Annex A

Shared Commitments

The Commonwealth, State and Territory governments and the business community adopt the following principles and commitments in their approach to productivity enhancing regulatory and competition reform:

**Principle 1: Prioritise growth-generating, productivity-promoting reforms**

We will prioritise reforms with the greatest impacts on productivity growth.

**Commitments:**

- Governments will prioritise high-impact reforms, based on the best available evidence and cost-benefit analysis.
- Governments commit to ensuring the reform agenda will be focused, feasible and sequenced, and that new initiatives do not displace or delay existing priorities.
  - The new reform priorities agreed at the inaugural Business Advisory Forum on 12 April 2012 (and by COAG on 13 April 2012) are outlined in Annex B. The Seamless National Economy reforms currently in the process of implementation are outlined at Annex C.
- Governments will ensure regulation does not restrict competition unless the benefits of the restriction to the community as a whole outweigh the costs and the objectives of the legislation can only be achieved by restricting competition.
- Business will work with governments to identify opportunities for reform, help develop options, and contribute to the evidence base to support reform proposals.
- Business representatives agree to communicate the consequences of changes to regulations to assist their members to adapt.

**Principle 2: Commit to ongoing reciprocal engagement that is transparent and accountable**

While reform decisions ultimately rest with governments, all parties to this Compact will take ownership of the reform agenda in order to properly evaluate, communicate and deliver reforms of the highest quality. Business and governments will work in partnership at each stage of the reform process and engage openly in consultations about their priorities, positions and engagement with relevant stakeholders in developing policy proposals.

**Commitments:**

- Governments will engage early and in good faith, and consult with business and the broader community at each stage of the reform process, as appropriate.
- Governments will publish relevant and accessible information on the progress of reforms to support accountability and stakeholder engagement.
- Business commits to work with governments in good faith and to contribute substantively at all stages in the reform process.
Principle 3: Adhere to best-practice regulatory impact analysis

Regulation should be developed, consistent with best-practice regulatory impact analysis, including analysis of the relative economic costs and benefits and their impacts.

Regulatory impact assessments should consider feasible alternative options for regulations, not presuppose a particular regulatory outcome, and occur early in the policy development process. Regulatory impact assessments should also take into account the differential impact and experience of regulation in each State and Territory and on small and large businesses, including those operating solely within one jurisdiction, using quantitative analysis wherever practical.

Commitments:

- Governments will apply best-practice regulation impact assessment at a national and State and Territory level, including analysis of alternative options, consistent with the COAG’s Best Practice Guide on Regulation.
- Governments will consider, such as through regulation impact assessment, whether a given risk warrants regulatory intervention.
- Governments will take ultimate responsibility for demonstrating that the benefits of existing and proposed regulations outweigh the costs.
- Business will participate in regulation impact assessments and reviews, contributing advice and evidence on the impacts of proposed or current regulation and options to address identified risks where regulatory intervention is proposed.

Principle 4: Ensure that regulation is streamlined, proportionate, risk-based and fit for purpose

Regulation will be designed to generate clear net benefits to the community and not impose unnecessary compliance and administrative costs on business. Regulation will be proportionate, appropriately reflect risk and be based on best practice.

The legislative and institutional approach to regulation should be fit for purpose. Unnecessary duplication and overlap of regulation between jurisdictions will be avoided, and in some cases, national market approaches will be appropriate. However, in other circumstances actions by individual jurisdictions, bilateral agreements or agreements between several jurisdictions will work best. Competition between jurisdictions will sometimes lead to the best outcome.

Commitments:

- Governments will carefully consider, drawing on regulation impact assessments, the most appropriate mechanisms to advance reforms, including uniform national legislation, nationally consistent approaches based on jurisdictional legislation, or competition between jurisdictions.
- To reduce regulatory burden, governments will endeavour to reduce the rate of change of existing regulations and minimise the growth of new regulation.
- Governments will review new regulation, and periodically review existing regulation, prioritising regulation with a material impact on business and competition, to ensure it remains fit for purpose and that the intended policy and regulatory objectives are being achieved without imposing unnecessary costs.
Business will establish and publish its own robust evidence base for its reform priorities, to facilitate engagement with government.

