Business Advisory Forum

Lifting Regulatory Performance

A paper prepared for the Business Advisory Forum Taskforce

March 2013
INTRODUCTION

Judged against Organisation for Economic Co-operation and Development (OECD) best practice principles, the Productivity Commission (PC) has assessed that all Australian governments have in place mature frameworks for regulatory management, with well-established processes to support sound practice at all stages of the regulatory policy cycle:

- initial problem identification;
- analysis and assessment of options, regulatory and non-regulatory;
- design of regulation and its implementation;
- administration and enforcement of regulation by a ‘regulator’; and
- evaluation and review of regulation.

At the Business Advisory Forum (BAF) meeting in April 2012, discussion focussed on the need for concrete, pragmatic measures by governments to improve the practical application and effectiveness of existing processes. In particular, business identified the need for measures to:

- strengthen the practical effectiveness of Regulatory Impact Analysis (RIA) for proposals for new regulation, particularly to ensure that the disciplines of effective RIA are applied as early as possible in the policy development cycle;
- ensure that regulation and regulator behaviour is risk-based and proportionate;
- provide that consultation is timely and thorough; and
- embed review mechanisms that firmly establish evaluation and review as an integral element of the regulatory policy cycle.

The BAF Taskforce provided an interim report to the December 2012 meeting, listing a broad-ranging package of initiatives to enhance the operation and effectiveness of jurisdictions’ regulatory management systems. The findings of the PC’s draft report Regulatory Impact Analysis: Benchmarking, which was released in August 2012, were considered by all jurisdictions in the preparation of the interim report. At the time the interim report was developed, the Taskforce acknowledged that several of the initiatives were still subject to jurisdictions’ formal clearance processes.

Final PC Report on Regulatory Impact Analysis: Benchmarking

The final PC report on Regulatory Impact Analysis: Benchmarking (the PC Report) was released in December 2012. While the PC found that RIA requirements in all Australian jurisdictions are reasonably consistent with OECD and COAG guiding principles, the report identified several areas where RIA processes could be improved, including public consultation and transparency. In response, all jurisdictions are in the process of developing or implementing initiatives to improve the efficacy of their regulatory frameworks, including RIA processes.

In addition, the National Compact on Regulatory and Competition Reform: Productivity Enhancing Reforms for a More Competitive Australia (the Compact) provides a commitment to improve regulatory practice at all stages of the regulatory cycle. In signing the Compact, all governments committed to principles to enhance regulatory and competition reform including: committing to ongoing reciprocal engagement that is transparent and accountable.
– including engagement with business and the broader community; adhering to best-practice regulatory impact analysis; and ensuring that regulation is streamlined, proportionate, risk based and fit for purpose.

This Report provides an updated listing of the status of jurisdictions’ regulatory reform initiatives including updates for interim initiatives included in the December 2012 report. Further detail is in Annex A. Jurisdictions have also provided responses to the PC Report in the context of the broader reforms being progressed under the Lifting Regulatory Performance work stream. These responses are at Annex B.
STAGE 1: INITIAL PROBLEM IDENTIFICATION

Agreed Objective:

Before governments seek to regulate, the policy problem and the level of risk should be fully understood, the adequacy of existing regulations and the need for government intervention carefully considered, and the need for regulation tested with key stakeholders.

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<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Reforms</th>
<th>Progress update</th>
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<tbody>
<tr>
<td>Commonwealth</td>
<td>Introduction of a two-stage Regulatory Impact Statement (RIS) process to:</td>
<td>The Office of Best Practice Regulation (OBPR) is currently updating its guidance material to reflect the Government’s new two-stage RIS process for Australian Government regulatory proposals.</td>
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<td></td>
<td>• better embed the use of regulatory impact analysis at the initial policy development stage;</td>
<td>Commonwealth agencies were invited to comment on the redrafted Best Practice Regulation Handbook.</td>
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<td></td>
<td>• provide earlier opportunity for more substantive stakeholder consultation; and</td>
<td>The new two-stage process will take effect from 1 July 2013.</td>
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<td></td>
<td>• enable more accurate analysis and assessment of impacts on business.</td>
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<tr>
<td>New South Wales (NSW)</td>
<td>Review of NSW RIA arrangements. The objective of the review is to ensure that NSW has effective and efficient regulation-making processes in place. An Issues Paper with options for reform was released in September 2011. The review is considering the findings and recommendations of the PC’s Report.</td>
<td>Work is currently underway on updating the VGR.</td>
</tr>
<tr>
<td>Victoria</td>
<td>Refocusing of Victoria’s RIA framework through revision of the Victorian Guide to Regulation (VGR), to reflect a more holistic approach across the entire regulatory life cycle (i.e. design, implementation, evaluation). This will incorporate a greater emphasis on early and meaningful stakeholder consultation.</td>
<td></td>
</tr>
<tr>
<td>Queensland</td>
<td>In July 2012, the independent OBPR was established within the Queensland Competition Authority.</td>
<td>The OBPR commenced the role of assessing the need for a RIS on...</td>
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</table>
### Implementation of changes to the RIS process to improve the rigour, independence and transparency of regulatory development.

Reforms include:

- requiring all agencies to submit regulatory proposals to the OBPR to determine whether a RIS is required;
- requiring all agencies to submit a RIS to the OBPR for an assessment of its adequacy, including whether all options (regulatory and non-regulatory) have been identified, before releasing them for public consultation or proceeding with the proposed regulation; and
- requiring the OBPR to report annually on agency compliance with the RIS system.

4 March 2013.

The OBPR commenced the role of assessing the adequacy of RISs in July 2012.

The OBPR’s first annual report is due in October 2013.

<table>
<thead>
<tr>
<th>Western Australia</th>
<th>Work with agencies to improve the identification of the problems to be addressed and the related objectives to be achieved. Narrow the application of Preliminary Impact Assessments (PIA) by excluding proposals meeting exception categories from the RIA process completely.</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Western Australia’s Regulatory Gatekeeping Unit (RGU) continues to work with agencies to ensure that regulatory proposals clearly identify and explain the underlying issue at hand, and that there exists a demonstrable link between the problem and stated objectives. Western Australia also continues to develop broader reforms aimed at meeting best practice and will seek formal guidance from the new Western Australian Government.</td>
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<table>
<thead>
<tr>
<th>South Australia</th>
<th>Review of the current RIA process, outlined in the South Australian Better Regulation Handbook, in 2013 taking into account, where appropriate, the leading practices identified in the PC’s final benchmarking report (noting that a number of the draft leading practices are already in place, e.g. clear guidance on requirement for a RIS, publication of RISs at time of regulatory announcement on a central website.</th>
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<tbody>
<tr>
<td></td>
<td>This review commenced in early February 2013 and is scheduled for completion in May 2013.</td>
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<tr>
<td>Tasmania</td>
<td>Tasmania is currently developing a whole-of-State Government Community Engagement Framework for Tasmania to provide agencies with a guide to effectively engage with communities on the decisions that affect them and to create better outcomes for all Tasmanians.</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>A complete review of the Northern Territory Regulation Making Framework (NTRMF) is underway and targeted for completion in the first half of 2013.</td>
</tr>
<tr>
<td>Australian Capital Territory (ACT)</td>
<td>A review of regulatory impact assessment arrangements was to be considered by the incoming Government following the 2012 election. This was to include consideration of the findings of the PC’s Report.</td>
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</table>
STAGE 2: ANALYSIS AND ASSESSMENT OF OPTIONS, REGULATORY AND NON-REGULATORY

Agreed Objective:

Once a decision to regulate is taken, regulatory proposals should be assessed for their appropriateness and cost-effectiveness – using RIA; the scope to apply non-regulatory or more light handed regulatory options considered, along with the transition costs and the sustainability of the policy intervention under each option; genuine and meaningful public consultation undertaken; and the decision making process is transparent.

