
D The activities of the Office of Regulation Review

This appendix details the range of activities undertaken by the Office of Regulation Review in 1997–98.

The Office of Regulation Review (ORR) is located in the Productivity Commission. It has a staff of 12–15, mostly senior officers with economic policy training and experience and a few with legal training and experience. The ORR has an annual salary budget of some \$850,000 and a non-salary budget of around \$50,000.

The Government in 1997 directed that the ORR issue a charter outlining its role and functions. The charter is set out in box D.1. In this appendix the ORR's activities are described with reference to each function specified in the charter.

Advise on quality control for regulation making and review

These activities can be characterised as the development and implementation of general guidelines or frameworks designed to achieve more effective and efficient legislation and regulations. Specific activities of this nature undertaken in 1997–98 included:

- continuing guidance to departments and regulatory agencies on appropriate terms of reference, and the make up of review bodies, for the four-year review program (98 reviews in total) of existing Commonwealth legislation — this program forms part of the Government's commitment under the Competition Principles Agreement (see chapter 1);
- the publication in October 1997, and subsequent wide dissemination, of *A Guide to Regulation*, which is a reference document on good regulatory practice for those developing and assessing policy options; and
- the chairing of a Commonwealth interdepartmental committee which investigated and reported on quasi-regulation, such as codes of practice and some uses of standards — the Government has accepted the principal recommendations of the committee's report (see chapter 5).

Box D.1 **Charter of the Office of Regulation Review**

The role of the ORR is to promote the Commonwealth Government's objective of effective and efficient legislation and regulations, and to do so from an economy-wide perspective. Its functions are to:

- advise the Government, Commonwealth departments and regulatory agencies on appropriate quality control mechanisms for the development of regulatory proposals and for the review of existing regulations;
- examine RISs prepared by departments and agencies and advise on whether they meet the Government's requirements and whether they provide an adequate level of analysis;
- provide training and guidance to officials to assist them in meeting the requirements to justify regulatory proposals;
- report annually on compliance with the Government's guidelines, and on regulatory reform developments more generally;
- provide advice to Ministerial Councils and national standard setting bodies on COAG guidelines which apply when such bodies make regulations;
- lodge submissions and publish reports on regulatory issues having significant economic implications; and
- monitor regulatory reform developments in the States and Territories, and in other countries, in order to assess their relevance to the Commonwealth.

These functions are ranked in order of the Government's priorities, and the ORR must concentrate its limited resources where they will have most effect.

While maintaining an economy-wide perspective, the ORR is to focus its efforts on regulations which restrict competition or which affect (directly or indirectly) businesses. The ORR is to ensure that particular effects on small businesses of proposed new and amended legislation and regulations are made explicit, and that full consideration is given to the Government's objective of minimising the paperwork and regulatory burden on small business.

The ORR (together with the Treasury) is to advise the Assistant Treasurer in his role as the Minister responsible for regulatory best practice.

Advise on regulatory impact analysis

A key function of the ORR is liaising with departments and agencies on the Government's specific requirements for regulation impact analysis, and on how to comply with these requirements. The ORR also provides detailed comments on draft impact assessments by agencies.

The Government announced in March 1997 that the preparation of RISs was mandatory for all primary legislation, legislative instruments and treaties involving regulation which directly affects business, or which has a significant indirect effect on business, or which restricts competition (Prime Minister 1997, p. 66).

The ORR started immediately to put into effect this policy, but it did not gain full momentum until details of implementation were endorsed by the Government in September 1997 and published in October 1997 in *A Guide to Regulation*.

Overall, during 1997–98, the ORR gave advice on some 350 regulatory issues of which around 80 concerned amendments to taxation arrangements. This report provides information on the extent of compliance with the Government's requirements in 1997–98.

In undertaking this role the ORR made particular efforts to ensure that it provided rapid and constructive feedback, both orally and in writing. Those occasions when it was not able to offer a standard of service which met agencies' expectations were typically cases when the preparation of a RIS had been commenced too late in the policy process.

Provide training and guidance to officials

The ORR provides advice to officials as particular issues arise, thereby building their capacity to institute quality processes for the development and review of regulatory proposals. However, more general training and guidance has the potential to considerably improve that capacity.

