



AUSTRALIAN CHAMBER OF
COMMERCE AND INDUSTRY

GETTING ON WITH BUSINESS

**Reform Priorities for the
Next Australian Government**

August 2013



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Australia is a strong nation, with a resilient democracy, stable institutions, good living standards, natural providence, an instinct for fairness and competition, and a diverse society with vibrant communities.

In the modern era, a generation of economic reform drove Australia's private sector to compete efficiently and productively in our region and in global markets. It also enabled both the private and public sectors to meaningfully contribute to navigating the 2008 global financial crisis and other global shocks.

On both sides of the financial crisis, that effort has come off the boil.

Over the past decade, productivity and competitiveness have declined, despite the best intentions of the business sector and the ambition of governments. Two commodity booms kept the nation wealthy and living standards high. Our national effort has been disproportionately directed to redistribution at the expense of private growth and enterprise.

A renewed reform effort, led on a whole-of-government basis and directed at reinvigorating private sector output, is needed. That this is recognised on both sides of politics and amongst significant institutions and thought-leaders in civil society is a strong foundation for the next Australian Government on which to build the reform agenda.

Getting on with Business: Reform Priorities for the Next Australian Government identifies the characteristics of this agenda, as seen through the eyes of the business community's representative organisations, both Chambers of

Commerce and national Industry Associations. It is these organisations that form the Australian Chamber of Commerce and Industry (ACCI).

The five elements of ACCI's *Getting on with Business: Reform Priorities for the Next Australian Government* are:

1. A Stronger Economy
2. Raising Productivity and Competitiveness
3. Accessing Global Markets
4. Better Functioning Institutions
5. Supporting Small Business.

Objectives and Modalities

The objective of economic reform is the creation of a better society and a stronger nation, with living standards at least as high as those that our generation inherited from our forebears. These are national interest considerations; considerations as much about social outcomes as they are about economics.

ACCI and our members have conviction that a successful economy with structural strength to withstand global shocks is the underpinning of healthy communities.

In the medium to long-term, the right type of economic reform benefits our nation, its people and indeed the region. In the short term, reform involves change, and, in some instances, difficult transitions and some winners and losers. Thus, the reform effort of the next decade needs to be accompanied by political and business leadership that makes out the case to the broader community. Unless a critical mass of community support exists for reforms, they are capable of being unwound, with consequent setback to achieving their goals.

The Role of Government

Governments at all levels, but especially the federal government, have responsibility for setting out the national reform effort, and bringing about the policy, cultural and legislative changes that it compels.

Governments need to be single-minded in this task, but this reform effort cannot have government as the central agent for economic prosperity. ACCI's reform agenda is a government-led plan that creates the most conducive environment for the hundreds of thousands of plans of private business people to flourish and prosper. It is ultimately the success of private individuals and the private economy that will make our nation compete and prosper in the 21st century, and allow government to do its necessary work.

Supporting Enterprise, Large and Small

Central to the reform agenda must be the reinvigoration of confidence in the business community as a whole. In the wake of global uncertainty, this is no small task. A conducive environment for private investment and business activity must be directed at enterprise on both a large and a small scale.

The position of small and medium business is particularly salient. Comprising half of the nation's economic output and employing seven million workers, the two-million-strong small business community may be diverse and independently minded, but collectively it cannot be ignored.

This is the message of ACCI's 2013 campaign, *'Small Business. Too Big To Ignore'*. While a strong economy is a key ingredient for small business success, simply relying on a trickle-down effect to restore small business confidence is not going to be sufficient. Thus, policy measures that deliver a better business environment for small business are central to this reform agenda, including

'The BIG 4 You Can't Ignore': Cut Down on the Red Tape; Simplify the Tax System; Make it Easier to Employ; and Build Better Infrastructure.

Developing ACCI's Reform Agenda

As the nation's largest and most representative national business network, ACCI has a longstanding commitment to business advocacy grounded in well-developed economic and policy reform. Already in the first decade of this century we have released six issue-specific Blueprints around which industry has coalesced, and that have informed public debate and elements of government policy:

- More Jobs: Better Pay (Industrial Relations, 2002)
- A Strategy for the Australian Taxation System (Tax Reform, 2004)
- Modern Workplace: Safer Workplace (Health and Safety, 2005)
- Skills for a Nation (Employment, Education and Training, 2007)
- Australia's Manufacturing Sector: A Blueprint for Success (Manufacturing, 2007)
- Services: The New Economic Paradigm (Service Industries, 2011).

Getting on with Business: Reform Priorities for the Next Australian Government has been developed in that tradition and draws in part on this work.

ACCI is a representative membership organisation, not a private or public think tank. Our members are continuously involved in providing input to policy development, through a strong policy committee structure, forums and working parties.

ACCI also has institutional standing that links business activity and organisations at local, state, national and global levels. We have also used these relationships in developing this Blueprint. They help us to assess and better understand the local and global economy, including future projections across the next decade.

Finally, we have drawn significantly on our up-to-date economic survey and analytical work of national trends, including our 2013 *Pre-Election Survey*; 2012 *National Red-Tape Survey*; *Survey of Investor Confidence*; *Survey of Industrial Trends*; and *Business Expectations Survey*.

During 2013, we have received exceptional levels of feedback from our *'Small Business. Too Big To Ignore'* campaign (www.toobigtoignore.org.au). This, together with our *Small Business Survey* has been an invaluable grassroots resource.

Getting on with Business: Reform Priorities for the Next Australian Government is not exhaustive in its approach to all issues, or all policy measures required. We have kept this Blueprint to a manageable size and tone to support advocacy, and communication within industry and the broader community. Matters of further detail can be sourced from our issue-specific Blueprints, policy statements and widely publicised submissions and issue papers. These can be accessed at www.acci.asn.au.

The ACCI secretariat and Chief Executive, Peter Anderson, wish to thank all our members who contribute to policy work and the development of this Blueprint. A special thanks to ACCI's Senior Adviser Dr Si Wei Goo, who coordinated input from ACCI policy directors Greg Evans (Economics and Industry Policy), Jenny Lambert (Employment, Education and Training), Daniel Mammone (Workplace Policy and Legal Affairs) and Bryan Clark (Trade and International Affairs).

A stronger economy

Detail of a viable path back to surplus must be outlined in order to be credible and set a standard of accountability.

REFORM OF COMMONWEALTH FINANCES

Restoring the Commonwealth's budget position is one of the principal economic challenges confronting the country. Achieving fiscal sustainability is a crucial objective in its own right. Strong budget management underpins macroeconomic stability and confidence in the economy.

Large and persistent budget deficits have become a feature of the Australian economic landscape. Policy measures during the 2008 global financial crisis and a subsequent lack of fiscal discipline have left the budget deep in deficit. The failure to achieve a surplus is compounded by the presence of even larger structural budget deficits that, on current policy settings, will remain entrenched.

Without the scope to fund important structural reforms, the productivity dividends these reforms yield will be lost, and the living standards of Australians will be lower as a consequence. It will be difficult to progress a meaningful reform agenda without first generating the necessary fiscal space. For example, recent experience has demonstrated the capacity of revenue shortfalls to undermine promised productivity-enhancing tax reform.

Heightened budget discipline and control on expenditure is imperative. Detail of a viable path back to surplus must be outlined in order to be credible and set a standard of accountability. A comprehensive review of government spending is long overdue, and should be conducted with a view to identifying opportunities to reduce outlays and facilitate a return to surplus. Enhanced transparency with respect to fiscal policy would be achieved by publishing estimates of the structural budget deficit.

Background

The public policy rationales for returning the budget to surplus are numerous. Past budget discipline provided the capacity for a substantial fiscal policy response to the global financial crisis, without generating the concerns to fiscal sustainability that now confront many advanced economies. Australia's fiscal position is far removed from this experience because government in the past was committed to running budget surpluses over the course of the economic cycle.

Returning the budget to surplus will rebuild the scope to respond to any future economic downturn with a discretionary fiscal policy response, should it be required and appropriate. It is also the first step toward ensuring long-term fiscal sustainability and preventing any potential for a future ratings downgrade. Running surpluses over the course of the economic cycle allows the public sector to make a positive contribution to national savings, and ensures the tax burden on the private sector does not need to increase to fund recurrent government expenditure.

A slump in taxation receipts and the conduct of fiscal policy in recent years has left the budget less able to respond to a deteriorating economic environment. The discretionary fiscal stimulus delivered in response to the global financial crisis was unnecessarily prolonged, and this error was compounded by the inclusion of some low-quality spending, badly administered by a national bureaucracy inadequately equipped for such a responsibility.

The further failure to wind back government spending in spite of the economy performing far better than expected led to the avoidable accumulation of public-sector debt, and a worse than necessary deterioration of the budget position. A breach of the two per cent real spending cap in 2011–12 violated the only substantive commitment designed to return the budget to surplus.

Promised budget discipline has been more forecast than real, and the failure to achieve against self-imposed benchmarks has undermined the credibility of commitments to return the budget to surplus. Failure to meet the surplus objective in 2012–13 under favourable economic conditions has damaged Australia’s fiscal credentials.

Pathway Back to Surplus

The business community believes that while the outlook for growth remains positive, it is appropriate to continue to work toward the goal of returning to surplus in the near term. Having objectives for fiscal policy is important, as is the credibility that comes with meeting those goals; however, the current path back to surplus remains poorly defined, and almost entirely encapsulated in a cap on real spending growth that has already been violated.

The two per cent real spending cap was the core element of the deficit exit strategy that was supposed to require the government to make difficult decisions in order to restrain expenditure. Spending restraint of this nature has not been achieved for a sustained period at any point in the last 50 years. Despite the obvious challenge presented in meeting the spending cap, there has never been any detail provided with respect to how it would be implemented.

The specifics of any plan to return the budget to surplus must be clearly outlined in order to be credible. It is clear that a simple headline real spending cap contains insufficient detail to be executed, and the absence of ongoing monitoring against this objective has enabled it to be abandoned largely without consequence. Proposals for achieving spending restraint should be outlined in detail.

Root-and-Branch Review of Government Spending

The scope of government outlays is vast. Federal government spending in 2012–13 is estimated at \$367 billion, or just under one-quarter of total GDP.

Government spending tends to expand incrementally over time, and often in an ad hoc fashion without taking a ‘whole of government’ approach. Moreover, there is a chronic tendency of governments to throw money at problems, rather than to search for the most effective way of dealing with an issue.

Australia, in meeting the long-term fiscal challenge associated with the ageing of the population and the more immediate task of returning the budget to surplus, needs to be engaged in a constant debate about the appropriate size and role of government in society. Business believes there is an obligation for government to habitually query the rationale for often-extensive government interventions in the economy.

A comprehensive review of spending must be the starting point for efforts to address the budget position. The National Commission of Audit, established in 1996, provides a template for the potential review framework and the broad principles that should be applied in conducting such a review. The terms of reference of the review should be as expansive as possible, and should provide the body charged with undertaking the task with broad powers of investigation. They should also require that specific options for budget savings be nominated.

Structural Budget Position

Public debate with respect to fiscal policy is too simplistic, and seemingly has as its sole reference point whether or not the budget is in surplus or deficit. Depending upon the operation of the business and commodity cycles, the budget may be recording a surplus; yet, adjusting for the influence of these factors, may be in underlying deficit.

Estimates of the structural budget position abstract from the impact of the economic cycle and other factors that may be having a temporary impact on the budget position. A fiscal strategy of achieving budget surpluses on average over the medium term can be more difficult to accomplish without a sound reference

point. Publishing estimates of the structural budget position would provide such a reference point and, in turn, anchor a more robust discussion with respect to fiscal policy.

Fiscal strategy should be conducted having reference to the structural budget position. Governments that fail to take this approach risk overspending while times are good. The quality of public discourse in relation to fiscal policy would be improved if credible estimates of the structural budget deficit were regularly published. These estimates, by their nature, will be subject to uncertainty and technical assumptions, which must be both acknowledged and explained.

The Parliamentary Budget Office (PBO) should be tasked with producing estimates of the structural budget balance on a regular basis. It is inappropriate

for this function to lie within the Treasury given the conflict between their role in advising the Treasurer and formulating fiscal policy, and producing a benchmark for the conduct of that policy. The independence of the PBO would add to the credibility of the structural budget balance.

Understanding the underlying position of the budget provides guidance with respect to the appropriate size of the budget balance. Whether or not the budget is in surplus or deficit remains a relevant issue, but arguably the more important concern is where the structural budget is at the moment. These estimates of the structural budget balance should form the basis for the formulation of fiscal strategy.

Recommendations

01. Articulate the pathway back to surplus more clearly and outline proposals to achieve spending restraint in detail.
02. Conduct a root-and-branch review of government expenditure. The terms of reference for this review should require specific options for budget savings to be nominated.
03. Commission the Parliamentary Budget Office to produce estimates of the structural budget deficit on a regular basis.
04. Frame fiscal strategy with reference to the structural budget position.

TAX REFORM

Australia's taxation system needs to be tilted to provide the incentive to invest, to encourage workforce participation, and for businesses it needs to reward risk-taking and entrepreneurship. An excessive tax burden due to the level of taxes, complexity and cost of tax compliance will impair competitiveness, workforce participation and investment in Australia.

While the Australian economy has become more dynamic, efficient and open over recent decades, our taxation system has only adapted slowly to these structural changes. As a result, taxes have become one of the major impediments for the Australian economy to achieve its potential and be as internationally competitive as it can be. According to the *World Economic Forum – Global Competitiveness Report 2012–13*, Australia was ranked 20th out of 144 countries in terms of overall competitiveness; however, looking into the report in greater detail, Australia was ranked 106th in terms of total tax burden. Thus, continuing tax reform remains the key to enhancing Australia's competitiveness and economic growth.

Despite the release of the Henry tax review in May 2010, business tax reform has been limited. Instead, a number of new taxes have been enacted, including the flood levy, the Minerals Resource Rent Tax (MRRT), the carbon tax, an increase in the superannuation guarantee charge and the most recent increase in the Medicare levy to fund the national disability insurance scheme, and the change in PAYG income tax instalments from quarterly to monthly for large entities. Most recently, the government has announced further changes to the FBT regime, which will add substantially to the cost of motor vehicles provided through salary packaging arrangements.

It is concerning that the government maintains a view that any tax reform should be revenue-neutral. Addressing our fiscal position provides the basis for not only meaningful

tax reform, but also lower taxes, which will lead to enhanced economic activity.

Much of the so-called personal 'tax cuts' over the last 10 years has been the discretionary increases in the income thresholds at which the different marginal rates cut in; however, in the absence of automatic indexation of thresholds, the real benefits of these 'tax cuts' have eroded over time due to inflation.

At face value, the individual tax-free threshold was tripled from \$6000 to \$18,000 from 1 July 2012; however, after accounting for the Low Income Tax Offset (LITO), this change merely increases the effective tax-free threshold by around \$4000, from \$16,000 to \$20,542. Moreover, the government partially offset the higher tax-free threshold by imposing a higher initial marginal tax rate of 19 per cent, rather than the previous rate of 15 per cent. The second marginal tax rate also increased from the previous 30 per cent to 32.5 per cent.

