
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 2009-10 and previous years. It also reports on commissioned projects received since 30 June 2010.

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 2008-09 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					
20-10-08	Australia's Gambling Industries	AR 08-09	Report completed 26 February 2010	page 188	page 191
19-3-09	Review into the Regulation of Director and Executive Remuneration in Australia	AR 08-09	Report completed 19 December 2009	page 187	page 188
23-3-09	Australia's Anti-dumping and Countervailing System	AR 08-09	Report completed 18 December 2009	page 185	na
29-9-09	Wheat Export Marketing Arrangements	AR 08-09	Report completed 1 July 2010	na	na
15-2-10	Rural Research and Development Corporations	page 176	in progress	na	na
17-2-10	Disability Care and Support	page 177	in progress	na	na
27-4-10	Caring for Older Australians	page 182	in progress	na	na
19-7-10	Australia's Urban Water Sector	page 185	in progress	na	na
Other commissioned projects					
28-2-07*	Annual Review of Regulatory Burdens on Business – Social and Economic Infrastructure Services	AR 06-07*	Report completed 31 August 2009	AR 08-09	page 191
28-2-07*	Annual Review of Regulatory Burdens on Business – Business and Consumer Services	AR 06-07*	Report completed 31 August 2010	page 201	na
13-11-08	Restrictions on the Parallel Importation of Books	AR 08-09	Report completed 30 June 2009	AR 08-09	page 204
23-12-08	Performance Benchmarking of Australian Business Regulation: Food Safety and OHS	AR 08-09	Reports completed 15 December 2009 (Food Safety) and 23 March 2010 (OHS)	page 192	na
17-3-09	Review of the Contribution of the Not-For-Profit Sector	AR 08-09	Report completed 29 January 2010	page 195	page 197

15-5-09	Performance of Public and Private Hospital Systems	AR 08-09	Report completed 3 December 2009	page 197	na
24-7-09	Study into Market Mechanisms for Recovering Water in the Murray Darling Basin	AR 08-09	Report completed 18 March 2010	page 200	na
27-11-09	Bilateral and Regional Trade Agreements	page 176	in progress	na	na
12-4-10	Performance Benchmarking of Australian Business Regulation: Planning and Zoning and Land Development Assessments	page 180	in progress	na	na
22-4-10	Education and Training Workforce	page 180	in progress	na	na
16-6-10	Impacts and Benefits of COAG Reforms	page 184	in progress	na	na

na not applicable. 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 new projects

This section outlines the terms of reference for commissioned projects received since the Commission's annual report for 2008-09 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 relevant reports.

Bilateral and Regional Trade Agreements

On 27 November 2009, the Assistant Treasurer requested that the Commission undertake a study into the impact of bilateral and regional trade agreements on trade and investment barriers, and on Australia's trade and economic performance, including their contribution to efforts to boost Australia's engagement in the evolving regional economic architecture.

In undertaking the study, the Commission is to consider a broad range of issues, including the:

- contribution of bilateral and regional trade agreements to reducing trade and investment barriers and safeguarding against the introduction of new barriers
- role of such agreements in lending support to the international trading system and the World Trade Organization
- potential for trade agreements to facilitate adjustment to global economic developments and to promote regional integration
- impact of trade agreements on Australia's trade and economic performance, in particular any impact on trade flows, unilateral reform, behind-the-border barriers, investment returns and productivity growth
- scope for Australia's trade agreements to reduce trade and investment barriers of trading partners or to promote structural reform and productivity growth in partner countries.

The Commission is required to produce and publish a final report within twelve months of commencement of the study.

Rural Research and Development Corporations

On 15 February 2010, the Assistant Treasurer asked the Commission to undertake an inquiry into rural research and development corporation arrangements in Australia.

In undertaking the inquiry, the Commission is requested to:

- examine the economic and policy rationale for Commonwealth Government investment in rural R&D
- examine the appropriate level of, and balance between public and private investment in rural R&D
- consider the effectiveness of the current Rural Development Corporation (RDC) model in improving competitiveness and productivity in the agriculture, fisheries and forestry industries through research and development
- examine the appropriateness of current funding levels and arrangements for agricultural research and development, particularly levy arrangements, and Commonwealth matching and other financial contributions to agriculture, fisheries and forestry RDCs
- consider any impediments to the efficient and effective functioning of the RDC model and identify any scope for improvements, including in respect to governance, management and any administrative duplication
- consider the extent to which the agriculture, fisheries and forestry industries differ from other sectors of the economy with regard to research and development; how the current RDC model compares and interacts with other research and development arrangements, including the university sector, cooperative research centres and other providers; and whether there are other models which could address policy objectives more effectively
- examine the extent to which RDCs provide an appropriate balance between projects that provide benefits to specific industries versus broader public interests including examining interactions and potential overlaps across governments and programs, such as mitigating and adapting to climate change; managing the natural resource base; understanding and responding better to markets and consumers; food security, and managing biosecurity threats
- examine whether the current levy arrangements address free rider concerns effectively and whether all industry participants are receiving appropriate benefits from their levy contributions.

A final report is to be produced within twelve months of receipt of the reference.

Disability Care and Support

On 17 February 2010, the Assistant Treasurer asked the Commission to conduct an inquiry into a national disability long-term care and support scheme in Australia.

The Commission is to assess the costs, cost effectiveness, benefits and feasibility of an approach which:

- provides long-term essential care and support for eligible people with a severe or profound disability, on an entitlement basis and taking into account the desired outcomes for each person over a lifetime
- is intended to cover people with disability not acquired as part of the natural process of ageing
- calculates and manages the costs of long-term care and support for people with severe and profound disability
- replaces the existing system funding for the eligible population
- ensures a range of support options is available, including individualised approaches
- includes a coordinated package of care services which could include accommodation support, aids and equipment, respite, transport and a range of community participation and day programs available for a person's lifetime
- assists the person with disability to make decisions about their support
- provides support for people to participate in employment where possible.

