



Chamber of Commerce  
& Industry Queensland

Industry House  
375 Wickham Terrace  
Brisbane Qld 4000  
T 07 3842 2244  
F 07 3832 3195  
info@cciq.com.au

Hotline 1300 133 470  
Employer Assistance  
Line 1300 135 822

29 July 2011

Regulation Reforms Study  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

Dear Mr Banks

**Re: CCIQ Submissions to the Productivity Commissions annual Review of Regulatory Burdens on Business: Identifying and Evaluating Regulation Reform.**

The cost and burden of regulatory compliance is the single most important ongoing issue for the Queensland business community. It increases the cost of running a business and acts as a significant barrier to business growth, investment and productivity. The Chamber of Commerce and Industry Queensland has for a number of years been committed to addressing this significant issue and working with all levels of government to not only highlight the impact that red tape has on business but to also identify opportunities for reform. CCIQ appreciates the opportunity to provide input into this review process.

CCIQ recognises that Australian and state governments have made considerable efforts to reform regulation over recent decades. However, from a Queensland business community perspective, the reality is that regulation and other government red tape continue to impose increasing burden, cost and complexity. As a case in point, CCIQ has been tracking the increase in regulation (based on the Productivity Commissions own measures) since 2009 and found that regulation in Queensland has increased by an average of over 10 per cent per annum. A recent survey undertaken by CCIQ also found that over 80 per cent of Queensland businesses believed red tape had increased in Queensland over the past two years (13 per cent believed it had remained equal and only 1 per cent had noticed any decrease in red tape burden). This demonstrates that despite the best intentions, regulatory reform agendas have unfortunately failed to deliver any real reductions in compliance burden in a meaningful way that can be seen and felt by business and the community.

**Setting Reform Priorities**

As a general observation, a number of key issues present themselves when attempting to address red tape issues and these are correctly identified throughout the issues paper. These certainly do and will continue to present challenges to governments as they attempt to set regulation reform priorities.

- Firstly, CCIQ agrees that all regulation is enacted with the best of intentions and that regulation provides a level of protection and benefit to business and the community. However regulatory design and the process of regulation making, when not rigorous and is instead under the influence of political agendas, often leads to regulation that does not achieve desired outcomes. Regulation often then becomes redundant over time or has unintended and perverse outcomes.

- Additionally often regulation when viewed in isolation of other regulatory instruments does not in itself impose excessive cost or appear complex or excessive. CCIQ firmly believe it is the cumulative effect of regulation and its ongoing growth that creates a regime that is stifling to business and the economy. Unfortunately it is our experience that governments struggle to fully appreciate and understand the cumulative effect of regulation and this is the primary reason for regulatory creep.
- Regulatory churn, or the ongoing review, amendments and changes made to regulation, is also a factor that increases the burden, complexity and cost for business. This fact creates a compelling need to ensure new regulation is effective, efficient and low cost in the first instance, but more importantly that regulatory reviews and amendments deliver quantifiable and significant benefit to business and the community (rather than small scale tinkering around the edges or limited simplification/streamlining effects). At the same time, reform efforts can often be ineffective if other major regulatory reforms are occurring simultaneously that impose additional burden on business and the community. For example, based on business feedback, it is CCIQs observation that much of the benefit of the COAG regulatory reform and national harmonisation agenda has been lost due to the introduction and amendment to significant national laws in areas such as Workplace Health and Safety, Industrial Relations and Building and Environmental compliance which have increased the cost, burden and complexity of the regulatory environment for businesses and employers.
- Finally often governments and stakeholders hold widely different views on what they consider to be excessive, unreasonable and costly which effects the assumptions made during the impact assessment process as well as undermines the intention of regulation reform. This stems from a lack of appreciation by agency officers and regulators of the context in which businesses operate and the interaction of new or proposed regulation within the existing (cumulative) regulatory environment. A focus, as is the case in Queensland, on only that which is defined as being excessive, unnecessary or overly complex, is open to interpretation and ignorant to the full cumulative burden, resulting in governments struggling to identify and deliver meaningful reform.

Therefore it is CCIQ's firm belief that when setting regulation reform priorities, the cumulative effect of regulation must be a central focus and that 'net' or government-wide reduction targets are the only effective means of achieving regulatory efficiency and reducing the cost and burden on business and the community. While agency, sectoral or "hot spot" approaches may provide a framework for identifying initial reforms, over the long-term they do not address the central key business issue of excessive cumulative regulatory burden.

### **Frameworks and Approaches**

CCIQ has undertaken extensive research on best practice approaches to regulation reform. CCIQ has also undertaken a number of key projects to inform our position on reform priorities and our assessment of the Queensland government's reform agenda. Accordingly CCIQ is strongly supportive of all the approaches mentioned in the Issues Paper including stocktake reviews, principle-based reviews, built-in reviews and benchmarking and believes that rather than viewed as alternatives (or mutually exclusive), they are complementary and should all be used as part of a comprehensive approach to regulation reform. Additionally the success or otherwise of each of these approaches is determined by the rigour by which they are applied and the demonstrated level of commitment of the government and its executive.

