



Australian Government

RETHINKING REGULATION:
REPORT OF THE TASKFORCE ON REDUCING
REGULATORY BURDENS ON BUSINESS
AUSTRALIAN GOVERNMENT'S RESPONSE

About this document

On 12 October 2005 the Prime Minister and the Treasurer announced the appointment of a Taskforce to identify practical options for alleviating the compliance burden on business from Government regulation. The Taskforce was chaired by Mr Gary Banks, Chairman of the Productivity Commission, and included business and small business representation. The Taskforce delivered its report 'Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business' ('the Report') to the Government on 31 January 2006.

The Report, guided by the views of stakeholders representing industry, small business, consumers and Australian Government, makes 178 recommendations on actions to reduce red tape across a wide range of policy areas. The Report also makes recommendations on actions to improve regulation making processes and regulatory gate keeping. This is the Government's final response to the recommendations of the Report.

The Government commends that the work of the Taskforce members, Gary Banks, Richard Humphry, Angela MacRae and Rod Halstead, as well as the supporting Secretariat.

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Note about the numbering of the recommendations and responses

For ease of cross referencing, the numbering system used for the responses matches the system used in the Taskforce Report.

Response to the Taskforce's recommendations

Social and Environmental Regulation

Health and Health-related Regulation

General medical practice

Recommendation 4.1: Implement remaining recommendations of reviews of General Practice red tape

The Australian Government should implement the outstanding recommendations of the Productivity Commission's 2003 report, General Practice Administrative and Compliance Costs, and those of the Red Tape Taskforce, in particular in relation to:

- supporting cross-Government initiatives to make Government forms available electronically;
- adopting information collection principles to help standardise information collection and form design;
- remunerating GPs for providing medical information;
- coordinating programs and communication affecting GPs; and
- introducing monitoring arrangements to ensure Government agencies continue to reduce red tape.

Response

The Australian Government agrees in principle to the recommendation noting that significant progress has already been made in responding to these previous reports. That said, the Australian Government does not support the recommendation that General Practitioners (GPs) be remunerated for providing medical information.

In particular changes have been made to improve and simplify the Practice Incentives Program (PIP) and the Enhanced Primary Care (EPC) Medicare items. These changes have been welcomed by GP groups.

Agencies have developed a culture and approach of minimising red tape in program development and management, including coordinating efforts and monitoring red tape. For example, the Department of Human Services is currently conducting a review of all Medicare Australia forms and letters and has coordinated the development and implementation of a number of initiatives through its Agencies to improve communications affecting health providers and streamline processes. Agencies will also be reminded of the information collection principles.

Simplifying forms and making them available electronically is also a focus of activity. New simpler application forms have been introduced to obtain a provider number for new practices, and also to obtain a new dental provider number (reducing seven forms to one). These forms are available from Medicare Australia's website and will eventually allow online completion and submission.

Centrelink, in conjunction with other delivery agencies and the Department of Health and Ageing, will continue to progress the development and implementation of a whole of government Medical Certificate. Additional assistance will be provided through Medicare Australia's helpline to doctors to complete Centrelink forms, and a feasibility

exercise will be conducted of automated systems that allow Centrelink forms to be provided, completed and returned electronically from doctors' surgeries.

Recommendation 4.2: Introduce a single provider number for each GP

The Australian Government should introduce a single provider number for each general practitioner and reduce the paperwork required for new provider numbers.

Response

The Australian Government does not agree to the recommendation on the grounds of high implementation cost.

The provider number is central to Medicare's operation and affects many other parties in the health system, so this would be a complex task requiring extensive consultation, resources and time to implement.

Recommendation 4.3: Remove the PBS authority approval requirement

The Australian Government should consider removing the Pharmaceutical Benefits Scheme authority approval requirement or allow GPs to re-use an authority number for a repeat prescription where a patient's condition is unlikely to change.

Response

The Australian Government does not agree to the recommendation. Removing the requirements for authority approvals may result in medicines being used inappropriately, increasing the risk of increased costs to government and compromising safety in prescribing practice.

Recommendation 4.4: Rationalise incentive programs for non-vocationally recognised GPs

The Australian Government should rationalise incentive programs providing higher Medicare rebates for non-vocationally recognised general practitioners.

Response

The Australian Government does not support the recommendation. While the Australian Government recognises the scope for consolidating the incentive programmes, the differential rebate is necessary to recognise and reinforce the importance of registration. Furthermore, the costs of implementation to rationalise the programmes cannot be supported by the likely compliance cost benefits.

Private health insurance (PHI)

Recommendation 4.5: Review the regulatory framework for PHI

The Australian Government should commission an independent and public review of the regulatory framework for private health insurance to promote competition and efficiency gains and to achieve better health outcomes. The review should also address current impediments to providing less expensive and more appropriate care services outside hospital settings.

Response

The Australian Government agrees to the recommendation and in April 2006 announced a package of important changes to private health insurance arrangements. These measures will address outcomes recommended by the Banks report, so no additional review of the regulatory framework for private health insurance will be required. As part of the April 2006 package the Government:

- announced plans to increase the effectiveness of private health insurance regulation through legislative revision. The Australian Government will amend private health insurance related legislation so that the regulatory framework promotes and fosters competition and efficiency within the industry.
- will also legislate to ensure that all private health insurance funds provide consumers with standard product information of each product they offer through a website managed by the Private Health Insurance Ombudsman (PHIO). This will provide consumers with the opportunity to compare and analyse products for themselves and their families when they consider purchasing private health insurance.
- announced plans to allow private health insurers to pay benefits for services that do not require admission to hospital but which substitute for, are part of, or prevent hospitalisation and are approved for inclusion in a broader health cover product.

Recommendation 4.6: Widen age groups in the PHI redistribution formula

The Australian Government should consider widening the age groups included in the private health insurance redistribution formula to better reflect the current distribution of high-cost treatments, and enable health funds to pool costs associated with helping members to access more appropriate forms of substitute care.

Response

The Australian Government agrees to the recommendation and in April 2006 announced a package of important changes to private health insurance arrangements.

The Australian Government announced plans to introduce a new risk equalisation model which will improve risk sharing between funds, pools costs of high cost claims, treats single parent policies as single adult policies and includes treatments provided out of hospital. This model will be implemented from 1 April 2007.

Recommendation 4.7: Simplify lifetime health cover administrative arrangements

The Australian Government should simplify lifetime health cover administrative arrangements which are complex and difficult for people to understand.

Response

The Australian Government agrees to the recommendation and in April 2006 announced a package of important changes to private health insurance arrangements.

The Australian Government announced plans to increase the effectiveness of private health insurance regulation through legislative revision to simplify and clarify the regulatory framework. The Australian Government also announced plans to remove lifetime health cover loadings for people who have retained private health insurance for ten years and maintain their insurance.

Recommendation 4.8: Simplify PHI rebate administrative requirements

The Australian Government should:

- abolish the redundant Private Health Insurance Incentives Scheme to simplify health fund administration;
- streamline operation of the Savings Provision Entitlement; and
- allow funds to advise members only that the private health insurance rebate amount has increased and the new amount.

Response

The Australian Government agrees in principle to part (b) of the recommendation but does not agree to parts (a) and (c) of the recommendation.

The Australian Government does not support part (a) of the recommendation. Some Australians are still eligible and receive a benefit under the Private Health Insurance Incentives Scheme. Abolishing the scheme may expose these people to increased costs for their private health insurance.

Removal of the Scheme would be contrary to existing government policy. At the time of introduction of the 30% rebate, there was a commitment that the scheme would continue so that there would be no disadvantage to those who currently subscribe to the scheme as a method to reduce their private health insurance premiums.

With reference to part (b) of the recommendation, and without pre-empting any outcomes, the Government is considering its response to a review of the higher rebates for older Australians, including possible amendment to the Savings Provision Entitlement.

The Australian Government does not support part (c) of recommendation 4.8. The provision of information to consumers in relation to the private health insurance rebates is important for consumer understanding of the product. Amending the requirement as suggested in the report would result in limited savings for private health insurance funds.

Recommendation 4.9: Streamline the PHI premium increase approval process

The Australian Government should introduce a more transparent, timely and consistent process to consider applications for increases to private health insurance premiums.

Response

The Australian Government agrees in principle to the recommendation and recognises the benefits for consumers and industry of an efficient and transparent regulatory framework. That said, the Government already considers that it has appropriately transparent, timely and consistent processes.

Recommendation 4.10: Require information about out-of-pocket costs for surgery to be provided to patients

The Australian Government should require the 'specialist-in-charge' to take responsibility for informing patients of all medical costs associated with a procedure or, alternatively, specialists involved in the procedure who do not advise the patient before surgery of out-of-pocket costs should not be permitted to charge a gap payment.

Response

The Australian Government agrees to the recommendation and is already moving to improve Informed Financial Consent (IFC) in conjunction with its private health insurance changes. In April 2006, the Australian Government noted it will allow the private health insurance industry to self regulate for IFC. Following a consumer survey, if a significant improvement in IFC is not demonstrated, then amendment to legislation will be introduced in 2007.

Recommendation 4.11: Facilitate publication of data on charging practices of medical specialists

The Australian Government should facilitate the publication of industry-wide data on the charging practices of individual medical specialists.

Response

The Australian Government agrees to the recommendation and is improving the information available to consumers as part of its 2006 package of private health insurance measures. Information about doctors' fees needs to be considered sensitively as it relates directly to the charging practices of medical specialists, and impacts directly on the interface between the medical provider and the consumer. The Australian Government will also establish a website to be managed by PHIO (see response to recommendation 4.5(ii)). The details of this website are yet to be finalised, but it will also include information about hospitals and health service providers that provide privately insured services.

This recommendation will also be considered alongside the response to recommendation 4.10 above.

Recommendation 4.12: Enable publication of data on hospital treatment outcomes

The Australian Government should amend laws to enable data on hospital treatment outcomes to be published.

Response

The Australian Government agrees in principle to the recommendation and is improving the information available to consumers as part of its 2006 package of private health insurance measures. That said, proposals to publish data on hospital treatment outcomes need to be considered sensitively as they relate to the clinical outcomes of decisions made by health care providers.

In April 2006, the Government announced plans for industry-wide uniform private health insurance safety and quality standards to be introduced so that all privately insured services are offered by accredited and/or suitably qualified providers from 1 July 2008. This work will align with the role of the Australian Commission for Safety and Quality in Health Care.

Pharmacy

Recommendation 4.13: Review the impact of changes to the Pharmaceutical Benefits Scheme 20-day rule

The Australian Government, in consultation with pharmacies, should review the impact of changes to the 20-day rule, to address negative impacts on pharmacies and consumers.

Response

The Australian Government does not agree to the recommendation. The Australian Government introduced the 20 day rule as a budget measure which is expected to save \$70.1 million over four years. The rule supports good practice in the safe use of medicines by discouraging patients from obtaining additional, or early, supplies of medicines. The Australian Government has worked with the pharmacy sector to provide explanatory materials to ensure that the new arrangements are implemented in an efficient manner and are understood by patients and pharmacists. The Australian Government will continue to work with the sector to ensure that policies aimed at quality use of medicines are implemented effectively.

Recommendation 4.14: Redesign the PBS prescription reconciliation report for pharmacies

Medicare Australia should redesign the reconciliation report to group rejected prescriptions.

Response

The Australian Government agrees to the recommendation. Changes to redesign the reconciliation report to group rejected prescriptions are being implemented for online pharmacies as part of the PBS Online project. The redesign will enable an online pharmacist to easily identify rejected prescriptions as the rejects will be grouped together in the report.

Recommendation 4.15: Review PBS medication supply arrangements in residential aged care facilities

The Australian Government should review the supply of PBS medicines in residential aged care facilities, including what may constitute a prescription in this setting, and safe and effective packaging issues.

Response

The Australian Government agrees in principle to the recommendation. The intent of this recommendation is consistent with and addresses Part 6, Section 38.1 of the Fourth Community Pharmacy Agreement, which commenced on 1 December 2005. This states that “the parties agree to undertake a review of the existing PBS supply arrangements in the context of aged care residential facilities and private hospitals”. The precise scope of this review is currently being considered. The review will be completed by 30 November 2006.

Recommendation 4.16: Simplify the regulatory system for advertising therapeutic products in pharmacies

The Australian Government should simplify the regulatory system for advertising therapeutic products to provide greater clarity and awareness of pharmacies' obligations.

Response

The Australian Government agrees to the recommendation. The regulatory system for advertising therapeutic products has been through an extensive consultative process in preparation for the arrangements under the new Australia New Zealand Therapeutic Products Authority (ANZTPA).

A working group has been established with appropriate Australian and New Zealand stakeholder representation to implement the new regulatory model for advertising therapeutic products in Australia and New Zealand. A Price Information Code of Practice has also been developed to provide clear direction to and support for pharmacists in this area.

An education campaign, which will include the key messages about the new regulatory system for advertising therapeutics products, will be undertaken in the lead up to the commencement of the ANZTPA.

Therapeutic products and medical devices

Recommendation 4.17: Develop the regulatory framework for the ANZTPA in accordance with COAG principles

The Australian Government should ensure that the regulatory framework and supporting legislation for the Australia New Zealand Therapeutic Products Authority are developed and implemented in accordance with the principles agreed by COAG for good regulatory practice, particularly in relation to industry consultation.

Response

The Australian Government agrees to the recommendation. In line with the principles agreed by the Council of Australian Governments (COAG) in the "Principles and Guidelines for National Standard Setting and Regulatory Action" the regulatory framework and legislation for the ANZTPA is being developed to minimise the regulatory burden on industry while at the same time meeting ANZTPA's objective to safeguard public health and safety in Australia and New Zealand.

In addition, the joint regulatory scheme is being developed in accordance with the principles outlined in a number of agreements between the two countries.

Extensive consultation with stakeholders has occurred and will continue to occur at all critical stages in the development of the joint regulatory scheme. The Therapeutic Products Interim Ministerial Council (the Council) announced in December 2005 that an anticipated 1 July 2006 start date for the ANZTPA had been deferred to allow for an extensive consultation program to enable industry, in particular, to review and comment on the legislation and rules for the new Authority. In May 2006 the Council announced that the proposed joint regulatory scheme for therapeutic products is expected to begin in the second half of 2007.

Recommendation 4.18: Improve domestic regulatory arrangements for therapeutic products and medical devices

The Australian Government should improve existing domestic regulatory arrangements for therapeutic products and medical devices, particularly by:

- rationalising amendments to the Therapeutic Goods Act, together with the supporting orders, codes, standards and determinations and guidelines issued by the Therapeutic Goods Administration, and
- removing requirements specific to Australia unless they can be fully justified.

Response

The Australian Government agrees to the recommendation and is addressing the recommendation as part of the development of the joint regulatory scheme to be administered by ANZTPA. As part of this process all regulatory requirements will be the subject of extensive industry consultation (see response to Recommendation 4.17). Any requirements specific to Australia (and/or New Zealand) will need to be consistent with the objectives of the Agreement between the Government of Australia and the Government of New Zealand for the Establishment of a Joint Scheme for the Regulation of Therapeutic Products. The objectives of this Agreement state clearly that the joint regulatory scheme must be developed and maintained in accordance with international best practice.

Consequently in the lead up to the commencement of the ANZTPA it is not anticipated that the Therapeutic Goods Administration will be making significant amendments to the Therapeutic Goods Act 1989, supporting orders, codes, standards and determinations and guidelines.