Thus, personal income tax remains a priority area of reform. High personal rates distort efficient decision-making, including workers choosing not to enter the workforce, or encouraging income to be spent on consumption rather than saving and investment. Personal income tax is not just a tax on wages and salaries. Personal income also includes individual income from unincorporated businesses, which can be particularly responsive to the level of tax in their decision-making and preparedness to undertake entrepreneurial activity.

ACCI believes that Australia needs a taxation system that supports the achievement of important economic and social objectives, but, at the same time, Australia's competitiveness should be assisted and not impeded by the taxation system.

Tax revenue should be adequate to meet elected governments' reasonable expenditure needs, consistent with the exercise of fiscal responsibility principles. A sustainable tax structure will only be achieved through an integrated package

of reform across all significant Commonwealth and state tax bases in the form of a balanced package covering consumption, income and assets.

ACCI understands that the fiscal reality means much of the tax agenda is a medium- to longer-term matter, but that should not prevent government from setting out its aspirations in this area.

Recommendations

05. Ensure Australia's taxation system is striking a balance in supporting important socio-economic objectives and at the same time provides incentive while encouraging business entrepreneurship and risk-taking, and promoting productivity growth.
06. As fiscal circumstances allow, commit to:
- reduce personal income tax burden through annual indexation of income thresholds and gradual reduction in marginal tax rates
 - nominate a timetable for a reduction in the company tax rate
 - extend the carry-back of tax loss provision to all entities regardless of the types of their business structure
 - change the design of capital gains tax so as not to penalise the sale of long held assets, while retaining existing provisions for small business
 - provide greater incentive for investment with better designed capital allowance provisions.
07. Ensure that the case for broadening the base or increasing the rate of GST is only considered in a comprehensive tax and spending reform package, and that GST reform is not considered as another avenue for government to raise revenue. This process should examine opportunities to abolish state-based transaction taxes, and the abolition or phasing out of other major imposts, such as payroll tax.
08. Reduce the complexity of tax legislation, streamline tax administration, and minimise the compliance burden of taxpayers.

ENERGY REFORM

For a country that built its post-war industrial base and urban expansion on the provision of accessible and affordable energy, it is a monumental failure of policy that many Australian states and territories now have close to the highest retail electricity prices in the developed world.

Rapidly escalating energy prices are having a profound effect not only on households, but across many industries and businesses of all sizes, with energy-intensive sectors bearing the brunt.

Empirical work undertaken by ACCI has shown that some of the largest negative energy price impacts are in industries including plastics and chemicals, food processing, and metal manufacturing.

Price rises can be attributed to a number of factors, including inefficient network regulation, and also the deliberate policy decisions of government in the form of the carbon tax and the full range of other carbon abatement programs that are significantly affecting the competitiveness of Australian companies.

Running at odds to the government's message of support for the manufacturing sector, we are beginning to see evidence that high energy costs are inducing a de-industrialisation trend in the economy.

In the case of smaller businesses, there are negative spill-over consequences with such closures, while the direct impact of higher energy prices sees many enterprises unable to pass on the cost impost because of their relatively weaker position in the marketplace or supply chain.

The next government should abolish the carbon tax, the renewable energy target and other green programs, which are all putting upward pressure on prices but contribute little to a balanced approach to sustainability. A review of energy market regulation that places far more weight on the views of energy users needs to be undertaken.

More generally, energy policy needs to be fuel source neutral and not place impediments or regulations in the way of extracting and distributing the full range of energy options.

Background

Low-cost energy is an important source of comparative advantage for the Australian economy. Access to efficient, reliable energy underpins the international competitiveness of industry, and the efficient supply of energy is a key factor underlying a high-wage, high-productivity economy. Affordable energy serves to reduce the cost of living for Australian households, and ensures that the essentials of life are available at low cost.

Over the course of the last decade, a climate of unaccountability has pervaded government policy in relation to energy supply at both the state and federal levels. Policies aimed at imposing irrationally high-cost energy on consumers (including small business consumers), combined with expensive and often ineffectual emissions abatement policies, have eroded productivity and raised the cost of living. The current high level of energy prices is now a deliberate public choice, and one that is open to governments to remedy.

The business community believes the time has come to identify and correct the poor policy decisions of the past. ACCI's plan offers a strategic roadmap for governments to deliver considerably lower energy prices, while not being indifferent to sustainability objectives. Each point on its own has the potential to significantly alleviate the cost of living pressures, and collectively offer considerable scope for achieving a sizeable reduction in costs and energy prices.

Carbon Tax

The federal government's imposition of a \$24 per tonne carbon tax ahead of coordinated global action to price carbon is a futile exercise in terms of its impact on carbon dioxide emissions, and is one that is highly damaging for the Australian economy. Treasury's modelling demonstrates unambiguously that the carbon tax is detrimental to productivity, and will cost jobs, damage the international competitiveness of industry, lower real wages and curtail investment.

Treasury modelling shows that economic growth will be permanently slower as a result of the carbon tax, which will reduce real wages growth over time while crippling emissions-intensive manufacturing industries. Aluminium production is forecast to shrink by more than 60 per cent by 2050 due to the carbon tax. With the world's major carbon emitters still yet to commit to substantive policy measures to reduce carbon emissions, it makes no sense for Australia to go it alone and introduce the largest carbon tax in the world.

The government announcement to move to an Emissions Trading Scheme (ETS) in 2014 provides no guarantee of lower costs over the longer term. An ETS still represents a multi-billion-dollar burden not paid by our competitors, and a price linked to the European Scheme could quickly rise to close to the current fixed price.

Renewable Energy Target

The Renewable Energy Target (RET) mandates the purchase of high-cost, inefficient energy from renewable energy sources. Energy retailers are forced to bear these higher costs and pass them on to consumers. Unlike the carbon tax, consumers receive no compensation for the impact of the RET on energy prices, because the scheme delivers no revenue. Indeed, the lack of transparency with respect to the operation of the RET leaves households and business with little awareness that they are bearing its cost burden. The impact of the RET on energy prices is considerable, and second only to the carbon tax in terms of the cost imposed by green schemes.

Dictating the supply of energy from high-cost generation aggravates the inefficiencies arising from the carbon tax, and prevents emissions reductions being achieved at the lowest possible cost. As a means of abating carbon emissions, the RET is significantly less efficient than alternatives, and as such is an obvious candidate for rationalisation. Unfortunately, the review of the RET currently being undertaken by the Climate Change Authority presumes its continued existence, and it remains a core component of the government energy policy.

Renewable energy generation may have a substantial role to play in meeting Australia's future energy supply needs; however, this does not justify artificially prescribing its deployment at a time when it is still inordinately high-cost, and well ahead of its proven commercial viability. The RET is an expensive policy measure and will not be effective in bringing forward low-cost base-load

generation. Instead, the RET brings forward expensive off-the-shelf technologies, which are less likely to have a strongly declining cost path over the long run.

Other Carbon Abatement Schemes

In addition to the RET, governments across the country have been gifted an opportunity to reduce energy prices by reversing numerous past policy errors. A proliferation of wasteful carbon abatement schemes at the state and federal level provides a ready opportunity to reduce energy prices and take pressure off strained budgets. The Productivity Commission has identified 230 such measures and concluded that 'many of these policies impose material costs on the community for little or no benefit'. The Energy Efficiency Opportunities program and its cost and regulatory burden on industry require further examination.

COAG has been tasked with rationalising inefficient legacy carbon abatement schemes. The course of action prescribed in this area by the Productivity Commission in its recent Research Paper on COAG's Regulatory and Competition Reform Agenda should be fully implemented. All of these ineffective policies should be terminated, unless it can be demonstrated that they deliver net benefits to the community. Reform of these policies will not only rationalise Australia's carbon abatement effort, it will also reduce the regulatory burden and deliver significant budget savings.

Clean Energy Finance Corporation

The Clean Energy Finance Corporation (CEFC) has been given a mandate to sink \$10 billion of taxpayers' money into uncommercial renewable energy and energy efficient technologies. There is no convincing evidence of market failure with respect to investment in these technologies, nor is it clear that direct government ownership of projects unable to attract commercial backing would constitute an appropriate remedy for any potential market failure.

A mandate to invest in projects that the private sector has rejected is fundamentally inconsistent with achieving commercial returns. The CEFC attempts to ‘pick winners’ in the same way as the failed industry policy experiments of the past. Moreover, the exclusion of carbon capture and storage technologies or emerging nuclear projects reflects purely ideological considerations. The implicit subsidy provided by government investment will lead to the inefficient expansion of the targeted technologies, raising the overall cost of energy supply once the cost of the subsidy is taken into consideration.

Privatisation

Government ownership of generation and network assets has led directly to sharply higher costs for energy users. State-owned enterprises face little incentive to reduce expenses and pass those savings onto consumers. Privatising the energy industry assets that remain in public ownership will lead directly to lower energy prices.

Benchmarking the performance of publicly owned energy network businesses reveals a massive divergence in cost structures compared to privately-owned counterparts. Under the price review framework, surging network costs are passed on to consumers in higher prices. State-owned network businesses inflate their revenues and the resulting dividends paid to government by expanding their cost base, and pass the expense onto energy users. Private ownership instead creates an incentive to minimise costs in order to maximise the value of the enterprise. Private ownership also removes the incentive of state governments to use public utilities as cash cows to fund recurrent government expenditures.

Inefficient operation of energy infrastructure by the public service is a major factor contributing to surging energy prices over the past decade. There is no convincing policy case for retaining energy infrastructure assets in public ownership. On the contrary, gold-plating of infrastructure assets and their inefficient operation provides a ready opportunity to reduce energy prices.

Recommendations

09. Abandon the unilaterally imposed carbon tax and do not support the move to an ETS prior to the adoption of a global agreement including all our competitors. Also scrap the Clean Energy Finance Corporation and all other associated agencies.
10. Abolish the renewable energy target, and audit and heavily rationalise other carbon abatement schemes at all levels of government.
11. Privatising state-owned energy companies as a means of securing greater efficiency and lower costs for the benefit of energy users. In doing so, commit to more efficient regulation that more closely reflects the views of energy users.
12. Invest national effort in global and regional agreements on carbon mitigation, which include our major competitor nations. In the interim, drive domestic mitigation through policies that support technology and innovation at the company level.
13. Energy policy must be fuel source neutral and not place impediments or unreasonable regulations in the way of extracting and distributing the full range of energy options to users.

INFRASTRUCTURE

High-quality, adequate and efficient infrastructure investment is essential to maximising Australia's economic potential and standard of living. In spite of its importance, a substantial shortfall in the level of infrastructure investment over a sustained period has led to chronic deficit in this key element of the nation's productive capacity.

The size of the infrastructure challenge is uncertain, but a clear consensus has emerged that it is sizeable and impacting negatively on productivity growth. On one estimate, the infrastructure shortfall could be as large as 50 per cent of national income. Given the magnitude of the infrastructure deficit, it is unlikely that it can be addressed solely by increasing recurrent expenditure.

Meeting Australia's infrastructure needs will involve ramping up new investment, but the size of the task means it must also extend to unburdening public balance sheets and enabling greater private sector investment. State and territory governments undertake the bulk of infrastructure investment, yet are hamstrung by fiscal positions that make it difficult to support increases in recurrent expenditure without adding to pressure on credit ratings.

Privatising Commercial Assets

Privatising publicly owned commercial assets would break the funding deadlock as it concerns government. Not only would it free up significant fiscal space to expand investment in infrastructure, it would deliver substantial efficiency gains arising from these assets being run according to commercial disciplines. Government ownership of commercial infrastructure assets remains an obstacle to their efficient operation, placing unfair and arbitrary burdens on users.

Infrastructure Australia estimates that Australian Governments hold \$100 billion worth of commercial infrastructure assets, and concludes that 'many publicly owned

infrastructure assets now serve limited or no public policy objectives'. Where there are no compelling reasons for governments to own these assets, continued retention constrains their capacity to meet Australia's infrastructure task.

Privatisation of publicly held infrastructure assets must be a priority in the effort to address Australia's infrastructure shortfall. Governments at all levels need to conduct an audit of infrastructure holdings to assess the capacity of those assets to be relinquished from public ownership, subject to economic or social regulation where appropriate. The Commonwealth has a potential role to play in providing incentives payments to state and territory governments to realise the transfer of ownership.

Enabling Private Sector Funding

Private sector funding of projects also has a major role to play in alleviating the nation's infrastructure deficit. Options for enabling greater private sector investment were considered in a preliminary manner in the 2012 report of the Infrastructure Finance Working Group. The work of this body needs to be built upon with the objective of generating specific policy proposals for implementation. An expert inquiry supported by the full resources of government should be formed for this purpose.

Proposals for reform should seek to maximise the engagement of the private sector in the provision of infrastructure, given its capacity to deliver projects at lower cost. Public-private partnerships play an important role in infrastructure investment, and their potential for wider application needs to be considered. Greater utilisation of public-private partnerships will ease the funding burden on governments and allow an expanded program of investment to be considered for a given budget constraint.

Incentives for private sector involvement in infrastructure provision must not compromise efficient investment. The economic case for individual

infrastructure projects should stand on their own merits, irrespective of how they are funded. Policy options for private sector investment in infrastructure should not distort capital markets, subsidise investment that was already likely to take place, or expose taxpayers to unnecessary risks through the provision of lending guarantees.

Review of Infrastructure Australia

Infrastructure Australia plays a vital role in the assessment of projects to formulate the strategic plans to meet future demand for infrastructure. If Australia is to effectively address its infrastructure investment task, it is imperative that the institutional framework for strategic planning and assessment of projects protects against political influence and maximises the accountability of government decision-making.

Infrastructure Australia is potentially compromised in attempting to meet its objectives by its status as a departmental body with merely an advisory capacity. Governments can ignore the advice of Infrastructure Australia, and recent experience shows that in a variety of instances they have chosen to do

so. Industry believes that where governments elect to invest in projects that do not satisfy a cost-benefit appraisal, they should be forced to defend those decisions publicly.

A review into the operation of Infrastructure Australia and the methodologies it applies would enhance public confidence in the operation of the organisation. The fact that Infrastructure Australia has been established relatively recently and plays such a pivotal role in directing infrastructure investment argues strongly for such a review.

The terms of reference for any inquiry should be broad-ranging and extend to considering how the advice of Infrastructure Australia is used once it is received by government. The potential benefits that could be derived by providing Infrastructure Australia with more formal independence should be examined, along with the implications flowing from the current status of the organisation. Options for enhancing the transparency of the advice provided to government may be a controversial feature, but it is essential for ensuring accountability and providing an effective discipline on poor decision-making.

