
D Government commissioned projects

A broad indicator of the quality and impact of the Commission's work is provided by the nature and breadth of the public inquiries and research studies which it is requested by governments to undertake. The acceptance rate of the Commission's findings and recommendations provides a further broad indicator of quality and impact.

This appendix updates information provided in previous annual reports on public inquiries and other projects specifically commissioned by the Government. It includes summaries of terms of reference for new inquiries and projects, and the principal findings and recommendations from reports which have been released, together with government responses to those reports.

The Productivity Commission is required to report annually on the matters referred to it. This appendix provides a summary of projects which the Government commissioned during the year and government responses to reports completed in 2011-12 and previous years. It also reports on commissioned projects received since 30 June 2012.

This appendix is structured as follows:

- terms of reference for new government-commissioned inquiries and studies
- reports released and, where available, government responses to them
- government responses to reports from previous years.

Table D.1 summarises activity since the Commission's 2010-11 annual report and indicates where relevant information can be found.

Table D.1 **Stage of completion of commissioned projects and government responses to Commission reports**

<i>Date received</i>	<i>Title</i>	<i>For terms of reference see</i>	<i>Stage of completion</i>	<i>Major findings/recommendations</i>	<i>Government response</i>
Inquiries					
17-2-10	Disability Care and Support	AR 09-10	Report completed 31 July 2011	AR 10-11	page 177
27-4-10	Caring for Older Australians	AR 09-10	Report completed 28 June 2011	AR 10-11	page 176
19-7-10	Australia's Urban Water Sector	AR 09-10	Report completed 31 August 2011	page 159	na
15-12-10	Economic Regulation of Airport Services	AR 10-11	Report completed 14 December 2011	page 163	page 164
3-2-11	Economic Structure and Performance of the Australian Retail Industry	AR 10-11	Report completed 4 November 2011	page 161	page 162
1-9-11	Australia's Export Credit Arrangements	AR 10-11	Report completed 31 May 2012	page 165	na
20-9-11	Climate Change Adaptation	AR 10-11	in progress	na	na
9-1-12	Electricity Network Regulation	page 156	in progress	na	na
6-2-12	Default Superannuation Funds in Modern Awards	page 157	in progress	na	na
29-6-12	Compulsory Licensing of Patents	page 159	in progress	na	na
Other commissioned projects					
1-10-10 (rcvd 22-4-10*)	Education and Training Workforce: Early Childhood Development	AR 10-11	Report completed 11 November 2011	page 166	page 168
18-4-11 (rcvd 22-4-10**)	Education and Training Workforce: Schools	AR 10-11	Report completed 20 April 2012	page 170	na
24-5-11	Annual Review of Regulatory Burdens on Business: Identifying and Evaluating Regulation Reforms	AR 10-11	Report completed 2 December 2011	page 168	page 169

4-7-11	Performance Benchmarking of Australian Business Regulation: Role of Local Government	AR 10-11	Report completed 4 July 2012	page 173	na
22-8-11	Impacts and Benefits of COAG Reforms	AR 10-11	Report completed 30 April 2012	page 171	na
28-2-2012	Regulation Impact Analysis: Benchmarking	page 158	in progress	na	na
14-3-2012	Strengthening Australia New Zealand Economic Relations	page 157	in progress	na	na
11-5-2012	COAG Regulatory and Competition Reforms	page 174	Report completed 29 June 2012	na	na

Note: References are to previous annual reports (AR) of the Productivity Commission. *Terms of reference for this project were included in those announced for the Annual Review of Regulatory Burdens on Business — Primary Sector on 28 February 2007. **Terms of reference for this project were included in those announced for the Education and Training Workforce: Vocational education and training (VET) study on 22 April 2010. **na** not applicable.

Terms of reference for new projects

This section outlines the terms of reference for commissioned projects received since the Commission's annual report for 2010-11, which are in progress or for which the report has not yet been released. Full terms of reference are available on the Commission's website and in the relevant reports.

Electricity Network Regulation

On 9 January, 2012, the Deputy Prime Minister and Treasurer, Wayne Swan, asked the Commission to conduct an inquiry into electricity network frameworks. The inquiry is to focus on benchmarking arrangements and the effectiveness of the application by network businesses of the current regulatory regime for the evaluation and development of interregional network capacity in the National Electricity Market (NEM).

The purpose of the inquiry is to inform the Australian Government about whether there are any practical or empirical constraints on the use of benchmarking of network businesses and then provide advice on how benchmarking could deliver efficient outcomes, consistent with the National Electricity Objective (NEO).

In addition, a second stream of the inquiry will examine if efficient levels of transmission interconnectors are being delivered, to inform the Australian Government about whether the regulatory regime is delivering efficient levels of interconnection to support the market.

The terms of reference specify that the Commission should:

- examine the use of benchmarking under the regulatory framework, incorporating any amendments introduced in the review period, in the National Electricity Rules and provide advice on how different benchmarking methodologies could be used to enhance efficient outcomes
- examine whether the regulatory regime, with respect to the delivery of interconnector investment in the National Electricity Market (NEM), is delivering economically efficient outcomes.