Recommendation 4.19: Allow choice of certification body for medical device manufacturers

The Australian Government should consider allowing Australian manufacturers to choose a certification body (acceptable to the Therapeutic Goods Administration), based in Australia or overseas, to verify and certify their conformity assessment procedures (having regard to the recommendations of the Medical Devices Industry Action Agenda).

Response

The Australian Government agrees to the recommendation. The Medical Devices Industry Action Agenda has been considering this issue. The Action Agenda was recently announced and, as part of the implementation phase, the Action Agenda Implementation Group will consider best practice regulation for devices and will propose desirable changes to regulatory practices that also ensure safety, timeliness and transparency.

Recommendation 4.20: Apply an internationally agreed definition of the central circulatory system for medical devices

The Australian Government should apply an internationally agreed definition of the central circulatory system to all applicable medical devices.

Response

The Australian Government agrees to the recommendation. The Global Harmonization Task Force (GHTF) is considering this issue. The GHTF is a group of representatives from national medical device regulatory authorities and the regulated industry from the European Union, the United States, Canada, Japan and Australia. Once GHTF have finalised/agreed a definition TGA will consult with industry.

The timeline is dependent on GHTF processes.

Recommendation 4.21: Streamline change of sponsor procedures for new medical devices

The Australian Government should, in establishing the Australia New Zealand Therapeutic Products Authority, address the concerns of the medical device industry about the procedures for change of sponsor of new medical devices.

Response

The Australian Government agrees to the recommendation.

In response to concerns regarding transfer of sponsorship arrangements, the Australian Government, through the Therapeutic Goods Administration (TGA), has agreed to develop an administrative process to facilitate transfer of applications to a new sponsor.

Discussions are being held with industry to implement revised arrangements ahead of the establishment of the Australia New Zealand Therapeutic Products Authority.

Recommendation 4.22: Review health technology assessment procedures

The Australian Government should undertake a system-wide, independent and public review of health technology assessment, with the objective of reducing fragmentation, duplication and unnecessary complexity, which can delay the introduction of beneficial new medical technologies. Health technology assessment processes and decisions should also be made more transparent, in line with good regulatory practice.

Response

The Australian Government agrees to the recommendation while continuing to support cost effectiveness methodologies. The medical device industry has considered these matters in depth through the Medical Device Industry Action Agenda. The Action Agenda was recently announced and the Action Agenda Implementation Group will consider best practice health technology assessment for devices and will contribute to the system-wide review. Work underway to enhance the efficiency and transparency of current processes will continue during this time.

Aged care

Recommendation 4.23: Remove Australian Government residential aged care building certification requirements

The Australian Government should remove any additional building certification requirements on top of the Building Code of Australia and state, territory and local Government laws and monitoring arrangements, in order to better focus its resources for monitoring standards in aged care. Requirements not addressed by the Code and state, territory and local Government mechanisms could be mandated separately.

Response

The Australian Government does not agree to the recommendation. Certification was introduced along with major reforms of the Government's Aged Care Program in 1997 to address issues of poor building stock in the industry.

Certification is an integral part of the overall quality framework for residential aged care. The culmination of the 10 year forward plan for certification at the end of 2008 provides an opportunity to further consider its place within the quality framework. With regard to building standards, the Government will continue to encourage jurisdictions to implement regulations consistent with the Building Code of Australia.

Recommendation 4.24: Allow residential aged care providers choice of accreditation agencies

The Australian Government should allow residential aged care providers to select from a range of approved quality improvement and quality management agencies.

Response

The Australian Government does not agree the recommendation. Accreditation is part of a system to make considered decisions on access to government subsidies, action in response to non-compliance and the application of sanctions. It is a pre-requisite for receiving government subsidies.

Although the Aged Care Act 1997 allows for more than one accreditation agency to be established, the 2004 Hogan Review considered the role of the Agency as the sole accreditation body for the purposes of the Act should remain. These arrangements ensure national consistency in determining entitlements to government subsidies and in decisions to revoke accreditation and withdraw subsidies.

Recommendation 4.25: Improve resident classification scale documentation for residential aged care providers

The Department of Health and Ageing should expedite its review of Resident Classification Scale documentation to implement improvements as soon as possible.

Response

The Australian Government agrees in principle to the recommendation. Work on the Government's commitment to reducing red tape associated with residential care

subsidies, consistent with the recommendation, is on track. The Department of Health and Ageing has developed and successfully trialed a new Aged Care Funding Instrument (ACFI) to replace the Resident Classification Scale (RCS) as the basis for residential care funding. Unlike the RCS, the ACFI does not require creation of ongoing care documentation for funding accountability.

Implementation of the ACFI is being integrated with two measures announced in the 2004 Budget to introduce a new structure for residential care subsidies (three categories instead of eight and two new supplements for challenging behaviours and complex nursing needs).

The Minister for Ageing has announced that the ACFI and the new funding structure will be introduced on 1 July 2007, following a national rollout of comprehensive training for both managers and aged care home staff.

Labour Market Regulation

Occupational Health and Safety

Recommendation 4.26: Implement nationally consistent OH&S standards

COAG should implement nationally consistent standards for occupational health and safety (OH&S) and apply a test whereby jurisdictions must demonstrate a net public benefit if they want to vary a national OH&S standard or code to suit local conditions.

Response

The Australian Government agrees to the recommendation and acknowledges that inconsistency in occupational health and safety regulation can create compliance costs for businesses operating nationally or across state and territory borders.

The Australian Government notes that COAG agreed on 10 February 2006 to progress a range of OH&S reforms. One of these was that the Australian Safety and Compensation Council (ASCC), under the direction of the Workplace Relations Ministers' Council (WRMC), develop strategies to improve the development and uptake of national OH&S standards. The WRMC has agreed to the ASCC considering recommendation 4.26 in the context of COAG's decision. The WRMC is to report back to COAG by the end of 2006.

Recommendation 4.27: Harmonise duty of care provisions

COAG should request the Australian Safety and Compensation Council to examine the duty of care provisions in principal occupational health and safety Acts as a priority area for harmonisation. In undertaking this work, the Council should give weight to recent reforms in Victoria.

Response

The Australian Government agrees to the recommendation. The Australian Government notes that COAG agreed on 10 February 2006 to progress a range of OH&S reforms. One of these was that the WRMC identify priority areas in principal OH&S Acts in each jurisdiction that should be harmonised. The ASCC is undertaking this work under the direction of the WRMC. The WRMC is to report to COAG by the end of 2006.

Recommendation 4.28: Improve OH&S education of employers and employees

COAG should give responsibility for developing national occupational health and safety training to relevant industry training and skills councils, and ensure that accredited induction training programs are developed for all major industries, within a defined framework of on-the-job training and lifelong learning. The aim should be better educating employers and employees about the duty of care responsibilities relevant to their workplace, and embedding and continuously improving workplace health and safety knowledge and practices.

Response

The Australian Government has, and continues to, take action on the recommendation. Australian Government funded Industry Skills Councils have the responsibility to ensure that all relevant training is included in training packages and this includes OH&S training. There are currently in excess of 600 OH&S units in the 75 Industry Training Packages. Although the focus for nationally accredited training is not on stand alone induction programs for distinct industries, the Office of the ASCC has developed a national code of practice for induction training for construction work to address inconsistency in induction practices, and national consistency is currently being achieved.

Recommendation 4.29: Improve advice from regulators regarding OH&S responsibilities

COAG should direct the Australian Safety and Compensation Council to examine the capacity of occupational health and safety bodies to respond to direct requests from business for advice on compliance and provide options for removing any impediments.

Response

The Australian Government agrees to the recommendation. The occupational health and safety jurisdictions currently provide extensive information and advice to business on OH&S responsibilities and compliance through workplace visits, telephone advice and publication of guidance material. The Australian Government has sought the cooperation of COAG to ask the ASCC and WRMC to further consider the recommendation and ways in which these services could be enhanced.

Recommendation 4.30: Introduce a single regulator for mine safety

COAG should establish a high-level representative group to oversee the National Mine Safety Framework. This group should work closely with the Ministerial Council on Mineral and Petroleum Resources to oversee the next stage of reform, including the delivery of a single national regulatory body.

Response

The Australian Government agrees to the recommendation and will pursue the implementation of a National Mine Safety Framework (NMSF) and will explore options for establishing a single national regulatory body.

In March 2002 the Ministerial Council on Mineral and Petroleum Resources (MCMPR) agreed to the National Mine Safety Framework (NMSF) as a mechanism for delivering a nationally consistent mine health and safety regime across jurisdictions.

The Australian Government is concerned at the slow progress in implementing the NMSF, and the considerable dilution of the potential use of a NMSF.

In response to a recent letter from the Prime Minister to premiers and chief ministers, the MCMPR has agreed to establish a NMSF Steering Group, to advise on priorities for and implementation of the NMSF. The MCMPR will report on the Steering Group's progress on implementation of the National Mine Safety Framework to COAG.

Workers' Compensation

Recommendation 4.31: Achieve national consistency in workers' compensation arrangements

COAG should request the Australian Safety and Compensation Council to develop a model for achieving national consistency in workers' compensation arrangements. It should ensure the following areas are addressed as a matter of priority:

- return to work requirements, including reporting and documentation;
- the definition of a worker for the purposes of workers' compensation;
- the definition of wages for renewal of workers' compensation insurance;
- the level and timing of premium payments for businesses operating across borders; and
- self-insurance arrangements.

Response

The Australian Government supports the recommendation.

The Australian Government was supportive of the ASCC examining the issues raised by the Taskforce in the context of its broader proposed workers' compensation workplan. The ASCC's annual workplan is subject to endorsement by the WRMC. A number of proposed key objectives relating to the harmonisation of the respective workers' compensation jurisdictions were not endorsed by the States and Territories. The WRMC did, however, agree to the ASCC examining return to work arrangements, which was also identified by the Taskforce.

Skills mobility and Licensing

Recommendation 4.32: Implement mutual recognition for para-professionals and professionals

COAG should extend its work on skills, training and mutual recognition to include both para-professional and professional occupations.

Response

The Australian Government agrees in principle to the recommendation and will consult with key stakeholders through either the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) or the Ministerial Council on Vocational Training and Education (MCVTE) with a view to asking COAG to build on current arrangements (refer to recommendation 4.33).

Recommendation 4.33: Align training and occupational licensing systems

COAG should consider measures to align the national training system with occupational licensing and registration regulations, including the development and adoption of minimum effective national standards for licensing and registration across a range of industries and sectors.

Response

The Australian Government agrees in principle to the recommendation. The recommendation is currently being addressed by COAG's Skills Recognition Taskforce.

Recommendation 4.34: Reduce compliance cost of employing apprentices and duplication for group training organisations

COAG should:

- develop regulatory options for reform to enable business to better manage the regulatory compliance cost and risk associated with employing trainees and apprentices, including insurance costs, occupational health and safety provisions and the treatment of employer incentives; and
- align the audit requirements for group training organisations with the audit process for registered training organisations to reduce duplication of information and the reporting burden on group training businesses.

Response

The Australian Government agrees in principle to the recommendation.

In relation to (a), the Australian Taxation Office (ATO) has clarified that no Goods and Services Tax (GST) is payable on employer incentives received under the New Apprenticeships incentive programme. Consequently, businesses do not need to provide tax invoices or remit GST to the ATO in relation to these payments, nor do they need to include these amounts in their Business Activity Statement. Other areas of potential regulatory reform are to be examined by the Ministerial Council on Vocational Training and Education.

In relation to (b), acknowledging that where Group Training Organisations have multiple roles (e.g. where they also operate as a Registered Training Organisation), the Commonwealth is in discussion with state and territory governments on the need wherever possible to coordinate and streamline the audit activities they undertake.

Business Migration

Recommendation 4.35: Streamline processes and improve provision of advice

The Australian Government should:

- streamline the processes associated with sponsoring overseas personnel and negotiating labour agreements, including the time taken for processes and approvals;
- consult with business employers and industry associations to ensure available information and advice meets their needs; and
- consider the broader use of migration outreach officers.

Response

The Australian Government agrees to the recommendation.

Labour Agreements are usually negotiated within six to twelve weeks of the Australian Government receiving a detailed submission. While the Australian Government supports streamlining the processes associated with sponsoring overseas personnel and negotiating labour agreements, it is considered that any less time would not allow for the necessary checks of employer bona fide standing.

The Australian Government is confident that the Department of Immigration and Multicultural Affairs' consultation with industry groups will continue to ensure available information and advice meets their needs.

The Australian Government currently employs industry outreach officers. The Government will evaluate the extent to which the outreach officers and the information programs meet the needs of business employers and industry associations.

Education

Recommendation 4.36: Address issues in the PhillipsKPA report to reduce red tape for universities

The Department of Education, Science and Training and other relevant agencies should work with the Australian Vice-Chancellors' Committee to address issues identified in the PhillipsKPA report to reduce red tape.

Response

The Australian Government agrees in principle to the recommendation and supports measures that reduce unnecessary reporting or regulation where they are of an administrative nature.

Recommendation 4.37: Rationalise reporting requirements for non-Government schools

The Australian Government and state and territory Governments should rationalise their respective reporting requirements for non-Government schools to reduce duplication and minimise administrative workloads.

Response

The Australian Government agrees in principle to the recommendation and supports the reduction of duplication of reporting arrangements and minimisation of administrative workloads.

Recommendation 4.38: Introduce alternatives to universal data collections within the school system

The Department of Education, Science and Training should implement alternatives to universal data collection, including, for example, sampling or better targeting data collections within the school system.

Response

The Australian Government agrees in principle to the recommendation. The Australian Government considers that this issue requires further examination particularly of areas in which sample data collection would be appropriate, without losing individual progress and diagnostic reporting for students and their parents, or loss of essential accountability and statistical information.

Recommendation 4.39: Abolish the financial questionnaire for non-Government schools

The Department of Education, Science and Training should abolish the Financial Questionnaire for non-Government Schools.

Response

The Australian Government considers that this issue requires further examination to determine if any simplifications, streamlining or alternative data capture arrangements are possible without loss of essential accountability and statistical information, or compromising the integrity of the data collected.

Childcare

Recommendation 4.40: Implement mutual recognition of accreditation requirements

The Australian Government, through the Health, Community and Disability Services Ministerial Council, should encourage all states and territories to adopt the mutual recognition initiative as implemented in Queensland — where quality certification by the Australian Government regulator is recognised as meeting the overlapping requirements of the state regulations.

Response

The Australian Government agrees in principle to the recommendation.

The Australian Government considers it vital that the Commonwealth maintains an overriding quality assurance process with wide-ranging quality standards to ensure children receive quality care. That said, the Australian Government recently announced a review of the three levels of the National Quality Assurance system. Any possible overlap with the state and territory regulations will be considered in this process. Bilateral discussions will then occur with the state and territory governments to identify ways to address these issues. The Review of the National Standards for child care is due to report to the Community and Disability Services Ministers' Conference on 26 July 2006, where Ministers will decide the most appropriate way forward.

Recommendation 4.41: Conduct an independent public review of regulatory arrangements

The Australian Government should commission an independent public review of:

- the role of the Australian Government and state and territory Governments in regulating the childcare sector, including possible mechanisms to reduce duplication in regulation between Governments;
- measures to enhance the efficiency of the childcare sector to deliver desired quality outcomes; and
- the merits of aligning regulatory approaches across jurisdictions towards achieving minimum effective regulation of the sector.