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<tr>
<th>Jurisdiction</th>
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</table>
| Commonwealth | Initiatives to strengthen the reach of RIS processes, stakeholder consultation and the transparency and accountability of regulatory decision making. These initiatives include:  
  - the introduction of mandatory RIA processes for regulatory proposals unless the impact on business is minor or machinery in nature;  
  - the requirement to describe consultation processes and their outcomes in the RIS if it is to be assessed as adequate;  
  - online publication of RISs on a central website shortly after announcement of the regulatory action; and  
  - outposting of the OBPR officers to assist in the development of RISs. | All of these initiatives have been implemented and will continue under the new RIS system, to be introduced from 1 July 2013. |
| NSW | A ‘one on, two off’ regulation reduction policy commenced in NSW on 4 April 2011. Under the ‘one on, two off’ policy, each calendar year the NSW Government will aim to ensure that: the number of principal legislative instruments repealed is at least twice the number of new principal legislative instruments introduced (a ‘numeric test’); and the regulatory burden imposed by new principal legislative instruments within each portfolio is less than the regulatory burden removed by | |
| **Victoria** | Requiring sunsetting regulations with significant impacts to have reduced regulatory burden by a specified amount before being remade. Refocussing of the regulatory impact analysis framework through revision of the VGR to reflect a more holistic approach across the entire regulatory life cycle (i.e. design, implementation, evaluation). This will incorporate:

- a greater emphasis on early and meaningful stakeholder consultation;
- further guidance on development of proportionate regulatory approaches (with the ‘default’ position of adopting non-regulatory options to achieve policy objectives);
- further guidance on assessing the feasibility of non-regulatory solutions that make more effective use of market incentives; and
- new guidelines on preparing Legislative Impact Assessments (LIA) to strengthen gatekeeping requirements.

To support greater transparency and oversight in its regulatory system Victoria will make it mandatory for the Victorian Competition and Efficiency Commission (VCEC) assessment letters on RISs to be published at the same time as the RIS. | Work is underway on updating the VGR, including guidance on:

- alternatives to cost-benefit analysis;
- presentation of RIS and LIAs; and
- proportionate approaches to RIA.

VCEC RIS assessment letters have been revised to advise departments that their publication is mandatory. |

| **Queensland** | Implementation of changes to the RIS process to improve the rigour, independence and transparency of regulatory development. Reforms include:

- requiring all agencies to submit regulatory proposals to the OBPR to determine whether a RIS is required;
- requiring all agencies to submit |
a RIS to the OBPR for an assessment of its adequacy, including whether all options (regulatory and non-regulatory) have been identified, before releasing them for public consultation or proceeding with the proposed regulation; and

- requiring the OBPR to publicly report on the adequacy of RISs.

The OBPR is developing a comprehensive whole-of-Government framework for reducing the regulatory burden. As part of this process, the OBPR is considering approaches for identifying and measuring regulatory costs, for improving the policy analysis capabilities of government agencies and for promoting more effective consultation with stakeholders.

<table>
<thead>
<tr>
<th>Western Australia</th>
<th>Greater quantification of costs by agencies for significant negative impact regulatory proposals. Promote best practice consultation processes to improve regulatory outcomes (including a minimum consultation period). Expand the requirements for Post Implementation Reviews (PIRs).</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Western Australia continues to encourage agencies to undertake a thorough quantitative analysis of any proposal that is likely to result in a significant impact, and encourages agencies to quantify any direct costs and benefits more generally. Similarly, Western Australia continues to require agencies to undertake appropriate and effective consultation on any matter that is likely to have a significant impact. Going forward, the RGU is considering broader reforms around quantification, consultation and PIR, seeking to ensure that our processes are best practice. Formal recommendations will be presented to the new Western Australian Government.</td>
</tr>
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</table>

The OBPR released its interim report on 1 November 2012, making 44 recommendations on a framework for reducing the regulatory burden. The Government provided a formal response to the interim report on 19 February 2013.

The OBPR has developed a comprehensive whole-of-government framework for reducing the regulatory burden, which is currently under consideration by the Queensland Government.
<table>
<thead>
<tr>
<th>Location</th>
<th>Activities</th>
<th>Status</th>
</tr>
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<tbody>
<tr>
<td>Tasmania</td>
<td>Tasmania is currently investigating better ways of communicating with the public on regulatory amendments that are subject to a RIS to ensure that the relevant stakeholders are aware of the RIS and to promote genuine and meaningful consultation.</td>
<td>Ongoing, as part of the development of the Community Engagement Framework.</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>A complete review of the NTRMF is underway and targeted for completion in the first half of 2013.</td>
<td>Terms of Reference are currently under development by the NTRMF Review Group for formal approval by the Northern Territory Treasurer.</td>
</tr>
<tr>
<td>ACT</td>
<td>A review of RIA arrangements was to be considered by the incoming Government following the 2012 election. This will include consideration of the findings of the PC’s Report.</td>
<td>The ACT is progressing consideration of its review.</td>
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STAGE 3: DESIGN OF REGULATION AND ITS IMPLEMENTATION

Agreed Approach:

The design and drafting of regulation (including the assignment of regulator powers, responsibilities and accountabilities) and the implementation of regulation, should be clear, outcomes-focused and consistent with the intent of the policy decision.

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| Commonwealth | A Clearer Commonwealth Laws Initiative to reduce legislative complexity, such that legislation is easier to understand, administer and comply with. | As part of implementing its Clearer Laws Initiative, the Commonwealth has developed a range of practical measures to improve the clarity and accessibility of laws. Individual measures include:  
• the introduction of principles for clearer laws which should be applied by policy makers, instructing agencies and drafters when developing Commonwealth legislation;  
• the development of guidance detailing the causes of complexity and strategies that may be used to overcome such complexity; and  
• adopting a practice of regularly reviewing legislation. These measures are to be considered by all officers when developing Commonwealth legislation. Guidance material has been developed and is available on the Attorney-General’s Department’s website. |
<p>| Victoria     | Introduction of a framework to improve regulator performance, governance and accountability, which will be implemented through Ministerial Statements of | Guidelines for Ministerial Statements of Expectations were published in January 2013. Key regulators |
| Queensland | Implementation of changes to the RIS process to improve the rigour, independence and transparency of regulatory development. These changes are intended to facilitate more effective stakeholder consultation and deliver more effective regulatory outcomes. The OBPR is developing a comprehensive whole-of-Government framework for reducing the regulatory burden. | The OBPR released its interim report on 1 November 2012, making 44 recommendations on a framework for reducing the regulatory burden. The Government provided a formal response to the interim report on 19 February 2013. The OBPR has developed a comprehensive whole-of-government framework for reducing the regulatory burden, which is currently under consideration by the Queensland Government. |
| Western Australia | Promote best practice implementation to improve regulatory outcomes. | Western Australia’s RIA Guidelines contain formal guidance on implementation considerations that should be taken into account as part of any RIS process. However, the RGU is currently reviewing its requirements, the aim being to ensure that agencies and decision makers clearly understand the real costs of implementing any particular |</p>
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<tr>
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<tr>
<td>South Australia</td>
<td>Promotion of modern, best practice approaches to administration and enforcement of regulation, including through regular workshops on risk-based approaches.</td>
<td>As noted above, SA’s Better Regulation Handbook is presently being reviewed with the aim of ensuring that leading practices are actually being promoted and applied within the state.</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Promotion of effective design and implementation of regulation to achieve the policy objectives.</td>
<td>Ongoing.</td>
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### STAGE 4: ADMINISTRATION AND ENFORCEMENT OF REGULATION BY A ‘REGULATOR’

**Agreed Objective:**

The administration and enforcement of regulation should be risk-based, fair, consistent and transparent, should involve appropriate consultation with stakeholders and minimise unnecessary compliance costs.

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<thead>
<tr>
<th>Jurisdiction</th>
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| **Commonwealth** | Introduction of a suite of initiatives to improve the performance of Commonwealth regulators, including:  
  - the use of risk assessment in administration and enforcement processes;  
  - the provision of advice from Ministers, where necessary, to regulators within their portfolio setting out expectations;  
  - the establishment of complaints handling processes where they do not exist, with oversight by a senior officer or executive with authority to recommend remedial action where necessary; and  
  - online publication of a single, centralised database of Commonwealth regulators.  
Updating the Australian National Audit Office’s (ANAO’s) Administering Regulation Better Practice Guide to provide detailed guidance to regulators on best practice, including managing risk, good consultation, and monitoring and addressing compliance. | The package of regulatory reform measures announced on December 2012 is currently being implemented.  
This includes the elements of the Commonwealth Government Framework for Regulators which aims to support more effective operation and greater transparency regarding the functions and operations of Commonwealth regulators.  
As part of the Framework, the Commonwealth is developing a consolidated list of its regulators, planned for release on a dedicated webpage in mid-2013.  
The ANAO Better Practice Guide is being reviewed and updated. The updated Guide is planned for release in late 2013. |
| **NSW** | Conduct a review, through the Better Regulation Office, into how to make it easier for business and the community to deal with NSW Government regulators. The review is investigating how the costs for business in dealing with the NSW Government can be minimised by streamlining the interactions so that it is easy to understand requirements and transact | This review has been completed. In December 2012, the NSW Government agreed to the Quality Regulatory Services (QRS) Initiative as part of its response to the Industry Action Plans. The QRS initiative introduces five key reforms to make it easier for business and individuals to |
with government processes. The review is also considering whether best practice standards outlining how NSW Government should manage its interactions with business and the community would be beneficial. A final report and recommendations are expected to be considered by the NSW Government during 2012.

engagement with NSW regulators. The reforms:
- enable electronic transactions;
- provide clarity in processing timeframes;
- provide transparent appeal mechanisms;
- promote a risk based approach to compliance and enforcement; and
- require a greater focus on regulatory outcomes.