In undertaking the inquiry, the Commission has been requested to consider and take into account the work that is currently being progressed through the Standing Council on Energy and Resources, the Australian Energy Market Commission (AEMC) and the Australian Energy Regulator (AER).

A final report is to be released within 15 months of commencing the inquiry.

Default Superannuation Funds in Modern Awards

On 6 February 2012, the Assistant Treasurer asked the Commission to undertake an inquiry into default superannuation funds in modern awards. The purpose of the inquiry is to design transparent and objective criteria for the selection and ongoing assessment of superannuation funds eligible for nomination as default funds in modern awards. In considering these criteria, the terms of reference state that the Commission could have regard to the:

- appropriateness of the investment strategy of the default investment option of the fund in terms of risk and expected return
- medium to long term net-of-costs investment performance of the default investment option
- level of fees incurred by members
- scale of the fund and the level of services provided to fund members
- suitability and cost of insurance provided by the fund
- governance of the fund
- fees incurred and other impacts on members if they cease employment with an employer.

In undertaking the inquiry, the Commission has been asked to consider the interaction with the design and implementation of MySuper, the role of Fair Work Australia in making and varying modern awards, and the interim public review of modern awards by Fair Work Australia in 2012. A final report is to be provided within eight months of receipt of the reference.

Strengthening Australia New Zealand Economic Relations

On 29 January 2012 the Prime Ministers of Australia and New Zealand requested that the Productivity Commissions of both countries conduct a joint scoping study on strengthening trans-Tasman economic relations. The Prime Ministers have requested that the study identify reforms that will boost productivity, increase competitiveness and drive deeper economic integration between the two countries.

In undertaking the study, the Commissions are to provide analysis on:

- potential areas of further economic reform and integration, including identification of the areas of reform where benefits are likely to be most significant, with particular focus on critical issues for business like investment and productivity

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- the economic impacts and benefits of reform
 - any significant transition and adjustment costs that could be incurred
 - identification of reform where joint net benefits are highest
 - the means by which they might be best actioned and
 - the likely time paths over which benefits are expected to accrue.

The Commissions have been requested to provide a final report by 1 December 2012.

Regulatory Impact Analysis: Benchmarking

On 28 February 2012, the Australian Government, with the agreement of Council of Australian Governments (COAG)'s Business Regulation and Competition Working Group, has requested that the Productivity Commission undertake a benchmarking study into regulatory impact analysis (RIA) processes. In undertaking this study, the Commission has been requested to benchmark the efficiency and quality of Commonwealth, state and territory, and COAG RIA processes. The Commission is to specifically have regard to:

- when RIA are required and the factors which must be taken into consideration in analysis
- the mechanisms in place to ensure accountability and compliance with RIA processes
- specific evidence of where the RIA process has resulted in improved regulation
- how and when in the decision-making cycle decision makers engage
- whether there are leading practice examples in RIA that might usefully inform reform consideration by individual jurisdictions.

The study will compare processes and identify leading practices so that individual jurisdictions might learn from the experiences of others and to enable existing processes to be refined to maximise their effectiveness.

The Commission is required to provide a final report by the end of November 2012.

Compulsory Licensing of Patents

The Commission was asked on 29 June 2012 to undertake a nine month inquiry into the compulsory licensing provisions in the *Patents Act 1990*. The main purpose of the inquiry is to assess, advise and recommend on the impacts and mechanisms of compulsory licensing invoked by the Patent Act's public interest and anti-competitive safeguard.

The Terms of Reference require the Commission to:

- assess whether the current Australian provisions can be invoked efficiently and effectively
- recommend any measures to efficiently and effectively exercise these safeguard provisions, in a manner consistent with Australia's international obligations
- recommend any alternative mechanisms, to ensure that the balance between incentives to innovate and access to technology best reflects the objectives of reasonable access to health care solutions, maximising economic growth and growing the Australian manufacturing industry.

In undertaking the inquiry, the Commission is required to have regard to recent changes to the intellectual property system reflected in the *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* (Cwlth), and the range of international approaches.

Reports released by the Government

This section summarises the main findings and recommendations of inquiry and research reports which have been released by the Government in the period to 1 October 2012. It includes terms of reference for those projects commenced and completed in that period and, where available, government responses.

Australia's Urban Water Sector

Inquiry Report No. 55 signed 31 August 2011, report released 12 October 2011.

The Commission's main findings and recommendations were:

- In recent times, the urban water sector has faced drought, growing populations and ageing assets.
- Governments have largely responded with prolonged and severe water restrictions and investments in desalination capacity.