Response

The Australian Government agrees in principle to the recommendation and recently announced a review of the three levels of the National Quality Assurance system. Any possible overlap with the state and territory regulations will be considered in this process. Bilateral discussions will then occur with the state and territory governments to identify ways to address these issues. The Review of the National Standards for Child Care is due to report to the Community and Disability Services Ministers' Conference on 26 July 2006, where Ministers will decide the most appropriate way forward.

Employment Reporting

Recommendation 4.42: Streamline information-reporting and work visa verification requirements

The Australian Government should:

- consider implementing broader arrangements for Governments to jointly collect compliance information, avoiding the need for employers to answer separate queries from Centrelink and other agencies; and
- examine avenues to further streamline work visa checks undertaken by employers.

Response

The Australian Government agrees to the recommendation. Centrelink is currently conducting research with a range of businesses to improve how they do business with Centrelink. Centrelink also undertakes data matching programs with other agencies (such as the Australian Taxation Office) to avoid duplicate data requests on employers.

The Department of Immigration and Multicultural Affairs continues to focus heavily on improvement to client services.

Recommendation 4.43: Replace mandatory Equal Opportunity for Women in the Workplace Act reporting with voluntary reporting

The Australian Government should replace mandatory reporting under the Equal Opportunity for Women in the Workplace Act with voluntary reporting that focuses more broadly on workplace diversity, rather than just the participation of women in the workplace.

Response

The Australian Government does not agree to the recommendation. However, the Australian Government recognises that there is scope to reduce the regulatory burden and compliance associated with reporting to the Equal Opportunity for Women in the Workplace Act 1999 (EOWA). Accordingly, the Australian Government has decided to change the reporting requirements of EOWA to reporting every two years rather than annual. This change will assist in further reducing the compliance burden upon business in line with the purpose of the Taskforce. It will require amendment to the Equal Opportunity for Women in the Workplace Act 1999.

Consumer-related Regulation

Consumer Protection

Recommendation 4.44: Review consumer protection framework

COAG, through the Ministerial Council on Consumer Affairs, should initiate an independent public review into Australia's consumer protection policy framework and its administration.

Response

The Australian Government agrees to the recommendation and will ask the Productivity Commission to undertake a public inquiry into Australia's consumer policy framework. It is anticipated that the Productivity Commission will complete its inquiry in approximately 12 months and the report will be considered by the Ministerial Council on Consumer Affairs.

Recommendation 4.45: Review regulation of connections to specified telecommunications services

The Australian Communications and Media Authority should consult with all telecommunications providers as part of a review of the need for regulation of connections to specified services, in the context of wider development of the market for these services.

Response

The Australian Government agrees in principle to the recommendation. While the Australian Government considers that no change in the current arrangements relating to connection times is required (as reviews have been conducted in 2001-02 and 2004), in relation to enhanced call handling features, the Australian Government will request the Australian Communications and Media Authority to consult with carriage service providers on this aspect of the Customer Service Guarantee and report to the Australian Government by 30 November 2006.

Recommendation 4.46: Review telecommunications industry reporting requirements

The Australian Government should initiate a review of the reporting requirements associated with the telecommunications industry to ensure they remain relevant. The review should consider opportunities for lessening compliance costs by modifying the reporting requirements under section 105 of the Telecommunications Act.

Response

The Australian Government agrees to the recommendation, and notes that the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, has already instituted a review of industry regulatory reporting requirements with a view to identifying opportunities to streamline reporting and remove redundant or unnecessary reporting requirements. Senator Coonan has asked the Australian Communications and Media Authority and the Australian Competition and Consumer Commission to consider and report to Government on the

opportunities for lessening compliance costs of regulatory reporting by the telecommunications industry.

Privacy and Surveillance

Recommendation 4.47: Endorse national consistency in privacy-related regulations

Committee of Attorneys-General to endorse national consistency in all privacy-related legislation based on the concept of minimum effective regulation.

Response

The Australian Government agrees to the recommendation and supports the goal of national consistency in privacy-related legislation. At the April 2006 meeting of the Standing Committee of Attorneys-General, Attorneys-General agreed to establish a working group to advise Ministers on options for improving consistency in privacy regulation, including workplace privacy. The working group will liaise with (and not duplicate the work of) the Australian Law Reform Commission (see recommendation 4.48) in this area.

Recommendation 4.48: Undertake a comprehensive public review of privacy laws

The Australian Government should commission a comprehensive, independent public review of privacy laws in Australia. The review should consider:

- the impact of privacy requirements on business compliance costs;
- all options for achieving effective nationally consistent privacy protection, including self-regulation and voluntary codes;
- whether there is a need to amend section 3 of the Privacy Act to remove any ambiguity about the regulatory intent of the private sector provisions;
- whether workplace privacy requirements unduly restrict business from meeting its obligations in other areas, including OH&S and fraud detection;
- the interaction of the Privacy Act with other Australian Government legislation including the Telecommunications Act and the Spam Act;
- the merits of developing a single set of privacy principles that could apply to both Australian Government agencies and private sector organisations; and
- the impact of privacy requirements on Government agencies sharing data.

Response

The Australian Government agrees to the recommendation that a review of privacy laws is appropriate. A reference has been given to the Australian Law Reform Commission (ALRC) to conduct such a review. The NSW Law Reform Commission has been given a reference to work jointly with the ALRC on this matter. The Victorian Law Reform Commission has recently completed a report on workplace privacy.

Food Regulation

Recommendation 4.49: Review governance arrangements for the food regulatory system

The Australian Government should commission an independent public review to examine:

- implementing outstanding recommendations from the Blair Review on the consistent application of food laws;
- aligning levels of enforcement (including penalties) across jurisdictions; and
- the role of the Australian Government in the food regulatory system, including whether it could play a greater role in enforcing standards.

Response

The Australian Government will address the recommendation by commissioning an independent public review. The findings of this review could be reported to COAG in December 2006 alongside findings from the review of the Food Regulation Inter-Governmental Agreement.

Recommendation 4.50: Monitor time taken to develop or amend food standards

Food Standards Australia New Zealand should monitor the impact of the proposed changes to its assessment and approval processes on the time taken to develop or amend a food standard. It should regularly report to the Australia and New Zealand Food Regulation Ministerial Council on the timeframes.

Response

The Australian Government agrees to the recommendation. In October 2005 the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) agreed that Food Standards Australia New Zealand (FSANZ) should report regularly to the Ministerial Council regarding progress towards achieving the implementation of these recommendations, and the effectiveness of the changes in expediting FSANZ processes.

FSANZ has already begun to report back regularly through the Food Regulation Standing Committee meetings, and is required to report to future Ministerial Council meetings.

Recommendation 4.51: Review food safety programs

The Australian Government should undertake an independent public review of the food safety program policy, including a full cost-benefit analysis, two to three years after the policy comes into force.

Response

The Australian Government agrees to the recommendation. The Australian Government participates in the Australia and New Zealand Food Regulation Ministerial Council with the states, territories and New Zealand and will support a

review of the relevant standards two or three years after they come into force, through that forum.

The Australian Government notes that there are already processes in place which provide that:

- a food standard is only developed if the benefits of it outweigh the costs;
- if a standard is developed, there is a cost-benefit analysis done as part of its development; and
- a review of the standard can be done after its implementation to determine its ongoing costs and benefits.

Recommendation 4.52: Review country of origin labelling requirements

The Australian Government should undertake an independent public review of the country of origin labelling requirements, including a full cost-benefit analysis, two to three years after the policy comes into force.

Response

The Australian Government agrees to the recommendation. A review will be undertaken within three years.

Recommendation 4.53: Not proceed with further changes to country of origin labelling requirements

The Australian Government should withdraw its request to Food Standards Australia New Zealand to consider further extending country of origin labelling requirements.

Response

The Australian Government agrees in principle to the recommendation. On 5 May 2006 the Australia and New Zealand Food Regulation Ministerial Council agreed that FSANZ should not further explore the extension of country of origin labeling. The Government is currently undertaking work on this issue in preparation for discussions in the Australia and New Zealand Food Regulation Ministerial Council.

Recommendation 4.54: Investigate extending performance-based inspection levels under the Imported Foods Inspection Scheme

The Australian Quarantine and Inspection Service should investigate the merit of extending the use of performance-based inspection levels for the lower risk categories of food under the Imported Foods Inspection Scheme.

Response

The Australian Government agrees to the recommendation and notes that this recommendation is, in effect, the same as Recommendation 3 of the National Competition Policy Review of the Imported Food Control Act 1992 (the Tanner Review) with which the Government agreed. In consultation with industry, the Australian Quarantine and Inspection Service (AQIS) has begun developing a strategy to implement the Tanner Review's twenty three recommendations.

Recommendation 4.55: Remove inconsistencies between New Zealand Dietary Supplements Regulations and the Food Standards Code

The proposed review of the Australia and New Zealand Joint Food Standards Treaty should examine mechanisms to remove inconsistencies between the New Zealand Dietary Supplements Regulations and the Food Standards Code.

Response

The Australian Government agrees to the recommendation. Inconsistencies between the New Zealand Dietary Supplements Regulations 1985 and the Australia New Zealand Food Standards Code are being addressed through three processes.

1. The establishment of a joint regulatory scheme for therapeutic products by 2007 to ensure that all products in New Zealand that are supplied for therapeutic use will be regulated under a harmonised regulatory scheme.
2. Consistency in food regulation between the two countries will be examined as part of the review of the Australia and New Zealand Food Standards Treaty scheduled to be completed by the end of this year.
3. New Zealand is currently exploring options to amend the Dietary Supplement Regulations 1985 with a view to ensuring consistency between the food-medicine interfaces in Australia and New Zealand.

Chemicals and plastics

Recommendation 4.56: Implement performance indicators and targets for regulators

The Australian Government should ensure that national regulatory agencies in the chemicals and plastics sector have key performance indicators, developed with independent input, and agreed performance targets for the timely and cost-effective approval of regulated products within their jurisdiction. National regulatory agencies should publicly report, if not already doing so, performance against targets for the timely and cost-effective processing of regulatory requirements.

Response

The Australian Government agrees to the recommendation and commits to ensuring that national regulatory agencies in the chemicals and plastics sector have in place key performance indicators and targets.

In the case of the Australian Pesticides and Veterinary Medicines Authority (APVMA), legislated timeframes for registrations and approvals of agricultural and veterinary chemicals are already in place. Performance against these timeframes is reported publicly each year in the APVMA's Annual Report. Similarly, key performance indicators for the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) are agreed with industry via the NICNAS Industry Government Consultative Committee and performance against all targets is reported quarterly to the Committee and published in the NICNAS Annual Report.

Recommendation 4.57: Reduce variation from international standards

The Australian Government should ensure that any 'uniquely Australian' variation of international standards or agreements relating to regulations in the chemicals and plastics sector is contingent on a demonstration of net public benefit.

Response

The Australian Government agrees to the recommendation. The Australian Government's participation in the development and operation of international agreements concerning chemicals ensures that Australia's interests and requirements are considered in these processes, and regulators aim to align Australian approaches with international standards.

A complete review of all of the national standards and codes relating to workplace chemicals regulation, including for labelling and classifying chemicals in the workplace, is well underway and the review of this suite of national material is being undertaken consistent with the Globally Harmonised System for Classifying and Labelling Chemicals (GHS). The suite of national material, along with a supporting Regulation Impact Statement, should be available for public comment before the end of 2006. Other sectors, such as agriculture (pesticides and veterinary medicines) and health (consumer chemicals) have begun investigations into the implications for the implementation of the GHS for classifying and labelling chemicals in those sectors.

Further to these reviews, it is expected that the study of chemicals and plastics regulation (referred to in 4.58 below) would examine the issue of international standards and the use of 'uniquely Australian' variations to these standards.

Recommendation 4.58: Develop an integrated national chemicals policy

COAG should establish a high-level taskforce to develop an integrated, national chemicals policy. The taskforce should commission and oversee an independent public review of regulation in the chemicals and plastics sector. This work should be coordinated with processes currently in train, including the development of a national environmental risk management framework and the COAG review of hazardous materials.

In addition, the recommended review should:

- look at ways to streamline data requirements and assessment processes, including developing a common national chemicals database;
- take into account the duplication of regulation across the supply chain and work by the Product Safety and Integrity Committee on the scope of products regulated by the Australian Pesticides and Veterinary Medicines Authority (APVMA);
- examine the adequacy of cost-recovery arrangements, time limits and stop-the-clock provisions for regulators in the chemicals and plastics sector;
- take into account the development and implementation of arrangements for the Globally Harmonised System for Classifying and Labelling Chemicals (GHS), and consider the ramifications of GHS for classifying and labelling domestic agricultural/veterinary products;
- have regard to current work revising the National Code of Practice for the Labelling of Workplace Substances and the work of APVMA's Label Approval Process Working Group; and
- take into account current self-regulatory and co-regulatory schemes and consider these and other similar options for reducing the burden of regulation on the sector, noting the need for such schemes to be effective, with clear accountability.

Response

The Australian Government agrees in principle to the recommendation. On 10 February 2006, COAG decided to establish a ministerial taskforce, with each jurisdiction nominating one responsible Minister, to develop measures to achieve a streamlined and harmonised system of national chemicals and plastics regulation.

The Prime Minister sought nominations from all jurisdictions on 12 May 2006 and the Australian Government's representative on the taskforce will be the Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane MP. The Australian Government agrees to commission an independent public study of regulation in the sector, to be undertaken by the Productivity Commission, with terms of reference to be determined. It is expected that the study would commence in early 2007 and that the ministerial taskforce would draw on the results of the study in developing proposed measures.

Recommendation 4.59: Improve management of security sensitive chemicals

The Australian Government should urgently review the implementation of arrangements across jurisdictions for security sensitive ammonium nitrate and provide a report to COAG assessing the risk to policy associated with inconsistent implementation of arrangements across jurisdictions, including the quality of guidance material available on complying with the regulations.

In reviewing arrangements for radiological sources, harmful biological materials and hazardous chemicals, COAG should explore the use of existing regulatory frameworks, such as occupational health and safety, and request an independent analysis of the compliance costs to business, net public benefit of the proposed arrangements in each case and practical guidance material required to support compliance with the new arrangements. COAG should also ensure that post-implementation reviews are undertaken for each of these areas to verify the cost to business and the effectiveness of the new arrangements.

Response

The Australian Government agrees in principle to the recommendation. It is proposed that arrangements across jurisdictions for access to security-sensitive ammonium nitrate will be examined in the independent study to be commissioned referred to in the response to 4.58 above, noting that terms of reference for the study are yet to be finalised. In reviewing the arrangements for radiological sources, harmful biological materials and hazardous chemicals, COAG will consider a regulation impact statement, developed in close consultation with the Office of Regulatory Review, which will examine the use of existing regulatory frameworks and compliance costs to industry and stakeholders. Industry and key stakeholders will be consulted in the development of the Regulation Impact Statement. COAG will also consider the need for practical guidance for stakeholders. The Australian Government expects that these reports will be ready for COAG's consideration by the end of 2006. Arrangements for post-implementation reviews will be considered by COAG at that time.

Recommendation 4.60: Improve administration of low risk chemicals

The Australian Pesticides and Veterinary Medicines Authority should review as a matter of priority its implementation of arrangements for low regulatory concern agricultural and veterinary chemicals.

Response

The Australian Government agrees in principle to the recommendation.

