded as being 'operational'. Yet the recent Australian Industry Group *Business Regulation* report indicates that only a quarter of CEOs surveyed have heard about SBR in Australia. There is a poor level of awareness of SBR in the business community which needs to be addressed. Moreover, those CEOs that are aware of SBR, only expect low to moderate reductions in compliance costs resulting from SBR. Yet establishing reliable electronic and web-based reporting is regarded as a priority by many CEOs. Clearly there needs to be additional advertising and guidance material provided to businesses about how the SBR reforms can benefit their business.

Given the survey responses, extending the Australian Business Account (ABA) to provide a single portal for businesses to submit a range of licensing forms online is also a worthwhile initiative.

- **Payroll tax regulation reform:** The COAG Reform Council 2009-10 performance report on the national seamless economy initiative highlights that States and Territories are to complete payroll tax harmonisation (in terms of definitions and administrative provisions) by June 2012. However, the COAG Reform Council also indicates that there is a risk that this harmonisation will not be fully achieved. The Australian Industry Group reiterates the importance of States and Territories reaching this important harmonisation milestone by June 2012. Approximately 20 per cent of business CEOs surveyed for the recent Australian Industry Group *Business Regulation* report seeks a further consolidation of information being provided to regulatory agencies, including on payroll tax. Reducing duplication of regulation across State borders such as through payroll tax administration is one of the top reform priorities highlighted by the survey respondents.

- **Reform of explosives industry regulation:** The Australian Industry Group has been pursuing harmonisation of the myriad of explosives legislation across States and Territories for nearly two years. This includes regulations covering the manufacture, transport, handling, sales and export of explosives in Australia. Yet, as the BRCWG consultation paper highlights, this is an area where nationally consistent legislation is still lacking and this area could potentially form part of the second tranche of reforms. The Australian Industry Group reiterates the importance of this reform being pursued as soon as possible, whether through COAG's eventual second tranche agenda or more immediately and directly through other Ministerial avenues.

Priorities for a second tranche of seamless national economy reforms

The Australian Industry Group supports the four themes identified by the BRCWG for the second tranche of regulatory reforms under the seamless national economy initiative.

Given the delays in progressing full implementation of tranche one, it is important that COAG not only complete the implementation of the first tranche agenda but that it also rigorously plan and prioritise the full suite of second tranche of reforms to ensure their timely agreement and implementation.

The following sections provide comments on the priorities under each of the themes identified by the BRCWG for the second tranche of regulatory reforms.

Theme 1: Environmental regulation reform

The Australian Industry Group has long expressed concern regarding the imposts on business from duplicative, inconsistent or poorly coordinated environmental regulation across Federal, State and Territory Governments. The Australian Industry Group welcomes the acknowledgment by COAG of the need for reform of environmental assessment and approvals processes for larger scale and complex projects.

The Australian Industry Group considers that a further priority for COAG is to drive the elimination and avoidance of unnecessary, duplicative and unduly burdensome climate regulation. A March 2010 report by COAG into existing climate change mitigation measures identifies over 400 measures in Australia across all levels of government which are imposing an implicit carbon price. COAG should, as a matter of urgency, implement a strategy that will see all levels of government cut back the tangle of inefficient emissions reduction measures that has proliferated across Australia.

The significant duplication in environmental reporting requirements is another priority area for reform. The Australian Industry Group advocates investigation of options to streamline environmental and energy reporting through the development of a single national reporting system, with information forwarded to relevant agencies as required. Australian Industry Group member companies report that the significant duplication in environment reporting

requirements diverts resources away from identification and implementation of sustainability improvements.

Other issues of particular concern to business include the need for greater consistency in common definitions and technical issues between jurisdictions. While agreement on harmonised levels of environment protection may take longer to achieve, agreement on common definitions and technical issues such as terminology and conversion factors would reduce burden on businesses operating across states and territories. For example, businesses incur significant administrative and compliance costs as a result of inconsistent waste management policies and regulations. These include:

- Differing categories, definitions, rules and practices.
- Processes for obtaining approval for waste recycling and reuse practices between States.