**Principle 5: Assist regulators to function effectively and efficiently**

Governments will ensure regulators, including local government, operate within their prescribed authority, and have administrative frameworks and resources that enable them to adopt a consistent, risk-based and best-practice approach to the implementation and enforcement of regulation. Regulation and regulatory enforcement will take into account the differential impact of regulation on small and large businesses as appropriate.

**Commitments:**

- Governments will establish requirements where necessary, and maintain appropriate oversight when required, to ensure regulators adopt a risk-based and best-practice approach to implementation and enforcement of regulation, and that there are effective mechanisms for business to provide feedback on regulators’ performance.
- Governments will ensure regulatory policy objectives are reflected in regulator behaviour.
- Governments will consider best-practice implementation and review arrangements as part of regulatory design.
- Business will provide feedback on the performance of regulators, including where the approach to compliance imposes unnecessary costs.
Annex B

New Reform Priorities

At its 13 April 2012 meeting, COAG agreed to deliver on new reform priorities to improve competition and productivity. Progress on these reforms by December 2012 is outlined below:

[Note: in most cases the progress is subject to agreement at COAG on 7 December 2012]

Streamline environmental approvals

Issue: Business can face significant costs and delays due to duplication and double-handling of environmental assessment and approval processes at the Commonwealth and State and Territory levels.

Proposed reform: Governments will reduce duplication and double-handling of environmental assessment and approval processes where this can be done without compromising high environmental standards. To achieve these commitments, governments will work together to:

- fast-track the development of bilateral arrangements for accreditation of state assessment and approval processes, with the frameworks to be agreed by December 2012 and agreements finalised by March 2013;
- develop environmental risk- and outcomes-based standards with States and Territories by December 2012; and
- examine and facilitate removal of unnecessary duplication and reduce business costs for significant projects.

Progress: The Commonwealth and States and Territories have had detailed and constructive discussions on what will be required to achieve accreditation under the Environmental Protection and Biodiversity Conservation Act 1999. These discussions have been informed by the release of a Statement of Environmental and Assurance Outcomes and draft Framework of Standards for Accreditation and feedback from business and environmental groups and the community more broadly.

A number of challenges have emerged from these discussions that will need to be worked through. Finding nationally consistent solutions that provide the certainty and assurance that business and the community require will be necessary, before bilateral agreements can be negotiated.

In the meantime, there is further work that all governments can pursue to improve conditions for business. These include the continued implementation of agreed strategic assessments and greater coordination in the handling of proposals under assessment.

Improve development assessment processes and major project approvals

Issue: Planning approval delays can lead to significant costs for business including increases in land holding costs, lost or delayed revenue streams, interest costs, higher input costs and contractual penalties for exceeding agreed delivery times.

Proposed reform: State and Territory governments will examine reforms that could be undertaken at the State, Territory and local government level to improve major project approvals and processes,
ANNEXES TO THE NATIONAL COMPACT ON REGULATORY AND COMPETITION REFORM

including the creation of major projects taskforces, so that approvals are administered by a single state agency and will consider adopting ambitious targets to improve assessment and approval process for low risk, low impact developments. This reform has the potential to reduce approval times and compliance costs for business and provide greater clarity and certainty for communities.

**Progress:** States and Territories have prepared a report which sets out a wide range of legislative and non-legislative measures designed to improve major project approvals processes and a suite of development assessment initiatives to improve processes for low risk, low impact developments.

The Productivity Commission will undertake a new study to benchmark Australia’s major project approvals processes against international best practice.

**Rationalise carbon reduction and energy efficiency measures**

**Issue:** There are a range of carbon reduction and other energy efficiency measures, which are potentially unnecessary in light of the national carbon price. These programs can also impose unnecessary and duplicative reporting requirements on business.

**Proposed reform:** Governments will review and remove or rationalise carbon reduction energy efficiency measures that are not complementary to a carbon price, are ineffective or inefficient, or impose duplicative reporting requirements on business. This reform will assist businesses by reducing the burden imposed by these programs, including the costs of reporting greenhouse gas emissions and energy use.

**Progress:** A comprehensive program of reviews has been undertaken across all jurisdictions. In line with the objectives of this reform, governments have removed 57 carbon reduction and energy efficiency measures since the introduction of the Clean Energy legislation. A further 73 measures are currently being reviewed by governments, with the majority of the reviews on track to be completed by the end of 2012. The BAF Taskforce will carry out an assessment of overall review outcomes, and will advise COAG on whether any further reform action is required, by April 2013.