In undertaking the inquiry, the Commission is to:

- examine a range of options and approaches, including international examples, for the provision of long-term care and support for people with severe or profound disability
- include an examination of a social insurance model on a no-fault basis, reflecting the shared risk of disability across the population
- examine other options that provide incentives to focus investment on early intervention, as an adjunct to, or substitute for, an insurance model
- consider the following specific design issues of any proposed scheme:
 - eligibility criteria for the scheme, including appropriate age limits, assessment and review processes
 - coverage and entitlements (benefits)
 - the choice of care providers including from the public, private and not-for-profit sectors
 - contribution of, and impact on, informal care
 - the implications for the health and aged care systems

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- the interaction with, or inclusion of, employment services and income support
 - where appropriate, the interaction with:
 - ... national and state-based traumatic injury schemes, with particular consideration of the implications for existing compensation arrangements
 - ... medical indemnity insurance schemes
 - consider governance and administrative arrangements for any proposed scheme including:
 - the governance model for overseeing a scheme and prudential arrangements
 - administrative arrangements, including consideration of national, state and/or regional administrative models
 - implications for Commonwealth and State and Territory responsibilities
 - the legislative basis for a scheme including consideration of head of power
 - appeal and review processes for scheme claimants and participants
 - consider costs and financing of any proposed scheme, including:
 - the costs in the transition phase and when fully operational, considering the likely demand for and utilisation under different demographic and economic assumptions
 - the likely offsets and/or cost pressures on government expenditure in other systems as a result of a scheme including income support, health, aged care, disability support system, judicial and crisis accommodation systems
 - models for financing including general revenue, hypothecated levy on personal taxation, a future fund approach with investment guidelines to generate income
 - contributions of Commonwealth and State and Territory governments
 - options for private contributions including copayments, fees or contributions to enhance services
 - consider implementation issues of any proposed scheme, including:
 - changes that would be required to existing service systems
 - workforce capacity
 - lead times, implementation phasing and transition arrangements to introduce a scheme with consideration to service and workforce issues, fiscal outlook, and state and territory transitions.

The Government also announced that it would establish an Independent Panel of persons with relevant expertise to act in an advisory capacity to the Commission and the Government, and report to Government throughout the inquiry.

The Commission is required to provide a final report by 31 July 2011.

Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Land Development Assessments

On 12 April 2010 the Commission received a request to commence the third year of its Performance Benchmarking of Australian Business Regulation study. This followed agreement by the COAG Business Regulation and Competition Working Group (BRCWG) that the Commission should focus on States and Territories' planning and zoning systems and land development assessments in the third year of its study.

As part of its study, the Commission is requested to examine and report on the operations of the States and Territories' planning and zoning systems, particularly as they impact on business compliance costs, competition and the overall efficiency and effectiveness of the functioning of cities. The Commission is asked to report on planning and zoning laws and practices which unjustifiably restrict competition and best practice approaches that support competition, including:

- measures to prevent 'gaming' of appeals processes
- processes in place to maintain adequate supplies of land suitable for a range of activities
- ways to eliminate any unnecessary or unjustifiable protections for existing businesses from new and innovative competitors.

The Commission is required to provide a report by the end of April 2011.

Education and Training Workforce

On 22 April 2010, the Assistant Treasurer asked the Commission to undertake a research study to examine issues impacting on the workforces in the early childhood development, schooling and vocational education and training sectors.

The Commission is asked to provide advice on workforce planning, development and structure of the early childhood development, schooling and VET workforces in the short, medium and long term. In undertaking its study, the Commission is requested to consider and provide advice on:

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- The current and future demand for the workforces, and the mix of knowledge and skills required to meet service need. This will include consideration of:
 - population distribution and demographic trends, jurisdictional and regional analysis
 - significant shifts in skill requirements
 - policy and regulation given the agreed COAG outcomes (particularly the National Early Childhood Development Strategy, relevant National Partnerships, the National Education Agreement and the National Indigenous Reform Agreement).
 - The current and future supply for the workforces, including:
 - demographic, socio-cultural mix and composition of the existing workforces, and jurisdictional and regional analysis
 - elements such as remuneration, pay equity/differentials, working conditions, professional status and standing, retention, roles and responsibilities, professional development, and training and support structures
 - qualifications pathways, particularly pathways that will ensure accessibility and appropriateness of training to meet the qualifications and competencies required for the various occupations in the workforces.
 - The current and future structure and mix of the workforces and their consequential efficiency and effectiveness, including:
 - the composition and skills of the existing workforces
 - the productivity of the workforces and the scope for productivity improvements
 - the most appropriate mix of skills and knowledge required to deliver on the outcomes in the COAG national framework.
 - Workforce planning, development and structure in the short, medium and long term, including:
 - policy, governance and regulatory measures to maximise the efficiency and effectiveness of the workforces in order to achieve the outcomes set out in the COAG frameworks
 - changes to ongoing data collection to establish a robust evidence base, provide for future workforce planning and development and meet reporting requirements.

The Commission is also required to consider a range of factors that have particular impact on each sector, and these are set out in greater detail in the Terms of Reference.

In addition to sector-specific issues, the Commission is requested to consider whether reducing sectoral divides between workforces in these sectors could support a more learner-focused approach, achieve better individual outcomes and increase the efficiency of workforce development and planning. The Commission is also to give consideration to factors that impact on building Indigenous workforce capability in recognition of the effect this will have on improving outcomes for, employment of, and services to Indigenous Australians.

The Commission is required to provide a report, dealing with the VET workforce, within twelve months of receipt of the reference; and a second and third report, dealing with the early childhood development and schooling workforces, within eighteen and twenty four months respectively of receipt of the reference.

Caring for Older Australians

On 27 April 2010 the Assistant Treasurer asked that the Commission undertake a public inquiry into Australia's aged care system.