All NSW regulators will need to implement reforms 1 to 3 by the end of 2013, and implement reforms 4 and 5 by the end of 2014.

| Victoria | Introduction of a framework to improve regulator performance, governance and accountability, which will be implemented through Ministerial Statements of Expectations for regulators. These Statements are expected to include timeliness targets for regulatory and approval processes, and to require that regulators have in place monitoring and assurance regimes for ensuring their regulatory objectives are being met.

Refocusing of Victoria’s RIA framework through revision of the VGR, to reflect a more holistic approach across the entire regulatory life cycle (i.e. design, implementation, evaluation). This will incorporate development of detailed guidance on the essential aspects of regulatory implementation and monitoring.

Streamlining regulatory enforcement by identifying cases where businesses can work through a ‘lead agency’ that combines cross-regulator functions and have greater choice in how they meet

Guidelines for Ministerial Statements of Expectations were published in January 2013. Key regulators have been issued with Statements of Expectations which will require them to outline by 1 July 2013 how they intend to reduce red tape.

Work is underway on updating the VGR, including guidance on better implementation of regulation.
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<tr>
<th>State</th>
<th>Information</th>
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<tr>
<td>Queensland</td>
<td>The Queensland Government has set a 20 per cent red tape reduction target, and is progressing over 300 separate initiatives including increased use of risk-based assessments and reducing business reporting requirements. The OBPR is developing a comprehensive whole-of-Government framework for reducing the regulatory burden. As part of this process, the OBPR is considering options for identifying and measuring the administrative and compliance costs associated with regulation. The OBPR released its interim report on 1 November 2012, making 44 recommendations on a framework for reducing the regulatory burden. The Government provided a formal response to the interim report on 19 February 2013.</td>
</tr>
<tr>
<td>Western Australia</td>
<td>The requirement for consultation on regulatory proposals is an integral part of the RIA process, with a Consultation RIS required as the first stage of the RIS analysis. The assessment of the proposal through the Consultation RIS enables the early identification of costs (including compliance costs) and allows these to be addressed and minimised, where possible. Further emphasis will be placed on regulatory administrative and enforcement implications as part of the consideration to be given to the design of regulation and its implementation (stage 3). Further consideration of regulatory administration and enforcement will be considered as part of a broader review currently underway. Final recommendations will be provided to the new Western Australian Government.</td>
</tr>
<tr>
<td>Tasmania</td>
<td>As part of the Economic Development Plan, the Tasmanian Government will undertake a systematic sector-by-sector review of the administrative burden of applying and complying with business regulations. Implementation of the Business Tasmania Online, a project to Business Tasmania Online was launched recently.</td>
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</table>
streamline and reduce the time and money it takes for businesses to comply with government regulations in Tasmania includes a new online portal to make it easier for businesses to interact with the government and find the information they need. Business Tasmania Online is expected to:

- provide all government licences, permits, regulations and related forms in one place;
- reduce the time, and therefore money it takes for business to apply and comply with government regulations;
- provide ready access to licence information and payment options;
- streamline and improve government-to-business service delivery;
- provide 24/7 access to online information; and
- enable business to 'tell government once'.

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<th>Northern Territory</th>
<th>A complete review of the NTRMF is underway and targeted for completion in the first half of 2013.</th>
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<td>ACT</td>
<td>A review of regulatory impact assessment arrangements was to be considered by the incoming Government following the 2012 election. This was to include consideration of the findings of the PC’s Report.</td>
<td>The ACT is progressing consideration of its review.</td>
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Agreed Objective:

Regulations and regulatory frameworks should be subject to regular, systematic and thorough review to ensure they continue to be relevant, effective and fit for purpose; review processes should be predictable and transparent; consultation should be timely and thorough; reviews should be proportionate to the level of regulation and performance-based.

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| Commonwealth | The introduction of additional initiatives to further strengthen present processes for evaluation and review of regulation and regulatory frameworks. Initiatives would include:  
  • making greater use of Annual Regulatory Plans to signal more effectively major prospective reform activity;  
  • a rolling program of Better Regulation Ministerial Partnerships to address areas of government operation and regulation where there may be scope for improvement and provide for rigorous review of the extent to which regulatory frameworks are unnecessary or poorly targeted; and  
  • the commencement, from 2015, of formal sunsetting arrangements for legislative instruments to build on current initiatives that will see the removal of more than a third of the regulations on the Federal Register of Legislative Instruments. | The Commonwealth is developing a consolidated web-list of all Commonwealth regulators (including advice on the function of each regulatory and contact details) to improve business and other stakeholder’s access to information about Commonwealth regulatory activities. The web-list is intended to go live in June 2013 and will be updated annually.  
The Commonwealth’s rolling program of Better Regulation Ministerial Partnerships remains ongoing, with four partnerships underway.  
The Commonwealth is preparing for the commencement of formal sunsetting arrangements, including by:  
  • developing guidance material on sunsetting processes;  
  • streamlining the sunsetting workload; and  
  • finalising the first list of sunsetting instruments to be tabled in Parliament on the first sitting day after 1 October 2013. |
| NSW         | Targeted Reviews: Through its Better Regulation Office, NSW undertakes reviews of regulatory arrangements in specific areas or industries where such arrangements might be improved | |

NSW
or removed. Targeted reviews provide an opportunity for in-depth analysis of a specific area of the stock of existing regulation which may not have been address adequately through other regulatory instruments such as sunsetting arrangements. A total of 13 reviews have been completed to date, and the Better Regulation Office currently has two reviews underway which are examining the NSW Government's RIA process and regulation of sex services premises.

Independent Pricing and Regulatory Tribunal (IPART) Red Tape Reduction Reviews: The NSW Government has asked IPART to undertake a rolling series of inquiries to identify red tape reduction opportunities in priority industries consistent with NSW 2021. During 2012-13, IPART will undertake reviews of: local government enforcement of State legislation; and licensing rationale and duration.

Red tape reduction target: The NSW Government has committed to reduce red tape for business and the community in NSW by $750 million in annual terms by June 2015, and is reinforced by the NSW 2021 plan.

| Victoria | Implementation of a comprehensive red tape reduction program to significantly reduce the costs imposed by Victorian regulation on businesses, not-for-profit organisations, the economic activities of individuals and government services. The Victorian Government will report regularly on its progress on the Red Tape Reduction Strategy.

Development of guidance for departments to conduct early and systematic evaluation of high-impact sunsetting regulations and targeted reviews of new or amended legislation that introduces new regulatory burdens. Independent assessment of the adequacy of analysis in evaluations will be undertaken by the VCEC.

Requiring any regulations remade through the sunsetting process to

| In December 2012, Victoria’s economic strategy Securing Victoria’s Economy, advised that over half a billion dollars of red tape savings are on track to be delivered.

Work is underway on updating the VGR, with improved guidance on evaluation, including guidance on preparing evaluation strategies for RISs and LIAs, and preparing the subsequent ex-post evaluations. |
reduce the burden they impose on business by an amount determined by the Treasurer.

Appointment in January 2013 of a Red Tape Commissioner, who reports directly to the Treasurer and is engaging with business to inform a priority list of actions to reduce red tape.

| Queensland | The Queensland Government has committed to reduce unnecessary red tape and regulation by 20 per cent by 2018. Since March 2012, the Queensland Government has commenced regulatory reforms aimed at reducing unnecessary red tape and regulation across government. These include reforms detailed in the Government’s two Six Month Action Plans. The OBPR has developed a comprehensive whole-of-Government framework for reducing the regulatory burden. This includes:

- identifying priority areas for targeted regulatory review;
- establishing regulatory burden reduction targets against which Government agencies will be assessed by the OBPR on an annual basis; and
- reviews and sunsetting clauses for future primary legislation.