The Commonwealth has taken action to streamline reporting requirements under two of its largest programs, the National Greenhouse and Energy Reporting Scheme, and the Energy Efficiency Opportunities Program.

**Accelerate energy market reform to reduce pressure on electricity prices**

**Issue:** Over the past three years, the cost of electricity has risen on average by around 40 per cent nationally. A better balance is required between energy market investment and the long term interests of consumers.

**Proposed reform:** Governments will consider a broad range of energy market reforms that can put downward pressure on prices, (through better regulation and pricing rules and increased competition), improve consumers’ ability to manage and control their energy usage and addresses the needs of vulnerable consumers.

**Progress:** Governments have agreed a comprehensive package of energy market reforms. The reforms proposed will strengthen the regulatory framework by improving the capacity, transparency and accountability of the Australian Energy Regulator; empower consumers by improving consumer representation in regulatory decision making and enhancing consumer protections; address rising
peak demand through reforms to enhance demand side participation; and put downward pressure on prices by establishing a pathway towards greater retail competition and a best practice methodology for network reliability standards that has explicit regard to scope for price/reliability trade-offs.

Given the importance of these reforms to the national economy, COAG will explicitly drive and assess progress. Energy ministers will be asked to report to COAG by June 2013 on a detailed energy market reform implementation plan, including advice on appropriate accountability arrangements.

Lifting regulatory performance

Issue: At the BAF in April, government and business identified lifting regulatory performance as a key reform priority to improve national productivity growth and boost prosperity.

Proposed reform: Governments subsequently agreed to consider concrete measures to lift regulatory performance, including measures to reduce complexity and duplication, and increase transparency and accountability.

Progress: Governments have agreed a comprehensive and practical package of reform measures to improve the quality of regulation and regulatory practice across all stages of the regulatory cycle. There has been a particular focus on reforms that business has identified as requiring the most urgent attention and, over time, can encourage and support cultural change in regulatory practice. The reform has had regard to recent work by both the Productivity Commission and the Organisation for Economic Co-operation and Development on best practice regulatory management as well as valuable contributions from business, including the Business Council of Australia’s Policy Essentials: Standards for Rule Making.

Major initiatives include, on the Commonwealth’s part, a move to a two stage RIS process, to encourage more substantive analysis of possible options and more effective stakeholder consultation significantly earlier in the policy development cycle and, in New South Wales, a review by the Independent Pricing and Regulatory Tribunal of local government enforcement of State legislation.

The BAF Taskforce will report to COAG in the first half of 2013 to confirm the status of regulatory reform initiatives that are currently under consideration by governments and any further measures that may need to be undertaken to meet COAG’s objectives.

The Red tape Challenge

Issue: Business has identified red tape – unnecessary administrative and compliance burdens – as imposing significant costs on business (especially small to medium enterprises).

Proposed reform: Governments agreed to consider ways to streamline Commonwealth and State and Territory reporting obligations, including through greater use of online reporting, so as to simplify business to government reporting and reduce reporting costs for business. The Commonwealth Government has proposed to simplify and reduce the impact of Commonwealth Government reporting requirements on business by expanding Standard Business Reporting (SBR).

The Commonwealth Minister for Small Business, and the relevant State and Territory Ministers, will engage the Small Business Advisory Committee, the Council of Small Business of Australia and State
and Territory Chambers of Commerce to identify examples of burdensome or unnecessary regulations on small business and report back to First Ministers. Small Business Ministers in all jurisdictions will also continue to collaborate to identify opportunities to reduce the regulatory burden on small business.

**Progress:** The Commonwealth Government will simplify and streamline business reporting by expanding the online Standard Business Reporting initiative to include all business electronic reporting to the Australian Taxation Office by mid-2015, new employer reporting obligations to the Department of Human Services, paper-based reporting to Insolvency and Trustee Services Australia and reporting to the new Australian Charities and Not-for-Profits Commission.