The Commission is requested to:

- Systematically examine the social, clinical and institutional aspects of aged care in Australia, building on the substantial base of existing reviews into this sector.
- Develop regulatory and funding options for residential and community aged care (including services currently delivered under the Home and Community Care program for older people) that:
 - ensure access (in terms of availability and affordability) to an appropriate standard of aged care for all older people in need, with particular attention given to the means of achieving this in specific needs groups including people living in rural and remote locations, Aboriginal and Torres Strait Islander people, culturally and linguistically diverse communities, and veterans
 - include appropriate planning mechanisms for the provision of aged care services across rural, remote and metropolitan areas and the mix between residential and community care services
 - support independence, social participation and social inclusion, including examination of policy, services and infrastructure that support older people remaining in their own homes for longer, participating in the community, and which reduce pressure on the aged care system
 - are based on business models that reflect the forms of care that older people need and want, and that allow providers to generate alternative revenue

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- streams by diversifying their business models into the delivery of other service modalities
- are consistent with reforms occurring in other health services and take into account technical and allocative efficiency issues, recognising that aged care is an integral part of the health system and that changes in the aged care system have the potential to adversely or positively impact upon demand for other care modalities
 - are financially sustainable for government and individuals with appropriate levels of private contributions, with transparent financing for services, that reflect the cost of care and provide sufficient revenue to meet quality standards, provide an appropriately skilled and adequately remunerated workforce, and earn a return that will attract the investment, including capital investment, needed to meet future demand. This should take into consideration the separate costs associated with residential services, which include but are not limited to the costs of accommodation and direct care, and services delivered in community settings
 - consider the regulatory framework, including options to allow service providers greater flexibility to respond to increasing diversity among older people in terms of their care needs, preferences and financial circumstances, while ensuring that care is of an appropriate quality and taking into account the information and market asymmetries that may exist between aged care providers and their frail older clients
 - minimise the complexity of the aged care system for clients, their families and providers and provide appropriate financial protections and quality assurance for consumers
 - allow smooth transitions for consumers between different types and levels of aged care, and between aged, primary, acute, sub-acute, disability services and palliative care services, as need determines.
- Systematically examine the future workforce requirements of the aged care sector, taking into account factors influencing both the supply of and demand for the aged care workforce, and develop options to ensure that the sector has access to a sufficient and appropriately trained workforce.
 - Recommend a path for transitioning from the current regulatory arrangements to a new system that ensures continuity of care and allows the sector time to adjust.
 - Examine whether the regulation of retirement specific living options, including out-of-home services, retirement villages such as independent living units and serviced apartments, should be aligned more closely with the rest of the aged care sector and, if so, how this should be achieved.

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- Assess the medium and long-term fiscal implications of any change in aged care roles and responsibilities.

A draft report is to be produced by December 2010 and a final report by April 2011.

Impacts and Benefits of COAG Reforms

On 16 June 2010 the Assistant Treasurer asked the Commission to report to COAG on the impacts and benefits of COAG's reform agenda every two to three years. This followed an earlier request by COAG in March 2008 that the Commission be asked to undertake this work.

As part of this request, the Commission has been asked that reporting priorities take into account:

- the fiscal impact of reform on each level of government
- the availability of new material on COAG's reform agenda or implementation plans
- the implementation of a significant body of reform over a sufficient period to enable a meaningful review of the likely impacts and benefits of that reform
- any emerging concern about the potential impacts or benefits of a reform.

The Commission's reports to COAG should provide information on:

- the economic impacts and benefits of reform and outcome objectives, including estimates of the economy-wide, regional and distributional effects of change
- assessments, where practicable, of whether Australia's reform potential is being achieved and the opportunities for improvement. The analysis should recognise the different nature of sectoral productivity-based and human capital reforms and the likely time paths over which benefits are likely to accrue.

In preparation for its inaugural full report, the Commission has been requested to provide a 'framework' report to COAG outlining its proposed approach to reporting on the impacts and benefits of COAG's reform agenda.

The Commission's framework report is to be submitted to COAG by 31 December 2010. The Commission is then to complete full reports at 2-3 year intervals dated from 1 January 2009, in accordance with directions for individual reports from the Assistant Treasurer.

Australia's Urban Water Sector

On 19 July 2010 the Assistant Treasurer asked the Commission to undertake an inquiry examining the case for microeconomic reform of Australia's urban water sector.

In undertaking the inquiry, the Commission is to report on:

- Opportunities for efficiency gains in the structural, institutional, regulatory and other arrangements in the Australian urban water and wastewater sectors.
- Options to achieve the efficiency gains identified, with these options to be subjected to a rigorous cost benefit analysis, including using quantitative assessments to the fullest extent possible, to identify the economic, social and environmental impacts; the impacts on Australian governments, business and consumers; and the propensity to facilitate supply and demand planning and decision-making in the medium and long term.
- A proposed work program including implementation plans for the options, identifying: practical actions that the Commonwealth, state and territory governments and local councils can undertake to implement options for reforms, including any transitional arrangements; priority areas where greatest efficiency gains are evident and where early action is practicable; and quantitative and qualitative indicators for efficiency gains in the urban water and waste water sectors.

The Commission is to provide both a draft and final report, with the final report provided within twelve months of receipt of the reference.

Commission 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 14 October 2010. It includes terms of reference for those projects commenced and completed in that period and, where available, government responses.

Australia's Anti-dumping and Countervailing System

Inquiry Report No. 48 signed 18 December 2009, report released 27 May 2010.

The Commission's main findings and recommendations were that:

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- The Australian anti-dumping system, which is based on agreed WTO rules and procedures, benefits a small number of import competing firms, but imposes greater costs on the rest of the economy.
 - However, this net economic cost is likely to be very small. And the ability for Australian industries, like those in most other countries, to use the system to address what are perceived by many to be ‘unfair’ trading practices, may have lessened resistance to more significant tariff reforms.
 - This ‘political economy’ argument for retaining the system would be strengthened by changes to address a number of deficiencies in the current arrangements which can add to the costs for the community. In particular:
 - there is no consideration of the wider economic impacts of anti-dumping measures
 - measures can too easily become akin to long-term protection, or outdated in the face of changing market circumstances
 - decision-making and its outcomes are not sufficiently transparent.
 - Introduction of a ‘bounded’ public interest test, drawing on similar provisions overseas, would be a practical means to take account of wider impacts and prevent the imposition of measures that would be disproportionately costly.
 - The test would embody a presumption in favour of measures where there has been injurious dumping or subsidisation.
 - But it would also detail a small number of specific circumstances where measures would not be in the public interest — for example, where they would be ineffectual in removing injury; or would impose large costs on downstream users relative to the benefits for the applicant industry.
 - Customs would have to complete assessments against the test within 30 days, and then advise the Minister on whether any of these circumstances applied.
 - Other changes that should be made to the current arrangements to achieve a better balance between benefits and costs include:
 - allowing only one three-year extension of measures after the initial five-year term
 - providing for annual adjustments to the magnitude of all measures
 - aligning Australia’s list of actionable subsidies with the WTO lists
 - increasing the robustness of the appeals process
 - imposing a time limit on decisions by the Minister
 - enhancing public reporting on the basis for decisions and their outcomes.