Implementation of the National Waste Strategy must move us closer to best practice. There is concern in industry that some states are trying to 'gazump' the National Waste Policy framework by seeking to position themselves at the forefront of these matters by introducing new regulation without adequate consultation and consideration of net community benefits.

Theme 2: Enhanced workforce mobility and participation

The Australian Industry Group welcomes this theme for the second tranche of reforms. Enhanced workforce mobility and participation are crucial to the ability of Australia to manage the resources boom and associated challenges of skills shortages and rising labour costs.

As indicated earlier, the Australian Industry Group is concerned that the phased approach to the National Licensing System reforms is yet to deliver tangible benefits and that progress on its implementation has been slow.

The current investment phase of the resources boom is resulting in a pent-up demand by the resources and related sectors for labour (particularly tradespeople). For example, in relation to the resources sector, the National Resources Sector Employment Taskforce notes that "there is significant potential for skills gaps to emerge between 2011 and 2013 as construction of new projects commences".²

The demand for labour by the resources sector is forcing other sectors, such as manufacturing, to compete for labour in a market that remains fairly tight despite the recent tapering off of employment growth. For example, a recent Australian Industry Group survey of approximately 400 manufacturing businesses across Australia indicated that the resources boom has resulted in significantly higher or moderately higher difficulty in

² National Resources Sector Employment Taskforce (2010), 'Resourcing the future', July.

retaining or recruiting employees since 2005 for about half the respondents. Moreover, 38 per cent of the entire sample indicated the resources boom has resulted in significantly higher or moderately higher prices paid for non-labour inputs since 2005. In another example manufacturers wanting to diversify into the resources sector are facing constraints and costs associated with trade certifications and accreditations across state boundaries (see Box 1).

Box 1: Illawarra manufacturers

Many Illawarra-based manufacturing/fabrication/engineering SMEs have traditionally provided services to the steel and coal industries, employing significant numbers of skilled workers across the region.

The economic environment for BlueScope Steel has rapidly deteriorated since 2007-08, with the company's export and domestic markets declining. Increasing competition from overseas, the strength of the Australian dollar and deterioration in demand are all factors contributing to a loss of business for BlueScope. SMEs that are long-standing providers of services to BlueScope have been severely affected by the downsizing of BlueScope. The survival of many of these businesses must now be in doubt. However, many of the affected SMEs have the potential to expand their operations in the resources sector, especially if they are able to enter interstate 'export' markets.

A group of businesses (Ai Group members) have taken the initiative and formed an alliance to 'export' the services of highly skilled Illawarra construction, maintenance and fabrication companies to Queensland in support of mining, LNG and infrastructure development projects. The alliance members will be able to bring a balance range of complementary skills and services to resources projects (it does not propose to deliver labour hire services). The nature of the alliance means that service provision will be scalable. The strong working relationships between manufacturing/engineering SMEs in the Illawarra mean that alliance membership can be flexible – enabling new members to be added as opportunities and needs arise.

Alliance members plan to engage an air charter service that would enable regular rapid transport of skilled project managers and workers directly from Illawarra Regional Airport (Albion Park) to the nearest airfield to the site (in the initial case this is Gregory, central Queensland).

Despite the fact that alliance companies have been able to demonstrate their capabilities to potential customers, there are still major constraints that are hindering their efforts.

The initial barrier is the cost of entry. Initial estimates are that it will cost in the order of \$6,000 per employee to obtain all necessary inductions and accreditations to work on Queensland sites. This is based on a 101 person autonomous crew from project manager, through trades-people, to riggers and trades assistants.

The difficulty is that each mine (even within the same company) interprets the requirements of the relevant legislation and associated regulations differently. This means each mine may or may not recognise competencies that New South Wales workers have gained through many years of experience and training. Hence, on present advice, alliance members must put their workers all through medicals, general inductions, site specific inductions, confined space training, working at heights training, and supervisor training, among others. For a supervisor this could take 12 days and cost around \$16,000. This is to satisfy the requirements of just one specific mine site. For relatively small businesses (50 to 100 workers) this is a prohibitive initial barrier to working on Queensland

sites.