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- The costs to consumers and the community have been large.
 - Water restrictions are likely to have cost in excess of a billion dollars per year (nationally) from the lost value of consumption alone.
 - Inefficient supply augmentation in Melbourne and Perth, for example, could cost consumers and communities up to \$4.2 billion over 20 years.
 - Large government grants for infrastructure may have led to perverse outcomes.
 - Conflicting objectives and unclear roles and responsibilities of governments, water utilities and regulators have led to inefficient allocation of water resources, misdirected investment, undue reliance on water restrictions and costly water conservation programs.
 - Therefore, the largest gains are likely to come initially from establishing clear objectives, improving the performance of institutions with respect to roles and responsibilities, governance, regulation, competitive procurement of supply, and pricing, rather than trying to create a competitive market as in the electricity sector.
 - To implement the recommended universal reforms, governments should:
 - clarify that the overarching objective for policy in the sector is the efficient provision of water, wastewater and stormwater services so as to maximise net benefits to the community
 - ensure that procurement, pricing and regulatory frameworks are aligned with the overarching objective and assigned to the appropriate organisation
 - put in place best practice arrangements for policy making, regulatory agencies, and water utilities
 - put in place performance monitoring of utilities and monitor progress on reform.
 - The circumstances of each jurisdiction and region differ and there is not a ‘one size fits all’ solution to industry structure. In addition to recommended universal reforms, the Commission has set out:
 - four structural options for large metropolitan urban water systems
 - three options for small stand-alone regional systems.
 - There is a role for COAG, but each government can proceed independently to implement the key reforms. Implementation of the reform package, with commitment by governments, will provide consumers with greater reliability of supply, greater choice of services at lower cost than otherwise and reduce the likelihood of costly and inconvenient restrictions.

Economic Structure and Performance of the Australian Retail Industry

Inquiry Report No. 56 signed 4 November 2011, report released 9 December 2011.

The Commission's main findings and recommendations were:

- There are almost 140 000 retail businesses in Australia, accounting for 4.1 per cent of GDP and 10.7 per cent of employment.
- The retail industry exhibits great diversity by: size of business, region, retail format, competition within sectors and in the nature of goods sold. Both current trading conditions and longer term trends are challenging. Retail sales *growth* has trended down over the past half decade as consumers save more of their rising incomes and their spending is increasingly directed towards a range of non-retail services.
- The retail industry has met many competitive challenges in the past. Online retailing and the entry of new innovative global retailers are just the latest. The intensified competition is good for consumers, but is challenging for the industry which, as a whole, does not compare favourably in terms of productivity with many overseas countries. And the productivity gap appears to have widened over time.
- Australia also appears to lag a number of comparable countries in its development of online retailing. The Commission's best estimate is that online retailing represents 6 per cent of total Australian retail sales — made up of 4 per cent domestic online (\$8.4 billion) and 2 per cent from overseas (\$4.2 billion). In some other countries, online sales figures are higher and set to grow further, as will also happen here.
- Retailers operate under several regulatory regimes that restrict their competitiveness and ability to innovate. Major restrictions which need to be addressed are:
 - planning and zoning regulations which are complex, excessively prescriptive, and often anticompetitive
 - trading hours regulations which restrict the industry's ability to adapt and compete with online competitors and provide the convenience that consumers want.
- Workplace relations regulations may not provide sufficient workplace flexibility to facilitate the adoption of best practice productivity measures in the retail industry, and require examination in the reviews scheduled in 2012.
- The current level of the low value threshold (LVT) for exemption from GST and duty on imports of \$1000 is judged to be a minor part of the competitive

disadvantage faced by retailers. But there are strong in principle grounds for the LVT to be lowered significantly, to promote tax neutrality with domestic sales. However, the Government should not proceed to lower the LVT until it is cost effective to do so.

- The Government should establish a taskforce charged with investigating new approaches to the processing of low value imported parcels, particularly those in the international mail stream, and recommending a new process which would deliver significant improvements and efficiencies in handling without creating delivery delays or other compliance difficulties for importers and consumers.
- Once an improved international parcels process has been designed, the Government should reassess the extent to which the LVT could be lowered while still remaining cost effective — the costs of raising this additional revenue should be at least broadly comparable to the costs of raising other taxes.

Government decision

On 9 December 2011 the Australian Government released its response to the report on the retail industry (Conroy, O'Connor, Sherry and Shorten 2011).

The Government agreed or agreed in principle with eight recommendations and noted four recommendations (in noting two of the recommendations, the Government recognised that some matters, such as those dealing with planning and zoning, trading hours and tenancy, were state issues). The Government also chose to “note” recommendations on Workplace Relations Regulation and on the gathering data about online retailing.

The Government did not agree with one recommendation dealing with the issue of restrictions on competition created by the *Copyright Act*. It preferred an alternative process to that recommended by the Commission to further investigate such concerns (by referring it to the Australian Law Reform Commission).

The Government welcomed the staged approach recommended by the Commission to the issue of the appropriate level of the Low Value Threshold. This involved establishing a Taskforce to investigate improved approaches to processing low value parcels and then reassessing the extent to which the Threshold could be reduced.

Economic Regulation of Airport Services

Inquiry Report No. 57 signed 4 November 2011, report released 30 March 2012.