A key role of the OBPR is to undertake in-depth targeted regulatory reviews. The RIS System requires ten year reviews of regulation. The **Statutory Instruments Act 1992** provides that subordinate legislation expires on the 1st of September first occurring after the 10th anniversary of the day it was made. The Government’s initial Six Month Action Plan has been completed, including 15 Red Tape Reduction initiatives. The second Six Month Action Plan (January-June 2013) was released in January 2013 and includes 29 Red Tape Reduction initiatives. The OBPR released its interim report on 1 November 2012, making 44 recommendations on a framework for reducing the regulatory burden. The Government provided a formal response to the interim report on 19 February 2013. The OBPR has developed a comprehensive whole-of-government framework for reducing the regulatory burden, which is currently under consideration by the Queensland Government. |

<p>| Western | Agencies to provide the RGU with a | The RGU continues to progress |</p>
<table>
<thead>
<tr>
<th>Australia</th>
<th>Biannual Agency Regulatory Report advising on reviews proposed and undertaken.</th>
<th>reforms that will seek to provide for regular and effective review of regulations. Recommendations will be provided to the new Western Australian Government.</th>
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<tr>
<td>South Australia</td>
<td>Completion of the South Australian Government’s second program of reforms to reduce the compliance burden for business and the community in South Australia by a net $150 million per annum.</td>
<td>The second target was achieved within the April 2012 deadline. Ernst &amp; Young, appointed to provide an independent assessment of the valuations provided by state government agencies, confirmed net savings to business and the broader community of $151.2 million per annum. Legislative reviews as part of the five-yearly review program contributed to achievement of the savings target.</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Subordinate legislation in Tasmania is periodically reviewed as there is the automatic repeal of all subordinate legislation after a ten year period.</td>
<td>Ongoing. Tasmania’s current arrangements in this area are subject to the findings of a Joint Select Committee of the Tasmanian Parliament, which is investigating possible amendments to the subordinate legislation review process.</td>
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<td>Northern Territory</td>
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<td>ACT</td>
<td>A review of regulatory impact assessment arrangements was to be considered by the incoming Government, following the 2012 election. This was to include consideration of the findings of the PC’s Report. Implementation of reforms arising from the ACT Government’s Red Tape Reduction Panel (RTRP). The Panel is currently focusing on municipal regulatory issues identifying regulatory impediments. The first tranche of reforms was announced on</td>
<td>The ACT is progressing consideration of its review. The first tranche of the RTRP reforms are currently being implemented. Reviews to alleviate the compliance burden on businesses have commenced. The online feedback tool, Fix my</td>
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13 September 2012, they include:

- developing a new business feedback mechanism on red tape issues;
- abolishing motor vehicle registration stickers; and
- providing for the e-lodgement of rental bonds.

In addition, a number of reviews across Government are planned which will lead to a reduced compliance burden on businesses in the ACT. These reviews will focus on: extending licence terms wherever possible; minimising the need for multiple police check requirements at the same point in time; streamlining administrative requirements for business signage; and simplifying approvals and licensing process for outside dining areas in the Canberra city centre.

Red Tape, is now operational and allows individuals to identify any red tape that affects or impedes their ability to do business.

The Minister for Economic Development has agreed to sponsor twice yearly omnibus Bills which address regulatory reforms identified through the work of the RTRP.
JURISDICTIONS’ PROPOSALS FOR LIFTING REGULATORY PERFORMANCE

COMMONWEALTH GOVERNMENT

Reform Proposals

Stage 1: Initial problem identification

- A two-stage RIS process to better embed the use of RIA at the initial policy development stage and to provide early opportunity for stakeholder consultation.

The use of rigorous RIS processes to provide detailed policy analysis of regulatory proposals before any final policy decision is taken is strongly endorsed by the OECD and widely used by OECD member governments. A practical issue that all governments continue to contend with is how best to address the risk that substantive RIA occurs only relatively late in the decision-making process when policy positions may be already well-developed. Governments are also closely considering how best to facilitate the earliest feasible stakeholder consultation on policy options.

To address issues such as these, the Commonwealth will introduce a significant structural change to the current RIS arrangements in July 2013 by moving to a two-stage RIS process – an initial Options Stage RIS, to support more substantive analysis of the problem and possible options and more effective stakeholder consultation significantly earlier in the policy development cycle, as a formal precursor to a second Details Stage RIS.

Under the new RIS arrangements, an Options Stage RIS would be prepared by the relevant agency for the decision maker (including the Cabinet) that addresses the first three elements of what is required currently in a RIS, setting out the problem giving rise to the need for action, the desired objectives of the intervention proposed and possible options (regulatory, non-regulatory or light-handed, and ‘do nothing’). The OBPR could provide advice on this document, but would not be required to assess adequacy. The Options Stage RIS, signed by the Secretary/Deputy Secretary of the responsible department must be provided to the OBPR prior to consideration by the decision maker.

Subject to agreement by the decision maker to progress further development of the regulatory option, the Options Stage RIS will be published on the OBPR website. This would serve to signal to stakeholders that the Government proposes to consult on the specific, published options. Ministers would thus be responsible and publicly accountable for the options they choose to test in a RIS. Following stakeholder consultation and assessment of the impacts of each of the options, if the regulatory option is still favoured, the relevant agency would then prepare a full RIS – the Details Stage RIS.

The Details Stage RIS would address all seven elements of a RIS: problem, objective, options, impacts, consultation, conclusion/recommendation and implementation/review. The OBPR would be required to assess the adequacy of the RIS. To be assessed as adequate, a Details Stage RIS would have to contain a degree of detail and depth of analysis that is commensurate with the magnitude of the problem and the size of the potential impact of the proposal.
The structural shift to a two stage RIS process would offer benefits on a number of levels, for example:

- the focus of impact assessment and quantification would shift from the initial in-principle decision to regulate to the phase of policy development where the effectiveness of particular options, including non-regulatory options, and stakeholder input can be better tested; and
- a RIS prepared at the Details Stage should enable more accurate and useful assessment of impacts on business and other stakeholders.

**Stage 2: Analysis and assessment of options**

- *Initiatives to strengthen the reach of RIS processes, stakeholder consultation and the transparency and accountability of regulatory decision making.*

The Commonwealth has had processes for assessing the impact of new and amended regulation since 1985. It has continually improved and strengthened the framework. Prior to the most recent review, in 2010 the Government announced major reforms to RIA arrangements, including to strengthen the transparency and accountability of regulatory decision making, stakeholder consultation and to better balance the rigour and practicality of the RIS process in order to encourage greater compliance and higher quality RISs.

Under the 2010 reforms, the reach of RIS processes was strengthened and clarified - RIA was made compulsory for all regulatory proposals put to Commonwealth decision-makers unless the impact on business is minor or machinery in nature. The commitment to consultation was also strengthened, such that RISs are no longer assessed as compliant if they do not set out the nature and extent of consultation undertaken, summarise the views of those consulted and then identify how those views have been considered in developing the proposal.

To further enhance transparency of the decision-making process, RISs are now published online, on a central register, shortly after the announcement of the relevant regulatory action. Not only does this provide timely advice to business and any other stakeholders on the regulatory decision and the basis upon which it was taken, but the accompanying blog enables any interested parties to comment on the RIS, including its assumptions or the adequacy of consultation.

Finally, under a 2011 initiative to further strengthen the timeliness and quality of RISs, OBPR officers are now available to be outposted, at the request of portfolio departments, to work in-house to assist in the development of a RIS, and to provide expertise in analysing options, including quantitative impacts.

**Stage 3: Design of regulation and its implementation**

- *A Clearer Commonwealth Laws initiative to reduce legislative complexity, such that legislation is easier to understand, administer and comply with.*

Under the Clearer Commonwealth Laws Initiative, the Office of Parliamentary Counsel (OPC) is implementing strategies to identify and reduce complexity in legislation. For example, the ‘Complexity Flag System’ has been designed to provide a structured approach for OPC drafters to raise issues of complexity with instructors, such that issues can be revisited with an eye to opportunities to remove or reduce the complexity from the bill.
To maximise the reach and efficiency of the process, and to leverage opportunities to draw on established experience, OPC maintains a database of Complexity Flags and responses to assist in identifying systemic causes of complexity and to support the application and inform development of further complexity reduction strategies.