There needs to be improved access to a more uniform and/or modular approach to accepting certifications and accreditations across state boundaries and between mines (metalliferous and coal) and quarries. An agreement to accept current, existing accreditations, qualifications and competencies that directly apply to the same types of working environments would greatly reduce the costs involved, without threatening safe working conditions. It is not anticipated that the harmonisation of the work health safety laws will greatly reduce this constraint.

Secondly, for construction workers in the resources sector, some support from Government for obtaining and maintaining accreditations, competencies and qualifications would provide significant long-term benefits for workers. Almost all of these require refreshing after a period (typically 2 years). Construction workers have very different work patterns to long-term mine workers. They typically stay on a job for 18 months and then move on. Transportability and ease of deployment to a new work site is vital.

For the small companies involved in this alliance, the complex risks being taken to bring this project to fruition are enormous. Another barrier to entry into remote resources contracts is workforce transportation. The workers who will gain ongoing employment with this project are very capable trades-people who choose to live in the Illawarra. To motivate them to attend one of these remote construction projects the roster pattern has to be such that they return regularly. Alliance members have developed a 9-day-on 3-day-off concept that is workable and that has generated very positive feedback from workers.

The benefits of this plan are obvious. It moves essential skills and project development resources to the key mining sites where they are most needed, but then returns some of the wealth being created there to other regional areas – in some way lessening the effects of the ‘two-speed’ economy. If this business model can be proven it also has the potential to generate growth in regional SMEs and to reduce unemployment in the Illawarra region. Alliance members anticipate that increased levels of workforce training and apprenticeships will also flow from this initiative.

Alliance members estimate that the cost penalty for flying workers from Wollongong to the Bowen Basin site is approximately \$10 per worked hour over a total cost of around \$120 per worked hour. While, again, this must ultimately be seen a cost of business, for these SMEs there are great risks in adopting this business model for the first time (this is not a normal business situation for alliance members). There is arguably a case for providing some initial financial assistance from government to prove the viability of this business model for regional engineering SMEs.

The seriousness of the situation facing the economy of the Illawarra region cannot be overstated. More than 150 SMEs and several thousand workers are highly vulnerable to changed economic circumstances resulting from a major decline in the steel industry.

The best hope for many of these businesses to survive and thrive is to diversify and explore new markets. However this is a very risky proposition for relatively small businesses. The potential pay-off for governments in supporting the successful development of this model is the survival and ongoing growth of large numbers of manufacturing and engineering SMEs in regions such as the Illawarra.

The reforms being introduced under the National Licensing System are at an early stage and have the potential to address many of the difficulties created by a system based on state-

based licensing. These reforms have long been needed and every effort needs to be made to support their successful implementation.

An additional area of concern to Australian Industry Group member companies relates to apprentices. There are mobility problems when an apprentice is employed in one State but their employer wishes them to be trained in another State. In theory this is possible but in practice it is problematic. For an apprentice employed in one state to be trained in another requires the employer to make an application to the State in which the training will take place and to wait, typically months, for approval. There is no upfront approval process which means that the apprentice's training is in doubt, is certainly delayed and there is no consistency in how these applications are handled between jurisdictions. Decisions can take between 6 and 12 months to be advised and sometimes the application is declined. In some States restrictions are put onto how the training can be delivered, for example one State mandates TAFE training in some areas where other States accept a full range of training alternatives.

An allied issue relevant to apprentice mobility occurs where an employer and his/her apprentice agree that the apprentice will move inter-state (remaining with the same employer and continuing on with the apprenticeship.) In these instances, the training contract must be cancelled and a new contract struck with the same employer but recognising that the apprentice is now located in a different State. This adds an unnecessary layer of bureaucracy and administration which is a cost to business. Processes to accommodate apprentices who move inter-state or who need to undertake their training inter-state need to be streamlined.