The main findings and recommendations were:

- Some Australian capital city airports possess significant market power, whereas other airports are in a weaker bargaining position.
- Under the light-handed monitoring regime that replaced price cap regulation:
 - there has been a marked increase in aeronautical investment and airports have not experienced the bottlenecks that have beset other infrastructure areas
 - aeronautical charges do not point to the inappropriate exercise of market power
 - service quality outcomes overall are ‘satisfactory’ to ‘good’, although airlines have, on occasion rated two airports as ‘poor’
 - Australian airports’ aeronautical charges, revenues, costs, profits and investment look reasonable compared with (the mostly non-commercial) overseas airports.
- Commercial agreements with airlines are becoming more sophisticated. Agreements often include service level obligations, consultation on capital investment, price paths and dispute resolution when ‘in-contract’, but not during contract formation.
- And while airlines maintain that airports adopt ‘take it or leave it’ negotiation stances and some fail to provide adequate information, no party sought a return to regulatory price setting, given past experience with its associated costs.
- Price monitoring aims to constrain airports from inappropriately exercising any inherent market power. But neither the regulator nor Governments have acted when the regulator has raised the possibility that some airports might potentially be exercising market power.
- Where the regulator, in undertaking its monitoring role, finds prima facie evidence that an airport has misused its market power, the airport should be required to ‘show cause’ why its conduct should not be subject to a ‘forensic’ Part VIIA price inquiry. If the regulator is dissatisfied with the airport’s response it should formally recommend that the Government institute such an inquiry.
 - An airport that offered an ‘approved’ dispute resolution framework with binding arbitration during contract formation would not be subject to such a price inquiry.

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- The access charges and conditions faced by competitors to on-airport car parking are not so high as to impede competition. However, because of vertical integration, charges and conditions should be public and included in monitoring reports.
 - Such transparency would facilitate regulatory action under competition law if an airport acted to impede competition in order to inflate its car park prices or revenues.
 - Access to airport precincts in most major cities is congested owing to inadequate arterial roads and insufficient mass transit services.
 - Developments on airport land (a Commonwealth responsibility) can also add to congestion on connecting transport links (state and territory responsibilities)
 - Recent reforms to better integrate airport transport planning across jurisdictions have been introduced. A review of their efficacy should be undertaken in 2015.

Government decision

On 30 March 2012 the Minister for Infrastructure and Transport, the Hon. Anthony Albanese, and the Assistant Treasurer and Minister Assisting for Deregulation, the Hon. David Bradbury, released a response to the Commission's report (Albanese and Bradbury 2012). In responding to the report, the Government broadly accepted the Commission's recommendations, but did not fully implement its proposed approach.

The Government agreed in principle with the Commission's recommendations to continue monitoring and improve the operation of the regime through enhancements to the monitoring approach, namely:

- publication by the Australian Competition and Consumer Commission (ACCC) of a draft monitoring report
- a 'show cause' process that would see the ACCC, in the published draft airport monitoring report, having the option to nominate an airport to show cause why its conduct should not be subject to a price inquiry. Where the ACCC is not satisfied with an airport's response, the ACCC should make a recommendation to the relevant Minister that a price inquiry be held under Part VIIA of the Competition and Consumer Act 2010 (CCA)
- a review of the objective criteria for quality of service monitoring by June 2013

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- publication of airports' prices, terms and conditions for transport operators' access to airports.

However, the Government also noted that, in its view, since the ACCC is an independent statutory authority, it is the responsibility of the ACCC to give effect to a number of the Commission's proposed enhancements to the monitoring regime as it sees fit. In relation to the recommendation that as part of its monitoring report process, the ACCC should be able to nominate that an airport show cause why its conduct should not be subject to scrutiny under a Part VIIA price inquiry, the response stated that:

The Government believes that additional provisions for a formal 'show cause' process as recommended by the PC are not warranted, as the ACCC already has the ability under the current regulatory framework to seek additional information from airports if the ACCC considers this necessary. Where the ACCC has significant concerns as a result of its monitoring program, it can use its existing capacity to make a recommendation to the Minister responsible for competition policy for appropriate action under the CCA. The Minister will consider the information in the airport monitoring reports and any additional information provided by airports in deciding how to act on such a recommendation.

The Government response provided agreement to the Commission's recommendations on landside access to airports.

Australia's Export Credit Arrangements

Inquiry Report completed 31 May 2012, report released 26 June 2012.

The Commission's main findings and recommendations were that:

- The Export Finance and Insurance Corporation (EFIC) has been established to facilitate and encourage Australian export trade through the provision of financial services. EFIC is expected to conduct its origination business (loans, guarantees, insurance) on a commercial basis. EFIC also manages the national interest account.
- Virtually all of Australia's exports, by volume and value, take place without EFIC's assistance. EFIC's support goes to relatively few firms and often on a repeat basis. By value most of the support is targeted to large corporate clients. These clients account for more than three quarters of the value of EFIC's signings in 2010 11.
- Over the past five years, EFIC has earned most of its income through the investment of surplus funds and its capital and reserves, not the provision of

financial services. EFIC's commercial account operations have yielded a low rate of return, with some facilities subsidised by taxpayers.