**Stage 4: Administration and enforcement of regulation by a ‘regulator’**

- **Reforms to improve the performance of Commonwealth regulators, including the use of risk assessment in administration and enforcement processes.**

The Commonwealth is implementing a Framework for Regulators to support more effective operation and greater transparency regarding the functions and operations of Commonwealth regulators.

The Framework aligns with an increasing focus by the OECD on the need for governments to give explicit consideration to their expectations of regulators. Formal OECD guidance suggests that governments should ‘develop a consistent policy covering the role and functions of small regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence’.

The Framework sets out a number of areas where additional emphasis, tailored by Ministers and agency heads to the individual circumstances of regulators, could be given to enhance the administration of regulators.

These include:

- the establishment of complaints handling processes where they do not exist, with oversight by a senior officer or executive with authority to recommend remedial action where necessary;

- regulators and regulatory functions having a distinct and easy to locate web presence which includes advice on the regulator’s functions, links to relevant legislation, contact details, relevant policy documents, including in relation to risk management, regulatory decision-making, consultation and operational administration, and advice concerning any current regulation-making activity; and

- where appropriate, the use of omnibus bills to enable small but necessary amendments to legislation, particularly in relation to the governance arrangements or legislative scheme structures of regulators being progressed in a timely manner.

The Commonwealth is also developing a single, centralised directory of Commonwealth regulators, to include advice on the function of each regulator and contact details.

**Updating the ANAO’s ‘Administering Regulation Better Practice Guide’**

The ANAO’s Administering Regulation Better Practice Guide provides guidance to regulators on best practice, including managing risk, good consultation, and monitoring and addressing compliance. This clear, easy to follow principles-based guide provides advice for regulators on key issues they may need to address and is particularly useful for smaller regulators who may not have the resources to develop these principles themselves. The Guide was first published in 2007 and is currently being reviewed and updated to ensure that it continues to provide advice that is relevant, effective and fit for purpose.
Stage 5: Evaluation and review of regulation

- Initiatives are being pursued on a number of fronts to further strengthen present processes for evaluation and review of regulation and regulatory frameworks.

The policy focus of the Commonwealth’s approach to regulation evaluation and review is to deliver material reductions in unnecessary costs imposed on business through mechanisms that can recognise and address the cumulative effect of regulation over time, can address complex processes which may involve the intersection of multiple regulatory frameworks and, more generally, can deal with regulatory systems or frameworks that may be outdated or inefficient. The Commonwealth also has a focus on effective mechanisms for the routine removal of redundant regulation. Current and proposed reforms in a number of these areas are discussed below.

**Annual Regulatory Plans**

On 4 December 2012, the Commonwealth Government committed to developing a Commonwealth Annual Regulatory Plan to improve access to information for business and other stakeholders about Commonwealth regulatory activities and to effectively communicate the breadth of regulatory activity at the Commonwealth level to better facilitate their engagement in the policy development and implementation process.

To improve stakeholder access to information, a consolidated web-list of Commonwealth regulatory activities and existing agency annual regulatory plans will be made available in a single location – the Better Regulation website. This list is intended to be a one-stop-shop for business to access information about Commonwealth regulatory activities and will include search functionalities to enable stakeholders to access information directly relevant to them. It is intended that the consolidated web-list will go live in June 2013 and will form the basis of the consolidated Commonwealth Annual Regulatory Plan to be released later in 2013.

**Better Regulation Ministerial Partnerships**

A rolling program of Better Regulation Ministerial Partnerships between the Commonwealth Minister for Finance and Deregulation and Ministerial colleagues has been operation since 2009 and addresses areas of government operation and regulation where there may be scope for improvement and provide for rigorous review of the extent to which regulatory frameworks are unnecessary or poorly targeted.

Better Regulation Ministerial Partnerships provide an opportunity for insight into issues such as the way the schemes are administered, including the use of contemporary risk-based approaches; evidence of regulatory creep; budget pressures on particular schemes, which may be a leading indicator of regulatory arrangements that are excessively process based or demand driven; and the experience of business, which may often have to deal with more than one agency to achieve a particular outcome.

**Sunsetting and related arrangements to remove redundant regulation**

The Commonwealth is preparing for the commencement of formal sunsetting arrangements by streamlining implementation processes and workloads, including by:

- developing guidance material to assist agencies to manage the sunsetting process, with a key focus on encouraging ‘fit-for-purpose’ reviews of sunsetting legislative instruments in consultation with stakeholders;
• finalising requests for exemption of legislative instruments from the sunsetting regime and applications for thematic review of related legislative instruments to streamline the sunsetting workload;

• progressing bulk repeal of spent or identified redundant instruments; and

• finalising the first list of sunsetting instruments to be tabled in Parliament on the first sitting day after 1 October 2013.
WESTERN AUSTRALIAN GOVERNMENT

Context Rationale

RIA commenced in Western Australia in December 2009, considerably later than in other jurisdictions. The RGU within the Department of Treasury provides the oversight role of RIA in Western Australia. In RIA’s short history in Western Australia, it has had a measurable impact on improving regulation. The RGU has encouraged agencies to examine their regulatory proposals more intensely, and to place greater consideration on retention of the status quo and/or non-regulatory solutions. Several agencies have abandoned proposals that, when subject to full RIA scrutiny, were unable to establish a case for regulatory action.

In terms of its design and implementation, RIA was introduced in accordance with Western Australia’s commitment to COAG and applies to new and amending legislation and regulation. The introduction was phased in over two years to ease the burden on agencies: all regulatory proposals submitted to the State Cabinet were covered in the first year of RIA and subordinate legislation covered in the following year. The roll-out to subordinate legislation followed a substantial reform of RIA to reduce the amount of information required on machinery and administrative regulatory matters.

RIA was imposed on agencies through a Premier’s Circular with the RIA Guidelines for Western Australia detailing the individual requirements of RIA. Under existing arrangements, regulatory proposals must be assessed through a first stage process known as a PIA. An agency prepares a PIA to assess the level of impacts likely to result from the proposal. Where these are likely to have significant negative impacts on business, consumers or the economy (including the government), the RGU will advise that the agency will need to prepare a RIS. In this case, agencies prepare a Consultation RIS to inform stakeholders during the consultation process and, draw together stakeholder feedback and the further analysis of the issue into a Decision RIS which they give to the decision maker. To promote transparency and accountability of decision making, the RIS and the assessment provided by the RGU are to be made public following the public announcement of the decision.

The RIA Guidelines and the PIA and RIS templates provide guidance to agencies on the completion of RIA documentation. These accord with COAG requirements and address concerns on the completeness of RIA assessments expressed by the Business Regulation and Competition Working Group (BRCWG). Where RISs are required, agencies take guidance from the RIA documentation on the identification of the problem to be addressed, the objectives to be achieved and both non-regulatory and regulatory options that will achieve the objectives. The RIS asks agencies to consider both national and State market implications and restrictions on competition, as promoted by the BRCWG.

Although there is provision to publicly report on agency RIA compliance, this has not yet occurred. Reports on RIA are prepared by the RGU, but so far these have remained internal to Treasury. The RGU has elected to engage and encourage agencies to comply with the process, finding this is more effective, at least in its early stages, than to employ a punitive approach. This approach has proven effective.

Reform Proposals

Reform 1

*Improve the identification of problems to be addressed and linking of objectives to the identified problems.*
The RGU will work with agencies to improve the identification of the problems to be addressed in regulatory proposals and the related objectives to be achieved. This is an area where agencies need to improve as it is often not clear what problem a particular proposal is seeking to address, which influences the quality of the information in the remaining sections of the PIAs or RISs.

Reform 2

Narrow the application of PIAs.

The reform would remove all but one of the exceptions listed in the Western Australia’s RIA Guidelines1 from the RIA process. At the moment, agencies have to apply through a limited PIA for an exception and approximately 40 per cent of submitted PIAs deal with requests for exceptions.

This reform would assist agencies and RGU resources to be better utilised on proposals that have significant negative impacts.

Reform 3

Greater quantification of costs identified in regulatory proposals.