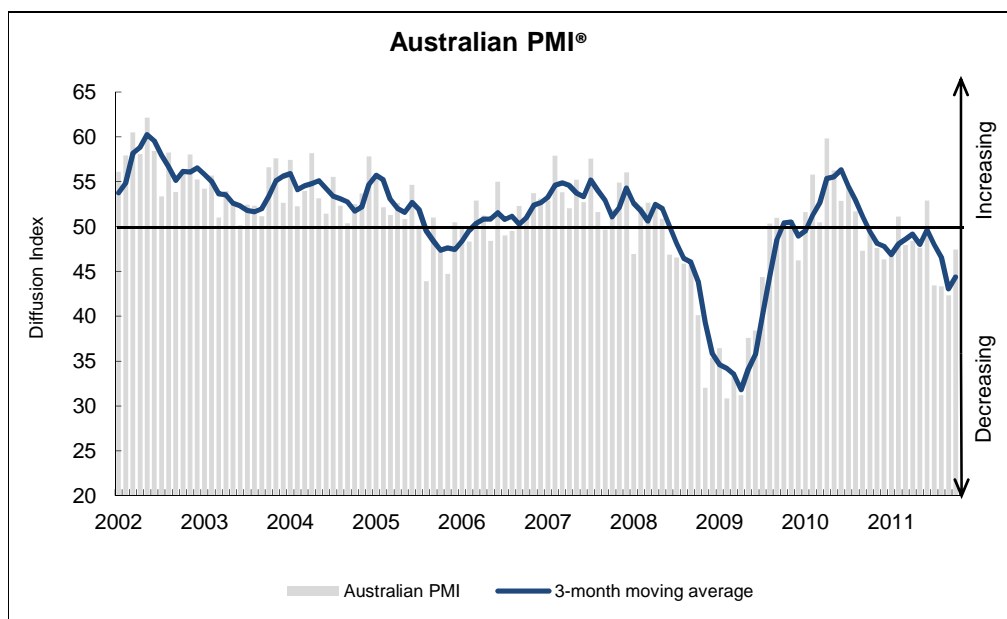
Theme 3: Improving sectoral competitiveness

The BRCWG consultation paper acknowledges that despite the resources boom, not all sectors and not all regions of Australia are growing as strongly as others. The paper suggests that sectoral regulatory reforms may deliver a significant national benefit.

The Australian Industry Group supports the improvement of sectoral competitiveness as one of the four themes in the next tranche of regulatory reforms. The manufacturing sector should be shortlisted as one of the sectors for regulatory reform because it is particularly trade exposed and the high exchange rate is weighing heavily on activity. This is evident by the Australian Industry Group Performance of Manufacturing Index[®] which tracks the performance of the Australian manufacturing sector (Chart 2). Chart 2 shows the headline index has been consistently below the 50 point level distinguishing between expansion and contraction, suggesting that activity in the manufacturing sector has been contracting.

Manufacturers that responded to the Australian Industry Group survey on business regulation indicated that they spend an average of 12.1 hours per week complying with regulations. Direct compliance costs represent close to 4 per cent of total annual expenses and government fees and charges associated with regulation adds another average 2.6 per cent of total annual expenses.

Chart 2: Australian PMI®



Source: Australian Industry Group.

The most time consuming areas of business regulation for manufacturers identified in the survey are related to:

- OHS & workers compensation.
- Importing & exporting.
- Employing workers (other regulations related to employing workers, other than OHS and payroll tax), such as superannuation and monitoring award changes.
- Building and construction.
- Consumer protection (including labelling, product safety, advertising regulation).

Moreover, business regulation is acting as a barrier to innovation and growth within the manufacturing sector and across manufacturers of all sizes – including regulations acting as a barrier to employing more staff and using staff flexibly, introducing new product lines, processes or services and changing work practices.

Apart from the regulatory areas impacting manufacturers identified above, other areas of regulation that could be considered as part of a second tranche of sectoral regulatory reforms for manufacturing includes:

- Streamlining and harmonising regulations across jurisdictions pertaining to new product approval and advertising (particularly in the areas of food, measuring equipment, chemicals and broader pharmaceuticals and therapeutic goods manufacturing).