- EFIC's commercial account objective should be to efficiently address the limited number of market failures that impede otherwise commercially viable export transactions.
- While few, if any, markets conform to the competitive ideal, there is no convincing evidence of systemic failures that impede access to finance for large firms or for resource-related projects in Australia.
 - EFIC should not continue to provide facilities to large corporate clients or for resource related projects in Australia, including suppliers to those projects, on the commercial account.
- Financial markets may be affected by information related failures. These are likely to be limited to small and medium-sized enterprises (SMEs) with limited export experience or attempting to access emerging export markets.
- Accordingly, EFIC's role should be to demonstrate to the private sector that providing export finance to such newly exporting SMEs can be commercially viable.
- To fulfil this demonstration role, EFIC should provide export finance services on the same basis as the private sector. This means:
 - setting prices to cover the expected full economic costs of provision; and
 - being subject to competitive neutrality arrangements, including earning an appropriate return on equity, setting prices commensurate with risk, and paying a tax equivalent charge and a debt neutrality fee.
- EFIC's commercial account product range should normally be limited to guarantees, including the provision of bonds on behalf of the exporter.
 - When directed by the Minister, the product range may extend to reinsurance for a limited period, to cover sovereign and country risk insurance provided to newly exporting SMEs by the private sector, when financial markets in the buyer's country are temporarily disrupted.
- Measures should be introduced to enhance the transparency of EFIC's activities to the Minister, the Australian Government and the public.

Education and Training Workforce: Early Childhood Development

Research Report completed 11 November 2011, report released 1 December 2011.

The Commission's main findings and recommendations were:

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- The early childhood development sector contributes to the positive early life outcomes experienced by the majority of young children in Australia. The sector provides early childhood education and care, child health and family support services to over 1.5 million children.
 - Governments are implementing a range of substantial reforms to early childhood education and care. These reforms have substantial implications for the 140 000 strong early childhood education and care workforce.
 - The reforms mean that about 15 000 more workers are likely to be required than would otherwise be the case, and the average level of workers' qualifications will need to increase. To meet this additional demand, wages for the more highly qualified childhood education and care employment categories will need to rise.
 - The supply of suitably qualified workers is likely to take some time to respond, and temporary exemptions from the new standards (waivers) will be required. Government timelines for reform appear optimistic.
 - Increased demand for qualifications will increase demand for vocational education and training. Unless existing concerns surrounding poor quality training are addressed, much of any increased investment in vocational education and training could be wasted. As a priority, a review of the relevant training package and sufficient funding so that the new national regulator, the Australian Skills Quality Authority, can effectively monitor the delivery of the package is required.
 - Appropriate and accessible professional development and support for staff is needed so that the benefits of additional training are enduring, and to disseminate information on the extensive pedagogical and regulatory sectoral reforms.
 - The increase in early childhood education and care service costs due to labour cost increases will mainly be shared by governments and parents, rather than by workers or providers. Under existing subsidy arrangements, access to long day care services is expected to be lower than without the reforms, as a result of higher costs faced by parents.
 - Alternative child care subsidy structures, emphasising targeting to the most disadvantaged children and families, could deliver cost savings to the Australian Government while helping to ensure access to services for those who would benefit most.
 - Child and family health nurses are generally in good supply. Research is required to determine the optimal mix of skills and qualifications in the child health workforce.

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- Early childhood development services are not currently providing the same start in life to children with additional needs, and many Aboriginal and Torres Strait Islander children, that is commonly available to other children. The workforce requirements to provide appropriate services for these children must be prioritised so that the gap in outcomes between them and other children is minimised, not exacerbated.
 - The development of integrated early childhood development centres provides new opportunities for improved service delivery, but may require additional leadership and cross-disciplinary professional development for staff for them to be effective.

Government decision

The Australian Government released an interim response to the Commission's *Education and Training Workforce: Early Childhood Development* report on 1 December 2011. The Government welcomed the Commission's report and stated that it would consider all of its findings and recommendations and provide a final response in mid 2012.

Annual Review of Regulatory Burdens on Business: Identifying and Evaluating Regulation Reforms

Research Report completed 2 December 2011, report released 15 December 2011.

The main findings and recommendations were:

- The regulatory system should ensure that new regulation and the existing 'stock' are appropriate, effective and efficient. This requires the robust vetting of proposed regulation; 'fine tuning' of existing regulations and selecting key areas for reform.
 - It also requires that these be performed in a coordinated and cost-effective way, with political leadership a key factor in all this.
- There is a range of approaches to reviewing existing regulation and identifying necessary reforms. Some are more 'routine', making incremental improvements through ongoing management of the stock; some involve reviews that are programmed, and some are more ad-hoc.
- Designed for different purposes, the techniques within these three categories can complement each other, though their usefulness varies.