To ensure a thorough assessment of costs of significant negative impact regulatory proposals, more consideration will be given to assessment through a Business Cost Calculation analysis in RISs. This will assist the decision maker by providing a better understanding of the negative impacts associated with a regulatory proposal.

Reform 4

Promote best practice consultation processes.

In Western Australia, the RIA Guidelines require agencies to undertake effective and appropriate consultation. There is scope to enhance existing practices and the RGU therefore intends to promote best practice consultation processes (including a minimum consultation period) to improve regulatory outcomes.

Reform 5

Expand the requirements for PIRs.

At present, PIRs are required when a regulatory proposal has been granted a Treasurer’s Exemption. The RGU is proposing to extend the requirement for PIRs to proposals that are: brought to the RGU’s attention too late in the process to be properly assessed; assessed as non-compliant with the RIA process; or not able to be assessed prior to implementation.

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1 The exceptions relate to the following types of regulatory proposals: Standing Rules and Orders of Legislative Council and Assembly; electoral rules; administrative or machinery of government proposals; management of the public sector; police powers or the administration of justice; COAG and other proposals where national RIS is adequate; new fees and charges and increases to fees and charges (except where new regulatory regime is imposed); and all budget and taxation proposals. The exception which relates to regulatory proposals that are subject to analytical and consultative processes which the RGU has approved as equivalent to RIA requirements will not be removed from the RIA process.
Reform 6

Promote best practice implementation.

The RGU intends to place a greater focus on its assessment of the implementation stage in regulatory proposals that require a RIS. Agencies and the RGU tend to focus on the policy and impact analysis in RISs, with less emphasis being placed on the implementation plans. This can be costly as there are often problems associated with the implementation of new or amended regulatory proposals.

With a greater emphasis on best practice implementation timelines, risk management and costings, the objectives of regulatory proposals are more likely to be achieved and unintended consequences reduced.

Reform 7

Preparation of Biannual Agency Regulatory Report (BARR)

This reform would require agencies to provide a BARR to the RGU to improve the knowledge on upcoming regulation and allow project and critical management of regulatory analysis and regulatory reform across government agencies. The BARR would advise the RGU of:

- New/amending regulation proposed;
- Regulation made and compliance with RIA;
- Statutory reviews to be undertaken and timing; and
- Reviews undertaken and outcomes.
NORTHERN TERRITORY GOVERNMENT

Context/Rationale

All new or amending legislation and regulation in the Northern Territory is subject to the NTRMF. The NTRMF proscribes a two stage RIA process which implements the Northern Territory’s commitment to ensuring that its regulatory processes are consistent with the best practice regulation principles agreed by the COAG National Reform Agenda.

The aim of the NTRMF has been to reduce unnecessary impacts to the community of inefficient regulation including excessive business red tape and unwarranted compliance burdens and restrictions on competition. It provides a formal mechanism to ensure that the impacts of regulation are appropriately identified and assessed and that best practice regulatory principles are applied throughout the regulatory development process. RIAs developed by Government agencies proposing new or amending regulation are in turn required to be independently assessed and certified for compliance with regulation making principles prior to consideration and endorsement of the proposal by Government.

Reform Proposals

To ensure that the processes and disciplines set out in the NTRMF remain consistent with contemporary best practice and are themselves effective and efficient, the NTRMF is required to be subject to review on a five yearly basis. Scoping work for review of the NTRMF is well advanced and the NTRMF Review Group is currently finalising draft Terms of Reference for formal approval by Government. It is anticipated that the Terms of Reference will include all stages of the regulatory cycle and will, among other things, require consideration of the recent PC Report to benchmark the efficiency and quality of Commonwealth, State, Territory and COAG RIA processes.
VICTORIAN GOVERNMENT

Context/Rationale

Victoria has a long-held commitment to best practice regulation. A key component of Victoria’s regulatory framework is robust analysis of regulatory and legislative proposals with significant impacts. These impact analyses are assessed by an independent advisory body, the VCEC. Business Impact Assessments (BIAs)\(^2\) must be prepared for primary legislative proposals where there are potentially significant impacts for business and/or competition, and RISs are prepared for statutory rules (subordinate legislation) that impose a significant economic or social burden on any sector of the public. To support transparency in the regulatory system, Victorian RISs must be released for public consultation for a minimum of 28 days.

The VCEC assesses the quality of the regulatory analysis against criteria set out in the VGR and provides departments and agencies with formal letters of assessment. Oversight of the regulation-making process is provided by the Scrutiny of Acts and Regulations Committee (SARC) of Parliament. (SARC also scrutinises bills introduced into Parliament). SARC examines regulations to ensure that they do not exceed the powers conferred by an Act and to ensure their consistency with principles of justice and fairness, and conformity with the processes for regulation-making specified in the Subordinate Legislation Act 1994. Where the regulations do not meet these criteria, SARC may report to Parliament and recommend that the regulations be disallowed.

The cost-effectiveness of Victoria’s regulatory impact analysis process has been assessed by the VCEC, who found that between 2005-06 and 2009-10, for every dollar incurred by the key parties involved in the regulatory impact analysis process, gross savings of between $28 and $56 were identified (Cost-effectiveness of regulatory impact assessment in Victoria, VCEC Staff Working Paper, February 2011). Furthermore, in its Regulatory Impact Analysis Benchmarking report (December 2012) the PC found that overall, Victorian Regulatory Impact Statements (along with COAG RISs) tend to be more comprehensive than those of other jurisdictions, and that Victoria is the only jurisdiction whose regulatory oversight body (the VCEC) has operational independence.

Victoria is strengthening its focus on best practice regulation through a number of key reforms, including implementing a comprehensive program to reduce red tape and establishing Ministerial Statements of Expectations for regulators to enhance efficiency and accountability in enforcement of regulation.

In December 2012, the Victorian Government released its economic strategy, Securing Victoria’s Economy - Planning, Building, Delivering, in which it outlined numerous initiatives to reduce the regulatory burden in Victoria and to transform regulatory practice.

These included the appointment of a Red Tape Commissioner. The Commissioner reports directly to the Treasurer and provides an important bridge between the business community and government. The Commissioner’s engagement with business will inform a priority list of actions to eliminate red tape and where necessary drive policy reform.

\(^2\) BIA processes will be replaced by LIA processes – see Action 7 under Reform Proposals below.
Other actions from *Securing Victoria’s Economy* include issuing new guidelines for legislative impact assessments, implementing regulatory practice projects to work with regulators to improve regulation administration, and requiring regulations remade through the sunsetting process to reduce the burden they impose on business by a specified amount.

**Reform Proposals**

*Action 1 – Red tape reduction program*

The Victorian Government is committed to achieving a 25 per cent reduction in red tape by July 2014.

The red tape reduction program is aimed at improving the productive capacity across sectors of the Victorian economy that may be subject to unnecessary red tape, including: businesses, not-for-profit organisations, economic activities of individuals and government services (e.g. health and education services).

The program addresses a wide range of costs imposed by Victorian regulation, including administrative, compliance and delay costs and the economic cost of regulatory prohibitions.

As announced in *Securing Victoria’s Economy*, released in December 2012, over half a billion dollars of red tape savings are on track to be delivered.

Examples of red tape-cutting initiatives in place include:

- reinstatement of the VCAT major cases planning list in January 2012;
- Small Lot Housing Code - simplified rules commenced in 2012 for new houses constructed on lots less than 300 square metres;
- relaxing floor space restrictions in January 2011 on bulky good retail centres, allowing stores to open smaller, lower cost premises where a large store might not be viable;
- lifting the ban in March 2011 on Easter Sunday trading by businesses with 20 or more employees;
- removing the mandatory requirement for large water users to prepare, submit and report against a Water Management Action Plan, in June 2011; and
- reforming feed-in tariffs for roof-top solar to minimise cross-subsidisation across Victorian electricity consumers, from January 2013.

Under the red tape reduction program, all red tape savings will be independently verified.

*Action 2 – Implementing Ministerial Statements of Expectations for regulators*

Administration and enforcement of regulation is a key area of Victoria’s regulatory reform approach. In January 2013 Victoria introduced a framework to improve regulator performance, governance and accountability, through development of Ministerial Statements of Expectations for regulators.

Ministers have issued statements of expectations which will require key regulators to outline by 1 July 2013 how they intend to reduce red tape. These Statements are aimed at making regulators reduce the cost of high-impact or high-volume compliance and administrative activities by reducing timelines and streamlining processes, which will be experienced by business and the broader community as reduced red tape. (Examples include spending less
time assessing licence applications for parties with a history of compliance, resolving referrals simultaneously and cutting unnecessary or low-value added steps in approval processes.)