Recommendations

14. Privatised infrastructure assets to provide the fiscal space to increase investment in new projects.
15. Commission an expert inquiry, building on the work of the Infrastructure Finance Working Group, to develop specific proposals for maximising private sector provision of infrastructure, including greater use of public-private partnerships.
16. Support the role of Infrastructure Australia and take measures to improve its effectiveness.

ACCESS TO FINANCE

Since the onset of the global financial crisis (GFC) in mid-2007, competition in the Australian banking system has diminished significantly, as most of the non-bank financial institutions that relied on the securitisation market and foreign banks have exited or reduced lending in domestic markets. There is also the impact of the acquisitions of the St. George Bank and Bankwest by the major banks.

Reflecting these developments, the four-firm concentration ratio¹ for the Australian banking sector has increased since 2007. The major banks' share of total assets of all banks has increased from a low of 66.9 per cent in the September 2007 quarter, when the share of regional and foreign banks peaked at 33.1 per cent, to 77.6 per cent in the March 2013 quarter².

The major banks have increased their mortgage market shares from 57 per cent in August 2007 to 74 per cent in August 2009; while the market share of foreign banks fell from eight per cent to five per cent and non-bank lenders' market share fell from 15 per cent to 11 per cent³. Moreover, the major banks have increased their market share in business lending, accounting for around 75 per cent of lending to unincorporated businesses and around two-thirds of total business credit⁴.

Given the dominance of major banks, it is not surprising that the majors posted combined profits before tax of \$33.0 billion in 2012, compared to just \$25.4 billion in 2007 – an increase of almost 30 per cent over the past five years⁵.

ACCI fully supports and acknowledges the need for a strong and profitable banking sector. Indeed, the stability of the sector relative to international

developments helped secure our response to the global financial crisis and allowed us to recover more quickly and be less affected than all other advanced economies. However, we are concerned about diminishing competition in retail banking and the likely detrimental impact on business borrowers, especially small businesses. Unlike larger enterprises, small businesses rely heavily on intermediated finance from financial institutions for their working capital, new capital expenditure (for example, on machinery, plant and equipment), as well as opportunities for overall expansion.

Access to affordable finance has been an issue of significant concern for many Australian small businesses during the period immediately after the GFC, as major banks have become more risk-averse and overly conservative in their small business lending. Accordingly, banks have increased their risk margins for small business loans and tightened their standards and terms for new loans through lower loan-to-valuation ratios, stricter collateral requirements and higher interest coverage requirements.

While some businesses are being denied credit due to unsatisfactory financial performance, ACCI is concerned that even businesses with strong trading records and solid lending proposals are finding credit restricted due to weakened balance sheets, reduced revenues or cash flows, and/or falling collateral values. Furthermore, tighter credit standards imposed by major lenders have required small business owners to adjust their business strategies by delaying plans for expansion, downsizing, or, in some cases, closing an otherwise viable business.

Cost of finance has also increased significantly since the GFC for business borrowers. While the major banks only passed on a portion of the cash rate reductions to customers during the previous monetary easing cycle (2008 to 2009), they had increased their loan rates by more than the increases in cash rate announced by the RBA in late 2010, which has caused a major outcry in the business community.

1 i.e. the percentage share of the assets of the four largest firms in an industry.

2 APRA 2013, *Quarterly Authorised Deposit-Taking Institutions Performance*, March quarter 2013.

3 Australian Government 2009, *Australia as a financial centre: Building on our strengths*, Report by the Australian Financial Forum, November 2009.

4 RBA 2010, *Submission to the Inquiry into Access of Small Business to Finance*, March 2010, page 5.

5 KPMG 2012, *Major Australian Banks, Year End: Financial Institutions Performance Summary*.

According to the RBA, average lending rates and product fees for smaller business increased by more than those for larger businesses and households, due to the assessed risk of small business loans. Small businesses were paying a margin of 4.20 percentage points above the cash rate on average for bank finance, compared to a margin of 2.12 percentage points for large businesses and 3.44 percentage points for mortgage customers as of April 2013⁶.

Thus, it is not surprising that, despite the increase in interest expense, the major banks' net interest margin has risen since 2008. Net interest margins for the major banks have increased from a low of 2.04 per cent in 2008 to a high of 2.27 per cent in 2010, before falling marginally to 2.17 per cent in 2012⁷. The RBA indicated that the increase in the major banks' net interest margins was due to the effect of loan repricing.

6 RBA 2013, *Statement of Monetary Policy*, May 2013.
7 KPMG, *Major Australian Banks, Year End: Financial Institutions Performance Summary*, various issues.

In addition to higher interest rate charges, businesses have also paid higher banking fees than households since the GFC. Since 2009, banks' fee income from households has fallen, while banking fees collected from businesses have risen. Fee income from businesses has grown by 25.9 per cent since 2009 to \$7.3 billion in 2012, and banking fees collected from households has declined by 21.1 per cent since 2009 to \$4.1 billion in 2012. According to the RBA, the seven per cent growth in business fee income over the year to 2012 was largely due to the increase in account servicing fees charged to business loans, and merchant services fees⁸.

We need to ensure business borrowers have access to adequate and affordable finance, and to promote greater competition in the Australian banking system.

8 RBA 2012, *Banking Fees in Australia*, RBA Bulletin, June quarter, page 39 to 44.

Recommendations

17. Commission an independent inquiry into the Australian banking system to examine the degree of competition in the provision of business finance and its impact on the needs of borrowers.
18. Require the Reserve Bank to conduct and publish a quarterly credit conditions survey on banks and non-banks to assess the trends and developments in credit conditions for households and businesses. This follows other central banks, such as the Federal Reserve in the United States.
19. Explore the feasibility of a temporary small business loan guarantee scheme. Proper design would be essential to avoid unintended consequences. If implemented, the scheme should have a sunset provision preceded by a review date. The requirement for this approach would be superseded if we see an earlier return to a more competitive lending market.

INNOVATION

It is widely accepted that innovation is the key to success for the modern economy. The OECD has estimated that innovation accounts for 50 per cent of long-term economic growth in advanced industrial countries. Innovation has become critical to business around the world, and is the basis for competition. It is the major determinant of enhanced productivity and competitive advantage at both the firm and nation level.

Innovation can be defined as applying new ideas to products, processes, services, organisation, management or marketing. But newness by itself is invention – it only becomes innovation when it yields market value.

Successful innovation requires:

- a good working interaction between the science base and the business sector
- competitive markets to force firms to innovate more rapidly
- networking and collaboration between firms
- an education system that underpins an innovation culture and promotes linkages between the research and industry sectors
- a strong and reliable system for the protection of intellectual property rights.

ACCI believes that our approach to innovation needs to incorporate these elements and provide recognition of the special circumstances of small business. In addition, there is a need for well-targeted public funding of R&D in universities and research institutions, which recognises both the importance of industry-focused applied research and the need for general ‘pure’ research.

Innovation policy should focus primarily on creating an environment in which new ideas are generated and translated into new products, services and

processes by the private sector; however, there are things that the private sector alone will not supply or will not supply optimally. There remains a role for government in continuing to supply, or at least ensure the supply of, genuine public goods (where a public good is defined as a good that will be undersupplied by the private sector, as you cannot exclude others from enjoying that good).

Even where Australians are successful as innovators in future, it will remain the case that the vast majority of the world’s new ideas and products will be developed elsewhere. Ensuring that Australians have access to those innovations and their application will continue to be an important cornerstone of economic growth.

In this context, the most important policy role for government is to facilitate the opportunity for innovation within the private sector. While it is clear that a public innovation policy can assist firms, governments can ultimately act only in an indirect way, as it is firms, not governments, that deliver innovative products, processes and services.

Governments should operate macro-economic and micro-economic policies conducive to trade and investment, including:

- sound monetary policy
- maintenance of a structural budget surplus
- a taxation system that does not discourage trade or investment, particularly venture capital
- the removal of tariff and non-tariff barriers to trade.

Innovation is a key driver of economic growth, and there is a role for appropriate policy responses by government to create an environment in which innovation is fostered. Against this framework, the following issues need to be addressed.

Recommendations

20. Review the full range of innovation programs and test whether they are fulfilling their original policy objectives, including the extent to which they are delivering additional private sector investment and activity and whether that is happening in a cost effective manner. This process also needs to consider how such programs can help or better target the SME sector.
21. Further develop private/public sector cooperation to sustain competitive R&D across all sectors of the innovation system and to foster commercialisation of public sector R&D outputs, including a greater focus of higher education research on industry needs and priorities.
22. Review the R&D tax incentive mechanism and the operation of the tax credit arrangement, especially in relation to its eligibility criteria and whether the complexity of rules is dissuading its uptake or overall utility for business.
23. Acknowledge that in a constrained fiscal environment government funding can have a greater priority in areas of basic research and this needs to be weighed carefully as to how to support research that can lead to commercialisation activities.

The imperative for these measures is clear. Innovation is essential if Australia is to achieve ongoing improvements in living standards and quality of life. An innovation policy that identifies and advances the appropriate roles of the private and public sectors would represent a major contribution to Australia's economic future.

Raising productivity & competitiveness



Fair Work

Developing the skills of the current and future Australian workforce, and ensuring that the right skills are in the right place at the right time, is a critical challenge.



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2

EMPLOYMENT

Jobs growth is primarily driven by a positive economic environment together with business leadership and innovation, although there is no doubt that a supportive regulatory framework, progressive skilled migration program and effective employment services are all important to the creation of job opportunities and an efficient labour market.

Employment services provided by the federal government through Job Services Australia and disability services networks need to be more employer/demand focused, as well as delivering services to a much larger range of employers than is being achieved under the current system. The employment service provider needs to have two clients, not just the jobseeker but also the employer, as this will benefit the jobseeker as well as the employer.

The current transactional contracts between the government and job services providers strongly incentivises services to those unemployed people who are most disadvantaged, but offers little incentive for providers to assist those who have not been unemployed for long, or who are not among the most disadvantaged. This sounds reasonable, but ignores the reality that the task of finding jobs for those most disadvantaged would be easier if the provider had more jobs available and offered a broader service. Service providers need to work in partnership with industry organisations to improve the profile and scope of the service to employers.

Assisting those most marginalised from the workforce to obtain and retain a suitable job is critically important to the social fabric of society, and the financial and social wellbeing of the individual, as well as being of benefit to the enterprise and the economy. The ACCI initiative *Employ Outside the Box* promotes to enterprises the business case for considering employing jobseekers who are from cohorts that traditionally find it difficult to participate in the

workforce, including unemployed youth, Indigenous, people with disability and mature age jobseekers. This educational approach is more effective than plans to introduce reporting and quotas on employers, as it emphasises the benefit without the unnecessary regulation.

Strong support for those most marginalised from the workforce is needed to assist them in transitioning into work. A pre-employment focus on language, literacy and numeracy development, and employability skills, along with transitional and post-placement support in the form of mentoring and the provision of vocational skills is needed to prepare those people most marginalised from work for employment.

Greater efficiency in the labour market can also be achieved through a strong emphasis on career development. The return on investment for government and enterprises in developing skills and investing in education and training can be limited if the individual is not appropriately matched to the chosen career path. Accessing the right information on the requirements of the considered occupation and the potential job opportunities in that area is not just an important issue for school leavers, but is a lifelong requirement to assist people thinking of changing career. The recently released National Career Development Strategy, through leadership and sufficiently resourced implementation, needs to focus on improving connections across a range of government and industry activities, and enhancing the information available to professionals and others delivering career advice.

Even with efficient and effective approaches to career and workforce development made available to support Australians to obtain suitable jobs, it is essential that Australia has a positive and robust skilled migration program. It has been disappointing to see the politicisation of the 457 Temporary Skilled Visa program, resulting in recent changes to the legislation well in excess of the finetuning that could have been constructively negotiated with industry. The

enterprise level labour market testing, expanded sponsorship requirements and wider ministerial discretion are opposed as being an unnecessary regulatory burden.

Skilled migration creates jobs for Australians by adding to economic growth and bringing in much-needed skills. Other beneficial programs such as Enterprise and Regional Migration Agreements, which have been put on the backburner

as a result of pressure from unions, need to be reinstated to provide greater surety of labour supply to major projects and regions. These programs are good policy derailed by negative politics. This destructive approach that punishes the many compliant employers due to the actions of a few also impacted on the onerous civic sanctions and strict liability approach for employing illegal workers. This new area of law imposed on employers needs to be reviewed, and a more reasonable approach implemented.

Recommendations

24. Ensure that the current review of Employment Services for implementation in 2015 provides a more employer-focused approach, and a broader range of services connected to training and apprenticeship programs.
25. Achieve increased workforce participation and diversity through promoting the business case and investing in positive programs such as *Employ Outside the Box* and work-integrated learning, rather than through regulatory and negative impositions of quotas and reporting.
26. Undertake a review of access to improved and affordable child care, primary carer and maternity leave arrangements to facilitate greater participation by women – but these schemes need to be affordable and not impose additional taxation burdens on business.
27. Reverse the more onerous elements of the new legislative changes for 457 visas, including removing the need for labour market testing at the enterprise level and the civil sanctions relating to the employment of illegal workers, and implement programs based on sound policy around enterprise and regional migration agreements.
28. Restore public confidence in the 457 visa program and skilled migration generally, and promote the benefits that two-way migration brings to the Australian economy and society.
29. Ensure visa fees and arrangements are internationally competitive given the globalisation of the labour market, and encourage the freer flow of labour, both in and out of Australia, with particular focus on improving the connections with Australia's Asian neighbours.
30. Take a holistic approach to career development, recognising the need for lifelong access to information and support, and creating greater connections between relevant programs across federal and state/territory jurisdictions.

WORKFORCE DEVELOPMENT

Developing the skills of the current and future Australian workforce, and ensuring that the right skills are in the right place at the right time, is a critical challenge. Governments need to view the education and training system holistically, not just in four discrete silos of early childhood, schools, vocational education and training (VET), and higher education. This does not mean merging the systems, as each brings to the task their own key strengths, but it does mean a recognition that training relevant to the workplace occurs in all parts of the system, with a need for stronger pathways between them. Industry also needs to play a key role across the education and training system, providing advice at multiple levels, from the ministerial advisory level down to enterprises having input into their local education and training institutions.

Although an increasing number of young people are undertaking vocational training at schools, there needs to be a much stronger focus on improving quality and maximising the credit for vocational training at schools into the rest of the training system, so that their expectations are met. This would include expansion of school-based apprenticeships, and improving the skills of trainers, quality of training and industry engagement between schools and their local employers.

ACCI supports the development by the Australian Curriculum, Assessment and Reporting Authority (ACARA) of an elective subject at years 9 and 10 to embed employability skills within work-related contexts, but most importantly making learning fun and relevant by contextualising learning within the world of work. It is true that not everyone learns in the same way, and any program that encourages students to continue at school and engage in their learning will set them up for a better future. ACCI does not support use of the term 'cadetship' or a separate qualification of Trade Cadetship at schools.