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- To provide stakeholders with time to adjust, there should be a two-year delay before the public interest test and changed continuation requirements take effect. The new arrangements should be reviewed five years after that.

Regulation of Director and Executive Remuneration in Australia

Inquiry Report No. 49 signed 19 December 2009, report released 4 January 2010.

The Commission's main findings and recommendations were that:

- Strong growth in executive remuneration from the 1990s to 2007, and instances of large payments despite poor company performance, have fuelled community concerns that executive remuneration is out of control.
- Pay for CEOs of the top 100 companies appears to have grown most strongly, at 13 per cent real a year, from the mid-90s to 2000, and then increased by around 6 per cent annually in real terms to 2007. Since 2007 average remuneration has fallen by around 16 per cent a year, returning it to 2004-05 levels.
 - The rise and decline in executive pay over the 2000s largely reflects increased use of pay structures linked to company performance.
- Executive pay varies greatly across Australia's 2000 public companies.
 - For the top 20 CEOs, in 2008-09 it averaged \$7.2 million (110 x AWE) compared to around \$260 000 for CEOs of the smallest listed companies (4 x AWE).
 - Generally speaking, Australian executives appear to be paid in line with smaller European countries, but below the United Kingdom and United States (the global outlier).
- Liberalisation of the Australian economy and global competition, increased company size, and the shift to incentive pay structures, have been major drivers of executive remuneration — companies compete to hire the best person for the job, and try to structure pay to maximise the executive's contribution to company performance.
- Nonetheless, some past trends and specific pay outcomes appear inconsistent with an efficient executive labour market, and possibly weakened company performance.
 - Incentive pay 'imported' from the United States and introduced without appropriate hurdles spurred pay rises in the 1990s partly for 'good luck'. More recently, complex incentive pay may have delivered unanticipated 'upside'.

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- Some termination payments look excessive and could indicate compliant boards.
 - Instances of ‘excessive’ payments and perceived inappropriate behaviour could also reduce investor and community trust in the corporate sector more broadly, with adverse ramifications for equity markets.
 - But the way forward is not to by-pass the central role of boards. Capping pay or introducing a binding shareholder vote on it would be impractical and costly.
 - Instead, the corporate governance framework should be strengthened by:
 - removing conflicts of interest, through independent remuneration committees and improved processes for use of remuneration consultants
 - promoting board accountability and shareholder engagement, through enhanced pay disclosure and strengthening the consequences for those boards that are unresponsive to shareholders’ ‘say on pay’.
 - These reforms would significantly reduce the likelihood in future of inappropriate remuneration outcomes, or those that shareholders would find objectionable.

Government decision

On 16 April 2010 the Government released a detailed response to the Commission’s report (Swan, Bowen and Sherry 2010). Of the 17 recommendations in the report the Government provided acceptance or in-principle acceptance to 16, with six of the in-principle acceptances provided by the Government subject to additional further strengthening.

The Government did not support one recommendation on the removal of cessation of employment as a trigger for the taxation of deferred employee share schemes. It stated that, in its view, removal would increase the concessionality of schemes, providing a disproportionately large benefit to higher-income employees.

Australia’s Gambling Industries

Inquiry Report No. 50 signed 26 February 2010, report released 23 June 2010.

The Commission’s main findings and recommendations were that:

- The rapid growth following liberalisation of gambling in the 1990s has given way to more ‘mature’ industry growth.

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- Total recorded expenditure (losses) in Australia reached just over \$19 billion in 2008-09, or an average of \$1500 per adult who gambled.
 - Gambling is an enjoyable pursuit for many Australians. As much as possible, policy should aim to preserve the benefits, while targeting measures at gamblers facing significant risks or harm.
 - While precision is impossible, various state surveys suggest that the number of Australians categorised as ‘problem gamblers’ ranges around 115 000, with people categorised as at ‘moderate risk’ ranging around 280 000.
 - It is common to report prevalence as a proportion of the adult population, but this can be misleading for policy purposes, given that most people do not gamble regularly or on gambling forms that present significant difficulties.
 - The risks of problem gambling are low for people who only play lotteries and scratchies, but rise steeply with the frequency of gambling on table games, wagering and, especially, gaming machines.
 - Most policy interest centres on people playing regularly on the ‘pokies’. Around 600 000 Australians (4 per cent of the adult population) play at least weekly.
 - While survey results vary, around 15 per cent of these regular players (95 000) are ‘problem gamblers’. And their share of total spending on machines is estimated to range around 40 per cent.
 - The significant social cost of problem gambling — estimated to be at least \$4.7 billion a year — means that even policy measures with modest efficacy in reducing harm will often be worthwhile.
 - Over the last decade, state and territory governments have put in place an array of regulations and other measures intended to reduce harm to gamblers.
 - Some have been helpful, but some have had little effect, and some have imposed unnecessary burdens on the industry.
 - A more coherent and effective policy approach is needed, with targeted policies that can effectively address the high rate of problems experienced by those playing gaming machines regularly.
 - Recreational gamblers typically play at low intensity. But if machines are played at high intensity, it is easy to lose \$1500 or more in an hour.
 - The amount of cash that players can feed into machines at any one time should be limited to \$20 (currently up to \$10 000).
 - There are strong grounds to lower the bet limit to around \$1 per ‘button push’, instead of the current \$5–10. Accounting for adjustment costs and technology, this can be fully implemented within six years.