Regulators will be required to report on their progress in their annual reports and the VCEC will be asked to review their reporting. Stage one of the reform will focus on the Victorian WorkCover Authority (VWA), VicRoads, Environment Protection Authority, Consumer Affairs Victoria and the Victorian Commission for Gambling and Liquor Regulation.

Governance arrangements will also comprise a regulator community of practice and a regulator performance reporting framework.

Reform 3 - Revision of the Victorian Guide to Regulation, to reflect a more holistic approach across the entire regulatory life cycle

Victoria will refocus its regulatory impact analysis framework through revision of the VGR, to reflect a more holistic approach across the entire regulatory life cycle (i.e. design, implementation, evaluation).

Based on best practice regulatory approaches, emphasis will be placed on ensuring:

- early and meaningful stakeholder consultation;
- regulatory approaches that are proportionate, with the ‘default’ position of adopting non-regulatory options to achieve policy objectives;
- administration and enforcement of regulation to minimise administrative and compliance costs; and
- promotion of evaluation and a culture of continuous improvement.

Action 4 – Mandatory publication of VCEC assessment letters

To support greater transparency and oversight in its regulatory system Victoria will require VCEC assessment letters on RISs to be published at the same time as the final RIS. The VGR will be updated to formalise this recommendation stemming from a recent VCEC Inquiry report.

Action 5 – Evaluation and review of regulation

Victoria recognises the importance of evaluation in developing a culture of continuous improvement in a regulatory context.

This is consistent with early and systematic evaluation of high-impact sunsetting regulations and targeted reviews of new or amended legislation that introduces new regulatory burdens.

Victoria is updating the guidance in the VGR on key requirements for ex-post evaluation and having regard to the need for such requirements to be proportionate to the impacts of regulation. Information is provided on requirements for evaluation strategies for impact assessments, as well as on the interim and pre-sunsetting evaluations themselves.

Furthermore, all regulations in Victoria expire (sunset) after 10 years, with regulations that impose a significant impact requiring a new RIS before they are remade. Victoria is developing guidelines to require any regulations remade through the sunsetting process with a RIS to reduce the burden they impose on business by an amount determined by the Treasurer.
**Action 6 – Red Tape Commissioner**

The Red Tape Commissioner reports directly to the Treasurer and has begun work on monitoring and reviewing department and regulator performance in implementing ‘best practice’ regulation. The Commissioner will review the regulatory framework faced by different sectors of the Victorian economy, focusing on addressing cumulative regulatory impacts, including fees and charges, and consulting with business and the broader community to decide priority areas. Reviews will focus on sectors of the economy experiencing the highest regulatory burdens or areas of regulation imposing the greatest burden across a number of sectors.

**Action 7 – LIA**

Victoria will issue LIA guidelines to strengthen gatekeeping requirements for new or revised legislation that meets a certain threshold, to apply the principle of minimum regulatory intervention. The simplified guidelines will ensure time and effort spent on impact assessment in LIAs is proportionate to the problem and proposed policy measures.

**Action 8 – Lead agency approach**

Victoria will develop pilot projects aimed at easing the burden on businesses in meeting their obligations under multiple regulatory regimes. This will involve identifying options that combine cross-regulator functions into the ‘lead regulator’ model – for example, WorkSafe and the Environment Protection Authority both deal extensively with businesses operating major hazard facilities in Victoria.

**Action 9 – Regulatory practice projects**

‘Regulatory practice projects’ will be conducted with selected regulators to improve regulation administration on the ground. The focus will be on how regulation is enforced, including identifying best practice risk-based approaches to reduce the red tape burden for compliant businesses. This new approach reflects that the practical application of regulation is often as important as the existence and form of regulations.
NSW GOVERNMENT

Context/Rationale

The NSW Government’s regulatory reform agenda aims to improve regulatory outcomes for NSW businesses and the community by reducing regulatory costs, making regulation easier to understand and more effective, and through streamlining administrative processes.

The regulatory reform agenda supports key elements of the NSW 2021 plan:

- Improving the performance of the NSW economy by ensuring the NSW regulatory landscape is efficient and conducive to business and employment growth.
- Increasing the competitiveness of doing business in NSW through a range of actions to reduce regulatory costs and cut red tape for businesses and the community.
- Improving Government transparency by ensuring regulating agencies provide sound reasoning justifying new or amending regulation.

NSW has a comprehensive regulatory framework which aims to ensure that new regulation is effective and does not impose unnecessary costs. Under the RIA framework, agencies must meet requirements set out in the Guide to Better Regulation, which requires that all new and amending regulatory proposals comply with seven better regulation principles. This ensures that the need for regulation is clearly established, a range of options for achieving the stated objectives are considered, the impacts are properly assessed and do not impose unnecessary burden on business, and appropriate consultation is undertaken.

In NSW, the Better Regulation Office, located within the Department of Premier and Cabinet, develops and implements the Government’s regulatory reform agenda to reduce the regulatory burden and cut red tape for business.

Reform Proposals

Since its election in 2011, the NSW Government has announced a number of regulatory reform commitments.

1. Red tape reduction target

The NSW Government has committed to reduce red tape for business and the community in NSW by $750 million by June 2015, and is reinforced by the NSW 2021 plan.

The target is a measure of savings from implemented and announced red tape reduction initiatives. Both regulatory and non-regulatory (administrative) reforms are counted towards the target.

To ensure delivery of the target, Directors General are required to meet individual departmental targets.

The Better Regulation Office also reports the Government’s overall progress towards the target annually. Red tape reforms delivered between September and December 2011 will save business and the community a total of $18.7 million in annual terms by removing or simplifying requirements, improving the provision of information or providing for online applications. Of this total, $15.8 million in savings has been independently verified by Deloitte Access Economics.
2. ‘One on two off’

A ‘one on, two off’ regulation reduction policy commenced in NSW on 4 April 2011. Under the ‘one on, two off’ policy, each calendar year the NSW Government will aim to ensure that:

- the number of principal legislative instruments (i.e. principal Acts and principal Regulations) repealed is at least twice the number of new principal legislative instruments introduced (a ‘numeric test’); and
- the regulatory burden imposed by new principal legislative instruments within each portfolio is less than the regulatory burden removed by the repeal of principal legislative instruments from the same portfolio (a ‘regulatory burden constraint’).

The NSW Government satisfied the requirements of the ‘one on, two off’ policy in 2011. A total of 14 principal legislative instruments were made and 152 repealed. Through these legislative changes, no additional regulatory burden was imposed on business or the community.

**Future Reform Initiatives**

It is anticipated that the regulatory reform initiatives currently underway in NSW to review currently regulatory approaches will identify opportunities for future reforms.

1. **RIA processes**

The NSW Government is currently reviewing its RIA processes. The review is an important part in ensuring regulatory efficiency—thereby minimising the regulatory burden on business and eliminating red tape—and improving competitiveness, economic growth and productivity in NSW.

2. **QRS**

In December 2012, the NSW Government agreed to the QRS Initiative as part of its response to the Industry Action Plans. The QRS initiative introduces five key reforms to make it easier for business and individuals to engage with NSW regulators:

- Enable electronic transactions.
- Provide clarity in processing timeframes.
- Provide transparent appeal mechanisms.
- Promote a risk based approach to compliance and enforcement.
- Require a greater focus on regulatory outcomes.

All NSW regulators will need to implement reforms 1 to 3 by the end of 2013, and implement reforms 4 and 5 by the end of 2014.

3. **IPART Red Tape reviews**

During 2012-13, IPART will undertake reviews of:

- local government compliance and enforcement activity (including regulatory powers delegated under NSW legislation); and
- licensing rationale and duration.
IPART will provide its recommendations to the NSW Government in June 2013.

The NSW Government will consider the IPART red tape reviews’ recommendations—into local government and licensing rationale and duration—in the second half of 2013.

The NSW Government is also investigating other potential areas for IPART to examine as part of a second tranche of red tape reduction reviews which are anticipated to commence in July 2013.
QUEENSLAND GOVERNMENT

Context/Rationale

Queensland’s existing RIS System is an important element of the Government’s commitment to reduce the regulatory burden on business and the community.