Schools are fundamentally about foundation skills, such as literacy and numeracy, and ACCI firmly believes that minimum requirements for school leavers should be implemented. There is a disconnect between the minimum standards of NAPLAN testing, where over 90 per cent achieve the minimum standard, and the international benchmarks for literacy and numeracy that relate to the skills needed to properly function in the workplace, which show that less than 60 per cent of Australians achieve the benchmark. We need to address this.

A significant issue in vocational training is apprenticeship policy. Strong evidence of the value of work-integrated learning saw the expansion 20 years ago of apprenticeships into the non-trades areas providing opportunities for all Australians, but particularly to assist in the transition from school to work, and for young people who were unemployed. This approach has been undermined by policy decisions in the last few years at state and federal level, including employer incentive cuts and support for union-driven wage rate increases that have seen a dramatic drop-off in the number of commencements of non-trades apprenticeships since July 2012, now down to their lowest level since 1999.

With youth unemployment continuing to rise, particularly in some regions, at alarming rates, there should be more opportunities for qualifications to be earned with embedded work and employment experience, not less, and we need to encourage employers to offer these opportunities. This includes the maintenance of realistic wage rates for first-year apprentices and trainees, and a review of the barriers posed by engaging with current complex regulatory and support arrangements. This emphasis of commencements should be balanced, with the continued support for better rates of completion arising from the industry-led Apprenticeships Mentoring Package.

Continued access to funding, such as through the National Workforce Development Fund, is one positive way of encouraging employers to deliver recognised national qualifications to their staff, although the co-contribution rate

for small business currently at 33 per cent is too high, and the process is still a bit slow to be truly responsive; however, the fundamental approach is good policy.

Workplace skills are also delivered by higher education, with it being core business for universities to train lawyers, doctors, nurses, engineers, accountants and architects, to name but a few. With the number of students in higher

education now well over one million, industry needs to have a stronger voice in teaching and learning standards, as well as ensuring that in an uncapped demand-driven higher education system, the students and universities are well informed about career options and future labour market needs. Policy emphasis should be equally on the quality and the quantity of graduates, with a strong focus also needed on employability skills for graduates.

Recommendations

31. Implement and reinforce an industry-driven system, where industry input is a requirement at all levels from Ministerial Advisory mechanisms, through training packages and down to delivery, in order that the system delivers outcomes that meet the needs of the labour market.
32. Continue federal government investment in the National Workforce Development Fund but reduce the co-contribution rate for businesses employing less than 20 people from 33 per cent to 10 per cent to encourage participation.
33. Rebalance the emphasis of apprenticeships to be about commencements as well as completions, and re-establish the role that both trades and non-trades apprenticeships play in transitioning young people from school to work. This includes effective incentives for employers to offer opportunities for this valuable work-integrated learning.
34. Define the roles of the states/territories and Commonwealth across the education and training system more clearly, including an assessment of the merit for the Commonwealth to assume all responsibility for apprenticeships and traineeships – funding the training, servicing and incentives, with an adjustment in the funding provided to and by the states.
35. Maintain a strong focus on quality across the education and training system, through the professional development of teacher/trainer/academics, strong institutions and effective and sufficiently resourced national regulators. The requirement for the Australian Skills Quality Authority to be self-funding should be removed to achieve greater flexibility to respond to particular challenges.
36. Involve industry in a full review of vocational training at schools with the objective of improving quality of outcomes, abandon the school cadetships policy and implement the Australian Curriculum, Assessment and Reporting Authority (ACARA) Work Studies elective for years 9 and 10.
37. Introduce national minimum standards for literacy and numeracy for all school leavers that relate to the standards required in most workplaces.
38. Nominate industry representation on the higher education standards panel to ensure there is an industry voice in the setting of teaching and learning standards for universities and other higher education institutions.

39. Assess graduate outcomes of the uncapped demand-driven system for higher education over 2014, and rebalance towards quality as against quantity if there is a proven mismatch between courses being studied and labour market needs.
40. Do not proceed with the cap on deductibility of self-education expenses due to commence on 1 July 2015; any change should be subject to a detailed assessment of the impact on skills development and the economy generally.

PRODUCTIVE WORKPLACES

The modern Australia, with its outward-looking focus, structural transition and increased reliance on the services sector, requires a high level of adaptability and flexibility in our labour market. The labour force itself is mobile, self-employment deeply rooted, and career-switching commonplace. In today's economy, change takes place more quickly and dramatically than was previously the case. Industries in transition, such as manufacturing, need capability to adjust their labour supply and its efficiency to compete in global supply chains. Firms operating particularly within the services sector must adapt to peaks and troughs in demand.

ACCI's most recent policy Blueprint dedicated to the burgeoning services sector, *'Services: the New Economic Paradigm'*, launched in 2011, highlighted that service sector firms need to be able to react in a more dynamic way compared to other industries. Firms in the services sector tend to generally be lowly unionised and exposed to sudden changes in demand that require agility in matching labour supply and working arrangements to business conditions.

Inflexible labour rules, which operate on a 'one size fits all' basis or a 9 am to 5 pm, Monday to Friday paradigm, do not reflect the evolution of the sector and specific needs of firms operating in the services sector. They also do not reflect the needs and capacities of the majority of Australian business employers, which

employ less than 20 employees. It is vital that policymakers understand and appreciate that labour regulation must work across a range of diverse business arrangements and economic circumstances. Inflexible labour rules do not allow a firm to structure their business operations in the most efficient and productive manner. Such rules add to cost and economic inefficiency, and contribute to less-than-optimum performance of the labour market and the economy.

The test of whether a country's labour market regulation is calibrated to cater for a diversity of business circumstances while also providing for a robust safety net of minimum terms and conditions is whether it is contributing to sub-optimal productivity, workplace efficiency, the ability to remain competitive and provide goods and services to consumers, and the capacity for a business to retain or employ new workers. The best safety net can only be achieved when a competitive economy is able to continue to generate employment opportunities.

It is vital that the range of necessary forms of workplace arrangement is recognised by policymakers and regulators. Policy decisions should enhance rather than diminish workplace flexibility and the choices available to employers and employees. Furthermore, consideration should be given by policymakers to increasing productivity of the services sector, which should be pursued through 'smarter regulation' efforts. That is, regulation must be targeted and efficient, and must not exceed what is necessary to achieve policy goals.

ACCI supports the recent views expressed by the International Organisation of Employers (IOE) and the Business and Industry Advisory Committee (BIAC) to the OECD in the wake of the global financial crisis (GFC) that⁹:

‘[s]tructural reform of labour market rigidities must continue even in this challenging economic environment. Flexibility in labour markets is essential not only for the survival and sustainability of firms, but also for their ability to be able to retain employees through economic downturn. The strictness and scope of employment regulation or social safety nets can impact on capacities for recovery, and can risk perpetuating joblessness and worsening the impacts of future economic downturns. This does not mean eliminating regulation – it means smarter, more effective regulation.’

Workplace Relations Reform

Australia has a long history of a highly centralised and regulated labour system. Over the last two decades, federal governments have introduced and developed workplace reforms designed to make the Australian economy more efficient and competitive, and improve employment opportunities. This largely began with the Keating Government’s *Industrial Relations Reform Act 1993* and the Howard Government’s *Workplace Relations Act 1996 (WR Act)*¹⁰. More recently, other significant policy reforms have included the *Workplace Relations Amendment (WorkChoices) Act 2005* and industry-specific *Building and Construction Industry Improvement Act 2005*. The passage of the *Independent Contractors Act 2006* was also an important reform that sought to ensure that independent contractors, more often than not in the service industries, are recognised as providing labour on a legitimate commercial basis. Each of these reforms played a positive role in improving firm productivity, efficiencies and overall levels of employment across the Australian economy.

⁹ IOE and BIAC 2010, *Jobs Preservation And Jobs Growth – G20 Meeting*, International Organisation of Employers, Final Report, March 2010, p. 3.

¹⁰ Econtech 2007, *The Economic Effects Of Industrial Relations Reforms Since 1993 (prepared for the Australian Chamber of Commerce and Industry)*. See in particular p. 3-8 of the report which provides a broad summary of key changes from 1993.

The major reform direction in each of these years was towards shifting from a centralised system of setting wages and working conditions towards a more enterprise- and workplace-based system underpinned by a genuine safety net of minimum terms and conditions. These reforms, in part, implemented a number of key recommendations outlined in ACCI’s policy Blueprint *‘Modern Workplace: Modern Future (2002-2010)’*. These reforms increasingly equipped Australia to transform the economy away from traditional industries and towards emerging industry sectors such as services. Notwithstanding these inroads, the system remains too complex and not rooted in the realities of modern workplaces, which are typified by the services sector and small to medium-sized businesses.

More recently, significant legislative changes were made to the national workplace relations laws by the government’s *Fair Work Act 2009*, as detailed in its 2007 pre-election policies, *‘Forward with Fairness’* and the *‘Implementation Plan’*. While the Fair Work laws took further steps towards meeting a longstanding ACCI policy priority of creating a national industrial relations system for the private sector¹¹, aspects of the Fair Work system have brought back a significant level of centralisation and workplace inflexibility at the enterprise level, which the Australian system was successfully moving away from. In some key respects, they are not operating as the government itself intended or committed to industry.

This has negatively impacted employers and workers in almost every industry sector. Without significant reform of the *Fair Work Act 2009*, the system will continue to act as a dampener on the capacity of firms to expand and create opportunities for workers to re-enter the labour force, and those entering for the first time.

¹¹ This began with the WorkChoices reforms, which predominantly relied upon the corporations power under s.51(xx) of the Australian Constitution. Private sector employers in Western Australia and most public and local council government employers still remain under different state-based industrial relations systems.

The collective firsthand experience of Australian employers clearly indicates that key aspects of the Fair Work system require urgent legislative reform if Australia is to maintain workplace flexibility, increase productivity and jobs, and harness the opportunities and manage the challenges in the Asian Century.

Impact of Past Reforms

In 2007, ACCI commissioned Econtech to study the impact of rolling back all major industrial relations reforms in Australia from 1993. The findings are contained in its final report, titled *'The Economic Effects of Industrial Relations Reforms Since 1993.'*¹²

In summary, the study found that¹³:

- Australian industrial relations reforms from 1993 onwards are estimated conservatively to have reduced the structural unemployment rate by at least 1.77 percentage points
- industrial relations reforms from 1993 onwards are estimated to have increased labour productivity by 1.4 per cent. Reversing the reforms would subtract the same amount of 1.4 per cent from the level of productivity. Econtech found that 'some of this increase is still developing as it reflects the recent liberalisation of unfair dismissal laws as part of the introduction of WorkChoices'¹⁴
- accelerated growth in labour productivity since 1992/93 supports the widely accepted perspective that industrial relations reform has boosted productivity.

As identified in the Australian Government's 'Australia in the Asian Century' White Paper (2012) '[b]y 2025, Australia's GDP per person will be in the world's top 10, up from 13th in 2011, requiring a lift in our productivity.' The White Paper rightly identified that '[i]mprovements in productivity will drive the bulk of economic growth in Asia to 2025'; however, the re-regulation of the labour market through the Fair Work laws acts as a handbrake on helping businesses

¹² Econtech, op. cit.,

¹³ Ibid.

¹⁴ Econtech, op. cit., p ii.

achieve the laudable goals identified by the Australian Government in its White Paper. As the *World Economic Forum – Global Competitiveness Report 2012–13* recently identified, the rigidity of Australia's labour market is '[t]he main area for concern' and 'the most problematic factor for doing business, ahead of red tape.' According to the report, Australia's labour market efficiency ranked 42nd in the world, falling 29 places from its 13th position in the preceding 2011–12 report.

The next Australian Government must examine the legitimate experiences and views of businesses of all sizes, operating in metropolitan and regional areas of Australia and across a number of industry sectors, on the impact of the Fair Work laws, particularly those areas that are in need of urgent reform in the first term of the new Australian Government.

Aspects Requiring Urgent Reform

Some key elements of the former reforms have been retained in the Fair Work system, including a national system for the private sector predominantly based on the corporations power of the Australian Constitution, prohibitions on unlawful industrial action during the life of an enterprise agreement, secret ballots authorising industrial action, prohibitions on industrial action when pattern bargaining occurs, secondary boycotts, and strike pay.

However, there are aspects of the Fair Work laws that are negatively impacting business and these areas should be accorded priority reform status by the next Australian Government. These include reforming the following aspects:¹⁵

- bargaining rules and the content and options for agreement making (including reinstating the full suite of options for collective and individual agreements underpinned by a genuinely global No Disadvantage Test (NDT) against a safety net of minimum terms and conditions)
- the rules around strike action, including the capacity for unions to take protected strike action in a wider range of circumstances (including when

¹⁵ These matters were identified in detail by the ACCI employer network during various Senate Committee inquiries into the Fair Work Bill 2008 and the subsequent Post-Implementation Review of the *Fair Work Act 2009* and associated legislation. A copy of all ACCI submissions can be found here: www.acci.asn.au.

bargaining has not even commenced or good faith bargaining has not been exhausted)

- restricting the capacity for unions to make exorbitant and unrealistic claims in support of legally protected strike action where there is currently no requirement for unions, let alone assessing any productivity or efficiency trade-offs in bargaining claims
- inflexible transmission of business rules for enterprise agreements in restructuring and acquisitions of businesses
- allowing employers and employees the ability to agree to flexibly modify the dual safety net of modern awards and the National Employment Standards subject to an NDT
- protecting business, particularly small business, from unmeritorious and costly unfair dismissal and general protection claims
- reversing the significantly enhanced capacities for unions to enter workplaces and employee lunch rooms in low- or non-unionised workplaces.

Why Reform is Necessary

Unions have tested the boundaries of new legal rights and capacities, with the result that the Fair Work laws allow unions to ‘strike first and talk later’ without exhausting new good faith bargaining obligations designed to limit unnecessary and damaging strike action. Protected action ballot orders that allow legally protected strike action can now be taken over matters that do not relate to the direct employment relationship between workers and the employer, such as pursuing claims that affect businesses to manage their business operations.

These orders have been sought in record numbers by unions under the Fair Work laws. For example, only 271 orders were granted in 2006–07, and this climbed to 926 in 2010–11. The Australian Competition & Consumer Commission’s (ACCC) report on the stevedoring industry found that higher nominal unit labour costs increased by 7.5 per cent during 2011–12 and labour productivity significantly fell for the first time since 1998–99.

The ACCC report also notes that industrial activity has increased since 2008, and this has been coupled with unofficial reports of ‘go slow’ strategies. The ACCC warned that ‘if industrial disputes become more frequent and widespread in Australian stevedoring, this could undermine investment in additional capacity and greater competition’. It concluded that it could ‘put at risk the gains previously made in establishing a more productive stevedoring service and undermine the benefits of additional capacity and greater competition’.

The Fair Work unfair dismissal laws have not eradicated ‘go away’ money to settle unmeritorious claims as promised by the Labor Government in 2007. Prior to the Fair Work laws, 6707 claims were lodged in 2004–05. This increased to 13,054 in 2009–10 and is trending up at approximately 3500 per quarter.