Therefore, over 1997–98 the ORR provided briefings to departments and agencies, explaining the reasons for the Government's requirements and the features of a RIS. Over the course of the year such presentations were made to some 650 Commonwealth officials and around 1 600 copies of *A Guide to Regulation* were distributed.

Report on compliance and on regulatory reform developments

There are two main strands to the requirement to report on compliance. Firstly the ORR monitors and reports on the progress and outcomes of the Commonwealth's Legislation Review Program (see chapter 1). Secondly, the Government directed the Productivity Commission to report annually, commencing in 1997–98, on compliance with the Commonwealth's mandatory RIS requirements for new and

amended regulation. These reports constitute the body of this document, *Regulation and its Review 1997–98*.

Advise Ministerial Councils and national standard-setting bodies on good regulation making

In April 1995, COAG endorsed a set of principles and guidelines for national standard setting and regulatory action which is undertaken by Commonwealth/State Ministerial Councils and by inter-governmental standard-setting bodies.

In November 1997, COAG made some minor amendments to those principles and guidelines and included an appendix which sets out the role that the ORR has in such processes. In essence, the ORR's role is to provide advice and assistance in the preparation of RISs by these bodies, to receive final RISs, and to report to the Commonwealth/State Committee on Regulatory Reform in cases where decisions are not consistent with the COAG guidelines.

In May 1998, the Prime Minister wrote to all Commonwealth Ministers, drawing their attention to these requirements; a corresponding memorandum was sent to all Ministerial Council secretariats.

In addition, the ORR wrote to all secretariats and national regulatory bodies enquiring as to their adherence to the guidelines during 1997–98. See chapter 7 of this report for details.

Prepare reports and submissions on regulatory issues

Apart from last year's annual report (*Regulation and its Review 1996–97*), the two main publications in 1997–98 were:

A Guide to Regulation

- released in October 1997 after receiving endorsement by the Government;
- it describes best practice processes for developing and amending legislation and regulation, and is designed to assist government regulators to cut 'red tape', make regulations easier to understand and reduce compliance costs.

Some lessons from the use of environmental quasi-regulation in North America

- a staff working paper which analysed the operation of various environmental schemes in Canada and the USA that are intended to replace traditional command and control regulation.

Monitor regulation reform developments around Australia and internationally

Developments in regulation reform are ongoing, both in Australia and overseas. The ORR maintains contact with regulatory reform agencies in all States and Territories, and actively participates in the OECD's work of monitoring and promoting regulatory reform in its member countries.

In March 1998, the ORR organised and hosted a one-day meeting, in Brisbane, of regulatory reform officials from all the States and Territories, and from New Zealand. Such meetings allow officials to learn about successes (and failures) in other jurisdictions which can be helpful in designing reform programs. A brief summary of developments in the States and Territories forms Appendix C of this report.

Collaboration with State and Territory officials occurs in several other ways. For example, in 1997–98, ORR staff participated in:

- meetings of the Commonwealth/State Committee on Regulatory Reform (a COAG committee of officials);
- meetings of the Commonwealth/State review committee which examined and reported on the operation of mutual recognition within Australia;
- meetings of a Commonwealth/State working group which examined and reported on quasi-regulation; and
- meetings of a Commonwealth/State working group developing performance indicators for regulatory reform.

With regard to developments overseas, a senior member of the ORR represented Australia at OECD meetings on regulatory reform in December 1997 and in June 1998. At the latter meeting, Australia played the role of 'lead reviewer' in an assessment of regulatory reform developments in the Netherlands. Also, during the year, Australia has participated in an OECD-wide survey of small businesses, to gauge their compliance costs in meeting taxation, environmental and employment regulatory requirements. This was a collaborative project undertaken by the Office of Small Business and the Australian Chamber of Commerce and Industry, which the ORR helped to implement.

In March 1998, a senior officer of the ORR spoke at an international conference in Manchester, on invitation from the UK Cabinet Office, about Australia's experiences in regulatory reform. That led to a subsequent visit to Australia, hosted by the ORR, of a delegation from Denmark with the purpose of learning from Australia's experience.

A delegation from the Netherlands had also visited earlier in 1998 to study regulatory reforms in Australia. Other overseas representatives who visited with particular interests in the ORR's role and in regulatory reform were the New Zealand Minister for Industry and Commerce, and the Economic Counsellor from the Embassy of Korea.