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- Among ‘management’ approaches, red tape targets can be a good way to commence a burden reduction program. But ‘one-in, one-out’ rules have more disadvantages than advantages. Regulator practices can play a key role in compliance burdens, with scope apparent for improvement.
 - Reviews embedded in legislation can usefully target areas of uncertainty. Sunsetting can help eliminate redundant regulation and ensure that re-made regulation is ‘fit for purpose’, but requires good preparation. Post implementation reviews, triggered by the avoidance of a regulation impact statement, are an important failsafe mechanism but need strengthening.
 - Public stocktakes cast a wide net and can identify cross-jurisdictional and cumulative burdens. Reviews based on a screening principle, particularly the competition test, have been highly effective and could be extended. In-depth reviews are best for identifying options for reform in more complex areas, while benchmarking can point to leading practices.
 - Good design features vary for the individual techniques, but all require sound governance and effective consultation. For significant reviews, public exposure of preliminary findings is a key success factor.
 - While Australia’s regulatory system now has the necessary institutions and processes broadly in place, there remains scope for improvement in:
 - prioritisation and sequencing of reviews and reforms — with greater attention paid to the costs of developing and undertaking reforms
 - monitoring of reviews and the implementation of reforms
 - advance information to achieve better focused consultations
 - incentives and mechanisms for good practice by regulators — with a further review needed to identify the best approaches
 - building public sector skills in evaluation and review.

Government decision

On 23 May 2012, the Attorney General, the Hon. Nicola Roxon, introduced the *Legislative Instruments Amendment (Sunsetting Measures) Bill 2012* into Parliament (Roxon 2012). The Bill is consistent with a recommendation in the Commission’s report that more flexibility be introduced into the Legislative Instruments Act to enable thematic reviews of related instruments. It also provides for greater smoothing of dates when older instruments must sunset, which is also consistent with the Commission’s report.

In introducing the Bill into Parliament, the Attorney General stated:

The Productivity Commission, in its 2011 report *Identifying and Evaluating Regulation Reforms*, expressed concern about the mass expiry of instruments from 2015. They identified an increased risk that instruments will be remade without adequate review and without proper consultation with business and other stakeholders. The Commission noted that the sheer quantity of instruments required to be remade by government increases the risk that business and other stakeholders will not have sufficient time to make a meaningful contribution to any review.

Consistent with the recommendations of the Productivity Commission, the purpose of this bill is to smooth these sunseting peaks and to encourage high-quality consultation before regulations and legislative instruments are remade. It is also intended to ensure the information on the Federal Register of Legislative Instruments is current.

Education and Training Workforce: Schools

Research Report completed 20 April 2012, report released 4 May 2012.

The main findings and recommendations from the report were:

- Australia's future depends on how well it develops the 'human capital' of its population. A well-performing schooling system is fundamental.
- Australian schools generally deliver good student outcomes at reasonable cost, but improvements are required.
 - Student literacy and numeracy have declined in recent years, and Australia has fallen behind other high-performing countries, despite increased spending per student and falling class sizes.
 - Australia does not perform as well as other countries in offsetting educational disadvantage, especially for Indigenous students.
- More effective teachers and other school workers would achieve better student outcomes, and a more efficient schools workforce would achieve a greater improvement from any given level of resources.
- An extensive range of workforce-related reforms are already in place or prospect, but it is too early to fully judge their impacts.
- This study has focused on identifying cost-effective measures that would build on the existing reform program, address some problematic initiatives, and deal with matters that have received insufficient attention.
- The Commission's proposed package of reforms gives priority to:

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- raising teacher quality — by improving: teacher training, induction and mentoring; teacher appraisal; the management of unsatisfactory performance; and the link between teacher performance and career progression
 - reducing teacher shortages — through greater use of pay differentials for hard-to-staff positions, and more flexible entry requirements for teacher training
 - ameliorating educational disadvantage — through targeted initiatives based on evidence, alongside the broader reforms recommended in this study
 - strengthening the use of evaluation and research in policy making — by governments individually reviewing and reforming their approaches, and jointly initiating policy evaluations on educational disadvantage and teacher shortages.
- Many of the recommended reforms would raise the attractiveness of teaching as a profession, and so help to turn around the widely held perception that the status of teachers has declined.
 - The Commission has also made a range of policy-related findings, including on the:
 - importance of school leadership and autonomy in driving workforce innovation
 - benefits of greater flexibility in the industrial relations regime for school workers.

Impacts and Benefits of COAG Reforms: Business Regulation, VET and Youth Transitions

Research Report completed 30 April 2012, report released 15 May 2012. The study assessed the impacts of COAG reforms in two areas:

- aspects of the ‘Seamless National Economy’ regulatory reform priorities; and
- vocational education and training (VET).

Main findings and recommendations were:

- As most of the reforms being assessed have only just been implemented or are to be implemented, most benefits are yet to occur.
 - Forward looking (*ex ante*) assessments of potential changes, together with information obtained during this study, have been the starting point for determining likely impacts.