Statistics published by the Fair Work Commission reveal that over 80 per cent of claims settle at conciliation, and a majority of settlements involve a monetary component. Eighty per cent involved payments of up to \$8000, and a number of settlements exceeded \$40,000. This is a worrying trend that does not factor in legal fees, lost time, and productivity of the business. A survey of employers commissioned by the Fair Work Commission in 2010 revealed that 76 per cent of employers indicated that the ‘the cost, time, inconvenience or stress of further proceedings’ influenced their decision to settle the claim prior to a contested hearing process.

In the private sector, bargaining claims pursued by trade unions are not creating the ‘win-win’ situations as promised under the Fair Work system. Nor are employers, particularly SMEs, generally seeing any positive benefits in agreeing to claims that do not require any improvements in firm productivity and efficiency.

Unions are routinely pursuing claims over managerial and business issues such as contracting and labour hire, and see bargaining under the Fair Work system as an ‘add-on’ to existing labour costs and conditions. A Productivity Commission

analysis of enterprise agreements found that only 7.4 per cent of Fair Work enterprise agreements specifically linked performance pay or productivity-related bonuses. A lack of viable options under the Fair Work system for agreement making, including non-union collective agreements, greenfield (new project) agreements and individual agreements, has negatively impacted on investment decisions and the flexibility that is required in a modern 21st century economy.

The expansion in the legal rights for trade unions to enter workplaces has caused significant difficulties in some sectors, such as the resources sector, and ignores the reality that only 13 per cent of the private sector is now unionised and the federal inspectorate (the Fair Work Ombudsman) exercises those statutory powers, yet inspectors must be judged by a higher standard of behaviour and conduct under the Australian Public Sector framework.

The newly created national anti-bullying jurisdiction, which operates from 1 January 2014 within the Fair Work Commission, will add to the regulatory burden by overlapping with existing state- and territory-based Work Health and Safety regimes, and will create a new avenue for litigation in addition to unfair dismissal laws.

In addition, there has been a range of new labour costs and red-tape imposts, which has sapped the competitiveness, confidence, innovation and productivity of firms, especially small and medium employers. These include increased costs and inflexibilities under so-called 'modern awards', which has resulted in higher labour costs and new inflexibilities, with young workers losing work in the retail sector and businesses closing on weekends and public holidays across a range of services sectors.

Other labour costs include the phased increase to the compulsory superannuation guarantee levy, which is funded by employers despite the Australian Government's Henry tax review recommending that 'the superannuation guarantee rate should remain at 9 per cent'.

Additional and new red tape on business has substantially increased. This includes forcing employers, including small business, to act as the government's 'paymaster' to deliver public monies to employees under the government's Paid Parental Leave Scheme, and forcing employers to provide a one-page Fair Work Information Statement (FWIS) to every new worker. The Productivity Commission inquiry into the retail industry noted that one large retailer spent \$10,000 to distribute a one-page document to 13,000 workers in 67 stores across the country.

ACCI's 2013 *Pre-election Survey* found that more than one in two businesses considered high labour costs as the largest constraint on their business expansion. Small and medium-sized firms also rated the compulsory superannuation levy as one of their top five concerns. The majority of respondent employers also indicated concern with penalty rates, complying with the Fair Work laws, limitations on being able to set wages and conditions directly with employees, and the cost and compliance with modern awards, among a range of other specific areas of concern.¹⁶ Furthermore, a majority of respondents strongly agreed with the proposition that the 'government should reform the Fair Work laws to increase productivity and flexibility.'

Furthermore, the Rule of Law has been significantly weakened in the building and construction industry with the abolition of the Australian Building and Construction Commission (ABCC), its underpinning industry-specific legislation and associated federal procurement guidelines. Examples of contraventions by building industry participants since the abolition of the ABCC illustrate the urgent and pressing need to reinstate and reinvigorate the successful reforms that commenced in 2003

¹⁶ The results of the entire ACCI Pre-election Survey (2013) can be found here: www.acci.asn.au.

following the final report of the Cole Royal Commission inquiry into the building and construction industry. These reforms also had significant flow-on impacts on the industry and Australian economy, with successive independent reports illustrating

that there was an increase in industry productivity, and a reduction in lost days due to industrial action.

Recommendations

41. Immediately introduce legislation to reform the *Fair Work Act 2009* to achieve the following:
- Prevent unions adopting a strike first, bargain later approach in the pursuit of demands
 - Limit the regulatory system to industrial matters only, so as to not interfere with the decision-making responsibilities of business
 - Ensure that enterprise bargaining is truly voluntary by restoring union and non-union enterprise agreement options and removing the ability for unions without a majority of union members in an enterprise to force an employer and non-union workers to bargain for a collective agreement
 - Restore the pre-WorkChoices version of individual statutory agreements or, at a minimum, ensure that Individual Flexibility Arrangements (IFAs) are able to flexibly deal with all award or enterprise agreement matters and provide certainty by extending the duration of IFAs
 - Eliminate the trade union veto and monopoly over the establishment of greenfield agreements for new projects
 - Restore pre-existing workplace laws sanctioned by the High Court on the sale or transmission of business
 - Restore restrictions on trade union right of entry that were promised by the government in 2007 but which have since been compromised
 - Eliminate from the award system increases to employer costs that were promised by the government in 2007 to not occur, but which have occurred
 - Eliminate once and for all 'go away' money from the unfair dismissal system and the newly created 'general protections' scheme
 - Provide small business with protection from unnecessary litigation and costs by extending the Fair Dismissal Code to explicitly cover sexual harassment, workplace bullying and breaches of occupational health and safety laws.
42. Commission the Productivity Commission to conduct a comprehensive review of the *Fair Work Act 2009* and associated federal laws and to provide an interim report by mid-2014 on priority areas of urgent reform that should be implemented within the first term of the next Australian Government. This inquiry would also inform the Fair Work Commission as part of its first statutory review of all modern awards to commence in 2014. As part of the inquiry, the Productivity Commission should:
- conduct a parallel micro-economic inquiry into the operation of modern awards on firms in priority services sectors (retail, restaurants, hospitality and tourism)
 - consider how small business, workers and the community are impacted by modern awards in key sectors

- recommend options to amend provisions that are negatively impacting productivity, the ability for a business to trade at times to suit consumer demand, competitiveness and employment.
43. Commit to retain minimum wages for juniors, apprentices and trainees and to further consider how it can maximise employment and training opportunities for the most vulnerable in our labour market.
44. Introduce legislation to restore the former Australian Building and Construction Commission and its full suite of powers as a matter of priority. In addition:
- reinstate and improve associated federal government procurement guidelines
 - commission a taskforce to conduct a public inquiry and establish whether further improvements could be made to assist the building and construction industry sector or any other industry sector crucial to the national economy.
45. Commission a review of the operation of the Independent Contractors Act 2006 and a broader review of all federal laws that may have the potential to reduce the freedom of individuals to operate their own business on a commercial basis. Create a new Office of Independent Contracting to:
- work with industry
 - encourage all forms of contracting
 - provide research and assist with dispute resolution services.
46. Consolidate federal anti-discrimination laws on the basis that there will be no net detriment to business as duty holders, and consider options to reduce any regulatory overlap between existing federal laws that prohibit discrimination in employment.
47. Review existing federal frameworks, such as the *Workplace Gender Equality Act 2012*, to consider how best to enhance female workforce participation and increase workplace diversity through non-regulatory means and pathways.
48. Reduce the additional cost and regulatory imposts of the superannuation system on Australian business by:
- phasing out dual superannuation obligations under the industrial relations system, where this is already regulated by existing federal superannuation guarantee legislation
 - amending the *Fair Work Act 2009* in order to specifically discount any future increases to the statutory superannuation guarantee (SG) levy from minimum wage increases in annual wage reviews
 - requiring any future increases to the SG levy, which has yet to commence, to be conditional upon the completion of an independent review to assess its impact on business, particularly small business.

49. Retain the existing 'employee records' exemption and 'small business' exemption in national privacy laws and extend the small business exemption threshold from an annual turnover of \$3 million to \$5 million with annual indexation.
50. Amend the existing *Paid Parental Leave Act 2010* by removing the requirement for employers to act as the 'paymaster' unless the employer opts into the system, and commit to ruling out imposing new costs on employers to fund the existing or alternative Commonwealth schemes.
51. Amend the *Fair Work Act 2009* to remove the red tape requirement for an employer to provide the mandatory one-page Fair Work Information Statement, which carries civil penalties for non-compliance as a matter of priority.

SAFER WORKPLACES

ACCI strongly supports efforts at all levels of government to assist business and workers to improve safety outcomes. This is reflected in ACCI's policy Blueprint '*Modern Workplace: Safer Workplace (2005-2015)*'. To this end, the goals and objectives of reducing the overall incidence of workplace injuries and fatalities is a shared policy goal that should continue to be pursued by the Australian Government in consultation with other governments, regulators, workers, employers and their representatives.

ACCI's role at the federal level as a longstanding member of the tripartite national Safe Work Australia and its predecessors is a testament to the long-term buy-in of industry to ensure that regulatory and non-regulatory policy approaches match tangible improvements in safety. While industry must continue to be a key stakeholder, there must be a reinvigorated effort demonstrated by policymakers to genuinely consult and listen to the legitimate needs of businesses, particularly smaller business. The most significant reform to work health and safety (WH&S) has been the harmonisation of occupational health and safety laws, and this significant COAG reform process continues with the support of industry. While there are many policy benefits with such an ambitious reform, these reforms have also increased the overall level of new regulation on some businesses, particularly smaller firms. As such, the Australian

Government should take a leadership role in consultation with all relevant stakeholders to conduct a review and assessment of both the stock and flow of WH&S-specific regulation and its impact on particular businesses and industry. This should include assessing whether the reform process is achieving better or enhanced safety outcomes, and whether aspects of WH&S regulation can be achieved through alternative non-regulatory pathways.

The creation of new industry-specific regulation, such as the Road Safety Remuneration Tribunal and the anti-bullying jurisdiction within the Fair Work Commission, has resulted in a significant level of regulatory overreach, given that a range of existing state and territory laws already regulate road safety and workplace bullying. This ultimately adds to the overall regulatory burden of industry.

Moreover, a number of proposals have lacked robust analysis, with the perceived benefits of the cost not always justified by proper and robust Regulation Impact Analysis, with a particular emphasis on how proposals may impact small to medium-sized businesses. Alternative policy tools should be genuinely considered before adding new regulation.

Recommendations

52. Consult and work with states and territory governments, regulators, workers, employers and their representatives to develop nationally endorsed guidance material on workplace bullying, and allow for its effective implementation and review by suspending for two years the commencement of the Fair Work Commission unfair dismissal-like litigation jurisdiction on bullying.
53. Actively support the tripartite structure under Safe Work Australia to further progress the national harmonisation of occupational health and safety laws. This should be underpinned by a commitment to not introduce new regulation that will increase the overall regulatory and compliance burden on business, particularly small business.
54. Call on the government to establish:
- small business advisers with experience in WH&S matters to assist small business implement any changes required as a result of jurisdictions implementing the model Work Health and Safety Act
 - industry liaison officer roles within the Department of Employment, Education and Workplace Relations and Safe Work Australia to work with industry and all relevant state and territory jurisdictions on occupational health and safety issues, and to ensure that there is consistency in policy advice from an industry perspective.

Accessing global markets

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ACCI and its members are strong supporters of multilateral trade negotiations and of a trade agenda that delivers tangible and definitive outcomes for Australian businesses and consumers.

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MULTILATERAL TRADE LIBERALISATION

ACCI supports endeavours to restart the stalled World Trade Organization's Doha Development Round of trade negotiations, and to seek novel and innovative approaches to 'critical mass agreements' and an 'early harvest' for some specific initiatives, such as the proposed WTO Trade Facilitation Agreement, as building blocks towards an ultimate conclusion. A conclusion to the Doha Round would offer enormous gains to global and Australian industry across the board. Such actions should be promoted as part of the package of measures being taken to solve the continuing global financial crisis. It seems incredible in the face of severe European and United States fiscal deficits, and rising public debt, that governments would not be attracted to measures that improve economic performance through trade liberalisation while reducing the pressure on their domestic budgets through removal of support measures and trade barriers.

However, the business community acknowledges that the outlook for the Doha Development Round remains far from optimistic. Despite this, ACCI believes strong advocacy internationally from the Australian Government must highlight the benefits of trade liberalisation, and a concerted effort should be made to ensure trade liberalisation remains high on the global agenda.

Australia needs to use the opportunity of its leadership positions in the G20 and the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC) to gather 'coalitions of the willing' that will act for improved trade outcomes in the WTO. The G20 nations, being the world's leading economies, would be the ideal group for a critical mass agreement to unblock WTO negotiations. The G20 has aligned to it a formal business grouping, the B20. Business needs to be the driver of trade and investment liberalisation, and so government needs to provide the mechanism for formal business engagement in the WTO and all FTA negotiations.

Recommendations

55.

Continue efforts to finalise the Doha Round by:

- seeking a G20 led 'critical mass' group
- seeking to finalise stand-alone agreements such as the agreement on trade facilitation by the 9th WTO Ministerial Conference in Bali
- finalising the implementation of the agreement at the 6th WTO Ministerial meeting in 2005 to phase out all agricultural export subsidies by the 9th WTO Ministerial Conference in Bali
- enacting and resourcing a business group for direct engagement with similar groups such as the International Chamber of Commerce World Trade Agenda to provide a business leadership group.

56.

Open discussions on a new WTO Round to include wider interests, such as services trade.

Bilateral and Regional Trade Agreements

ACCI and its members are strong supporters of multilateral trade negotiations and of a trade agenda – including bilateral and regional trade agreements (BRTAs) – that delivers tangible and definitive outcomes for Australian businesses and consumers.

The 2012 completion of the MAFTA is welcomed, particularly with reference to potentially improved opportunities in investment; however, now that it is in force, there doesn't appear to be any support mechanism for the government to communicate the deal outcomes to Australian business. Government should have an outreach component built into all FTA negotiations. Chambers of Commerce would be natural partners, but the government needs to provide resources and material to support business knowledge and information over time about the opportunities created from any new FTA. ACCI recommends that support should be maintained for at least three years, with sufficient resources to achieve a deep engagement with business to ensure that full benefit of the FTA is captured by the Australian business community. Failure to undertake appropriate outreach will result in a lower than optimal uptake of opportunities.

The finalisation of MAFTA, though, has highlighted to business the risks of overlaying FTAs across countries where there are multiple FTAs in force. The risk is that the competing rules of each FTA, if not harmonised, in fact increase the complexity of trading arrangements and costs for commercial trading companies in understanding and complying with the administrative requirements of each FTA. In some cases, the compliance burden overwhelms the advantages of the deal.

The Australian Government must seek harmonised approaches to FTAs and use a 'model' approach based on internationally agreed treaties such as the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention).