Responsibility for reviewing arrangements for low regulatory concern agricultural and veterinary chemicals rests with the Product Safety and Integrity Committee (PSIC). A representative of the Australian Pesticides and Veterinary Medicines Authority (APVMA) attends meetings as an observer. PSIC provides advice to the Primary Industries Ministerial Council on agricultural and veterinary chemicals regulatory policy which includes issues such as this one.

PSIC is considering options for streamlining future approvals to address industry concerns that the current process does not achieve the intended objective of cutting red tape. Initial stakeholder input into this work was provided at the PSIC Stakeholder Workshop on 18 May 2006 and they will be consulted further as work progresses.

Recommendation 4.61: Finalise reforms to disinfectant products

The Australian Government should progress industry reforms for regulating disinfectant products and report progress to COAG.

Response

The Australian Government agrees to the recommendation. The Government announced in March 2006 a review of the regulation of disinfectant products to commence in June 2006, to be led by the Office of Chemical Safety in collaboration with the National Industrial Chemicals Notification and Assessment Scheme and the Therapeutic Goods Administration. A draft discussion paper outlining any proposed changes for public comment is expected by December 2006 with a progress report to the Council of Australian Governments (COAG) at this time.

Legal administration

Recommendation 4.62: Harmonise Evidence Acts

The Australian Government, through the Standing Committee of Attorneys-General, should develop and implement options to harmonise state and territory Evidence Acts and, in particular, examine the merit of the requirement to retain original documents as proof of contents.

Response

The Australian Government agrees to the recommendation and supports the goal of harmonisation in evidence laws. A working group established by the Standing Committee of Attorneys-General (SCAG) is currently considering recommendations arising from the recent review of the uniform Evidence Act regime. The Australian Government will encourage other jurisdictions to adopt the uniform Evidence Act regime as part of the SCAG process. The 'original document' rule has been abolished in those jurisdictions that have enacted uniform evidence laws (the Commonwealth (whose legislation also applies in the ACT), NSW, Tasmania and Norfolk Island).

Recommendation 4.63: Harmonise conveyancing laws and establish a national land register

The Australian Government should work with state and territory Governments, through the Standing Committee of Attorneys-General, to harmonise conveyancing laws across jurisdictions, including through the establishment of a national electronic land register.

Response

The Australian Government agrees to the recommendation. The harmonisation of conveyancing laws was raised at the Standing Committee of Attorneys-General (SCAG) meeting in April 2006. The Australian Government will continue to encourage harmonisation of conveyancing laws through SCAG. It is noted that New South Wales and Victoria are currently developing and piloting a national electronic conveyancing initiative.

Recommendation 4.64: Harmonise and rationalise personal property securities laws

The Australian Government, through the Standing Committee of Attorneys-General, should consider options to harmonise and rationalise legislation relating to personal property securities and, in particular, examine the merits of various international models of personal property securities law.

Response

The Australian Government agrees to the recommendation. The Australian Government supports harmonisation and rationalisation of the law on personal property securities, and has advanced consideration of reform through the Standing Committee of Attorneys-General (SCAG). An options paper was released on 11 April 2006 canvassing the need for reform and the benchmarks that reform options would need to meet. The Attorney-General and his Department have consulted widely on the options paper through a series of public seminars and meetings with stakeholders and have discussed approaches to reform of personal property securities with the New Zealand and Canadian governments, and the United Nations Commission on International Trade Law. The Council of Australian Governments (COAG) has endorsed the development by SCAG of an efficient and effective national properties registration system for security transactions and requested that SCAG report to COAG by the end of 2006 on progress with developing options and timeframes for implementing a national system, including identifying any costs and associated consumer protection data implications. SCAG will be discussing how to advance its review of personal property securities at its meeting on 27 and 28 July 2006.

Environmental and building regulations

Environment Protection and Biodiversity Conservation Act

Recommendation 4.65: Implement assessment and approval bilateral agreements

The Australian Government should seek to expedite the signing of environmental assessment bilateral agreements with all remaining states and territories, and all bilateral agreements should be extended to include the approval process. Further, in implementing these agreements, the Australian Government should provide national leadership aimed at achieving efficiencies in state and territory administrative and approval processes.

Response

The Government agrees to the recommendation and will continue work to encourage all states and territories to sign assessment bilateral agreements under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and approval bilateral agreements, where appropriate.

On 14 July 2006, COAG agreed to pursue further regulatory reform in the area of bilateral agreements under the EPBC Act. Senior Officials will report to COAG by the end of 2006 with strategies to improve and streamline environmental approvals processes, within the existing architecture of the EPBC Act.

In the interim, the Government will continue using the case-by-case accreditation and cooperative assessment processes in the EPBC Act to avoid duplication with states and territories, and continue to encourage best practice in all administrative and approval processes.

Recommendation 4.66: Improve advice and consultation on EPBC processes with affected parties

The Australian Government should enhance information and consultation processes related to operation of the Environment Protection and Biodiversity Conservation Act so that affected (or potentially affected) parties better understand the associated regulations and their requirements. In particular:

- that proposals can be referred for consideration under the Act at any stage, including in parallel with other planning and approval processes; and
- to ensure that affected parties are consulted about any new triggers considered for inclusion as matters of national environmental significance under the Act.

Response

The Australian Government agrees to the recommendation and will continue to work with project proponents to ensure they understand both the obligations and opportunities associated with the Environmental Protection and Biodiversity Conservation Act 1999.

Recommendation 4.67: Improve guidance on 'significant impact' trigger

The Australian Government should improve the guidance it provides on application of the 'significant impact' trigger, particularly, in relation to the issues and reporting requirements that arise where a referral trigger is engaged.

Response

The Australian Government agrees to the recommendation and will continue to work on providing guidance on the practical application of the Environmental Protection and Biodiversity Conservation Act 1999.

Native Title Act**Recommendation 4.68: Consider issues in the context of the current Attorney-General's review**

Concerns regarding the role of Native Title Representative Bodies and 'right to be informed' requirements should be considered in the current round of consultations associated with the reform package foreshadowed by the Attorney-General.

Response

The Australian Government agrees to the recommendation and notes that concerns raised in relation to native title are being considered in the context of the reform package announced by the Attorney-General on 7 September 2005. It is anticipated that the legislation necessary to give effect to the reforms will be introduced into Parliament in 2006.

Recommendation 4.69: Consider alternative mechanism for Indigenous Land Use Agreements

The Alternative Settlement Framework proposal developed by the Western Australian Government should be considered as a possible mechanism for developing Indigenous Land Use Agreements in other jurisdictions.

Response

The Australian Government agrees in principle to the recommendation. The Alternative Settlement Framework proposal has been the subject of bilateral discussions between the Western Australian Government and the Australian Government, and has also been the subject of discussions between all jurisdictions at the multilateral level. The Australian Government will consider this recommendation further once the Western Australian Government has finalised the details of its proposal.

Other environmental regulations

Recommendation 4.70: Implement selected recommendations from the 2005 review of the National Pollutant Inventory

- The Australian Government should implement the recommendations from the 2005 review of the National Pollutant Inventory, with the following exceptions:
- reporting for greenhouse gases should remain outside the National Pollutant Inventory framework;
- consideration of including agricultural and veterinary chemicals should be deferred pending the outcome of other work under way in this area; and
- the inclusion of waste transfers should be deferred and reconsidered when the capacity of the National Pollutant Inventory to deliver existing requirements has been improved.
- The Australian Government should ensure that in considering the inclusion of additional pollutants, scientific evidence is used to establish that pollutant emissions are occurring at levels that pose a potential health and safety risk, consistent with the intent of the National Pollutant Inventory.

Response

The Australian Government agrees with the recommendation, and will work to progress these positions through the Environment Protection and Heritage Council (EPHC), excepting the proposed deferral of inclusion of waste transfers in the National Pollutant Inventory.

The Australian Government supports the inclusion of waste transfers in the NPI as this data will enable a more accurate evaluation of environmental performance and provide for a consistent national regime for compliance and reporting on waste transfers. In June 2006, the EPHC decided that waste transfers would be included in the scope of a variation to the National Pollutant Inventory (NPI) National Environment Protection Measure. The Australian Government will continue to monitor the views of stakeholders on the inclusion of waste transfers throughout the current statutory public consultation process.

At its 14 July 2006 meeting, the Council of Australian Governments agreed that the NPI would not be used as a vehicle for reporting greenhouse gas emissions, pending finalisation of a report by Senior Officials to COAG in December 2006 on a proposal for streamlining emissions and energy reporting. The Australian Government supports the development of a single streamlined system for greenhouse and energy reporting and disclosure, based on national purpose-built legislation that imposes the least cost and red tape burden, as agreed by COAG.

Recommendation 4.71: Consider issues in context of the current review of the Assessment of Site Contamination National Environment Protection Measure

In the context of the current review of the Assessment of Site Contamination National Environment Protection Measure, the Australian Government should examine and report on:

- the need to ensure adequate training/guidelines are provided to staff of state and territory regulators on the use of investigation and remediation trigger levels in site assessments;
- the need for risk-related considerations to inform decisions about the merits of site remediation, particularly when the relocation of contaminated material is being considered;
- the adequacy of procedures to verify compliance with remediation actions; and
- the capacity to account for historical contamination in determining the necessary action.

Response

The Australian Government agrees in principle to the recommendation and will refer the recommendation to the Committee which was established by the National Environment Protection Council to review the Assessment of Site Contamination National Environment Protection Measure. The Australian Government notes that some of the recommendations are beyond the statutory scope of the review and may need to be considered from a non-statutory perspective.

Recommendation 4.72: Undertake further analysis of the merits of the Product Stewardship National Environment Protection Measure

The Australian Government should undertake further analysis to assess the merits of the Product Stewardship National Environment Protection Measure proposal. This analysis should consider the findings of the Productivity Commission Review of Waste Generation and Resource Efficiency, particularly in relation to the potential merits of a self-regulatory regime compared to any feasible alternatives.

Response

The Australian Government agrees to the recommendation. These issues are being dealt with by the peak body of Australian, state and territory environment ministers – the Environment Protection and Heritage Council. With key industry sectors, the Council is developing a collaborative approach to product stewardship which can include co-regulation in the form of a National Environment Protection Measure (NEPM). Where a majority of industry favours a national voluntary take back and recycling scheme, a NEPM can provide support by regulating companies that opt not to participate in the scheme.

The potential impacts of this approach for specific sectors will be analysed during the second half of 2006, taking into account the findings of the Productivity Commission Inquiry into Waste Generation and Resource Efficiency. Following this the Council will invite public comment on a draft NEPM and accompanying analysis.

Recommendation 4.73: Continue collaboration to implement the Productivity Commission's 2004 recommendations on native vegetation and biodiversity

The Australian Government should continue to work collaboratively with the states and territories to implement the recommendations from the recent Productivity Commission review to enhance the effectiveness of regulatory arrangements for native vegetation and biodiversity.

Response

The Australian Government agrees to the recommendation and will continue to work with the states and territories through the Natural Resource Management Ministerial Council – a body which aims to promote the conservation and sustainable use of Australia's natural resources. The Australian Government is working with state and territory governments to improve arrangements for management of native vegetation and biodiversity in line with the recommendations of the Productivity Commission Report, including to ensure landowners are able to manage their properties flexibly.

Recommendation 4.74: Develop nationally consistent regulation in the plantation timber industry

The Australian Government should continue to provide national leadership and work with state and territory Governments to develop nationally consistent regulation of the plantation timber industry.

Response

The Australian Government agrees to the recommendation. *Plantations for Australia: The 2020 Vision*, which was revised in 2002 and is being implemented by the Australian and state and territory governments in partnership with the plantation growing and processing industries, promotes the continued development of a regulatory framework that supports and complements the policy framework to maintain investor confidence and maintain plantation sector investment. While much of the regulatory framework relating to land use planning is the responsibility of state, territory and local governments, the Australian Government will continue to play a leadership role in implementing the 2020 Vision.

Recommendation 4.75: Implement the Australian National Audit Office's 2005 recommendations on biosecurity and quarantine services

The Australian Government should ensure the timely implementation of the recent Australian National Audit Office recommendations on biosecurity and quarantine services that have already been agreed by the relevant departments, with a specific focus on the efficiency and timeliness of approval and risk assessment processes.

Response

The Australian Government agrees to the recommendation and has agreed to the recommendations of the Australian National Audit Office report no. 19, *Managing for Quarantine Effectiveness – Follow-up*. The Australian Government is proceeding with the timely implementation of these recommendations.

Recommendation 4.76: Assess the merits of regulatory alternatives for controlling salt discharge from laundry detergent

The Australian Government should ensure that, through assessing the relative merits and effectiveness of different regulatory regimes, the Regulation Impact Statement covering regulation of salt content in laundry detergent clearly demonstrate why self-regulation would not be an appropriate mechanism to achieve the desired policy goal.

Response

The Australian Government agrees to the recommendation. Options for any national approach to salts in detergents are being reviewed by the Environment Protection and Heritage Council (EPHC). Consideration of any Regulation Impact Statement requirements will depend on the outcome of the EPHC's deliberations.

Recommendation 4.77: Implement nationally consistent regulation for domestic ballast water management

The Australian Government should:

- encourage the remaining states to become signatories to the Intergovernmental Agreement on a National System for the Prevention and Management of Marine Pest Incursions; and
- expedite collaborative work with the states and territories to develop nationally consistent legislation and management requirements for domestic ballast water that accord with Australian Government requirements for managing foreign ballast water.

Response

The Australian Government agrees to the recommendation. The Government will continue to work closely with the states and the Northern Territory through the Natural Resource Management Ministerial Council (NRMMC) and the Australian Transport Council (ATC) to resolve outstanding issues in relation to the National System for the Prevention and Management of Marine Pest Incursions, to enable NSW to sign the existing intergovernmental agreement, and to ensure that ballast water management requirements are consistent across all jurisdictions. The NRMMC will next meet in November 2006 and the ATC in October 2006.

The Australian Government will also be encouraging states to commit sufficient resources to ensure an effective and comprehensive national system is implemented.

Building regulations

Recommendation 4.78: Finalise and implement the new intergovernmental agreement

All Governments should commit to the new intergovernmental agreement for building regulation so that it can be finalised and implemented as soon as possible. Governments should adhere to the objectives and responsibilities of the new intergovernmental agreement, including by introducing new regulations only after rigorous assessment and justification, in line with COAG principles.

Response

The Australian Government agrees to the recommendation. On 10 February 2006, the Council of Australian Governments (COAG) noted the findings of the Productivity Commission research paper, Reform of Building Regulation. Governments committed to achieve a nationally-consistent Building Code of Australia based on minimum regulation and executed a new intergovernmental agreement (IGA) on 26 April 2006. The new IGA commits Governments to establish codes that are the minimum necessary and to do so following the COAG principles for regulation making.

COAG has requested the Local Government and Planning Ministers Council, co-opting where necessary Ministers with responsibility for building regulation, to report back by the end of 2006 on the content and timetable for implementing further building regulation reforms including a nationally-consistent building code. Ministers responsible for building regulation will convene a Building Ministers' Forum to give effect to the COAG decision and provide advice to COAG, via the Local Government and Planning Ministerial Council.

The Australian Government will ask COAG to expand the work already underway to include the recommendations of the Taskforce.

Recommendation 4.79: Refer all variations to the Australian Building Code by states and territories back to the Board for consideration

State and territory Governments should refer all proposed changes to building regulations to the Australian Building Codes Board for consideration.