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- Given the early stage of most reforms, judgements have had to be made. This is particularly the case in estimating the progress and impact of the OHS reforms, given the uncertainties, including the dynamic effects.
 - The Commission’s assessment is that the reforms being considered could raise output and income in all jurisdictions.
 - Seamless National Economy reforms are aimed at reducing the regulatory burden imposed on firms that operate in multiple jurisdictions. Full implementation could ultimately provide cost reductions to business of around \$4 billion per year.
 - After a period of adjustment, national output (GDP) could be increased by nearly one half of a per cent (around \$6 billion per year).
 - Based on current plans, the majority of these gains could accrue by 2020.
 - Guided by achievement of reform milestones, reform reward payments should, as far as practicable, be linked to the achievement of reform outputs and outcomes.
 - Vocational education and training reforms are aimed at improving the overall quality of the workforce and encouraging higher workforce participation, through increased VET provision and greater flexibility in courses offered.
 - Attainment of the COAG 2020 targets potentially could raise GDP by two per cent.
 - It would also assist in achieving COAG’s broader social inclusion goals.
 - Increased efforts by governments will be required if the potential of the COAG agenda is to be realised.
 - A number of areas offer opportunities for even better outcomes. In particular:
 - a more systematic approach to identifying and implementing business regulation reforms;
 - initiatives to increase VET completion rates; and
 - ensuring VET reforms are sequenced so that the building blocks are in place for the successful transition to more contestable markets including:
 - ... strengthening quality control through cost-effective independent validation and auditing of training organisations’ assessment practices, as well as
 - ... making information available to students on the costs of training, quality and labour market outcomes for individual training organisations.

Performance Benchmarking of Australian Business Regulation: Role of Local Government

Research Report completed 4 July 2012, report released 18 July 2012.

The Commission's main findings and recommendations were:

- Implementing and enforcing state and territory laws, rather than local laws, dominates local governments' regulatory workload.
- While the Commonwealth has very limited powers to make laws for local government, it can influence them via national frameworks, such as food safety.
- In addition to local laws and quasi-regulatory instruments, rules can be imposed on business by 'decisions' determined under other laws, such as occurs with permits (including development approvals), licences, leases or registrations. Although they can impose costs on business and/or be anti-competitive, local instruments do not face as much scrutiny as state, territory or Commonwealth regulation.
- Burdens on business arise from delays, information requirements, restrictions on approvals, fees and penalties. Local governments can also prevent a business from operating or realising opportunities. Building, planning and land-use regulations impose the largest burdens on business.
- Unnecessary business burdens will be lower when local governments regulate well. The most important gaps in the support from states to local governments are:
 - insufficient consideration of local governments' capacity to administer and enforce regulation before a new regulatory role is delegated to them
 - limited guidance and training on how to administer and enforce regulations
 - no clear indication and ranking of state regulatory priorities.
- Leading practices for the states and the Northern Territory, include:
 - guidance to local government in writing regulation, such as Victoria's Guidelines for Local Laws
 - incentives for local governments to achieve scale and scope economies in regulatory functions
 - periodic assessment of the stock of local regulation and state regulation requiring a local government role
 - efficient cost recovery for local government regulatory functions
 - guidance to local government in the scrutiny of the impact of laws

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- graduated review and appeal systems for both local government decisions and processes
 - having regulatory decisions made by bodies which take account of all impacts
 - removing or managing the conflicting objectives between local governments' regulatory and other functions
 - a comprehensive central register of the state laws for which local government has a role in administration, enforcement and/or referral.

COAG Regulatory and Competition Reforms

Research Report completed 29 June 2012, report released 3 August 2012.

On 11 May 2012 the Secretary of the Treasury, Dr Martin Parkinson, wrote to the Commission requesting that it undertake, by the end of June 2012, a preliminary high-level review of a range of areas of reform. These reforms were identified by the Business Regulation and Competition Working Group, the Standing Council on Federal Financial Relations and COAG's Business Advisory Forum. They included:

- six priority areas for major reform to lower costs for business and improve competition and productivity, agreed by COAG on 13 April 2012:
 - addressing duplicative and cumbersome environment regulation
 - streamlining the process for approvals of major projects
 - rationalising carbon reduction and energy efficiency schemes
 - delivering energy market reforms to reduce costs
 - improving assessment processes for low risk, low impact developments
 - best practice approaches to regulation
- reforms that COAG agreed on 13 April 2012 to consider to reduce reporting burdens on business through the removal of overlaps in Commonwealth and State and Territory reporting obligations, including the expanded use of online business reporting
- reforms that COAG agreed on 13 April 2012 to consider as part of a new National Productivity Compact to be developed between the Commonwealth, States and Territories and business, to future proof national frameworks, including new national regulatory principles, mechanisms to facilitate more consistent and efficient implementation and enforcement of regulation, and ex-post review of national frameworks

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- the following proposed areas of reform identified by the Business Regulation and Competition Working Group and the Standing Council on Federal Financial Relations:
 - harmonisation of occupational conduct requirements
 - further occupational licensing reform
 - harmonisation of explosives legislation
 - extension of the National Construction Code
 - land transport reform;
 - reforms to government services
 - urban water reform
 - tax reform.