Australia has a very full agenda of negotiations underway; however, not all are progressing at an equal pace, and the Trade Policy of the Australian Government in respect of Investor State Dispute Settlement (ISDS) is having a detrimental effect on finalisation of some agreements.

There have been strong leaders' statements and community expectation that the Trans-Pacific Partnership Agreement (TPP) will be concluded in 2013. This means that negotiators will need to work at a dramatic pace to overcome the many outstanding issues still to be resolved in order to achieve a high-quality agreement.

Similarly, the announcement of commencement of negotiations in the Regional Economic Partnership (RCEP) and Indonesia–Australia Comprehensive Economic Partnership (IA-CEPA) will be major areas of focus for government and business. ACCI was pleased to be involved in the IA-CEPA Business Partnership Group (BPG) in a unique approach to such discussion, where the negotiating partnership governments sought and financially supported a pre-negotiation initiative for business on both sides to develop a joint statement and advice to the negotiators about their aspirations for the agreement. The process resulted in an extraordinarily comprehensive and far-reaching report, deeply supportive of free trade, investment and movement of people. It has been welcomed by both governments and establishes a precedent for other FTA negotiations.

ACCI supports this work, and calls on the government to continue to resource this approach as a model for future high-quality, 21st century agreements. ACCI recommends that a dedicated fund, managed by DFAT, to support business engagement in FTA negotiations be created. Based on the experience with IA-CEPA, such a fund should be in the order of \$500,000 per bilateral FTA under negotiation and multiples of this in the case of regional FTAs.

Australia currently has nine FTAs under negotiation:

- Australia–China FTA
- Australia–Gulf Cooperation Council (GCC) FTA
- Australia–India Comprehensive Economic Cooperation Agreement
- Australia–Japan FTA
- Australia–Korea FTA
- Indonesia–Australia Comprehensive Economic Partnership Agreement
- Pacific Agreement on Closer Economic Relations (PACER) Plus
- Regional Comprehensive Economic Partnership
- Trans-Pacific Partnership Agreement.

ACCI is also supportive of the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC). In 2013, Australia is expected to take over the Chair from India. ACCI believes this is a valuable opportunity to have a significant influence

over the potential for liberalised trade and investment for the Indian Ocean Rim nations, and so the government should develop and resource proposals for a plurilateral FTA for the Indian Ocean Rim in much the same way as the TPP focuses on the Pacific Ocean Rim, to the extent that it is in our interest to do so. Again, this should build upon the discussions of the Australia–India FTA negotiations and RCEP. ACCI would be supportive of a ‘model’ FTA based on AANZFTA, which would harmonise with existing agreements between Australia and ASEAN members with Indian Ocean interests.

The federal government needs to provide an appropriate hosting budget including assisting business engagement. Our leadership in this forum is an opportunity to showcase Australian capability capacity to a novel audience and develop deeper engagement with countries based on mutual interests around the Indian Ocean, and to enlighten Australian business to the opportunities in this region.

Recommendations

57.

Ensure Australia continues to seek bilateral and regional free trade agreements in the absence of a WTO outcome. However, these need to:

- advance the interest of Australian industry, to the extent possible, aligned to WTO outcomes
- align with international treaties Australia has signed such as the International Convention on the Simplification and Harmonization of Customs procedures (revised Kyoto Convention)
- in the case of regional agreements, utilise Australia’s largest agreement (AANZFTA) as the basis for future FTA negotiations.

58.

Ensure all Australian FTA negotiations:

- include protection for investors and consider on a case by case basis the inclusion of Investor State Dispute Settlement mechanisms
- avoid overlapping agreements which do not provide significant advancement of trade liberalisation
- build on the positive experience of the Indonesia-Australia CEPA Business Partnership Group.

59.

Seek an Indian Ocean FTA to match Australia’s Pacific regional interests.

Trade in Services

Similar to many advanced economies, services industries have become the most substantial sector in the Australian economy. The services sector accounts for more than 75 per cent of Australia's output, almost four in every five jobs in the economy, and around one-quarter of our total exports.

In light of this, ACCI proposes that there should be a greater emphasis on trade in services in our various trade liberalisation initiatives. One of the greatest challenges in liberalising trade in services is estimating the impact of various 'behind-the-border' restrictions in the form of sectoral and product regulations.

Trade barriers typically encountered include lack of recognition of cross-border qualifications, restrictions on rights to practice, constraints on commercial presence, poor-quality intellectual property rules, and protections and tax rules.

ACCI advocates that sufficient resources should be dedicated to conduct a detailed analysis on impediments to our services exports, alleviate the barriers identified, and promote Australia's two biggest services export income earners: inbound tourism and education industries.

Recommendation

60. Seek improved outcomes in international agreements specifically related to the services sector and the ability to provide services in international markets.

Trade Facilitation

While bilateral and regional trade agreements (BRTAs) are a feasible option to reduce trade and investment barriers in other countries amid limited progress in multilateral trade negotiations, the full potential benefits from free trade agreements will not be realised without adequate and effective trade facilitation programs. Trade facilitation programs can enhance the ability of Australian businesses to maximise the potential of market access made possible by free trade agreements.

ACCI encourages the government to consult more widely with industry and seek business input into the trade liberalisation agenda, including the BRTA process. This would also include a willingness to provide greater support to viable complementary trade facilitation programs that deliver results and value for money, such as, but not limited to, the Export Market Development Grants

(EMDG) scheme and TradeStart, as well as to utilise industry knowledge of behind-the-border restrictions in overseas markets.

It would also be helpful if the country briefs on the DFAT website included discussion about trade restrictions and barriers at the country-specific level, updated from time to time in line with the general country information. This would assist business knowledge on barriers to entry and benefits that can be obtained from BRTA agreements.

Aligned to this is the continuing pressure on Australian firms to remain competitive given cost constraints within the Australian economy and an elevated level of our exchange rate. Government programs could be turned to support for assisting Australian firms to directly invest in developing globally competitive business through direct foreign investment by Australians into other countries.

COMPETING IN DEVELOPING MARKETS

The next few years will be an auspicious period for Australia and its prominence in international affairs, as Australia, having consolidated its temporary seat on the UN Security Council, prepares for the hosting of the G20 leaders and finance minister meetings, and assumes the position of Chair of the Indian Ocean Rim Association for Regional Cooperation.

These prominent positions in the international area provide for opportunities for Australia to truly ‘lead’ in shaping the business environment external to Australia, within which Australian business should thrive.

Every aspect of the Australian economy must be fully exposed to international competition – including our labour markets. Our domestic economy is too small for many businesses to survive in unless they are globally focused and globally competitive.

The development of skilled people in Australia means that Australians expect that they will have access to jobs and entrepreneurial opportunities that will reward them for their effort in gaining skills. This will not be in low-value jobs; however, Australia will still have jobs that require doing that don’t need a high skill level. As we educate our population, and the working age population reduces, we will require people to come from other countries to satisfy our needs in lower-skilled areas, as well as to assist in skill deficits.

The government needs to seriously commit to deep engagement in global supply chains, and develop an appropriate program to assist business to engage in them. ACCI, with its unparalleled international network, would be a willing partner in such an initiative.

The EMDG scheme, administered by Austrade, partly supports export promotion expenses of eligible enterprises in order to boost exports of Australian-produced goods and services. In recent years the EMDG scheme has had a capped budget of \$150 million, with the exception that in 2009–10 this was raised to \$200 million and returned to \$150 million in the most recent year. In the 2012 Mid Year Economic and Fiscal Outlook (MYEFO), the funding available to EMDG was further reduced to \$125 million, accumulating to a reduction on funding of \$100 million over four years.

ACCI has expressed concerns that this reduction in the scheme is contrary to the objectives of the Asian Century policy focus of government, and we maintain our call for this scheme to be set at \$200 million to support Australian firms to deeply engage and capture opportunities in the Asian Century.

ACCI remains concerned that inconsistency in the EMDG scheme over recent years could deter export promotions, which will in turn negatively affect Australian exports, adding to the pressure on exporters already faced as a result of the stronger Australian dollar. This was exacerbated in late 2012 when Austrade sought industry views on legislative changes to the EMDG scheme that would undermine the scheme. We understand that the next scheduled formal review of the EMDG scheme is due in 2015, and we call for this to be brought forward to 2013 before any changes to legislation related to the scheme, to

allow for comprehensive consideration of scheme reforms rather than ad hoc ‘tinkering’ that further undermines business confidence in the scheme.

Along similar lines, TradeStart has become an essential front-line delivery program for Austrade that engages the SME exporter and delivers substantial

contribution for Australia. The recent financial cut to the TradeStart budget and introduced limitation on the ability to deliver services to emerging exporters has seriously diluted the ability to grow our SME export community, and ACCI strongly advocates that the previous funding and delivery models be reinstated.

Recommendations

62. Restore the Export Market Development Grants (EMDG) scheme to \$200 million and streamline and improve the scheme administration.
63. Restore TradeStart to its previous funding and delivery models.

PROMOTING AUSTRALIAN GOODS AND SERVICES

It is widely recognised that Australia needs to market itself and its industries to the world, and a great deal of public investment has been made in supporting various initiatives to promote ‘Brand Australia’. This is done generically as well as sectorally. Similarly, the work of individuals and companies reflects on the overall reputation of Australia and its people.

Individual state governments also market the key features and attributes of their respective states as the place for successful business in attempts to attract visitors and investment to their states.

Business groups then participate in trade missions and promotional activities within and without structured programs, depending on their interests.

All of this activity assists to broadly promote Australia and Australian businesses, and it has worked reasonably well to this point.

There is a risk, though, that fragmented efforts are inefficient, and that rather than adding value it begins to reduce value, as international partners are confused or conflicting messages are developed.

Of greatest concern is that Australian Governments, state governments and, to some extent, industry organisations are all developing and maintaining international posts and ‘business development’ services – often in the same markets.

The recent reforms of Austrade, for example, while broadly supported by ACCI, could lead to state governments and other groups all attempting to provide duplicated services in the ‘mature markets’ in the wake of Austrade refocusing on ‘frontier markets’.

The Australian Government needs to continually monitor the effectiveness of public expenditure at all levels on generic ‘Australian business’ promotion, and should consider developing strong partnerships with business groups to deliver such services to avoid duplication and streamline the direct engagement with business.

Much potential exists for these promotional services to leverage the existing and well-respected 'Australian Made, Australian Grown' brand, campaign and product symbol. Coordination of this type would reduce fragmentation and

also regulatory costs associated with multiple brands, symbols and labels being developed within government agencies and promotional arms at national, state and local levels.

64. Recommendation

Adopt the Australian Made, Australian Grown campaign as a consolidating point for international promotion of Australian origin goods.

GLOBAL ACTIVITIES

Official Development Aid

ACCI has been pleased to assist AusAID with their Business Engagement Steering Committee and Initiative. This work has highlighted that the principal means for alleviating poverty is economic development, and has begun to identify how AusAID and Australian businesses can work more closely together to create sustainable businesses in developing countries, which in turn provides a local taxation base and a methodology for the withdrawal of aid funding requirements.

ACCI is supportive of Aid for Trade approaches, where aid investments assist to improve trade facilitation and market access for Australian products and services.

Australia has committed under the Millennium Development Goals to provide 0.5 per cent of GDP in Official Development Aid. While this is a worthy goal,

in the context of deficit federal budgets, Australia needs to retain a prudent approach to reaching this goal.

Australia has also continued to make commitments for climate change financing in the most recent international climate change negotiations. ACCI supports all forms of international investment in climate change and aid being considered in a combined package in reaching our commitment of 0.5 per cent of GDP in aid funding.

The aid budget is forecast to grow from \$5.2 billion in the 2012–13 year to about \$7.7 billion by 2015-16. Australia should monitor the growth trajectory for overseas aid and make adjustments in the context of the federal budget being reformed to provide a secure and ongoing surplus. That is, in 2013–14, aid funding commitments inclusive of climate change funding should be capped at \$5 billion. Over forward estimates, this would provide a saving of many billions of dollars, which could assist in rebalancing the budget and relieving pressure on other aspects of the budget and government programs.

65. Recommendation

Monitor the growth of overseas aid expenditure ensuring a policy approach consistent with achieving a balanced budget.

G20 Hosting

ACCI supports the efforts of the Australian Government in its involvement with and hosting of the G20 Leaders Summit in 2014. The cost of hosting is estimated

to be \$370 million over four years. Efforts should be made to ensure this cost does not blow out.

Recommendation

66. Ensure that the B20 Business Advisory Group places significant emphasis on engagement with collective global business organisations such as the ICC, IOE and BIAC, through ACCI and our member network.

International Negotiations on Climate Change

Australia has provided a leading role over many years in international climate change negotiations. This has been appropriate, as Australia is a nation that is vulnerable to adverse climate change. However, as seen in COP 18 in Doha in

2012, these negotiations are failing, with a diminishing number of countries willing to commit to a global deal.

The International negotiation responsibilities should be placed within DFAT and aligned with other international negotiations utilising skills within DFAT.

Recommendation

67. Place the International Climate Change negotiation responsibilities within the Department of Foreign Affairs and Trade utilising its international negotiation skills, while ensuring adequate consultation with the Treasury.

TARIFFS & INDUSTRY SUPPORT

Over the past 30 years or so, fundamental change has occurred in the Australian economy as many sectors were exposed to unprotected international competition and a flexible exchange rate. These fundamental reforms led to significant structural adjustment in the Australian economy at the time, and they continue to drive structural change today. The exposure of the Australian economy to dramatic economy-shaping forces that are outside the control of the federal government means that the Australian Government must also continue to react to these same forces.

The Australian Government continues to remain active on improving trade and investment liberalisation within our region, and continues to negotiate a number of bilateral and regional free trade agreements of critical importance. Once completed, however, they also need to be supported with outreach programs so that business can be aware and take full advantage of the agreement outcomes. Business engagement in both the negotiations and the final agreements requires appropriate resourcing.

Australia retains a low level of tariff support for a number of industry sectors; notably the automotive industry and the textiles clothing and footwear industries. Negotiations in a number of current Preferential Trade Agreements (PTAs) involve Australia seeking to maintain these tariffs, yet in others, such as the Trans-Pacific Partnership, the government goal is a comprehensive agreement seeking the complete elimination of tariffs. In some ways, these various negotiations are conflicted.

However, Australia can take unilateral action to reduce its tariffs outside of PTAs and in doing so advance the Australian economy through lower costs across all industries, and assist with further productivity gains through competitive stimulus. ACCI recognises that a single-step elimination may not allow negatively affected industries time to adjust to the competition, so it may be appropriate to consider a phasing period of, say, one percentage point reduction per year, and/or other structural adjustment assistance as appropriate to facilitate the industry transformation. That adjustment process also requires policy reform to foster increased productivity and competitiveness, as outlined in this Blueprint.

Recommendation

68.

Ensure that tariff reform is accompanied by phasing periods, temporary adjustment processes and policy reform that allow the net benefit of tariff reductions to be accompanied by the retention and emergence of a viable and competitive industrial base.