For example stocktake reviews can be very effective, provided they are intrinsically linked to broad or net red tape reduction targets and the methodology is transparent and independent of the agencies delivering the reform. In the case of the Queensland government's annual stocktake report, neither of these conditions are met. The report does not report on 'net' reductions (impossible since the Queensland government has never established a baseline of existing regulation) and is developed based on agencies reporting or submitting "eligible measures" to the reporting body. Unsurprisingly the business community places little interest or value in these annual reports and are sceptical of the reported benefits and outcomes of the Queensland Government's reform efforts.

Another limitation of stocktake reviews observed in Queensland is the willingness of the business community to expose themselves to regulators on the basis of their compliance or challenges with compliance. Businesses are also not well engaged in government consultation processes (due mostly to time and communication constraints) and also not experienced in the process of providing the detailed policy and regulatory analysis to the level often required as part of such reviews. Certainly Queensland government agencies frequently comment to CCIQ that business criticism of red tape is too anecdotal and not “specific enough” (i.e. down to the specific clause, form or penalty provision) to assist agencies identify systemic regulatory issues. CCIQ believes however that it is more the scenario that businesses provide the detail in their own contextual settings and based on how they understand their compliance requirements and it should be the responsibility of the regulators who are experts in the detail and specifics of their regulatory instruments to translate this to meaningful reform priorities. In these instances, it is CCIQ’s firm belief that industry associations must be engaged as intermediaries to provide the business context and expertise to advise government on systemic regulatory issues and reform priorities.

Built in reviews and sunset clauses, as observed in Queensland and Australia, do not fully reach their potential. The objective of such reviews is to assess the net impact on business and the community, ensure objectives and outcomes are effectively being met and determine the ongoing need for regulation. In practice however they have become an opportunity for government agencies to simply roll-over the regulation, introduce additional requirements or increase fees, penalties and other charges. Even when reviews are undertaken, they rarely assess alternative approaches that may have emerged or whether there is an ongoing and compelling need to reinstate the regulatory provisions.

### **International Best Practice Example**

A highly successful international example has been observed in British Columbia. In this province of Canada the government conducted a baseline audit of the total stock of regulation by counting the regulatory requirements (all the actions and activities required to be undertaken to be compliant) in every act, regulation and other statutory instrument across the government. A target for reducing the number of regulatory requirements was then established. Agencies were required to identify “requirements” to be repealed rather than whole clauses and acts of parliament, it removed the emotion or political arguments intrinsically linked to regulation and by isolating the reform priorities from objectives and outcomes it removed public benefit or interest considerations. Thus agencies were compelled to find more efficient, effective and simplified ways of achieving public benefit outcomes that placed less “requirements” on business and the community.

British Columbia also implemented one of the more successful built-in review and sunset clause provisions. With a reduced timeframe of only 5 years, all Acts and regulations were subject to automatic repeal under a sunset clause and Ministers were required to mount a thorough and detailed case demonstrating high public benefit and low cost should they wish to re-instate the statutory instrument in question. There was no opportunity for automatic roll-over. This provided an effective means of reducing the existing stock and stemming the flow of regulation in British Columbia.

### **Evaluation and Review**

CCIQ agrees that evaluation and review is an essential element of regulation reform. However we contend that evaluation can only be successful if a robust baseline has been established at the commencement of reform projects and that a consistent costing and measurement methodology is applied throughout the life of the reform project. Independent and transparent assessment is also important. CCIQ believes that any assessment of the success of otherwise of regulation reform must be based on the experiences of the business community at the compliance level. Again this implies a strong need for government agencies to actively engage with the business community and industry associations to ensure they understand the actual compliance requirements and experiences of businesses.

## CCIQ Red Tape Reduction Blueprint

CCIQ has developed a red tape reduction policy outlining our recommended approach to reducing the stock of regulation, stemming the flow of new regulation and improving the quality of essential regulation. A copy of this policy is attached. Central to this policy is the concept that any regulation reform agenda must address cumulative burden and cost of regulation.

In recognising the difficulties faced by government agencies in understanding the cumulative effect of regulation and red tape imposed by multiple levels of government and across multiple independent agencies, CCIQ has also developed a Business Red Tape Case Study methodology that allows for the cumulative burden to be costed and systemic regulatory issues identified. CCIQ has completed a number of Business Red Tape Case Studies across a variety of business sectors, regions in Queensland and business sizes. Some example copies of these case studies have been attached for your information. CCIQ has received significant positive feedback from Queensland Government agencies, including the Queensland Office for Regulatory Efficiency on the quality of information, level of detail and usefulness of these case studies in informing their reform priorities. CCIQ welcomes the opportunity to discuss our regulation reform policy and case study approach with the Productivity Commission in more detail and believes that our methodology has great potential to deliver real reductions in compliance cost and burden that are meaningful to the business community.

### Summary

As stated above red tape is a key issue for the Queensland business community and CCIQ is committed to ensuring the Australian and state governments can deliver a program of meaningful regulation reform that delivers real reductions in cost and burden. Should you wish to discuss our submission further please contact me on ph. (07) 3842 2279 or email [nbehrens@cciq.com.au](mailto:nbehrens@cciq.com.au).

Yours Sincerely,



Nick Behrens  
**General Manager – Policy**  
**Chamber of Commerce and Industry Queensland**