Response

The Australian Government agrees to the recommendation. On 10 February 2006, COAG noted the findings of the Productivity Commission research paper, Reform of Building Regulation. Governments committed to achieve a nationally-consistent Building Code of Australia based on minimum regulation and executed a new intergovernmental agreement (IGA) on 26 April 2006. The new IGA commits Governments to establish codes that are the minimum necessary and to do so following the COAG principles for regulation making.

COAG has requested the Local Government and Planning Ministers Council, co-opting where necessary Ministers with responsibility for building regulation, to report back by the end of 2006 on the content and timetable for implementing further building regulation reforms including a nationally-consistent building code. Ministers responsible for building regulation will convene a Building Ministers' Forum to give effect to the COAG decision and provide advice to COAG, via the Local Government and Planning Ministerial Council.

The Australian Government will ask COAG to expand the work already underway to include the recommendations of the Taskforce.

Recommendation 4.80: Ensure local Government planning approval processes do not undermine the Building Code of Australia

State and territory Governments should, as a matter of priority, implement measures to ensure local Governments do not undermine the Building Code of Australia through planning approval processes, and report on their progress to COAG.

Response

The Australian Government agrees to the recommendation. On 10 February 2006, COAG noted the findings of the Productivity Commission research paper, Reform of Building Regulation. Governments committed to achieve a nationally-consistent Building Code of Australia based on minimum regulation and executed a new intergovernmental agreement (IGA) on 26 April 2006. The new IGA commits Governments to establish codes that are the minimum necessary and to do so following the COAG principles for regulation making.

COAG has requested the Local Government and Planning Ministers Council, co-opting where necessary Ministers with responsibility for building regulation, to report back by the end of 2006 on the content and timetable for implementing further building regulation reforms including a nationally-consistent building code. Ministers responsible for building regulation will convene a Building Ministers' Forum to give effect to the COAG decision and provide advice to COAG, via the Local Government and Planning Ministerial Council.

The Australian Government will ask COAG to expand the work already underway to include the recommendations of the Taskforce.

Recommendation 4.81: Ensure an effective disabled access premises standard without imposing unreasonable costs

The Australian Government and state and territory Governments should ensure the provisions of the premises standard (and Building Code of Australia) are the minimum necessary to satisfy obligations under the Disability Discrimination Act and do not impose unreasonable costs.

Response

The Australian Government agrees in part to the recommendation. Any proposed premises standard would need to be consistent with the Disability Discrimination Act 1992 (DDA). The Australian Government accepts that, consistent with the DDA, a premises standard will need to strike a balance between providing access and imposing costs. The Australian Government accepts that a standard should not impose unreasonable costs on building owners or developers. The standard would provide for flexibility in achieving the performance requirements, and any measures will be subject to the defence of unjustifiable hardship.

Formulation of a standard under the DDA is a matter for the Commonwealth Government Attorney-General, however, it is expected that the states and territories will be consulted.

Recommendation 4.82: Ensure timely resolution of applications for unjustifiable hardship exemptions from the Disability Discrimination Act

The Australian Government should ensure that the process for resolving applications for exemption from the provisions of the Disability Discrimination Act, or premises standard, on the basis of unjustifiable hardship will not involve lengthy delays for the building industry.

Response

The Australian Government agrees in principle to the recommendation. Consistent with the Government's response to the Productivity Commission's review of the Disability Discrimination Act 1992 (DDA), the defence of unjustifiable hardship will be extended to all areas of the DDA.

Applications for exemption are assessed by the Human Rights and Equal Opportunity Commission. There is no evidence that the existence of this defence currently leads to delays for the building industry. It is expected that a premises standard would provide more certainty for industry.

Recommendation 4.83: Conduct an ex-post review of energy efficiency standards for residential buildings

The Australian Building Codes Board should establish an independent public review to undertake an ex-post evaluation of building energy efficiency standards, to assess:

- the effectiveness of the standards in reducing actual (not simulated) energy consumption; and
- whether the financial benefits of the standards to individual producers and consumers outweigh the associated costs.

Response

The Australian Government agrees in principle to the recommendation.

On 31 August 2005, the Productivity Commission (PC) released its final report on energy efficiency, *The Private Cost Effectiveness of Improving Energy Efficiency*. The Australian Government announced its final response to the PC report on 28 February 2006.

The Australian Government notes that building standards only address thermal performance and will consult with stakeholders to determine the most meaningful methodology, at a reasonable cost, to test the effectiveness of the standards. The Australian Government will commission an ex-post evaluation based on an agreed methodology.

Work to develop an appropriate methodology to test the effectiveness of the standards, including initiating pilot projects in consultation with industry, is currently underway.

Economic and Financial Regulation

Financial Market Regulation

Recommendation 5.1: Ensure Statements of Expectations provide guidance on the balance between pursuing safety and investor protection and market efficiency

The Treasurer's Statements of Expectations should provide specific guidance to APRA and ASIC about the appropriate balance between pursuing safety and investor protection and market efficiency.

Response

The Australian Government agrees in principle to the recommendation. The Australian Prudential Regulatory Authority (APRA) and the Australian Securities and Investment Commission (ASIC) are statutory authorities with operational independence. The Treasurer's Statements of Expectations to APRA and ASIC will convey the Australian Government's expectations with regards to performance, objectives, values and broader Australian Government policies. In this context the Statements of Expectations will provide guidance, consistent with the legislative framework, on the expected approach of the regulators as they perform their functions.

Recommendation 5.2: Develop additional performance indicators for APRA and ASIC having regard to all statutory objectives

APRA and ASIC, in consultation with the Australian Government, should develop additional performance indicators to measure the outcomes they achieve, having regard to all their respective statutory objectives, including efficiency and business costs. These indicators should be developed in the context of the Statements of Expectations received from the Treasurer.

Response

The Australian Government agrees in principle to the recommendation. The Treasurer's Statements of Expectations to APRA and ASIC will address the need for the regulators to identify and develop measurable performance indicators across their objectives, which should be done in consultation with Australian Government.

Recommendation 5.3: Review the penalties for breaches of directors' duties

The Australian Government should review the penalties for breaches of directors' duties to ensure that they strike an appropriate balance between promoting good behaviour and ensuring business is willing to take sensible commercial risks.

Response

The Australian Government agrees to the recommendation. The Australian Government will address penalties for breaches of directors' duties as part of a broader review of criminal penalties and the underlying offences in the Corporations Act 2001 to be completed in 2007.

Recommendation 5.4: Ensure finance and corporate legislation provides flexibility to accommodate differing circumstances

The Australian Government should ensure that the enabling legislation in the corporate and financial sectors provides APRA and ASIC with sufficient flexibility to tailor requirements to accommodate differing circumstances.

Response

The Australian Government agrees in principle to the recommendation. The Government accepts in principle the need to ensure that APRA and ASIC's enabling legislation provides the regulators with sufficient flexibility to tailor requirements to accommodate differing circumstances. The Australian Government will review relevant legislation to ensure the regulators have appropriate flexibility. This will include seeking the views of industry stakeholders on areas where greater flexibility could be achieved.

Recommendation 5.5: Review guidance material to ensure it does not impose additional requirements

APRA and ASIC should review their guidance material to ensure it provides effective guidance on good practice in meeting regulatory requirements and does not impose additional or inflexible regulatory requirements.

Response

The Australian Government agrees in principle to the recommendation. The Government will encourage APRA and ASIC to review their guidance material to ensure it provides effective guidance on good practice in meeting regulatory requirements and does not impose additional or inflexible regulation requirements.

Recommendation 5.6: Explore options to attract and retain staff with the necessary technical skills and market experience

The Australian Government, APRA and ASIC should explore options for enhancing the regulators' capacity to attract and retain operational staff with the necessary technical skills and market experience.

Response

The Australian Government agrees to the recommendation. The Government is committed to ensuring that APRA and ASIC have adequate resources and expertise to perform their prudential functions properly and has supported this objective over the last few years with additional funding.

In the 2006-07 Budget, ASIC's funding was increased by around 25 per cent, or \$234.6 million over four years. The additional funding will ensure that ASIC has sufficient funding to maintain its current regulatory focus, develop its presence in relation to non-exchange based market trading, and provide greater flexibility in funding enforcement activities.

In relation to APRA, in the 2003-04 and 2004-05 Budgets the Government increased APRA's funding by nearly \$70 million over four years to strengthen its supervisory capacity, including attracting and retaining appropriately skilled supervisory staff. The Australian Government will continue to work with APRA to ensure that it has

appropriate supervisory capacity and skills, taking into account current conditions and trends in the industries that it regulates.

Recommendation 5.7: Ensure decisions are subject to review on their merits

The Australian Government should ensure that administrative decisions made by APRA, ASIC and the RBA are subject to administrative review on their merits. Those administrative decisions subject to merits review should be consistent with the guidelines developed by the Administrative Review Council. Review mechanisms should be straightforward and provide timely resolution of issues.

Response

The Australian Government agrees in principle to the recommendation and supports the application of merits review to appropriate decisions, having regard to issues such as system stability and the integrity of the prudential framework.

The Australian Government will ensure that the application of merits review to Australian Prudential Regulation Authority (APRA) decisions is in line with the Administrative Review Council guidelines and the objectives of the prudential regulation framework. The Australian Government will consult with industry on the detail of its proposals regarding this recommendation.

As already noted in the report, subject to some limited exceptions, administrative decisions made by the Australian Securities and Investments Commission (ASIC) are already subject to merits review by the Administrative Appeals Tribunal.

With respect to decisions made by the Reserve Bank of Australia (RBA), decisions which relate to systemic stability or stability of the payments system should not be subject to merits review. With respect to decisions relating to the operation of the payments system, the Government considers that these decisions are either policy or legislative in nature and therefore should not be subject to merits review.

Cooperation and coordination between regulators

Recommendation 5.8: Amend breach reporting requirements to improve consistency

The Australian Government, in consultation with APRA and ASIC, should amend the breach reporting requirements to improve consistency and reduce the compliance burden.

Response

The Australian Government agrees in principle to the recommendation and has sought industry views through the Corporate and Financial Services Regulation Review. The Government will consult further on more specific proposals after having considered these views.

Recommendation 5.9: Review the 'responsible officer' and 'responsible person' regimes to achieve greater consistency

The Australian Government, in consultation with APRA and ASIC, should review the 'responsible officer' and 'responsible person' regimes with a view to achieving greater consistency, to the extent that this is consistent with the underlying policy objectives.

Response

The Australian Government agrees to the recommendation and will review the 'responsible officer' and 'responsible person' requirements within its enabling legislation.

The Australian Government notes that APRA considered consistency with ASIC requirements in redrafting its fit and proper prudential standards, which were released on 2 March 2006. The Australian Government will monitor the implementation of these standards and work with APRA to address any problems during the implementation phase.

Recommendation 5.10: Ensure corporate governance requirements are consistent with the principles of the ASX Corporate Governance Council regime

The APRA corporate governance requirements should be consistent with the principles of the Australian Stock Exchange Corporate Governance Council regime and incorporate a similar level of flexibility. There should also be scope to update the requirements to reflect contemporary corporate governance practices.

Response

The Australian Government agrees in principle to the recommendation and referred it to APRA for consideration prior to finalising its standards. APRA released its corporate governance prudential standards and prudential practice guides on 5 May 2006.

Recommendation 5.11: Review data collection and regulatory reporting obligations

- The Australian Government, in consultation with the relevant agencies and industry stakeholders, should review the data collection and regulatory reporting obligations imposed on regulated entities to ensure the information obtained is essential for supervision and other economic functions. There should be a particular focus on eliminating overlaps in information provided to the regulators.
- The review of data collection and regulatory reporting should also assess the scope to establish an integrated data collection portal to ensure that regulated entities have to provide information only once.

Response

The Australian Government agrees to the recommendation and is consulting with relevant agencies and industry stakeholders on these issues through the Corporate and Financial Services Regulation Review.

Engagement with industry

Recommendation 5.12: Convene a joint industry consultative body

APRA and ASIC, in consultation with the financial services industry, should convene a joint industry consultative body. This standing body should be empowered to:

- meet regularly to discuss emerging supervisory issues that are the responsibility of the regulators;
- contribute to the development of regulation by APRA and ASIC; and
- review aspects of the financial and corporate supervisory regimes (including regulatory coordination) and recommend possible reforms to APRA and ASIC.

These recommendations and the response of APRA and ASIC should generally be made public.

Response

The Australian Government agrees in principle to the recommendation. The Treasurer's Statements of Expectations to APRA and ASIC will encourage the regulators to cooperate and liaise with each other to manage areas where their responsibilities intersect. The Australian Government will work with APRA and ASIC and the financial sector to establish an effective mechanism to provide industry with an opportunity to raise issues concerning how regulatory coordination operates in practice.

Recommendation 5.13: Develop industry charters setting out rights and responsibilities for regulators and regulated entities

APRA and ASIC should, in consultation with the Australian Government and industry stakeholders, develop industry charters that set out the rights and responsibilities of the agencies and their regulated entities in the course of their dealings. Performance against these charters should be reported in annual reports.

Response

The Australian Government agrees in principle to the recommendation. The Government, via the Treasurer's Statements of Expectations to APRA and ASIC will encourage them, in consultation with the Government and industry stakeholders, to develop industry charters that set out the rights and responsibilities of the agencies and their regulated entities in the course of their dealings and report against these charters in their annual reports.

Recommendation 5.14: Improve accessibility of officers dealing with complex regulatory issues

ASIC, in consultation with industry stakeholders, should examine ways to improve the accessibility of officers dealing with complex regulatory issues raised by large regulated entities.

Response

The Australian Government agrees to the recommendation and will undertake industry consultation on this issue through the Corporate and Financial Services Regulation Review.

Recommendation 5.15: Provide more specific guidance in areas where concern has been raised

ASIC, in consultation with the Australian Government and industry stakeholders, should examine options to provide more specific guidance on meeting regulatory obligations in areas where concerns have been raised. The effectiveness of this guidance should be reviewed in two years.

Response

The Australian Government agrees in principle to the recommendation and will encourage ASIC to examine options for providing more specific guidance on meeting regulatory obligations, before consulting more widely in the public arena.

Recommendation 5.16: Ensure regulatory requirements and supporting operational guidance are readily available and accessible

The Australian Government, in conjunction with the regulatory agencies, should ensure that regulatory requirements and supporting operational guidance are readily available and accessible, including through regular consolidations of the principal instruments. Initially, Treasury and ASIC should centralise the material setting out the requirements of financial services reforms, and review the existing explanatory material to improve its accessibility.

Response

The Australian Government agrees in principle to the recommendation and acknowledges the importance of regulatory requirements and supporting operational guidance being readily available and accessible.

The Australian Government notes that information concerning APRA-administered regulation, including operational guidance, is available and accessible to regulated entities, primarily through the APRA website. APRA is also in the process of further updating its prudential standards and associated guidance material to ensure its interpretation of the regulatory requirements is up to date and clearly communicated to regulated entities.

The Australian Government will continue to work with APRA to ensure the level of accessibility and availability of information on regulatory requirements remains appropriate over time.

The Australian Government will consult with ASIC to investigate ways to ensure that regulatory requirements and supporting operational guidance are readily available and accessible. Treasury and ASIC will work together to centralise the guidance material relating to financial services reforms, and review the existing explanatory material to improve its accessibility. ASIC is also in the process of improving accessibility through its Better Regulation initiatives, which include rationalising its regulatory documents and making them easier to find.