Better functioning institutions

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There is an urgent need to review the current stock of regulations, many of which are excessive, inefficient and redundant.

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REGULATORY REFORM

While well targeted and designed regulations may deliver economic, social and environmental benefits, a future government needs to recognise that regulation invariably alters decision-making by businesses, imposes additional costs and, more importantly, some of this regulatory burden may be unnecessary to achieve the outcome desired by government.

Unnecessary or poorly formulated and implemented regulation can expose Australian businesses to excessive compliance costs, reduce agility of business, stifle market competition and divert resources away from productive investment, reduce innovation and job creation, and discourage entrepreneurship.

The growth of regulation and the weight of existing regulation is an endemic problem across all modern economies, and to mitigate its growth, lawmakers will have to be committed to resisting legislative responses as their first reaction. Many regulations are formulated without adequate consideration of whether the government's policy intents or objectives could be met in other more cost-effective ways. Policymakers also need to acknowledge that it is not up to government to create a risk-free society for as many of its citizens as possible.

Reducing the Compliance Burden

There is an urgent need to review, with the aim to reduce, the current stock of regulations, many of which are excessive, inefficient and redundant. The next government should make and keep a commitment to reduce red tape burden on businesses. The *2012 ACCI National Red Tape Survey* found that 54.3 per cent of businesses surveyed indicated that complying with regulatory requirements has prevented them from making necessary changes to grow or expand their business.

Red tape often arises when regulators feel that they must always err on the side of caution, and thus frequently manage their regulatory program by adding more demand for paperwork, increasing compliance requirements and having more audits and inspections than necessary. Regulation imposes compliance costs on businesses by requiring them to undertake additional activities and provide information to government and third parties. Compliance costs incurred by business often exceed the level necessary to achieve the policy objectives.

Compared to larger enterprises, policymakers need to be cognisant that the small business sector suffers disproportionately from regulatory requirements, not to mention regulation that is badly designed and past its usefulness.

Improving Regulatory Processes

The next Australian Government must improve and strengthen its regulatory processes to ensure that we do not end up with the similar problem of excessive regulation over time.

Any proposed new regulation should undergo a robust regulatory impact analysis (RIA) process to define policy objectives, identify possible consequences of introducing regulation, and review the likely costs, benefits and uncertainties of regulations. The expectation of the RIA process is to discover if the benefits of a proposed regulation justify the costs, and to ascertain which of the alternatives would be the most cost-effective.

Ultimately, any new policy development process should provide confidence to the business and wider community that the new regulatory proposal is the one that is most effective to achieve its policy objective(s) or benefits at the least cost. It is also imperative that the concerns of important stakeholders are sought and considered in an effective and timely fashion in the process.

However, in practise, it is often the case that once a proposed policy or regulatory response has been established, the RIA is used as an additional procedural requirement to justify the merits of the policy, rather than a process to carefully examine the proposed regulatory actions and its policy alternatives. Politically sensitive regulations that have a significant impact on the business community are more likely not to have their RIA adequately

completed. Moreover, Australian businesses continue to express concern and disappointment with RIA processes, as they are often less than adequate and comprehensive – even for major policy proposals – do not allow adequate consultation with stakeholders, and RIA documents are neither readily available nor easily accessible.

Recommendations

69. Establish effective whole-of-government processes to reduce the growth of new regulation, and then, in an orderly but decisive way, review existing regulation to assess its effectiveness and costs after implementation.
70. Harmonise and streamline existing regulations across different states and territories, after a proper consideration of their cost and benefits, especially on those businesses that only operate in a single jurisdiction.
71. Adopt a new regulatory culture that understands business processes and the burden created by regulatory compliance. There should be a commitment to provide a ‘business-friendly’ operating environment.
72. Ensure a regulatory response is the last resort after all other options, including education, publicity, industry self-regulation and other approaches, have been fully assessed and judged to be ineffective.
73. Ensure no new business regulation is considered without a thorough and independent cost benefit analysis in the form of a regulatory impact analysis and ensure the regulatory decision-making process is transparent, leads to fair outcomes and involves consultation processes that are accessible and responsive to business and the community.
74. Ensure the independence of the Office of Best Practice Regulation, which should be at arm’s length from government departments.

COMMONWEALTH/STATE FINANCIAL RELATIONS

In Australia, state governments receive significant funding from the Commonwealth Government, based on the difference between shares of revenue collection and shares of expenditure responsibilities among different tiers of governments.

The high degree of centralisation in the Australian tax system has meant the Commonwealth Government raised 81 per cent (\$317.9 billion) of total taxation revenue for all levels of government (including GST), while state governments only raised about 15 per cent (\$59.7 billion) of total taxation revenue in 2011–12. However, given the decentralised nature of expenditure responsibilities, with the Commonwealth Government responsible for 58 per cent (\$281.4 billion) of total own-purpose spending, and state governments responsible for 42.0 per cent (\$203 billion) of total own-purpose spending, significant vertical fiscal imbalances (VFI) have emerged in Australia's inter-government fiscal relationship¹⁷.

Bridging the significant fiscal imbalances requires a comprehensive inter-government revenue sharing through grants and transfers from Commonwealth to states, with the states only raising about one-third of their own revenues in tax. The Commonwealth provides payments to the states for specific purposes (SPPs) in the form of National Specific Purpose Payments (National SPPs) and National Partnership Payments¹⁸. In 2011–12, the states received \$49.9 billion in payments for specific purposes, which constituted about one-quarter

17 ABS 2013, *Taxation Revenue, Australia, 2011-12*, Cat. No. 5506.0 and ABS 2013, *Government Finance Statistics, Australia, 2011-12*, Cat. No. 5512.0.

18 The National SPPs are the primary way the Commonwealth supports the states' efforts in delivering services in the major sectors of health, schools, skills and workforce development, disability services and affordable housing. The states are required to spend each National SPP in the relevant sector. Under the Intergovernmental Agreement, National Partnership Payments to the states are the key vehicle to support the delivery of specified projects, facilitate reforms, or reward those jurisdictions that deliver on nationally significant reforms.

of total states revenue received, and accounted for about 13.2 per cent of total Commonwealth expenditure. 30.7 per cent of the SPPs were for health expenditure and another 27.5 per cent and 15.6 per cent were for education expenditure and infrastructure provision respectively¹⁹.

While some VFI are common in a federation, studies have shown that Australia's VFI is one of the most extreme compared to other OECD countries. ACCI believes that excessive VFI undermines accountability between different tiers of government. If the states are not responsible for raising sufficient revenue to fund their increased spending, then there may be less incentive for them to provide services in more cost-effective ways. Excessive VFI also reduces fiscal transparency as to who is responsible for which government services, forces states to rely on inefficient taxes, and creates inefficiencies due to bureaucratic overlap, duplication and the cost of administering grants between governments.

In addition to the VFI, there also exist the horizontal fiscal imbalances reflecting the differences in revenue-raising capacity and service delivery costs between the states. This problem has been addressed through Horizontal Fiscal Equalisation (HFE) since the establishment of the Commonwealth Grants Commission (CGC) in 1933. It is not surprising that Australia's level of HFE is high given the corresponding high VFI.

Currently, the funds distributed to achieve HFE are the revenues raised from the GST. The Commonwealth distributes GST payments among the states in accordance with the principles of HFE, based on per capita relativities recommended by the CGC. The assessment procedures by the CGC are based on complex methodology that takes account of differences in per capita revenue-raising capacity, assuming each state made the same effort to raise revenue from its own sources and operated at the same level of efficiency, and differences in spending 'needs'²⁰.

19 Australian Government 2012, *Final Budget Outcome 2011-12*.

20 i.e. the per capita amount required to be spent by the states in providing an average standard of government services.

HFE results in a redistribution of funds away from the larger states (New South Wales and Victoria), benefiting mainly South Australia, Tasmania and the Northern Territory. The validity and appropriateness of equalisation principles employed by the CGC has come under great scrutiny in recent years, especially by those states that are net losers from the process, namely New South Wales, Victoria and Western Australia. The debate often focuses on the measures used in the CGC's per capita relativities calculations, which are often criticised for being based on complex methodology, and sometimes the CGC lacks the data needed in the determination process.

The current HFE system also creates a perverse disincentive for state governments to improve efficiencies, with states embarking on cost-reducing reforms being penalised, and inefficient states rewarded for underperformance. As a result, heavily subsidised states have the incentive to undertake spending initiatives with low payoffs. In addition, the current equalisation arrangements may hamper growth-enhancing reforms, if the states anticipate that the gains from reforms will be equalised away. Studies have shown that the current inter-governmental transfers create quantifiable deadweight loss at \$150 to \$280 million per year²¹. Nonetheless, ACCI believes that there is room to improve efficiency, accountability and transparency in the current federal and state financial relationships.

21

OECD 2006, *Economic Surveys: Australia*, Volume 2006/12.

Recommendations

75. Clarify and simplify the roles and responsibilities of federal and state governments in key areas of public service provision to improve efficiency and to reduce cost, blame-shifting and duplication or gaps in service delivery.
76. Improve the efficiency of the existing state tax mix, by rigorously implementing the agreed schedule for the abolition of most transaction taxes.
77. Reform the Commonwealth Grants Commission to ensure Commonwealth and state financial arrangements meet the test of equity and efficiency; enhance transparency and simplicity of horizontal equalisation methodology; and reward states for good performance.
78. Call on state governments to review, with the aim to significantly reduce, their expenditure before options to increase their revenue-raising capacity are considered. State governments should focus on the most efficient method of delivery for important services and contract out functions to the private sector as appropriate.

PARLIAMENTARY REFORM

Australia's national democracy and institutions are robust and enduring. The business community adapts itself to the outcome of national democratic processes.

Avoiding Sub-optimum Outcomes

The private sector experience with the minority parliament 2010–13 was generally not positive. Examples include:

- Economic reform agenda compromised. Independent reviews proposing longer-term reforms to tax and labour market systems (for example, Henry Tax Review, Fair Work Panel Review, Productivity Commission Reviews) largely sat on the shelf.
- Labour market overregulated. The executive breached significant promises to the private sector about how the Fair Work laws would operate, and the parliament did not compel accountability. A timid political opposition on IR issues compounded the problem. Adding insult to injury, the parliament waved through more workplace regulation not recommended by an independent review panel, and without regulatory impact statements. Amendments sought by industry were rejected. Union powers were expanded by contested parliamentary vote, even though independents said only bipartisan changes should be supported.
- Populist approach to skilled migration. The parliament became complicit in a low-grade debate on skilled migration, culminating in passage of restrictive 457 visa rules not independently recommended, not assessed for regulatory impact and the executive not held accountable for speculative and exaggerated ministerial claims.
- Tax rises without transparency. An increase in the employer-funded superannuation levy from 9 per cent of payroll to 12 per cent proceeded with no funding basis. The parliament allowed the executive to hide the superannuation Bills inside the mining tax debate, further limiting scrutiny, which compounded the misleading claim that the tax, rather than private employers, was funding a \$20 billion levy rise.
- Failure to hold executive to budget promises. In 2012, the parliament allowed the government to abandon a promised company tax cut from

30 per cent to 28 per cent funded by the mining tax it legislated, subsequently clawed back to 29 per cent, and then unilaterally removed with the funding transferred as extra household compensation for the carbon tax. It then allowed a promised budget surplus to remain in deficit.

- Undoing Royal Commission reforms. The parliament dismantled laws in the building industry that kept construction unions and major construction companies in check, even though the legal framework was recommended only a few years earlier by the Cole Royal Commission.

That these poor outcomes occurred in the wake of global economic uncertainty from the 2007–08 financial crisis compounded the sense of instability around management of the economy, and low business confidence.

Assessing the Causes

The causes of these poor outcomes are mixed.

In large measure, the unsatisfactory recent experience of the private sector with our parliamentary institution is the product of parliamentary numbers supporting confidence and supply being finely balanced (one or two votes since 2010), and vulnerable to political controversy.

In short, the government of the day was not able to command a majority in its own right of the floor of the House of Representatives. Thus, economic and business policy had to be negotiated in the political chamber that formed government, rather than determined by the executive and negotiated through a Senate concerned with legislative outcomes rather than government survival.

Nor has the Senate effectively discharged its traditional function as a chamber of legislative review, with the checks and balances required of such a role.

While wider use has been made of the parliamentary committee process, this was largely in name only. The process has been unsatisfactory, with short time frames for submissions and hearings, poorly structured debating periods, and

a lack of accountability for cost and regulatory impacts due to the House of Representatives' political timetable.

Put simply, most in business consider the minority parliament to have done nothing to stop the build-up of regulatory burdens and improve accountability or understand the private sector. Indeed, in many cases, these shortcomings were compounded.

Reform Options

Reform, if it is to occur, must have regard to historical trends and structural issues that exist beyond the life of a single parliament.

The almost-tied general election result in 2010, and a hung parliament that required major parties to negotiate with minor parties and independents to form government, was an unusual and indeed unique event.

While the Senate balance of power has been in the hands of minor parties or independents for the past generation (other than a three-year period 2005–07), those minor parties were more centrist than the left-leaning Greens Party. Over a period, the democratic process may return the Senate balance of power to a more centrist position.

By and large, the business sector considers the democratic process to be the instrument of reform. After a difficult period of minority government and minority parliament, elections present the opportunity to return to majority government and a more controlled focus by either major party on an agenda to restore business confidence and arrest declining competitiveness.

Parliamentary reform should largely be contained to the way the Parliament operates, and the way parliamentary members and senators conduct themselves and hold the executive accountable.

Recommendation

79.

Call on the Parliament to:

- require robust Regulatory Impact Assessments prior to adding to the regulatory cost and compliance burden on the private sector
- provide natural justice to the private sector by providing adequate time and scrutiny of legislative proposals or amendments, and transparently debate and vote on issues that impact on private rights and the private sector
- provide full respect to the collective voice of private business people, especially small business, by seeking input and guidance from their largest and most representative business organisations, as represented by ACCI, Chambers of Commerce and national Industry Associations.

ACCESS TO JUSTICE

As part of Australia's justice system, federal courts and tribunals play a vital role in regulating business operations, specific industries and the general economy.

While the court system plays an integral role in enforcing legal disputes, the Attorney-General's recent *Strategic Framework* aptly noted that 'courts are

not the primary mechanism through which people seek to resolve disputes or potential disputes'. Business continues to strongly support Alternative Dispute Resolution (ADR) as a genuine pathway to solving legal issues involving business. This should be encouraged by the Australian Government through cooperation by federal, state and territory governments, in conjunction with industry input.

Australia's growth in international trade with our overseas trading partners also requires all governments to continue to support the promotion of international commercial dispute resolution for businesses to resolve commercial disputes in Australia. This includes building on Australia's reputation for being a world-leader, and promoting Australia's facilities to ensure that parties consider

choosing Australia as a destination within our Asia Pacific region for international arbitration. The Australian Government should continue to promote ADR and the existing dispute resolutions services available to business, including through the International Chamber of Commerce Australia, which is part of the International Chamber of Commerce.