The RIS System applies to all Queensland Government agencies including statutory authorities involved in the development of regulatory proposals. The RIS system does not apply to local governments.

The RIS system applies to the development of primary, subordinate and quasi-regulation.

Reform Proposals

As part of its commitment to reduce red tape by 20 per cent by 2018, Queensland has implemented several major reforms since March 2012, including the establishment of the independent OBPR within the Queensland Competition Authority.

Since 2 July 2012, agencies have been required to submit all RISs to the OBPR for an assessment of their adequacy.

Since 4 March 2013, agencies have been required to seek the OBPR’s advice as to whether a RIS is required for any regulatory proposal. This will include the OBPR independently assessing whether regulatory proposals are excluded from the RIS System and whether the potential impacts on stakeholders are significant and, therefore, a RIS needs to be prepared.

The OBPR will report annually to Government on the performance of Government agencies in reducing the burden of regulation and compliance with the RIS system.

OBPR will also provide training to agencies in relation to the RIS System and preparation of RISs.

OBPR was also directed to report to government on a framework for reducing the burden of regulation, including:

- Measurement of the regulatory burden, with appropriate regulatory burden benchmarks for Queensland Government departments.
- A process for reviewing the existing stock of Queensland legislation.
- Identifying priority areas for targeted review.

The OBPR delivered its Final Report on the framework on 28 February 2013. The Government has previously provided a formal response to OBPR’s Interim Report, supporting the majority of OBPR’s 44 Interim recommendations.

The Government is now considering OBPR’s Final Report and OBPR’s final recommendations.

Key elements of the Framework recommended by OBPR related to the RIS System (several of which reflect existing practices) include:

- new and sunsetting regulation will be subject to the RIS process to identify the costs and benefits of new and retained regulation - regulation will only be introduced or retained where there is demonstrable net public benefit;
• sunset clauses to be enforced for all regulations, with a RIS prepared where required by the RIS Guidelines for continuing the regulation;
• agencies are to identify one or more Regulatory Reform Champions to co-ordinate the agency’s compliance with the RIS System and to track progress against targets; and
• all Consultation and Decision RISs and the OBPR advice on those RISs should be made publicly available at an appropriate time.

The Queensland Government is also expected to release revised RIS Guidelines in early 2013 to reflect the roles of the OBPR and other recent changes to the RIS System.
RESPONSE TO THE PC’S REPORT, REGULATORY IMPACT ANALYSIS: BENCHMARKING

The PC’s report, *Regulatory Impact Analysis: Benchmarking* (PC Report) provides a comprehensive analysis of jurisdictions’ RIA processes and identifies 25 leading practices that might usefully guide reform consideration by individual jurisdictions. These leading practices relate to the scope of regulatory analysis, exceptions and exemptions, regulation impact analysis, transparency, accountability, regulatory reviews and integration.

Below are individual jurisdictions’ responses to the PC Report.

**Commonwealth**

The Commonwealth welcomes the findings of the PC Report, in particular, the Report’s findings that RIA requirements in all Australian jurisdictions are reasonably consistent with OECD and COAG principles.

These findings are broadly consistent with the findings of the *Independent Review of the Australian Government’s Regulatory Impact Analysis Process* (RIA review) which was finalised on 20 April 2012.

On 4 December 2012, the Commonwealth Government announced a package of regulatory reform measures to improve how regulations are developed. The package of reforms brings the Commonwealth’s practices into greater alignment with the leading practices listed in the PC’s report, and includes the introduction of a two-stage RIA process to enable more accurate analysis and assessment of the impacts of proposed regulations and to provide earlier opportunities for more substantive stakeholder consultation.

Other elements of the package include:

(a) enhancement of the operation of Commonwealth regulators through the implementation of a Commonwealth Framework for Regulators to support more effective operation and greater transparency regarding the functions and operations of Commonwealth regulators;

(b) the development of a single centralised directory of Commonwealth regulators to improve business access to information; and

(c) the development and publication of a Commonwealth Annual Regulatory Plan to improve access to information for business and other stakeholders about the Commonwealth’s regulatory activities and opportunities for stakeholder engagement.

The package of reforms was developed in consultation with business, and demonstrates the Commonwealth’s ongoing commitment to reducing unnecessary red tape by strengthening its approach to regulatory management.

**NSW**

NSW is currently undertaking a review of its Regulatory Impact Assessment arrangements. The objective of the review is to ensure that NSW has effective and efficient regulation-making processes in place. An Issues Paper with options for reform was released
in September 2011. The review is considering the findings and recommendations of the PC Report.

Victoria

The PC Report provided a generally positive assessment of Victoria’s regulatory impact assessment framework. For example, the PC considers that overall, Victorian RISs, along with COAG RISs, tend to be more comprehensive than those of other jurisdictions and has commended Victoria on transparency in compliance with the RIS process. The PC has also found that Victoria is the only jurisdiction whose regulatory oversight body has operational independence.

Victoria is continuing to pursue initiatives to strengthen its regulatory framework in line with the PC’s findings. This includes work to:

- strengthen gatekeeping requirements for new and revised government policies and regulations through new guidelines for LIAs;
- require regulations remade through sunsetting processes to reduce the burden they impose on business by a specified amount;
- require all RISs and LIAs to include a completed cover sheet containing key information to enhance transparency; and
- introduce mandatory publishing of VCEC adequacy assessments for RISs to enhance transparency.

Victoria also appointed a Red Tape Commissioner in January 2013. The Commissioner reports directly to the Treasurer and is engaging with business to inform a priority list of actions to reduce red tape.

Queensland

Queensland has implemented a number of changes to its Regulatory Impact Statement (RIS) system which align with the PC’s recommendations, and are designed to improve the rigour, independence and transparency of regulatory development. Reforms include:

- the OBPR providing advice to agencies on whether a RIS is required;
- requiring all agencies to submit a RIS to the OBPR for an assessment of its adequacy, including whether all options (regulatory and non-regulatory) have been identified, before releasing them for public consultation or proceeding with the proposed regulation;
- requiring the OBPR to report annually on agency compliance with the RIS system; and
- publication of RISs and the OBPR’s assessment.

Western Australia

Since its inception in 2009, RIA in Western Australia has undergone a number of reviews, as both agencies and the RGU have developed a deeper understanding of the importance of good regulatory practice. These reviews have resulted in streamlined PIA and RIS documents, as well as updated guidance documents and Guidelines, all of which are publicly available. Review of the RIA process has also previously resulted in the introduction of
Exceptions, which have allowed for a streamlined PIA process for minor and administrative matters.

However, more recently, informed by the findings of the PC’s Regulatory Impact Assessment: Benchmarking research report, as well as the BAF Taskforce’s Lifting Regulatory Performance document, the RGU has commenced a broader review of its regulatory impact assessment processes. The purpose of this review is to both further streamline and better target RIA as regulatory assessment transitions from a new concept to an embedded and well-understood part of the Western Australian policy cycle.

This review is now well under way and the RGU is developing a number of recommendations to put to Government. **South Australia**

Following publication of its Better Regulation Handbook and commencement of its RIA policy in July 2011, South Australia scheduled a PIR of the new policy, to commence in mid 2012. A decision was taken to defer the PIR until completion of the PC’s review and publication of its report.

The review of the South Australian RIA process commenced in February 2013 and is due for completion in May 2013. The PC Report contains considerable useful information and is considered to provide a sound basis for South Australia’s review. While it is too early to predict fully the outcomes of the present review, it can be said that the South Australian RIA policy is considered to be broadly consistent with leading practices in Australia as described by the PC. It is expected that the PIR will result in recommendations leading to further refinement of both policy and operational aspects of South Australia’s RIA system.

**Tasmania**

Tasmania considers that its current regulatory impact processes are appropriate to both the level of resourcing available and the nature and quantum of regulatory proposals that are put forward in Tasmania. Tasmania will monitor developments in this area by other jurisdictions to identify any further areas of improvement.

Tasmania continues to work towards better community engagement and awareness of consultation processes, with a focus on a streamlined regulatory approach with a minimal impact on business and the community generally.

**Northern Territory**

The Northern Territory welcomes the PC Report. The Northern Territory is presently considering undertaking a full review of its Regulation Making Framework (RMF) that will, among other things, take into consideration the PC Report.

**ACT**

The ACT Government is considering a review of regulatory impact assessment arrangements. This will include consideration of the PC Report.