The request also asked that the Commission's analysis draw on past Commission reports and related existing materials, and outline matters such as the national significance of each reform area and the potential reform gains.

Government responses to reports from previous years

Inquiry into Government Drought Support

Inquiry Report No. 46 signed 27 February 2009, report released 12 May 2009.

On 28 June 2010, the Australian Government announced that, in partnership with the Western Australian Government, it would conduct a pilot of drought reform measures from 1 July 2010 to 30 June 2011 (Burke 2010a). The pilot reform measures draw partly on a number of recommendations made in the Commission's report, in particular regarding interest rate subsidies and farm exit support.

Subsequently, on 27 April 2012, the Minister for Agriculture, Fisheries and Forestry, the Hon. Joe Ludwig, announced a new national framework for drought management and preparedness (Ludwig 2012). As part of these reforms, and in line with recommendations in the Commission's report, Exceptional Circumstances Interest Rate Subsidies concluded on 30 June 2012.

Rural Research and Development Corporations

Inquiry Report No. 52 signed 10 February 2011, report released 15 June 2011.

The Australian Government released a preliminary response to the Commission's report on 15 June 2011. This stated that, while the Government acknowledged that improvements can be made to the RDC model, it would not adopt the Commission's recommendation to halve the cap on government matching contributions to RDCs in conjunction with the introduction of a new subsidy above the cap. The Government also stated that it would develop a more detailed final response to the report.

The final response to the report was subsequently released in July 2012 (Australian Government 2012a). The Government agreed or agreed in principle to thirteen of the Commission's recommendations. These included recommendations on public funding principles, industry requests for marketing, evaluations and performance reviews, specific maximum levy rates, government matching funding, annual monitoring and reporting, and government representation on RDC Boards. The Government did not agree with four of the Commission's recommendations, including on halving the cap on government matching contributions to RDCs in conjunction with the introduction of a new subsidy above the cap, and on the possible establishment of a new RDC, Rural Research Australia.

Caring for Older Australians

Inquiry Report No. 53 signed 28 June 2011, report released 8 August 2011.

The Australian Government released its *Living Longer. Living Better.* aged care reform package, which included a response to the Commission's report, in May 2012 (Australian Government 2012b). A number of recommendations from the Commission's report were supported, and adopted in the *Living Longer. Living Better.* reforms. These included:

- the establishment of an Aged Care Reform Council
- that no deductions will be permitted from the bonds paid for residential care accommodation
- new 'intermediate level' community care packages
- the establishment of an initial care Gateway (but not accompanied by a move to an aged care entitlement as the Commission had recommended)
- a review of the reforms after five years
- the establishment of an aged care data clearing house.

Recommendations on respite care, carer support arrangements, sub-acute health services and palliative care were also supported. The government also supported recommendations to separate the policy settings for the major cost components of aged care; and that a life-time stop-loss provision for care costs be introduced.

The Government did not agree with a number of the Commission's recommendations, including those on establishing an Aged Care Home Credit scheme, establishing an Aged Pensioners Savings Account and establishing an independent regulatory agency. While the government announced a comprehensive (income and asset) means test for care contributions in residential care only (rather than in all settings as recommended by the Commission), the principal residence has been excluded from the means test for care (a measure that had been recommended by the Commission to improve the long-term fiscal sustainability of the aged care system).

Disability Care and Support

Inquiry Report No. 54 signed 31 July 2011, report released 10 August 2011.

On 10 August 2011 the Australian Government provided an initial response to the Commission's report (Gillard et al. 2011). The response supported 'the Productivity Commission's vision for a system that provides individuals with the support they need over the course of their lifetime, and wants reform of disability services that is financially sustainable.' It also stated that:

In line with the Productivity Commission's recommendations, the Government, with the States and Territories, will start work immediately on building the foundations for reform. We will:

- Deliver an immediate, additional \$10 million, consistent with the PC recommendations, to support this technical policy work;
- Move to establish a COAG Select Council of Ministers from the Commonwealth, States and Territories to lead reform in this area at COAG next month;
- Take steps to establish an Advisory Group to the Select Council, led by Dr Jeff Harmer, to provide expert advice on delivering the foundations for reform and preparation for launch. (Gillard et al. 2011)

The response stated that, in line with Commission recommendations, work on technical policy work would include development of common assessment tools to determine eligibility for support; development of service and quality standards; development of a national pricing structure; and capacity building in the disability sector, including in relation to the workforce.

Following this, on 25 July 2012, COAG noted progress in establishing the first stage of a National Disability Insurance Scheme (NDIS) from July 2013, and that the Commonwealth has reached in-principle agreement with South Australia, Tasmania and the Australian Capital Territory for a launch to commence from July 2013 (COAG 2012). COAG also noted that it:

... welcomed a report from the Select Council on Disability Reform on progress with establishing an NDIS... As part of its report, the Select Council has proposed an approach to defining eligibility and reasonable and necessary support under an NDIS, building on the work of the Productivity Commission.