Recommendations

80. Use established business organisations that are involved in domestic and international dispute resolution, such as Chambers of Commerce and Industry Associations, to promote Alternative Dispute Resolution (ADR) and other pathways.
81. Issue a white paper to canvass models or pathways that will improve access to justice for small to medium-sized businesses, including the consideration of establishing a low-cost national ADR service to deal with disputes on a range of consumer and business issues.

TRIBUNAL REFORM

Federal justice institutions such as tribunals should be accountable, independent and staffed with professionals with expertise in their respective fields.

Institutions that form part of the Australian justice system have the capacity to make decisions that affect the economic and legal rights of businesses and owners. It is vital that such institutions carry with it the authority, confidence and respect that is required for their relevance to the public.

Whilst there are over two million small businesses in Australia, there are only a handful of statutory appointments that have been actively involved in running a small business or have direct private sector experience. The rich diversity and experience that exists within the private sector should be better utilised when government considers appointments to federal statutory bodies that make decisions affecting the business community.

Recommendations

82. Review the process of appointments to the Fair Work Commission. As a general principle, the membership of federal tribunals should be aligned or consistent with other federal bodies that do not exercise judicial powers.
83. Ensure appointments to all federal statutory bodies and tribunals should occur only by a merit based process. Appointments to federal statutory bodies and tribunals will be enhanced by persons with business acumen and experience where the appointee will exercise powers affecting the private sector and their interests.

ENGAGEMENT WITH THE PRIVATE SECTOR

The expanding number and scope of publicly established regulatory institutions and agencies, and the depth at which they regulate, presents a new challenge for the private sector and policymakers. How do our institutions discharge their obligations without individually or in combination suffocating the enterprise and output of the private economy, and especially its small business people who have been largely ignored in public policy and regulatory design?

These are questions for institutions and their culture at all levels; from the largest and most entrenched (legislatures, the executive and the judiciary), to the more localised or issue-specific agencies, statutory bodies, tribunals, government panels and commissions of inquiry.

While each structure has a different brief, they are all individually and collectively accountable, as they form the system of governance that establishes structure for private individuals and private businesses, but also regulates private activity and private enterprise.

Culturally, each institution has to understand its responsibility to those over whom it exercises decision-making. While part of governance, public institutions must ultimately allow the hundreds of thousands of imperfect plans in small business and the private sector to bloom, rather than rely on a single government plan and its bureaucratic apparatus.

Only this way will businesses be encouraged to employ another person, and, if successful, convince our children to go into business, instead of relying on someone else's enterprise or the government. Instead of being the cash cow or

the vehicle for government redistribution, respect for the private sector must become the operating principle.

While lines of accountability vary according to the institution, all must be accountable for providing the private sector voice and meaningful input, natural justice in process and systems, efficiency in the use of taxpayer monies and resources, and balance and respect in decisions and determinations.

A particular issue of accountability arises that must be actioned by the government of the day on a whole-of-government basis. Even where institutions or regulators make justifiable decisions according to their brief that impact the private sector, the combined impact on the private sector as a whole may be overbearing and unjustifiable.

Thus, it is the responsibility of government as a whole (the Cabinet) and the parliament as a whole (the legislature) to exercise their oversight of the total impact that regulatory institutions, agencies and the system of governance are having on both the rule of law, the capacity and cost of compliance, and the enterprise of the private sector.

Increasing Private Sector Input

Improved governance systems and disciplines inside institutions are critically needed.

One of the reasons that we are at this point is a failure to have a critical mass of people in government or parliament who have private sector, let alone small business experience.

The irony is that to get less government intervention in business, we need to get more businesspeople in government.

Beyond that, the persons that comprise these institutions need to have a greater body of experience in the private sector and in dealing with the private sector's institutions.

In the Parliament, in the public service and in membership of agencies and tribunals, steps are sorely needed to actively source and place persons with private-sector experience in decision-making roles.

This should not be limited to persons with a background in large corporations, which themselves can suffer from a silo or departmental culture. Persons who have worked in or operated small and medium businesses have a grassroots understanding of the consequences of managing multiple regulatory imposts and burdens at the one time, on the one day, by only a handful of persons – often family members.

This is a much bigger agenda and horizon than choosing between political parties or political leaders. And it is more than a one-term or one-colour of government matter.

Immediately prior to the 2013 general election, the House of Representatives included only 14 of 150 members who had been business owners, a poor 9.3 per cent. Another 31 had some experience in business, bringing the combined tally to around 45, or 30 per cent. Thus, 70 per cent of politicians decided upon laws that impacted the private sector, but hadn't had any significant experience in the private sector. While not everyone has to be a business owner to have a wise head, the imbalance is stark. Fixing this imbalance is necessary to structurally improve outcomes and the disconnect between our community and its parliament.

Recommendations

84. Improve governance systems and disciplines inside institutions that are reflective of private sector values, and the government should reflect this objective across the public sector.
85. Call on the public service, especially at managerial and operational levels, to revise its rule making and implementation.
86. Ensure a transparent and contemporary balance of at least 50 per cent of persons with private sector backgrounds and experience, including in small and medium businesses in senior appointments to the public sector, tribunals and boards.
87. Call on political parties to find pathways to get businesspeople into government.

Supporting small business

Small Business
TOO BIG
— TO —
IGNORE



AUSTRALIAN CHAMBER OF
COMMERCE AND INDUSTRY

5



The overwhelming message from the *2013 ACCI Pre-Election Survey* is that small business owners place prudent stewardship of the economy well ahead of delivering an expensive shopping list of spending on business assistance programs.

The ACCI '*Small Business. Too Big To Ignore*' campaign and the accompanying '*BIG 4 You Can't Ignore*' has set the agenda for small business policy as part of the economic reform agenda from 2013 and beyond.

The campaign, found at www.toobigtoignore.org.au, is evidence of a mobilisation amongst small business people, which will only be addressed by policy action by the next Australian Government.

There are several core economic initiatives that provide the platform for stronger confidence levels, and the setting in which small business is able to create jobs and wealth.

For the most part, smaller business has not been a leading participant or necessarily a direct beneficiary over the past several years of the stronger parts of the economy – mining, energy and engineering construction.

Smaller enterprises tend to be more prevalent in sectors including housing construction, services, retail, hospitality, tourism and manufacturing – which are areas of the economy that have been under increasing pressure.

It is therefore no surprise that we are continuing to see low levels of business confidence amongst smaller and middle-ranking business.

More often than not, small businesses are hibernating until a clearer and more optimistic economic outlook appears likely to take hold. Business lending remains flat as proprietors play a safe game and show a reluctance to extend facilities in a period of uncertain demand. This impacts expenditure on both plant and equipment, and building and structures, despite favourable timing



opportunities with a strong currency affording potential cost savings. Evidence also suggests continuing weakness in the labour market, with job shedding taking place in sectors including construction and retail.

ACCI's business surveys are among the largest and longest running in Australia. They reiterate this subdued performance, finding that general economic conditions, sales revenue, profitability, investment and employment have been in contractionary territory with specific indicators at or near historic lows.

ARRESTING DECLINES IN CONFIDENCE

A range of factors are contributing to weaker conditions and the immediate outlook, including:

- persistent international volatility and the uncertain impact this has on the domestic economy

At every level of government, regulation is suffocating small business

- an elevated and volatile currency, placing pressure on trade exposed businesses and reducing competitiveness
- changing consumer spending patterns and the preference to reduce debt
- unease about the performance of minority government and resulting policy responses that endorse a low-growth green policy agenda
- the impact of higher utility prices brought about by the carbon tax and other emission reduction measures
- an established view among policymakers that business can help deal with the unexpected revenue shortfalls of government through higher tax rates or new taxes.

A well-recognised feature of the domestic economy in recent years is the uneven nature of economic growth.

The peak of the capital investment stage of the mining and energy expansion is expected to occur in 2013, which will encourage more broad-based economic growth; however, there is no formula as to how this transition might take place, or necessarily any economic precedent to follow, and it is not an automatic response.

The record high terms of trade and accompanying income boost derived from higher commodity prices was a welcome, and perhaps longer than expected, dividend for the national economy and for public revenues.

To some extent, it provided a security blanket that delayed the need to act more quickly on productivity-enhancing reforms that would have helped small business. It also bolstered revenue to government, delaying the urgency for proper public expenditure discipline, and encouraged more spending across the wide sweep of government, albeit with some measures that supported small business.

CUT DOWN ON THE RED TAPE

At every level of government, regulation is suffocating small business. The costs and time involved in complying with those regulations is bad enough, and the

unnecessary duplication makes it even worse. Let's cut the red tape and give small business a break.

A future government needs to recognise the impost of red tape on small business, both its direct cost and the way in which it alters decision-making by business owners, and make a commitment to reduce its burden.

The growth of regulation and the compounding weight of existing regulation is an endemic problem across all modern economies, and to mitigate its growth, lawmakers will have to be committed to resisting legislative responses as their first reaction. They also need to acknowledge that it is not up to government to create a risk-free society for as many of its citizens as possible.

We urge government to listen to the concerns of small business in this area, especially as larger businesses can have a higher tolerance to manage compliance obligations.

Recommendations

88. Make government administer superannuation and paid parental leave payments.
89. Put in place sunset provisions for all business legislation and regulation, as well as a 1-in-1-out rule that actually works.
90. Make the Australian Small Business Commissioner a warrior to fight red tape.
91. Get more personnel with small business experience in government and less government, intervention in small business.



... time has caught up and a period of policy stall has left us with an increasingly uncompetitive and productivity-detracting taxation regime.

REDUCE THE OVERALL TAX BURDEN AND SIMPLIFY THE TAX SYSTEM

Addressing our fiscal position provides the basis for not only tax reform, but also lower taxes, which will lead to enhanced economic activity. Our taxation system needs to be tilted to provide the incentive to invest, and to encourage workforce participation and for small business it needs to reward risk-taking and entrepreneurship. ACCI understands that the fiscal reality means much of the tax agenda is a medium- to longer-term matter, but that should not prevent government from setting out its aspirations in this area.

To some extent, the economic slowdown affecting many of our trading competitors has provided a relief valve, alleviating the need for more timely

and responsive improvements in our tax system; however, time has caught up and a period of policy stall has left us with an increasingly uncompetitive and productivity-detracting taxation regime.

In addition, our tax systems are overly complex and impossible for the average small business person to understand and comply with. The current income tax law extends to almost 6000 pages, despite the repeal of more than 4100 pages of inoperative income and other tax law in 2006²². Many small businesses need to employ specialists, and the whole process adds unnecessary cost and time. Resources devoted to comply with the complex tax system could be channelled to more productive entrepreneurial activities.

²² Commonwealth of Australia 2010, *Australia's Future Tax System – Report to the Treasurer*, Part Two Detailed Analysis, Canberra, p. 651.

Recommendations

92. Put forward a plan to reduce the overall tax burden on small business, which includes personal and company taxation.
93. Reduce and phase out payroll tax.
94. Restore quarterly company and income tax collection.
95. Support a trial of a small business credit guarantee scheme.
96. Compel governments to pay bills on time or pay interest charges.

MAKE IT EASIER TO EMPLOY PEOPLE

Australia has become a very costly place for small business to hire, keep and dismiss staff. And when times are tough, that means jobs and hours get cut. It's also too hard to get workers with the right skills. Let's make it easier to employ people and create more jobs.

Excessive labour cost rises and penalty rates have meant small businesses can't open their businesses on the evenings, weekends or public holidays, or small business owners and their families need to cover these times. Unrealistic penalty rates also negatively affect employees who want to or can only work at these hours, but can't due to business closures. When businesses close, customers miss out and are left with fewer choices, and governments lose revenue.

Employers and employees should be free to enter mutually beneficial arrangements that fit their particular circumstances, while enjoying the protection of a global disadvantage safety net.

Trade unions often use workplace bargaining for reasons that have nothing to do with the direct relationship between employers and employees, for example limiting the use of independent contractors who are themselves small businesses. Thus, we need to limit unions' bargaining demands to matters directly related to employment relationships.

Recent changes to the superannuation levy make it more costly for small businesses to employ people. In many cases, the increases come straight from the bottom line of small businesses that are struggling to remain open or viable. We need to give small businesses a break and make sure they do not become overwhelmed by paying for others' retirements at the expense of their own.



... our roads are congested, our ports are bottlenecked and our rail networks are groaning with overuse. Energy costs are skyrocketing and making us less competitive.

Recommendations

97. Make sure penalty rates are realistic and don't make businesses unviable.
98. Let employers and employees make agreements with the protection of a safety net.
99. Guarantee a person's right to work as a self-employed independent contractor.
100. Ensure that increases to superannuation costs for small business are offset with income tax cuts.

BUILD BETTER INFRASTRUCTURE

Small business people are part of local communities. They and their customers need to get around efficiently and productively. Goods and services need to get to domestic and export markets in a timely manner.

Yet, our roads are congested, our ports are bottlenecked and our rail networks are groaning with overuse. Energy costs are skyrocketing and making us less competitive. This affects us all, but is particularly hard on small business. It's time to actually do something about it by building new and better infrastructure.

101.

Recommendation

Consider, and, where there is clear value get cracking to:

- build the Melbourne East-West Link
- commit to a Western Sydney Airport at Badgerys Creek
- deliver the Bruce Highway Upgrade in Queensland
- build a 275-kilovolt electricity line for Eyre Peninsula in South Australia
- break open infrastructure bottlenecks that are restricting growth in Western Australia
- build the four-lane Midlands Highway in Tasmania
- build a second port dedicated to bulk ore loadout in the Northern Territory
- build the case for a High Speed Rail Network linking east coast capitals, including Canberra.



ABOUT ACCI

The Australian Chamber of Commerce and Industry (ACCI) is the most established, representative and largest peak council of Australian business organisations. As a member-based organisation, it combines the brand strength of the international, national and local chamber of commerce movement with the capacity of Australia's specialist business associations.

The ACCI network represents in excess of 300,000 private enterprises engaging over three million employees or contractors. Eighty-five (85) per cent are small and medium businesses.

ACCI's core service is private sector advocacy, representation and policy development on national and international matters that impact business. We embrace the multiple traditions of business advocacy, from trade and commerce to economics and tax, to employment, labour and social policy.

ACCI's institutional role is international. It is officially recognised as Australia's business representative in councils of the world, including the International Chamber of Commerce, the International Organisation of Employers, the OECD and the UN-related International Labour Organization.

ABOUT THIS DOCUMENT

The policy recommendations discussed in this document were informed by:

- ACCI policy committees' advocacy
- 2013 ACCI Pre-Election Survey
- 2012 ACCI National Red Tape Survey
- ACCI quarterly Business Expectations Survey, Small Business Survey, Survey of Industrial Trends and Survey of Investor Confidence
- ACCI Policy Blueprints.

The above publications are available on ACCI websites at www.acci.asn.au/Research-and-Publications/Research/Economic-Surveys.

ACCI MEMBERS

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