Specific regulatory reforms

Recommendation 5.17: Further refine the operation of the financial services reforms regime

The Australian Government should establish a further process to enable additional refinements to be made to the operation of the financial services reforms regime in outstanding areas of concern.

Response

The Australian Government agrees in principle to the recommendation and has consulted with industry as part of the Corporate and Financial Services Regulation Review. The Australian Government is considering industry views prior to consulting on firm proposals for additional refinements to the operation of financial services regulation.

Recommendation 5.18: Examine the application of insider trading regulation to over-the-counter transactions

The Australian Government should examine the application of insider trading regulation to over-the-counter transactions to address unintended consequences.

Response

The Australian Government will review the application of insider trading regulation to over-the-counter transactions by the end of 2006.

Recommendation 5.19: Develop a mechanism for rationalising legacy financial products

The Australian Government, state and territory governments, APRA and ASIC, should, in consultation with industry stakeholders, develop a mechanism for rationalising legacy financial products. This mechanism should balance achieving greater operational efficiency with ensuring that consumers of the products are not disadvantaged.

Response

The Australian Government agrees to the recommendation and will consult with industry and state and territory governments on this issue through the Corporate and Financial Services Regulation Review.

Recommendation 5.20: Allow companies to make annual reports available on their website and distribute hard copies on request

The Australian Government should introduce amendments to allow companies to make annual reports available on the internet and require hard copies to be sent only to investors who request them.

Response

The Australian Government agrees to the recommendation and will ask the Treasury to effect the necessary legislative amendments as part of the next appropriate legislative vehicle.

Recommendation 5.21: Raise the thresholds for the definition of a large proprietary company

The Australian Government should raise the thresholds for the definition of a large proprietary company. The thresholds should be subject to periodic review to ensure that only economically significant proprietary companies are defined as large proprietary companies.

Response

The Australian Government agrees to the recommendation and will consult with industry on the most appropriate thresholds for the definition of a large proprietary company through the Corporate and Financial Services Regulation Review.

Recommendation 5.22: Review incentives for small businesses to incorporate

The Australian Government should review incentives for small businesses to incorporate, including the level of fees and reporting requirements. At the latest, these issues should be considered in the 2007 review of corporation fees and charges.

Response

The Australian Government agrees to the recommendation and will halve the incorporation fee from \$800 to \$400, effective from 1 July 2006, at an estimated cost of \$216 million over four years.

Recommendation 5.23: Review the existing reporting requirements for executive remuneration

The Australian Government should review the existing reporting requirements for executive remuneration. The review should consider the merits of removing the requirements imposed by the Corporations Act where they conflict with Australian Accounting Standards.

Response

The Australian Government agrees to the recommendation and is reviewing the existing reporting requirements for executive remuneration following consultation with industry through the Corporations and Financial Services Regulation Review. The overarching principle of the Review is to ensure that there will be no dilution of remuneration disclosure requirements in relation to directors and executives.

Recommendation 5.24: Consider removing the requirement for the executive remuneration report to be included in the concise report

The Australian Government should consider removing the requirement for the executive remuneration report to be included in the concise report.

Response

The Australian Government agrees to the recommendation and will undertake further consultation with industry on this recommendation through the Corporate and Financial Services Regulation Review.

Recommendation 5.25: Review the requirement to provide a prospectus when issuing shares and options to employees

The Australian Government should review the requirement to provide a prospectus when issuing shares and options to employees.

Response

The Australian Government agrees to the recommendation and will consult with industry on this recommendation through the Corporate and Financial Services Regulation Review.

Recommendation 5.26: Review the multiple former audit partner restriction

The Australian Government should review the multiple former audit partner restriction with a view to either repealing the restriction, or limiting it to audit partners directly involved with auditing the company.

Response

The Australian Government will review the multiple former audit partner restriction by the end of 2006.

Recommendation 5.27: Review the requirement for recording telephone calls made to retail security holders during a takeover

The Australian Government should review the requirement for recording telephone calls made to retail security holders during a takeover.

Response

The Australian Government agrees to the recommendation and is reviewing the requirement for recording telephone calls made to retail security holders during a takeover following consultation with industry through the Corporations and Financial Services Regulation Review.

Recommendation 5.28: Review key areas of overlap in financial and corporate regulation to achieve more nationally consistent regulation

COAG should initiate reviews to identify reforms to achieve more nationally consistent regulation of:

- consumer credit;
- statutory trusts;
- personal liability for company directors and officers following the completion of the Corporations and Markets Advisory Committee review;
- mortgage and finance brokers after the Ministerial Council on Consumer Affairs has received its recommendations; and
- general insurance regulation and taxation.

Response

The Australian Government agrees to the recommendation. The Australian Government supports nationally consistent regulation and acknowledges the constructive role COAG can play in achieving this.

In relation to (a), nationally consistent consumer credit legislation already exists under the framework provided for by the Ministerial Council for Uniform Credit Laws (an offshoot of the Ministerial Council on Consumer Affairs (MCCA)) through the Uniform Consumer Credit Laws Agreement 1973, resulting in the UCCC.

In relation to (b) the Commonwealth Government will recommend to COAG that it will initiate a review to achieve more consistent regulation of statutory trusts.

In relation to (c), the Commonwealth Government will consider the CAMAC report on personal liability for company directors and make appropriate recommendations to the Ministerial Council for Corporations.

In relation to (d), MCCA established a working party to develop a uniform State and Territory regulatory regime for finance and mortgage brokers. The working party will report to MCCA with its recommendations for reform.

A COAG review to identify reforms to achieve more consistent regulation of mortgage and finance brokers would likely duplicate the work of the MCCA working party. This seems unnecessary and would delay the introduction of uniform legislation in this area.

In relation to (e), the Commonwealth Government has previously sought the removal of state taxes and levies in response to an HIH Royal Commission's recommendation. This proposal was rejected by the states.

Except for statutory classes of insurance, general insurance is nationally regulated. The Australian Government has previously indicated that, with regard to state statutory insurance classes (e.g. workers' compensation), its role is to facilitate the development of a nationally consistent framework rather than establishing a national scheme. For example, it is committed to achieving a more effective and nationally consistent workers' compensation system and has established the Australian Safety and Compensation Council to develop policy and strategic directions for workers' compensation. The Australian Government would support any COAG initiatives that complement this existing work.

Tax Regulation

Fringe benefits tax

Recommendation 5.29: Limit FBT reporting to remuneration benefits

The Australian Government should limit reporting of fringe benefits to remuneration benefits only.

Response

See recommendation 5.30.

Recommendation 5.30: Increase the FBT reporting threshold

In the event that recommendation 5.29 were not accepted, the Australian Government should increase the threshold for FBT reporting from \$1000 to \$2000 and exempt a wider range of benefits from reporting.

Response

The Australian Government agrees in part to the recommendation and has previously agreed to increase the reportable fringe benefits exclusion threshold from \$1000 to \$2000. This change will take effect from 1 April 2007.

With respect to exempting a wider range of benefits from the fringe benefits reporting requirement, the Government agrees in principle to a reporting exclusion for pooled or shared vehicles (that is, vehicles that are used by more than one employee), with details to be finalised through consultation.

Recommendation 5.31: Increase the FBT minor benefits threshold

The Australian Government should increase the FBT minor benefits threshold from \$100 to \$300.

Response

The Australian Government agrees to the recommendation, and has announced that it will increase the minor fringe benefits exemption threshold from \$100 to \$300, with effect from 1 April 2007.

Recommendation 5.32: Clarify the FBT minor benefits threshold exemption guidelines

The Australian Taxation Office should review and clarify its guidelines about what is considered 'irregular' and 'infrequent' for the purposes of the FBT minor benefits exemption.

Response

The Australian Government has previously agreed to the recommendation and the ATO is reviewing its existing guidelines and will provide further clarification about what is considered 'irregular' and 'infrequent' regarding the minor benefits exemption.

Recommendation 5.33: Reduce compliance cost for FBT on road tolls

The Australian Taxation Office should examine and implement administrative solutions to further reduce the compliance costs of calculating FBT on road tolls and better publicise the work it has already done.

Response

The Australian Government has previously agreed to the recommendation and the ATO is reviewing the current administrative solutions which reduce the compliance costs of calculating fringe benefits tax (FBT) on road tolls and will better publicise the work it has already done.

Recommendation 5.34: Review FBT and GST interaction and FBT treatment of car parking

The Australian Government should review the following areas of FBT with a view to reducing compliance costs:

- interaction between FBT and GST; and
- treatment of car parking.

Response

The Australian Government has reviewed the interaction between FBT and GST and the FBT treatment of car parking. The Australian Government considers that the interaction between FBT and GST is appropriate to deliver the necessary tax outcomes.

The Australian Government considers that a standard valuation method for car parking would add to compliance costs and would raise equity issues, and so should not be pursued. However, the Government would consider any suggestions to reduce car parking compliance costs where the valuation methods proposed result in a reasonable approximation of the cost of the benefit provided.

Recommendation 5.35: Consider allowing optional group FBT returns

The Australian Government should consider giving entities the option of submitting group FBT returns.

Response

The Australian Government has considered giving entities the option of submitting group FBT returns. The Government considers that providing grouped entities with a legislative option to lodge a single FBT return would not reduce compliance costs overall, and would in fact increase compliance costs. The Government is considering whether such an option could be provided in some circumstances through non-legislative means.

Recommendation 5.36: Allow employers the same extension to lodge FBT returns as tax agents

The Australian Government should give employers the same automatic extension to lodge FBT returns it gives tax agents.

Response

The Australian Government does not agree to the recommendation. The ATO provides tax agents with extensions in recognition of their role in preparing and lodging FBT returns on behalf of many clients.

The vast majority of companies use a tax agent and would access an extension already. In addition, the ATO has power to grant extensions in appropriate cases.

Goods and services tax

Recommendation 5.37: Provide a simplified accounting method for restaurants, cafes and caterers

The Australian Taxation Office should provide small restaurants, cafes and caterers with access to a simplified accounting method for calculating their GST liability and input tax credits.

Response

The Australian Government agrees to the recommendation. The ATO is developing a simplified accounting method for small restaurants, cafes and caterers which are unable to use the current "snapshot method". In doing this the ATO will also take into account the Government's announcement in the 2006-07 Budget that it will align the eligibility threshold for various small business measures.

Recommendation 5.38: Increase the compulsory GST registration threshold

The Australian Government and state and territory Governments should agree to raise the threshold for compulsory GST registration from \$50 000 to \$75 000.

Response

The Australian Government agrees to consider this proposal further in the context of the change to the definition of small business announced in the 2006-07 Budget.

Recommendation 5.39: Promote BAS policy for capital items worth \$1000 or less

The Australian Taxation Office should promote its policy to allow items with a purchase price of \$1000 or less to be reported on the business activity statement as non-capital items.

Response

The Australian Government has previously agreed to the recommendation. The ATO is promoting its policy to allow items with a cost of \$1000 or less to be reported on the business activity statement (BAS) as non-capital. This policy applies to acquisitions that would otherwise have to be recorded at item G10 on a BAS, if the business does not record capital acquisitions separately and expects its annual turnover to be less than \$1 million. The revised and updated GST Activity Statement Instructions were published on 1 July 2006. They contain advice regarding the reporting of low cost capital items.

Recommendation 5.40: Examine providing brief explanatory information on the BAS

The Australian Tax Office should examine the merits of including brief explanatory information on the business activity statement about each input box.

Response

The Australian Government does not agree to the recommendation. The ATO advises that, as a practical matter, there is very little scope to add meaningful explanatory information on the business activity statement (BAS) which is designed to be a one page form. However, the ATO will continue to examine means to improve information to taxpayers.

Income tax

Recommendation 5.41: Incorporate the Medicare levy into personal income tax rates

The Australian Government should incorporate the Medicare Levy into personal income tax rates and abolish the Medicare Levy Act 1986.

Response

The Australian Government does not agree to the recommendation. Incorporating the Medicare levy into personal income tax rates would disadvantage taxpayers that are currently exempt from the levy, such as low income earners. Incorporating the levy into personal income tax rates in a way that avoids disadvantaging specific groups would add to the complexity of the tax system. The proposal also would not significantly reduce compliance costs for businesses as only 4 of the 33 current ATO PAYG withholding schedules relate to Medicare levy adjustments and exemptions.

Recommendation 5.42: Increase the PAYG withholding threshold for quarterly remitters

The Australian Government should increase the PAYG withholding threshold for quarterly remitters from \$25 000 to \$40 000.

Response

The Australian Government does not agree to the recommendation to increase the threshold for eligibility to remit PAYG withholding amounts on a quarterly basis from \$25 000 to \$40 000. While this change may result in some reductions in compliance costs for business, it would result in a substantial deferral of revenue in the first year and a significant ongoing revenue deferral.

Harmonising tax definitions

Recommendation 5.43: Align and rationalise definitions in tax law

The Australian Government should take steps to align and/or rationalise different definitions in the tax law including 'small business', 'employee', 'salary and wages', and 'associate'.

Response

The Australian Government agrees in principle to the recommendation to align definitions in the tax law.

Small Business

In the 2006-07 Budget, the Government announced a number of measures designed to improve the tax system for small businesses by streamlining definitions and reducing complexity and compliance costs. The measures include improving the alignment of eligibility thresholds for small business concessions and increasing access to the simplified tax system and small business capital gains tax concessions.

Salary and wages

The concepts of 'salary and wages' and 'employee' are already standardised in the income tax, fringe benefits tax and superannuation law, as they all use the common law meaning of the terms.

However, the scope of these common law concepts is extended in slightly different ways in different contexts. The Australian Government will examine the possibilities to specify more clearly the various obligations of employers under the income tax, fringe benefits tax and superannuation law and the reasons, if any, for their difference. The Government will also consult the state and territory Governments to determine the extent to which these concepts may be applied in state and territory laws.

Associate

The Australian Government took steps to standardise the definition of 'associate' in the 1997 rewrite of the Income Tax Assessment Act. It has continued that process of law improvement by removing some duplicated definitions in its recent project to repeal inoperative provisions.

Recommendation 5.44: Align definitions of 'employee' and 'contractor'

The Australian Government should align the definitions of 'employee' and 'contractor' used for superannuation guarantee and PAYG withholding purposes.

Response

The Australian Government does not agree to the recommendation as implementation of this recommendation would reduce superannuation guarantee coverage and may reduce superannuation guarantee compliance.

Recommendation 5.45: Harmonise payroll tax administration across states and territories

COAG should develop measures to harmonise the tax base and administrative arrangements of payroll tax regimes across the states and territories.

Response

The Australian Government agrees to the recommendation.

While the nature of the tax base and the administration of state and territory payroll tax is the responsibility of state and territory governments, the Australian Government would support any move to harmonise these across states and territories.

The Government will seek to progress this through the Council of Australian Governments, as well as the harmonisation of the administration of similar taxes and charges across the state and territory governments (consistent with recommendation 5.46).

Recommendation 5.46: Harmonise stamp duty administration across states and territories

COAG should encourage the elimination of stamp duties included in the Inter-Governmental Agreement and should develop measures to harmonise the administration of any remaining stamp duty regimes.

Response

The Australian Government has agreed with the states on a schedule for the abolition of the majority of taxes listed for review in the intergovernmental agreement (IGA). Inefficient state taxes such as stamp duty on mortgages, leases, and credit and rental arrangements will be abolished, as was originally intended under the IGA. This means taxpayers will pay less tax to hire a video, to hire a car or take out a loan to buy a home. The abolition of these taxes is expected to save taxpayers approximately \$4.4 billion over a four year period from 1 July 2006. The Australian Government will also continue to pursue the abolition of stamp duty on business conveyances of real property. This is the last remaining tax listed in the IGA.