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- Shutdown periods for gaming in hotels and clubs are too brief and mostly occur at the wrong times. They should commence earlier and be of longer duration.
 - There should be a progressive move over the next six years to full ‘pre-commitment’ systems that allow players to set binding limits on their losses.
 - Under a full system, there would be ‘safe’ default settings, with players able to choose other limits (including no limit).
 - In the interim, a partial system with non-binding limits would still yield benefits, and provide lessons for implementing full pre-commitment.
 - Better warnings and other information in venues would help. But school-based information programs could be having perverse effects and should not be extended without review.
 - Relocating ATMs away from gaming floors and imposing a \$250 daily cash withdrawal limit in gaming venues would help some gamblers. But the net benefits of removing ATMs entirely from venues are uncertain.
 - Effective harm minimisation measures for gaming machines will inevitably reduce industry revenue, since problem gamblers lose so much. However, this would not occur overnight and the reductions may be offset by other market developments.
 - Problem gambling counselling services have worked well overall. But there is a need for enhanced training and better service coordination.
 - Online gaming by Australians appears to have grown rapidly despite the illegality of domestic supply. Gamblers seeking the benefits it offers are exposed to additional risks and harms from offshore sites that could be avoided under carefully regulated domestic provision.
 - Liberalising the domestic supply of online poker card games, accompanied by appropriate harm minimisation measures, would test whether managed liberalisation should be extended to all online gaming forms.
 - Recently enacted race fields legislation has been the main way jurisdictions have addressed the dual reform challenges of preventing free-riding by wagering operators and facilitating a competitively neutral wagering industry.
 - Should the race fields legislation be unsuccessful in either respect over the next three years, a national funding model should be established, based on federal legislation and with an independent price-setting body.
 - The arguments for retaining the exclusive right by the TABs to provide off-course retail wagering products are not compelling.

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- Governments have improved their policy-making and regulations with respect to gambling, but significant governance flaws remain in most jurisdictions, including insufficient transparency, regulatory independence and coordination.
 - There is a particular need to improve arrangements for national research.

Government decision

The Australian Government released an initial response to the Commission's report on 23 June 2010. In responding in brief to the report the Government stated that it supported key reform directions to minimise the harm caused by problem gambling. For example, it stated that it:

... supports the use of pre-commitment technology to tackle problem gambling and is committed to working with State and Territory Governments, and industry, in implementing this technology. (Macklin, Sherry and Conroy 2010)

The Government did not agree with the Commission's recommendation to allow for the partial liberalisation of online gambling.

Annual Review of Regulatory Burdens on Business — Social and Economic Infrastructure Services

Research Report completed 31 August 2009, report released 15 September 2009.

On 28 February 2007, the Treasurer announced a program of annual reviews of the burdens on business arising from the stock of Australian Government regulation. The cycle commenced in April 2007 with a review of the regulatory burdens on businesses in Australia's primary sector.

The third yearly review reported on regulatory burdens on business in the social and economic infrastructure services sector. This covered issues including energy, construction, transport, media and telecommunications, health care and social assistance, education, aged care and child care.

Government decision

On 22 December 2009 the Government released a detailed response to the report (Australian Government 2009e). Of the Commission's 42 responses, the Government accepted or accepted in principle 26 responses, noted 12 and did not accept a further four.

The Government accepted responses across a broad range of areas, including the need for a further evaluation of regulatory safeguards in aged care, the need for further improvements in information provision in child care, the need for review of the costs and benefits of identity check for prepaid mobile phone services, amendment of the Australian Energy Market Agreement, changes to relieve the reporting burden on business in the energy sector, and changes to streamline reporting requirements in the education sector.

The Government did not support four responses:

- Regarding the Commission's recommendation that the Government should amend the missing resident reporting requirements in the Accountability Principles 1998, the Government stated that the existing requirements are needed to facilitate the rapid reporting of risks to residents and to ensure that facilities have appropriate systems in place.
- In relation to the Commission's recommendation that the prudential standards in aged care be streamlined, the Government stated that the current requirements were necessary to ensure that residents and prospective residents have access to information about the financial status of approved providers and their performance.
- In response to the Commission's recommendation that the Government should allow residential aged care providers choice of accreditation agencies, the Government stated that it supported the continuation of a single accreditation provider to ensure consistency of accreditation.
- The recommendation that the *Aviation Transport Security Act 2004* be amended to enable the granting of exemptions, variation and alternative procedures was also not supported. The Government stated that the Act currently provides industry with the ability to formulate processes and procedures to meet regulatory requirements in a way that best suits their business.

Performance Benchmarking of Australian Business Regulation: Food Safety and Occupational Health and Safety

Research Report on Food Safety completed 15 December 2009, report released 22 December 2009.

Key points from the report were that:

- Australian and New Zealand regulators generally use a cooperative, graduated approach to achieve compliance. They apply risk management and try to minimise adverse side effects on business.

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- Consistent with the Joint Food Standards Setting Treaty, New Zealand only adopts a minority of the Australia New Zealand Food Standards. New Zealand has separate food hygiene standards for consumer food safety which are much more prescriptive.
 - The Model Food Act and Australia New Zealand Food Standards Code in Australia help to achieve some level of harmonisation between states and territories in their consumer food safety requirements. The most significant difference occurs over requirements to employ a food safety supervisor and to prepare a food safety plan.
 - Local councils play a key role in the administration and enforcement of consumer food safety regulation, except in the Australian territories. There are significant differences in councils' fees and charges, inspection rates, enforcement practices and transparency of their activities, which can lead to unnecessary burdens on business. The NSW Food Authority has achieved greater coordination and clarity by establishing a memorandum of understanding with local councils.
 - There are significant differences among the core state/territory consumer food safety regulators in the level and nature of charges; taxpayer versus business funding; risk classifications; the rate and duration of audits/inspections; appeal mechanisms and transparency.
 - Across the Australian states and territories, there is far less harmonisation in regulation at the primary production and processing (PPP) end of the food chain:
 - there is no model food safety legislation covering PPP
 - progress in developing national PPP standards has been slow
 - significant differences in the interpretation and implementation of PPP standards persist in jurisdictions.
 - The processes for registering and specifying appropriate maximum residue limits of chemicals are more streamlined and timely in New Zealand than in Australia.
 - Comparing how Australia and New Zealand regulate internationally traded food:
 - Australia's charges are generally higher, its fee structure is more complex, and there is jurisdictional diversity and agency duplication
 - in both countries, red meat exporters incur greater costs and more regulatory intervention than other primary product exporters
 - some products are subject to the strictest export requirements irrespective of destination, extending to domestically sold products in New Zealand's case

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- Australia’s regulatory system for exports relies less on electronic processing to reduce business compliance costs and is less able to embrace shifts toward outcome-based standards in the domestic food safety system.