The Commonwealth Minister for Small Business, in consultation with State and Territory Ministers, has worked to identify areas of unnecessary and burdensome regulation impeding small business and has advised COAG on the outcomes of this work. The Minister’s report includes a Best Practice Guide to Consultation, which can be adopted when making regulations that impact on small business.

The Commonwealth Small Business Commissioner will establish arrangements for small business to regularly advise the Commissioner on regulation that is burdensome or unnecessary, and report back to COAG through the Commonwealth Minister for Small Business, annually on findings.

To support these initiatives, the Productivity Commission will undertake a benchmarking study on regulator engagement with small business, examining the extent to which different approaches have the potential to affect the costs, including time and effort, incurred by small business.
ANNEXES TO THE NATIONAL COMPACT ON REGULATORY AND COMPETITION REFORM

Annex C

Seamless National Economy reforms

COAG is also continuing to progress regulatory and competition reforms under the National Partnership Agreement to Deliver a Seamless National Economy. This includes:

Deregulation Reforms

1. Maritime safety reform

Establish a national maritime regulator and implement national maritime safety regulations. This will provide effective, consistent and efficient national maritime safety regulation for commercial vessels.

2. Occupational health and safety (OH&S) reform

Establish model OH&S legislation supported by model regulations; model codes of practice to give guidance to those with a duty to comply with the law; and a nationally consistent approach to compliance and enforcement. This will deliver a nationally harmonised OH&S system to address compliance and regulatory burdens for business.

3. Mine safety reform

Develop a National Mine Safety Framework. This will achieve a nationally consistent health and safety regime for the mining industry.

4. Trades Licensing reform

Develop a single national regime for the granting and maintenance of licences for selected occupations, including electrical, air-conditioning and refrigeration, plumbing, gas fitting, and property-related occupations. This will remove overlapping and inconsistent regulation between jurisdictions in the way that they license the above occupational areas.

5. Chemicals and plastics reforms

A range of reforms to implement COAG’s agreed response to the Productivity Commission’s 2008 Report on Chemicals and Plastics Regulation. These reforms will seek to reduce the compliance burden in the regulation of chemicals and plastics; through improved national coordination and oversight while maintaining appropriate occupational health and safety, public health and environmental protections.

6. Consumer credit reforms

These reforms are being delivered through two phases. Phase one is now operational, with the establishment of a national regulatory framework for consumer protection regulation for mortgage broking, margin lending and non-deposit taking institutions on 1 July 2010. Jurisdictions are continuing to settle the scope and process for implementing the final stage of the National Credit Reforms (Phase 2 of Part 2), which includes consideration of the need for national regulation of areas such as credit for investment purposes and for small businesses.
7. Electronic conveyancing
Streamline the processes for settling property transactions through the establishment of a national electronic conveyancing (e-conveyancing) system.

8. Directors’ Liability
A harmonised and principles-based approach to the imposition of personal criminal liability for corporate fault.

**Competition Reforms**

1. National transport reforms and Road Reform Plan
The national transport reforms will establish national regulators with respect to heavy vehicles, maritime and rail safety and investigation. Inter-governmental agreements were agreed by COAG in August 2011 and the reform is expected to be completed in 2013.

The Road Reform Plan is a separate reform stream. Work on the Heavy Vehicle Charging and Investment reforms (formally the COAG Road Reform Plan) continues to progress. The feasibility study was noted by COAG out-of-session in July 2012.

2. Energy reforms
The aim of this reform is to improve the efficiency of energy markets through a number of reforms, including harmonisation of energy market legislation, improving competition and implementing measures to help manage demand. These reforms will largely be overtaken by the new energy reform agenda, which COAG agreed to progress in April 2012 following discussions at the Business Advisory Forum.

3. National Access Regime and Infrastructure reforms
This includes a range of reforms to improve third party access to significant infrastructure facilities; implement a simpler and consistent approach to access regulation of interstate rail track; review and reform significant ports; give effect to competitive tendering principles; and enhance the application of competitive-neutrality principles to government business enterprises engaged in significant business activities in competition with the private sector.

These reforms are now essentially complete, but for a Productivity Commission review of the National Access Regime and the Competition and Infrastructure Reform Agreement (CIRA), which commenced on 25 October 2012, implementation of a few remaining jurisdictions’ ports reviews, and certification of Victoria’s access regime for rail, and the multi-jurisdictional energy access regimes.