Recommendation 5.47: Standardise tax administration across jurisdictions

COAG should develop measures to standardise tax administration across the states and territories and the Australian Government.

Response

The Australian Government agrees to the recommendation. In line with recommendations 5.45 and 5.46, Council of Australian Governments and the Ministerial Council for Commonwealth-State Financial Relations should develop measures to harmonise the administration and tax base of like taxes across the Australian, state and territory governments (noting that when taxes operate in a fundamentally different way administrative standardisation can be impractical).

Other tax issues

Recommendation 5.48: Issues for consideration by Board of Taxation

The Board of Taxation should consider the following areas in its scoping study of small business compliance costs:

- the simplified tax system;
- trust loss provisions and family trust elections;
- possible benefits of including additional information on activity statements to assist users;
- ways of reducing the number of PAYG withholding tables; and
- developing a systematic approach to adjusting thresholds in the tax law.

Response

The Australian Government agrees to the recommendation and has referred the five issues listed in the recommendation to the Board of Taxation for consideration as a part of its current scoping study of small business compliance costs. The emphasis of the scoping study is identifying and analysing the main costs small business (especially micro business) face in complying with taxes administered by the Australian Taxation Office.

Superannuation Regulation

Recommendation 5.49: Increase superannuation guarantee exemption threshold

- The Australian Government should raise the superannuation guarantee exemption threshold to \$800 per month, and periodically review the threshold.
- The Australian Government should allow employers to use a quarterly exemption threshold (equal to the monthly exemption threshold multiplied by three).

Response

The Australian Government does not agree to the recommendation as it would have a negative impact on the retirement savings of low income employees.

Recommendation 5.50: Amend accounting treatment of superannuation guarantee contributions

The Australian Government should allow businesses to account for superannuation contributions which have been paid on a cash or accruals basis to be consistent with the way they treat other expenses.

Response

The Australian Government does not agree to the recommendation as the cost to revenue outweighs the reduction in compliance costs from this proposal.

Recommendation 5.51: Simplify superannuation tax rules

The Australian Government should give high priority to comprehensive simplification of the tax rules for superannuation.

Response

The Australian Government agrees to the recommendation. The Government announced a comprehensive plan to simplify and streamline the tax rules for superannuation in the 2006-07 Budget.

Trade-related regulation

Trade

Recommendation 5.52: Review mechanisms to streamline national trade measurement

The Australian Government should initiate an independent public review to identify practical steps to expedite the adoption of a nationally consistent trade measurement regime and streamline the present arrangements for certifying trade measurement instruments.

Response

The Australian Government agrees to the recommendation and will ask the Council of Australian Governments to build on the work already underway on developing a national system of trade measurement that would rationalise the different regulatory regimes of the Commonwealth, states and territories and streamline the present arrangements for cost recovery and the certification of trade measuring instruments.

Recommendation 5.53: Review anti-dumping policy and administration

The Australian Government should expedite an independent public review of Australia's anti-dumping arrangements to examine both administrative and policy aspects, including an assessment of practical ways of reducing compliance costs.

Response

The Australian Government agrees to the recommendation and will commission a full and independent public review of Australia's anti-dumping arrangements following on from the Joint Study of the Administration of Australia's Anti-dumping System, which was commissioned by the Ministers for Justice and Customs and Industry, Tourism and Resources in February 2006.

Recommendation 5.54: Extend Accredited Client Program to lessen compliance burden for selected importers

The Australian Government should introduce the relevant legislation to establish the extended Accredited Client Program, and implement Customs' proposal to broaden the program to a wider group of importers.

Response

The Australian Government has previously considered the Accredited Client Program and announced a decision in the 2005-06 Budget, which is currently being implemented. Once practical experience is available from the implementation of the existing decision, further refinements to this program may be considered.

Recommendation 5.55: Rationalise and ease reporting for businesses trading internationally

The Australian Government should give priority to completing and implementing the Standardised Data Set and the 'single window' approach in order to rationalise and ease related reporting requirements for business trading internationally

Response

The Australian Government is committed to reducing compliance burdens for business. The Government has provided \$2 million in 2004 towards the development of the Standardised Data Set and a report on the Standardised Data Set is currently being prepared for government consideration.

Recommendation 5.56: Review separate accounting requirements for gas pipelines

The Australian Government, through the Ministerial Council on Energy, should examine the need for non-vertically integrated pipeline owners to maintain separate accounting records under the ring fencing provisions of the Gas Code as part of its existing energy market reform program.

Response

The Australian Government notes that the Ministerial Council on Energy has considered this recommendation in the context of its current review of the Gas Code. It is expected that revised legislation will be released for public consultation later in 2006.

Recommendation 5.57: Bring forward the review of the Wheat Marketing Act

The Australian Government should bring forward an independent public review of the Wheat Marketing Act, to be conducted according to National Competition Policy principles, including an assessment of compliance costs.

Response

The Australian Government will consider this issue following the release of the Inquiry into Certain Australian Companies in relation to the UN Oil-for-Food Programme report.

Recommendation 5.58: Review FIRB requirements on real estate, and raise approval threshold for other acquisitions

The Australian Government should:

- review the requirement for foreign acquisitions of real estate to obtain Foreign Investment Review Board approval; and
- raise the threshold for approval of other acquisitions

Response

The Australian Government, in consultation with the Foreign Investment Review Board (FIRB), will undertake a review of real estate screening and the desirability of maintaining existing screening arrangements for all real estate acquisitions. The Government will ask the Treasurer to report to the Government on the outcome of the review by the end of 2006.

While the Australian Government has no present plans to substantially alter the business screening arrangements, Treasury has been reviewing the treatment of portfolio investment, internal corporate reorganisations and foreign-to-foreign takeovers in the context of easing the compliance burden on business. The findings of the review will be considered by the Australian Government.

Recommendation 5.59: Review '.com.au' domain name administration

The Australian Government should consider conducting a review of .com.au domain name administration.

Response

The Australian Government agrees to the recommendation. The Department of Communications, Information Technology and the Arts is examining Australia's domain name administration and policy structures following five years of operation under a self regulatory model. The recommendation on domain names will be considered in the course of this process.

Procurement

Recommendation 5.60: Review implementation of procurement policies

The Australian Government should commission an independent public review of the implementation of its procurement policies, including consideration of:

- the extent to which the procurement practices of departments and agencies are consistent with the Commonwealth Procurement Guidelines;
- the costs (including the impact on small to medium businesses) and benefits of any additional requirements currently being imposed, including green procurement requirements; and
- mechanisms to improve the consistency and administrative simplicity of procurement practices, including request for tender documentation, across departments and agencies.

Response

The Australian Government supports a review of agencies' implementation of procurement policy. The Australian Government agrees with the principle that agencies' procurement practices should be undertaken in a manner that does not impose unnecessary administrative burdens on potential tenderers. This is evidenced in the Commonwealth Procurement Guidelines requirement to conduct an appropriately competitive process of a scale commensurate with the size and risk profile of the particular procurement.

Chief Executives of government agencies have been requested to review their Chief Executive's Instructions relating to procurement, to identify and address any unnecessary requirements placed on potential tenderers.

Recommendation 5.61: Establish a program to assess credentials of regular tender participants

The Australian Government should establish and administer an optional program to assess the financial and corporate credentials of regular tender participants. These assessments should be recognised by all Government departments and agencies

Response

The Australian Government supports the need for agencies to undertake financial viability assessments that are appropriate to the size and risk profile of the procurement. The Australian Government will examine approaches to improve agencies' approach to these assessment processes.

Recommendation 5.62: Raise the Public Works Committee threshold

The Australian Government should significantly increase the \$6 million threshold under s. 18(8) of the Public Works Committee Act 1969 which determines the value of public works that must be referred to the Parliamentary Standing Committee on Public Works. The threshold should be updated in line with inflation at least every five years.

The process for adjusting the threshold should be referred to regulation to expedite the adjustment process.

Response

The Australian Government agrees in principle to the recommendation but considers that the indexation should be based on construction costs (currently the Implicit Price Deflator for Non-Dwelling Construction), rather than the general inflation index. In addition, factors such as Committee workload and necessity of scrutiny of smaller projects, should be taken into account in the update of the threshold.

Reducing burdens across Government

Recommendation 6.1: Rationalise definitions, use common terms and present information more clearly

The Australian Government should:

- ensure that where possible departments and agencies use common and consistent terms in developing new regulations and start rationalising different definitions in existing regulations; and
- ensure that Government information is presented in a business-friendly manner, including through better form design and use of plain English.

Response

The Australian Government agrees to the recommendation.

The Australian Government supports the development of information delivery to start up businesses to ensure easier compliance with regulations. The Department of Industry, Tourism and Resources in conjunction with other Australian Government agencies is developing a comprehensive new-to-business checklist that will encompass information from all levels of Government.

The Australian Government has also put in place the website www.business.gov.au which is a valuable on-line tool and information source that encompasses information from all levels of Government.

The Australian Government is also working closely with other Governments and agencies around Australia to promote the use of forms which can be electronically pre-populated. This will reduce the time taken and the frustration involved in repeatedly filling in the same information from one form to the next. These forms can be accessed through www.business.gov.au, a convenient single point of access for business.

Recommendation 6.2: Encourage use of information technology to reduce compliance costs

The Australian Government should:

- encourage departments and agencies to systematically use information technology to reduce business compliance costs, and consult with business in doing so; and
- provide resources to ensure business is aware of information technology solutions.

Response

The Australian Government agrees to the recommendation and acknowledges that systematic use of information technology has the potential to reduce compliance costs for business.

The Australian Government's Business Entry Point Initiative, www.business.gov.au managed by the Department of Industry Tourism and Resources, is a highly successful example of how the Government has used information technology to reduce business compliance costs. This includes managing the website www.business.gov.au as well as delivering a range of free products and services for business including a range of ABN lookup tools, syndication of www.business.gov.au content to third party websites, and the Transaction Manager suite.

In doing so the Australian Government consults actively with business in a range of forums, including through the website's Consultative Forum. The Consultative Forum meets twice a year and includes representatives from industry associations, all three levels of Government, as well as individual businesses. In addition business is consulted regularly during the usability testing of new releases and the evaluation of existing products and services.

Recommendation 6.3: Develop and adopt a business reporting standard

The Australian Government should develop and adopt a business reporting standard within the Australian Government sphere by 2008, based on the Netherlands model and work undertaken by the ATO. COAG should consult with state and territory Governments to extend this approach to state, territory and local Governments as soon as practical thereafter.

Response

The Australian Government agrees in principle to the recommendation. The Department of the Treasury will lead a steering committee of relevant Australian, state and territory government departments and agencies to evaluate the costs and benefits associated with standard business reporting and report back to Government.

Recommendation 6.4: Streamline business name, ABN and related licensing registration processes

The Australian Government should:

- work with the states and territories to streamline business name, Australian business number and related licensing registration processes and report back to COAG; and
- improve information available to business about these obligations.

Response

The Australian Government agrees to the recommendation.

COAG agreed on 14 July 2006 that the Small Business Ministerial Council (SBMC) would develop a model to deliver a seamless, single on-line registration system for both Australian Business Numbers and business names, including trademark searching. The SBMC will report back to COAG by the end of 2006. The Australian Government will also work with the states and territories to improve the information available to business on business registration and related processes.

Addressing the underlying causes of over-regulation

The principles of good regulatory process

Recommendation 7.1: Endorse the principles of good regulatory process

The Australian Government should endorse the following six principles of good regulatory process:

- Governments should not act to address 'problems' until a case for action has been clearly established.
 - This should include establishing the nature of the problem and why actions additional to existing measures are needed, recognising that not all 'problems' will justify (additional) Government action.
- A range of feasible policy options — including self-regulatory and co-regulatory approaches — need to be identified and their benefits and costs, including compliance costs, assessed within an appropriate framework.
- Only the option that generates the greatest net benefit for the community, taking into account all the impacts, should be adopted.
- Effective guidance should be provided to relevant regulators and regulated parties in order to ensure that the policy intent of the regulation is clear, as well as the expected compliance requirements.
- Mechanisms are needed to ensure that regulation remains relevant and effective over time.
- There needs to be effective consultation with regulated parties at all stages of the regulatory cycle.

Response

The Australian Government agrees to the recommendation. As set out in the interim response to the report on 7 April 2006, on 12 October 2005 the Government announced its commitment to the more rigorous use of cost-benefit analysis within government when new regulations are being considered.

The Australian Government will revise its Guide to Regulation in light of its 12 October 2005 announcement and consideration of the Taskforce's recommendations. It will also use the Business Cost Calculator, or equivalent approved by the Office of Regulation Review, to measure the regulatory and compliance cost of proposals.

At its February meeting COAG agreed to a range of measures to ensure best-practice regulation making and review, with all governments agreeing to:

- establish and maintain effective arrangements to maximise the efficiency of new and amended regulation and avoid unnecessary compliance costs and restrictions on competition;
- undertake targeted public annual reviews of existing regulation to identify priority areas where regulatory reform would provide significant net benefits to business and the community;
- identify further reforms that enhance regulatory consistency across jurisdictions or reduce duplication and overlap in regulation and in the role and operation of regulatory bodies; and

- in principle, aim to adopt a common framework for benchmarking, measuring and reporting on the regulatory burden.

COAG also agreed to enhance cost benefit analysis of regulatory options, such as through use of the Business Cost Calculator.

Strengthened gatekeeper arrangements will require that the Government undertake enhanced analysis of the issue sought to be remedied by regulation, as well as analysis of the costs of regulatory options.

Improving regulation-making

Recommendation 7.2: Undertake cost-benefit analysis (including risk assessment) of regulatory options

In relation to the Australian Government's decision that rigorous cost-benefit analysis be employed in regulation-making, which the Taskforce endorses, such analysis should be used to compare different regulatory options, and should incorporate adequate risk analysis.

Response

The Australian Government agrees to the recommendation. The interim response to the report, released on 7 April 2006, set out the Government's commitment to undertake rigorous cost-benefit analysis of regulatory options. The Australian Government has committed an additional \$1.1 million for further development of the Business Cost Calculator, a mandatory tool for public servants, which can also be used by industry, to work out the costs to business of compliance.

Recommendation 7.3: Mandate use of the Compliance Costing Tool in assessing regulatory options

Use of the Office of Small Business Compliance Costing Tool should be mandated for all regulatory proposals that potentially involve material compliance burdens.

Response

The Australian Government agrees to the recommendation.

Recommendation 7.4: Develop in-house cost-benefit skills in departments and agencies

Departments and agencies responsible for making regulations should build a capacity to undertake cost-benefit analysis (including risk assessment).

- The Government should consider explicitly broadening the Office of Regulation Review's training/advisory role to include providing technical assistance on cost-benefit analysis.

Response

The Australian Government agrees to the recommendation. The Government will enhance the role of the Office of Regulation Review to establish it as the central point for ensuring best practice regulation and will provide additional funding to enable it to provide additional advice and assistance to the Australian Government and government departments.

Recommendation 7.5: Adopt a whole-of-Government policy on consultation

There should be a whole-of-Government policy on consultation requirements, setting out best practice principles that need to be followed by all agencies when developing regulation.

- The policy should be applied rigorously to all major initiatives, and cover all aspects of developing regulation, from the policy proposals/'ideas' stage through to post-implementation reviews. Where consultation requirements are not followed, reasons should be given.