Research Report on Occupational Health and Safety completed 23 March 2010, report released 6 April 2010.

Key points from the report were that:

- This study compares inter-jurisdictional differences in occupational health and safety (OHS) legislation in 2008-09 and its administration and enforcement and the costs they imposed on business. Such benchmarking provides information which can support current moves to establish a consistent regulatory approach to OHS across all jurisdictions.
- Generally, OHS performance has been improving. National injury incidence rates have fallen almost 20 per cent between 2002-03 and 2007-08.
- The core OHS Acts of all jurisdictions are all based on the principle of allocating duties of care to those most able to influence OHS outcomes and yet the Acts differ.
- In addition, there are 70 industry or hazard-specific Acts which regulate OHS in some way. For states with separate mining regulations (New South Wales, Queensland, Western Australia) compliance burdens on large mining companies are greater in Western Australia which makes limited use of performance and process based regulation.
- The burdens from jurisdictional differences in OHS regulation fall most heavily on businesses which operate in more than one state or territory.
- Among regulations aimed at improving the culture of compliance, different requirements across jurisdictions for record keeping, training, and worker participation and representation result in differences in the burdens imposed on business.
- Among regulations aimed at managing particular hazards, the different requirements across the jurisdictions with regard to asbestos, manual handling and falls result in differences in the burdens imposed on business.
- Given the costs they impose, all jurisdictions give relatively less attention to psychosocial hazards than to physical hazards. All jurisdictions provide guidance material on various aspects of psychosocial health. Victoria and New South Wales provide harmonised guidance on bullying and on fatigue. Only Queensland and Western Australia provide a code of practice on bullying. Western Australia and South Australia are the only jurisdictions to have a code

of practice on working hours, while Western Australia is the only jurisdiction to have a code that addresses occupational violence. Victoria and New South Wales pursue bullying the most vigorously in the courts.

- Australian OHS regulators commonly use a cooperative, graduated approach to achieve compliance. They apply a risk-based approach to enforcement and generally seek to minimise adverse side effects on business.
- There are significant differences among OHS regulators in: their level of resources; funding sources; availability and application of enforcement tools; appeal mechanisms; and transparency.

Contribution of the Not-For-Profit Sector

Research Report completed 29 January 2010, report released 11 February 2010.

The Commission's main findings and recommendations were that:

- The not-for-profit (NFP) sector is large and diverse, with around 600 000 organisations.
 - The ABS has identified 59 000 economically significant NFPs, contributing \$43 billion to Australia's GDP, and 8 per cent of employment in 2006-07.
 - The NFP sector has grown strongly with average annual growth of 7.7 per cent from 1999-2000 to 2006-07.
- 4.6 million volunteers work with NFPs with a wage equivalent value of \$15 billion.
 - More Australians are volunteering, but for fewer average hours, so total hours grew only slowly (2 per cent per annum over the seven years to 2006-07).
 - Most areas have seen a decline in volunteering, although there has been strong growth in volunteers with culture and recreation organisations.
- The level of understanding among the wider community of the sector's role and contribution is poor and deserves attention. A nationally agreed measurement and evaluation framework would add significantly to this understanding.
- Current information requirements imposed on NFPs for funding and evaluation purposes are poorly designed and unduly burdensome. Reform is needed to meet 'best practice' principles.
 - A significant advance would be to establish a Centre for Community Service Effectiveness to improve knowledge on good evaluation practice, and assemble and disseminate evaluations based on the agreed measurement framework.

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- The current regulatory framework for the sector is complex, lacks coherence, sufficient transparency, and is costly to NFPs.
 - A national registrar for NFPs should be established to consolidate Commonwealth regulation; register and endorse NFPs for concessional tax status; register cross jurisdictional fundraising organisations; and provide a single portal for corporate and financial reporting.
 - Legislative proposals to reduce reporting burdens associated with companies limited by guarantee are welcome and needed if more NFPs are to adopt Commonwealth incorporation.
 - A separate chapter in the Corporations Act dealing with NFP companies should be introduced, as should rules on the disposal of assets.
 - More generally, states and territories should seek to harmonise Incorporated Associations legislation in these and other key areas.
 - Jurisdictional and agency differences have also resulted in a lack of consistency and comparability in financial reporting requirements for NFPs. Australian governments should, as a priority, implement the agreed Standard Chart of Accounts.
 - Fundraising legislation differs significantly between jurisdictions, adding to costs incurred by the NFP sector. Harmonisation of fundraising legislation through the adoption of a model act should be an early priority for governments.
 - Enabling the public to provide greater support to a wider group of NFPs is desirable and would be facilitated if deductible gift recipient status were to be progressively extended to all charitable institutions and funds endorsed by the proposed registrar.
 - NFP revenue sources would also be expanded by the promotion and support of payroll giving arrangements.
 - There is potential for greater social innovation but the business planning capabilities and incentives for collaboration need to be strengthened. Further, there is a need to strengthen the capacity for NFPs to access debt financing for social investment.
 - NFPs and others delivering community services face increasing workforce pressures and long-term planning is required to address future workforce needs.
 - For NFPs, less than full cost funding of many services has resulted in substantial wage gaps for NFP staff. The challenges in retaining staff threaten the sustainability and quality of services. Greater clarity about funding commitment is an important step in addressing these issues.