- Examine the efficiency, timeliness, transparency and consistency of therapeutic goods assessments in Australia relative to overseas assessment processes and the use of ‘mutual recognition’ with overseas approval processes.
- The (lack of) progress on national energy labelling and minimum energy performance standards. For example, the water heater manufacturing industry is regulated by numerous standards and schemes across multiple jurisdictions at both State and Federal levels. Despite attempts to streamline and harmonise these regulations there is great uncertainty with respect to the implementation of regulatory reforms initiated by the Ministerial Council on Energy.
- Product registration under the Equipment Energy Efficiency Scheme is slow and should be automated (and later audited) instead of the current practice of manually checking every application before registration is granted. Product cycle times and speed to market is being reduced by businesses who are then held up by up to 3 months whilst waiting for registration approval.
- The use of the Australian Customs Service to provide targeted information to the Equipment Energy Efficiency Scheme regulatory agency as well as the Electrical Regulatory Authorities Council for use in their compliance activities. The Equipment Energy Efficiency Scheme will soon be under Commonwealth legislation (GEMS Bill) and the Electrical Equipment Safety Scheme will soon be a national scheme with a single database including registered equipment suppliers and equipment. The use of import data would enable more finely targeted compliance and enforcement activities leading to efficiency gains. A precedent has occurred in the banning of incandescent lamps. This type of activity needs to be expanded.
- Uniform enforcement of regulatory arrangements regarding public procurement and enforcement of standards in public procurement.

Theme 4: Ensuring the benefits of national reform are maintained

The Australian Industry Group supported the establishment of the COAG Reform Council and its ongoing role in reporting on the implementation of the first tranche of the seamless national economy initiative.

The Australian Industry Group supports strengthening national frameworks with the COAG Reform Council reviewing whether existing national frameworks are operating as intended. Moreover, while the COAG Reform Council continues to report on progress of implementation, the Productivity Commission could build on its current commissioned study identifying and evaluating regulation reforms by reporting annually (rather than every two to three years) on the economy-wide and sectoral benefits of the reform initiatives implemented to that point.

The Australian Industry Group supports the development of mechanisms to facilitate more consistent and efficient implementation of regulation. Developing nationally agreed guidance material, including 'best practice' standards for administering regulations is supported. There is merit in the Australian National Audit Office Better Practice Guide to Administering Regulation being adopted by Australian regulators at all levels of government and regulatory agencies undergoing regular 'health checks' to ensure these agencies are efficiently implementing regulations and not imposing an additional and unnecessary burden on business.

Initiatives in different jurisdictions related to reducing the regulatory burden need to be reviewed, including ensuring methodologies for measuring the impacts of their regulatory reform initiatives are sound and more importantly, measure whether there has been a net decline in the regulatory burden being imposed on businesses.

Governments also need to consider how they interact with the business community with respect to regulatory changes and proposals. Consultation is crucial and should continue but governments need to invest in more efficient and less onerous consultation processes which do not impose an additional burden on businesses. The importance of efficient consultation processes has been recently highlighted by the Productivity Commission in its recent Annual Review of Regulatory Burdens on Business. Incorporating a 'consultation' regulation impact statement in the regulation making process as well as monitoring and reporting on the quality of consultation are worth considering at all levels of government.

The Australian Industry Group also supports the development of a set of national regulation principles associated with regulations that potentially impact the operation of national markets. These principles should ultimately be about promoting the overarching objectives of national economic growth and productivity as well as reflect a risk-based approach that does not impose unnecessary compliance and administrative cost burdens on business and the not-for-profit sector.

Conclusion

The Australian Industry Group has identified a real need for renewed effort on regulatory reform to reduce the burden on businesses and facilitate innovation, productivity and growth throughout the economy. The BRCWG consultation paper identifies four useful themes by which a second tranche of seamless national economy regulatory reforms can be framed. Nonetheless the Australian Industry Group is concerned at the lack of progress in a number of existing reform areas. This submission has outlined the Australian Industry Group's current and future priorities to renew and further progress regulatory reforms to achieve a seamless national economy. We look forward to COAG agreeing on a second tranche of regulatory reforms and progressing implementation.