Response

The Australian Government agrees to the recommendation and is committed to improving mechanisms for consultation with industry. The Government will establish a business consultation website (see recommendation 7.7 below) to support its commitment to improved consultation.

Recommendation 7.6: For major or complex regulatory matters, produce a policy 'green paper' and/or exposure draft

For matters of major significance, an initial policy 'green paper' should be made available to relevant parties; and, prior to finalisation, the details of complex regulations should be tested with relevant business interests, including through exposure drafts for significant matters.

Response

The Australian Government agrees to the recommendation and is committed to improving mechanisms for consultation with industry.

Recommendation 7.7: Establish a consultation website

A business consultation website should be established to allow registration of businesses prepared to be consulted on particular regulations, and to automatically notify businesses and Government agencies of consultation processes in areas where they have registered an interest.

Response

The Australian Government agrees to the recommendation and supports appropriate consultation with relevant stakeholders, including business. The Government will broaden the existing scope of the www.business.gov.au website to include a business consultation sub-site which will include, but not be limited to, new and upcoming changes to regulation; links to current and past consultation processes; enable registration of relevant stakeholders and information on the Government's public consultation objectives and policies. The Australian Government will allocate additional funding to enable the Department of Industry, Tourism and Resources to establish this website.

Recommendation 7.8: Strengthen RIS adequacy requirements

Grounds for a RIS to be deemed 'inadequate' should include:

- failure to document relevant existing regulations at all levels of Government and explain why they do not suffice;
- inadequate cost-benefit analysis of regulatory options;
- failure to quantify compliance costs of options;
- inadequate risk analysis and assessment; and
- failure to document directly relevant international standards and, where a proposed regulation differs from them, to identify the implications and fully justify this variation.

Response

The Australian Government agrees to the recommendation and is committed to improving regulatory gatekeeper arrangements.

The Australian Government will enhance the role of the Office of Regulation Review to establish it as the central point for ensuring best practice regulation and will provide additional funding to enable it to provide additional advice and assistance to the Australian Government and government departments.

Recommendation 7.9: Tighten 'gate-keeping' requirements for regulatory proposals

The Australian Government should institute arrangements to ensure that, unless there are exceptional circumstances, a regulatory proposal with material business impacts cannot proceed to Cabinet or other decision-maker unless it has complied with the Government's RIS requirements.

Response

The Australian Government agrees to the recommendation.

Recommendation 7.10: Endorse strengthened requirements for regulation-making

Cabinet should endorse a revised Guide to Regulation, containing strengthened requirements on departments and agencies making regulation

Response

The Australian Government agrees to the recommendation and will ask the Office of Regulation Review to revise the Guide to Regulation to reflect that changes to the regulation quality framework agreed as part of the Government's response to this report. The Government will also update other relevant handbooks, including the 'Cabinet Handbook', to reflect the enhanced requirements arising out of the Government's agreement to implement the recommendations of the report regarding the underlying causes of over-regulation.

Recommendation 7.11: Include good process requirements in Legislative Instruments Act

The Australian Government should seek to amend the Legislative Instruments Act to include requirements for good regulatory process.

Response

The Australian Government does not agree to the recommendation.

The Australian Government supports the strengthening of requirements for good regulatory process. However, it considers that the strengthening of these processes is more appropriately dealt with by way of administrative arrangements rather than through amendments being made to the Legislative Instruments Act 2003 (LIA).

The LIA establishes a regime for the registration, tabling, Parliamentary scrutiny and sunseting of legislative instruments. It only applies to "legislative instruments" (as defined in the LIA) and does not cover all types of regulation. For example, it does not apply to regulatory requirements set out in Acts of Parliament, nor does it apply to instruments that apply the law in a particular case.

As good regulatory processes should apply to all regulatory processes and not just those covered by the LIA, the Australian Government will strengthen administrative arrangements relating to general requirements for good regulatory process rather than amending the LIA.

Recommendation 7.12: Elevate oversight of regulatory processes and reform program to Cabinet level

Ministerial responsibility for overseeing the Government's regulatory processes and reform program should be elevated to Cabinet level.

Response

All ministers have responsibility for regulatory policy matters as they affect their portfolios, including ensuring that appropriate consultation and analysis is conducted with respect to new and amended regulation. The Treasurer's portfolio has lead responsibility for regulation reform matters.

Recommendation 7.13: Agencies to ensure regulatory analysis is adequately resourced

Government departments and agencies should ensure that their capacity to undertake good regulatory analysis, including appropriate consultation on regulatory proposals, is adequately resourced.

Response

The Australian Government agrees to the recommendation and is allocating additional resources to the Office of Regulation Review and the Department of Prime Minister and Cabinet to fund enhanced information, assistance and gatekeeping arising out of the Government's agreement to implement the recommendations of the report regarding the underlying causes of over-regulation. The Australian Government will also allocate additional resources to the Department of Industry, Tourism and

Resources to broaden the existing scope of the business.gov.au website to enable registration of relevant stakeholders where appropriate.

Ensuring Good Performance by Regulators

Recommendation 7.14: Provide clear guidance to regulators on policy objectives

Legislation should provide clear guidance to regulators about policy objectives, as well as the principles they should follow in pursuing them.

Guidance should be explicit about what balance is required, where tradeoffs in objectives exist, and the need for risk-based implementation strategies

Response

The Australian Government agrees to the recommendation that legislation provide guidance to regulators on the policy intent and objectives of the legislation in order to facilitate a balanced approach to regulation-making and encourage risk-based implementation. To achieve this objective, Ministers will be asked to highlight policy objectives of legislation within their Statements of Expectations and in second reading speeches.

Recommendation 7.15: Ministers to emphasise policy objectives in Statements of Expectations

Responsible ministers should highlight those elements referred to in recommendation 7.14 in parliamentary second reading speeches and in the Statements of Expectations that are to be developed following the Uhrig Report.

Response

The Australian Government agrees to the recommendation. Ministers will be asked to highlight policy objectives of legislation within their Statements of Expectations and in second reading speeches.

Recommendation 7.16: Develop broader performance indicators for regulators

Regulators should develop a wider range of performance indicators for annual reporting.

Response

The Australian Government agrees to the recommendation and will ask for the Office of Regulation Review to review the current suite of Regulation Performance Indicators.

Recommendation 7.17: Establish internal review mechanisms for regulatory decisions

Regulators without mechanisms for internally reviewing decisions should establish them.

Response

The Australian Government agrees in principle to the recommendation and will request that regulators consider implementation of internal review mechanisms if appropriate.

Recommendation 7.18: Ensure timely merit review of administrative decisions

There should be provision for merit review of any administrative decisions that can significantly affect the interests of individuals or enterprises.

Response

The Australian Government agrees in principle to the recommendation.

The Australian Government will continue to scrutinise legislative proposals on a case-by-case basis to ensure that, consistent with the ARC guidelines on “What decisions should be subject to merits review?”, administrative decisions are subject to appropriate merits review.

The guidelines set out factors that may mean that merits review is not appropriate. In accordance with these factors, not all decisions that significantly affect the interests of individuals or enterprises are suitable for merits review. For example, decisions of a law enforcement nature, financial decisions with a significant public interest element, or decisions involving extensive inquiry process which affect, or have the potential to significantly affect, the interests of individuals or enterprises, are factors that may mean that merits review is not appropriate.

See recommendation 5.7 with respect to merits review of Australian Prudential Regulation Authority (APRA), Australian Securities and Investments Commission (ASIC) and the Reserve Bank of Australia (RBA).

Recommendation 7.19: Ensure regulators issue protocols on consultation procedures

Regulators should issue protocols on their public consultation procedures. These would need to be consistent with a whole-of-Government policy.

Response

The Australian Government agrees to the recommendation and agrees that regulators should issue protocols on their public consultation processes, which should be consistent with whole-of-government policy. Standing consultative bodies covering specific areas of regulation are already used by a number of regulators. The Australian Government will request that regulators issue protocols on their public consultation procedures, and that these protocols be consistent with the Government's commitment to improve regulation making processes and to implement the recommendations of the report regarding the underlying causes of over-regulation. Additionally the Australian Government will ask the Office of Regulation Review to include a Whole of Government consultation strategy in the revised Guide to Regulation.

Recommendation 7.20: Establish consultative bodies with stakeholders

A standing consultative body comprising senior stakeholder representatives should be established for each regulator whose decisions can have significant impacts on business and other sections of the community.

Response

The Australian Government agrees to the recommendation. While a number of regulators already use standing consultative bodies, the Government will encourage all regulators to establish consultative bodies in order to enhance consultation with stakeholders.

Recommendation 7.21: Develop a code of conduct covering regulators and regulated entities

In consultation with stakeholders, each regulator should develop a code of conduct covering the key areas of interaction with regulated entities.

Response

The Australian Government agrees to the recommendation and will request that regulators develop a code of conduct in regard to consultation with regulated entities.

Recommendation 7.22: Establish 'relationship manager' roles in regulators

Regulators should in general appoint 'relationship managers' to facilitate cost-effective interaction with businesses they have frequent dealings with.

Response

The Australian Government agrees to the recommendation.

The Australian Prudential Regulation Authority (APRA) already has such an arrangement, in the form of a 'responsible supervisor'. Each regulated entity is provided with a responsible supervisor, who acts as the key contact officer on all regulatory matters of concern to the entity.

The Australian Securities and Investments Commission (ASIC) is currently considering how best to manage its relationship with key companies and licensees, with a view to developing initiatives that have already been implemented in its compliance area.

Recommendation 7.23: Ensure regulatory appointees have industry experience

Appointees to regulatory agencies should include a mix of people with experience directly related to the activities being regulated

Response

The Australian Government agrees to the recommendation.

Section 17(1) of the Australian Prudential Regulation Authority Act 1998, provides that APRA appointees must have relevant knowledge and experience. For example, in 2003 the Treasurer appointed three APRA members, all with unique and diverse backgrounds in regulation and industry. In particular one member has a life time of industry experience in prudentially regulated entities.

Section 9 of the Australian Securities and Investments Act 2001 provides that the Minister is entitled to nominate a person as a member of ASIC if the Minister is satisfied that the person is qualified for appointment by virtue of his or her knowledge of, or experience in, one or more of the following fields: business; administration of companies; financial markets; financial products and financial services; law; economics; or accounting.

Avoiding Overlap, Duplication and Inconsistency

Recommendation 7.24: Review areas with significant jurisdictional overlap

COAG should consider establishing a series of reviews targeted at areas where there is significant overlap and/or inconsistency between Australian Government and state and territory Government regulations.

Response

The Australian Government agrees to the recommendation. On 10 February 2006, COAG agreed to address six priority cross-jurisdictional hot spot areas where overlapping and inconsistent regulatory regimes are impeding economic activity. Those areas are:

- rail safety regulation;
- occupational health and safety;
- national trade measurement;
- chemicals and plastics;
- development assessment arrangements; and
- building regulations.

At its 14 July 2006 meeting, COAG agreed to address four further areas for cross-jurisdictional regulatory reform as follows:

- environmental assessment and approvals processes;
- business name, Australian Business Number and related business registration processes;
- personal property securities; and
- product safety.

COAG also agreed to each jurisdiction initiating at least annual targeted reviews to reduce the burden of existing regulation in its own jurisdiction through a public inquiry and reporting process (decision 5.2(a), Attachment B to the Communiqué from the 10 February 2006 COAG meeting refers) and these annual reviews be used to identify further reforms that enhance regulatory consistency across jurisdictions or reduce duplication and overlap in regulation and in the role and operation of regulatory bodies (decision 5.4, Attachment B to the Communiqué from the 10 February 2006 COAG meeting refers).

Recommendation 7.25: Develop a framework for national harmonisation of regulation

COAG should develop an overarching institutional framework for the national harmonisation of regulation that would:

- encourage the timely development of nationally consistent and preferably uniform regulations;
- discourage ministerial councils and national standard-setting bodies from adopting unduly stringent and poorly justified regulations;
- entail failsafe mechanisms to ensure that any jurisdictional variations from national regulations are either legitimated by all parties or annulled; and
- promote compliance with decisions to rationalise and harmonise areas of regulation.

Response

The Australian Government agrees to the recommendation and is working with the states and territories to develop a best practice approach to regulation. On 10 February 2006, COAG agreed that all governments would:

- establish and maintain “gate keeping mechanisms” as part of the decision-making process to ensure that the regulatory impact of proposed regulatory instruments are made fully transparent to decision makers in advance of decisions being made and to the public as soon as possible;
- improve the quality of regulation impact analysis through the use, where appropriate, of cost-benefit analysis;
- better measure compliance costs flowing from new and amended regulation, such as through the use of the Commonwealth Office of Small Business’ costing model;
- broaden the scope of regulation impact analysis, where appropriate to recognise the effect of regulation on individuals and the cumulative burden on business and, as part of the consideration of alternatives to new regulation, have regard to whether the existing regulatory regimes of other jurisdictions might offer a viable alternative; and
- apply these arrangements to Ministerial Councils.

COAG also agreed that each jurisdiction would review existing regulations with a view to encouraging competition and efficiency and streamlining and reducing the regulatory burden on business, through at least annual targeted reviews and coordinating reform measures with other jurisdictions if appropriate.

Ensuring Regulation Delivers Over Time

Recommendation 7.26: Amend the Legislative Instruments Act to provide for 5 year sunset clauses

The Legislative Instruments Act should be amended to provide for a 5-year, rather than 10-year, sunset clause following implementation.

Response

The Australian Government does not agree to the recommendation.

The substantive provisions of the Legislative Instruments Act 2003 (LIA) only commenced relatively recently, on 1 January 2005. It is considered preferable to allow time to monitor the effectiveness of the current provisions, including the 10-year sunset provisions, before considering them.

Recommendation 7.27: Conduct selective post implementation reviews after 1-2 years

Following a screening process, early post-implementation reviews should be held after a regulation has been in place 1 to 2 years, for:

- any regulations exempted from RIS requirements due to fast-tracking; and
- any substantial new regulations where there is uncertainty about the extent of compliance burdens or net benefits at the time of introduction.

Response

The Australian Government agrees to the recommendation.

The Australian Government supports post-implementation reviews for regulations which were exempted from RIS due to fast-tracking.

In addition the Australian Government announced in October 2005, the commencement of an annual review process to examine the cumulative stock of Government regulation and identify an annual red tape reduction agenda. These reviews can include consideration of any substantial new regulations.

Recommendation 7.28: Assess regulations not subject to sunset clauses every 5 years

At least every 5 years, all regulation (not subject to sunset provisions) should, following a screening process, be reviewed, with the scope of the review tailored to the nature of the regulation and its perceived performance.

Response

The Australian Government agrees to the recommendation. At least every five years, all regulation (not subject to sunset provisions) will, following a screening process, be reviewed with the scope of the review would be tailored to the nature of the regulation and its perceived performance.

Other systemic matters

Recommendation 7.29: Evaluate scope for cross-jurisdictional benchmarking of regulatory regimes

Governments should evaluate the scope to make cross-jurisdictional comparisons on a regular basis of the efficiency and effectiveness of their regulatory regimes.

Response

The Australian Government agrees to the recommendation. The Treasurer has agreed that the Productivity Commission undertake a study of how to benchmark regulatory performance across jurisdictions. COAG also endorsed this study (decision 5.3 (a) of Attachment B to the Communiqué of 10 February COAG meeting).