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- Volunteers play a critical role in delivering NFP services but rising costs are affecting the viability of their engagement. Streamlining of mandatory vetting requirements and investigation of portability between agencies and across jurisdictions would reduce one source of costs.
 - The efficiency and effectiveness of delivery of services by NFPs on behalf of governments is adversely affected by inadequate contracting processes. These include overly prescriptive requirements, increased micro management, requirements to return surplus funds, and inappropriately short-term contracts. Substantial reform of the ways in which governments engage with and contract NFPs is urgently needed.
 - Australian governments should choose the most appropriate model of engagement, ensure consideration of all costs associated with use of the lead agency model, align the length of contracts with the period required to achieve agreed outcomes, review and streamline their contracting processes and ensure staff involved with NFPs have the required relationship management skills.
 - Some current approaches adopted by governments to the management of the different risks involved in the delivery of services on their behalf are not cost effective. An explicit risk management framework should be prepared by government agencies in collaboration with service providers as part of their contracting process.
 - Implementation of government and sector reforms will be best facilitated by a central policy and implementation unit within the Australian Government such as through the establishment of a specific Office for NFP Sector Engagement.

Government decision

In April 2010, COAG agreed to the development of a nationally consistent approach to fundraising regulation, in line with recommendations made in the Commission's report (COAG 2010a).

Performance of Public and Private Hospital Systems

Research Report completed 3 December 2009, report released 10 December 2009.

The Commission's main findings and recommendations were that:

- Although there is significant diversity within and between the public and private hospital sectors, there are sufficient similarities to warrant comparing them,

ideally in a way that takes account of differences in the services provided and patients treated.

- Existing datasets on hospital costs are limited by inconsistent collection methods and missing information. The Commission has sought to address these limitations by drawing on various data sources and incorporating adjustments to make the data more comparable. Nevertheless, the resulting estimates should be considered experimental.
- The Commission's experimental cost estimates suggest that, at a national level, public and private hospitals have similar average costs. However, significant differences were found in the composition of costs. General hospital costs were higher in public hospitals. Medical and diagnostics costs and prostheses costs were higher in private hospitals. Capital costs were higher in public hospitals, but this result is particularly reliant on a range of data sources and adjustments to make the data comparable.
- Australia does not have a robust nationally-consistent data collection on hospital-acquired infections. The limited available evidence suggests that private hospitals have lower infection rates than public hospitals, but this result could be misleading because private hospitals on average treat patients who have a lower risk of infection.
- Other partial indicators show that:
 - private hospitals have higher labour productivity and shorter lengths of stay than public hospitals, but this is at least partly due to casemix and patient differences between the public and private sectors
 - elective surgery in public hospitals is more accessible for disadvantaged socioeconomic groups, but tends to be less timely than in the private sector.
- A multivariate analysis of hospital-level data suggests that the efficiency of public and private hospitals is, on average, similar. The output of individual hospitals in both sectors is, on average, estimated to be around 20 per cent below best practice.
- Improvements could be made to data collections to improve the feasibility of future comparisons. Foreshadowed changes under the National Healthcare Agreement will help in this regard, but more improvements could be made, such as consistent national reporting of costs and infections for both public and private hospitals.
- Only a small proportion of patients incur out-of-pocket expenses without receiving sufficient prior information to give informed financial consent. The medical profession has facilitated best practice by educating practitioners and using internet-based packages to inform consumers.

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- The most appropriate indexation factor for the Medicare Levy Surcharge income thresholds is average weekly ordinary time earnings.

A supplement to the Research Report was released on 18 May 2010. Key points from the supplement were that:

- The Commission recently completed a Research Report on the performance of public and private hospitals which compared costs, infection rates and other indicators (PC 2009). That report also considered rates of, and impediments to, informed financial consent; and assessed potential indexation factors for the Medicare Levy Surcharge income thresholds.
- A part of that study used multivariate techniques which estimated that hospital output was typically around 20 per cent below best practice. This was based on preliminary analysis of just a single year of data because of significant delays in accessing data.
 - The modelling in this supplement draws on three additional years of data, as well as improved data quality and estimation methods, and finds that hospitals are operating around 10 per cent below best practice. While this estimate is more reliable, it remains an estimate given the limitations to the data.
- In this supplement, the Commission has compared hospital performance in terms of:
 - hospital-standardised mortality ratios — as a measure of the effectiveness and ‘quality’ of hospital care
 - efficiency — measured by the extent to which hospitals made best use of their resources to provide services.
- Hospital-standardised mortality ratios were estimated to be generally similar between very large public and private hospitals. However, smaller private hospitals had noticeably better mortality ratios than similar-sized public hospitals.
 - While this might indicate differences in management and clinical competence, it could also indicate the tendency for smaller public hospitals to be the only major source of clinical care in remote and very remote areas.
- Australian acute hospitals were estimated to have scope to improve their efficiency by about 10 per cent under the existing policy environment.
 - For-profit and ‘public contract’ hospitals were estimated to be more efficient than public hospitals on average, in terms of their potential to increase output for a given set of inputs.

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- However, for-profit, not-for-profit and public hospitals were found to be similarly efficient with respect to their potential to economise on input use for a given level of output.
 - Smaller public hospitals, many of which are located in more remote communities, were found to be less efficient than similar-sized private hospitals, possibly due to lower occupancy rates.
 - The Commission also sought to measure the determinants of hospitals costs, but the available financial data, such as capital and medical costs, were inadequate.
 - There are various other shortcomings in data quality and availability. These would need to be overcome if policy analysts and other researchers are to produce improved estimates of efficient costs of providing hospital care.

Study into Mechanisms to Purchase Water Entitlements

Research Report completed 18 March 2010, report released 31 March 2010.

The Commission's main findings and recommendations were that:

- The Australian Government has an ambitious agenda for increasing the availability of water for the environment in the Murray-Darling Basin: water will be reallocated administratively through a Basin Plan; and water will be recovered through a ten-year \$3.1 billion buyback of water entitlements, and a \$5.8 billion investment in water saving infrastructure.
- The 2011 Basin Plan will ultimately allocate water between consumptive and environmental uses, in each catchment. The buyback aims to assist irrigators to adjust to the much lower diversion limits that are likely under the Basin Plan and to regain some water for the environment in the interim. The infrastructure program shares these broad objectives but also aims to help sustain irrigation communities.
- The buyback is occurring before sustainable diversion limits (SDLs) are set under the Basin Plan, and before the liability for policy-induced changes to water availability has been resolved. This is creating uncertainty in the minds of irrigators and affecting the efficiency of the buyback.
- SDLs must be based on scientific assessments of the amount of water that is required to avoid compromising key environmental assets and processes. Good science is a necessary but not sufficient basis for optimising the use of the Basin's water resources. The value people place on environmental outcomes, the opportunity cost of forgone irrigation, and the role of other inputs, such as land management, must also be considered. If the *Water Act 2007* (Cwlth) precludes this approach, it should be amended.

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- The same cost effectiveness tests should be applied to all water recovery options. Purchasing water from willing sellers (at appropriate prices) is a cost-effective way of meeting the Government's liability for policy-induced changes in water availability. Subsidising infrastructure is rarely cost effective in obtaining water for the environment, nor is it likely to be the best way of sustaining irrigation communities.
 - Other water products (for example, seasonal allocations and options contracts) are potentially valuable in meeting short-term environmental needs.
 - Tenders are sound purchasing mechanisms where active markets for water entitlements do not exist. But where active markets do exist, acquiring water directly from those markets is likely to be more efficient.
 - The 4 per cent limit on out-of-area trade of water entitlements should be eliminated as soon as possible. Limits on the amount of entitlements that can be sold to the Commonwealth through the buyback should also be eliminated.
 - Using the buyback to achieve distributional goals, system rationalisation or to manage salinity is likely to compromise its efficiency and effectiveness. Other more direct instruments should be used to address these issues.
 - Governance arrangements for the recovery and management of water for the environment are fragmented. Greater coordination of water recovery and environmental watering by Basin jurisdictions is required.

Annual Review of Regulatory Burdens on Business – Business and Consumer Services

Research Report completed 31 August 2010, report released 12 October 2010.

On 28 February 2007, the Treasurer announced a program of annual reviews of the burdens on business arising from the stock of Australian Government regulation. The cycle commenced in April 2007 with a review of the regulatory burdens on businesses in Australia's primary sector.

The fourth yearly review reported on regulatory burdens in the business and consumer service industries. In broad terms, this includes financial and insurance services, accommodation and food services, hiring, real estate, professional and personal services, arts and recreation, and repair and maintenance services the business and consumer services area. The Commission's main findings and recommendations were:

- Despite long established (and reviewed) consultation processes used in developing regulations, industry still finds these processes lacking in several

respects. Finance and property industry groups consider the most significant regulatory failings are a lack of transparency and continuity in consultation processes, short consultation timeframes and a lack of credible evidence in the current regulation-making process.

- These failings of regulatory process are of particular concern given the significant and wide reaching regulatory reforms of the finance sector currently being developed internationally in response to the Global Financial Crisis. It is important that any domestic reform proposals are subject to transparent and rigorous processes that take into account all of the impacts on the finance sector and local conditions.
- To improve the transparency and accountability of its consultation processes the Australian Government should:
 - incorporate a ‘consultation’ Regulation Impact Statement in the regulation-making process
 - require the Office of Best Practice Regulation to extend its monitoring and reporting role to the quality of consultation
 - use confidential consultation processes only in limited circumstances where transparency would clearly compromise the public interest.
- A number of regulations and associated administrative processes affecting the superannuation industry should be revised to reduce the regulatory burdens on business, including:
 - allowing non-lapsing binding death nominations
 - giving departing temporary residents the ability to submit their applications to superannuation funds for payments before the time of their departure, rather than after they have left Australia
 - standardising the instructions to superannuation trustees made on the dissolution of marriage
 - requiring superannuation fund members to make a specific request to receive transaction confirmation letters.
- There is duplication, overlap and inconsistency in the regulation of certain occupations. Regulatory burdens should be reduced by:
 - implementing a national register for architects so that payment of a single registration fee in any jurisdiction would automatically enable an architect to practice in all Australian jurisdictions
 - ending the ‘dual regulation’ of lawyers that practice in the area of migration law, by exempting those with a current legal practising certificate from the regulatory requirements of the Migration Agents Registration Scheme

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- harmonising personal and corporate insolvency laws — a reform taskforce should be established to identify provisions and processes that could be aligned and the case for a single regulator should also be examined
 - developing uniform real property laws for adoption in all Australian jurisdictions — this could be overseen by COAG’s Business Regulation and Competition Working Group.
 - Unnecessary regulatory burdens in the hospitality and tourism sector should be addressed by:
 - indexing the monetary threshold at which proposed foreign investment in developed non-residential commercial property, including hotels, is subject to Foreign Investment Review Board (FIRB) assessment — similar to the thresholds applying to other types of foreign investment
 - removing the lower monetary threshold relating to FIRB assessment of the purchase of heritage listed developed non-residential commercial properties by foreign interests
 - providing mutual recognition across state borders of responsible service of alcohol training
 - removing inconsistencies between the Environmental Protection and Biodiversity Conservation Act and the regulations relating to the importation of endangered species
 - exempting Sunday and public holiday menu surcharges from the amendments to the Trade Practices Act dealing with component pricing.
 - The earnings threshold for the superannuation guarantee continues to be an issue for business, in particular small business. The monthly earnings threshold attached to the superannuation guarantee should be increased and subject to indexation.

Government responses to reports from previous years

Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector

Research Report completed 9 April 2009, report released 30 April 2009.

On 2 November 2009, the Government announced that it will establish a National Offshore Petroleum, Minerals and Greenhouse Gas Storage Regulator, to be operational by 1 January 2012. The new regulatory agency will operate on a full cost recovery basis, with the establishment costs being fully funded by industry fees

levied between 1 July 2010 and 31 December 2011. In announcing establishment, the Government stated:

This decision has been taken in response to the Productivity Commission report... which was released on 30 April 2009. (Swan 2009b)

Restrictions on the Parallel Importation of Books

Research Report completed 30 June 2009, report released 14 July 2009.

In responding to the report on 11 November 2009, the Government announced that it did not accept the Commission's recommendation to remove the parallel importation restrictions on books, and that it did not intend to change the Australian regulatory regime for books (Emerson 2009a).

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.