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# A Conduct of the benchmarking study

This appendix details:

- the progress of the study (below)
- how the study was initiated (the Terms of Reference — A.1)
- the organisations and individuals that participated (A.2–A.5).

The Commission advertised the study in national and metropolitan newspapers following receipt of the Terms of Reference on 23 December 2008, and an initial circular advertising the study was distributed to interested parties. The Commission released an Issues Paper in April 2009 to assist participants in preparing their submissions. The 26 submissions received by the Commission are listed in table A.1.

In addition, the Commission met with a number of industry stakeholders, including unions, business groups, individual businesses and government departments. A list of those meetings is in table A.2.

The Commission would like to thank all those who have contributed to the study.

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## A.1 Terms of Reference

### A1.1 Text of the overarching terms of reference (11 August 2006)

The Productivity Commission is requested to undertake a study on performance indicators and reporting frameworks across all levels of government to assist the Council of Australian Governments (COAG) to implement its in-principle decision to adopt a common framework for benchmarking, measuring and reporting on the regulatory burden on business.

*Stage 1: Develop a range of feasible quantitative and qualitative performance indicators and reporting framework options*

In undertaking this study, the Commission is to:

1. develop a range of feasible quantitative and qualitative performance indicators and reporting framework options for an ongoing assessment and comparison of regulatory regimes across all levels of government.

In developing options, the Commission is to:

- consider international approaches taken to measuring and comparing regulatory regimes across jurisdictions; and
  - report on any caveats that should apply to the use and interpretation of performance indicators and reporting frameworks, including the indicative benefits of the jurisdictions' regulatory regimes;
2. provide information on the availability of data and approximate costs of data collection, collation, indicator estimation and assessment;
  3. present these options for the consideration of COAG. Stage 2 would commence, if considered feasible, following COAG considering a preferred set of indicators.

The Stage 1 report is to be completed within six months of commencing the study. The Commission is to provide a discussion paper for public scrutiny prior to the completion of its report and within four months of commencing the study. The Commission's report will be published.

*Stage 2: Application of the preferred indicators, review of their operation and assessment of the results*

It is expected that if Stage 2 proceeds, the Commission will:

4. use the preferred set of indicators to compare jurisdictions' performance;

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5. comment on areas where indicators need to be refined and recommend methods for doing this.

The Commission would:

- provide a draft report on Stage 2 for public scrutiny; and
- provide a final report within 12 months of commencing the study and which incorporates the comments of the jurisdictions on their own performance. Prior to finalisation of the final report, the Commission is to provide a copy to all jurisdictions for comment on performance comparability and relevant issues. Responses to this request are to be included in the final report.

In undertaking both stages of the study, the Commission should:

- have appropriate regard to the objectives of Commonwealth, state and territory and local government regulatory systems to identify similarities and differences in outcomes sought;
- consult with business, the community and relevant government departments and regulatory agencies to determine the appropriate indicators.

A review of the merits of the comparative assessments and of the performance indicators and reporting framework, including, where appropriate, suggestions for refinement and improvement, may be proposed for consideration by COAG following three years of assessments.

The Commission's reports would be published.

PETER COSTELLO

11 August 2006

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### **A.1.2 COAG's response to stage 1 report (13 April 2007)**

In its communiqué of 13 April 2007 (COAG 2007, Regulatory Reform Plan, p. 10), COAG responded to the Commission's stage one report as follows:

- COAG has agreed to proceed to the second stage of a study to benchmark the compliance costs of regulation, to be undertaken by the Productivity Commission. Benchmarking the compliance costs of regulation will assist all governments to identify further areas for possible regulation reform. The benchmarking study will examine the regulatory compliance costs associated with becoming and being a business, the delays and uncertainties of gaining approvals in doing business, and the regulatory duplication and inconsistencies in doing business interstate. COAG has asked Senior Officials to finalise by the end of May 2007 any variations to the areas of regulation to be benchmarked in the three-year program outlined in the Commission's feasibility study '*Performance Benchmarking of Australian Business Regulation*'. COAG noted the Commonwealth will fully fund the benchmarking exercise.

### A.1.3 Letter from the Treasurer requesting the Commission to commence the second stage of the benchmarking program



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- 3 SEP 2007

Mr Gary Banks AO  
Chairman  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616



Dear Mr Banks

On 11 August 2006 I requested that the Productivity Commission conduct a two stage study on performance benchmarking of Australian business regulation. The Commission's stage one report, released on 6 March 2007, concluded that benchmarking of regulatory burdens across jurisdictions is feasible and would complement other initiatives to monitor and reform regulation.

Accordingly, and consistent with the decision of 13 April 2007 by the Council of Australian Governments, I request that the Commission commence stage two of the study extending over the next three years. In keeping with the terms of reference, stage two of the study is to examine the regulatory compliance costs associated with becoming and being a business, the delays and uncertainties of gaining approvals in doing business, and the regulatory duplication and inconsistencies in doing business interstate.

The Commission is requested to begin stage two of the study by providing a draft and final report on the quantity and quality of regulation, and results of benchmarking the administrative compliance costs for business registrations within 12 months.

In undertaking stage two of the study, the Commission is requested to convene an advisory panel, comprising representatives from all governments, to be consulted on the approach taken in the first year. The panel should be reconvened at strategic points, providing advice on the scope of the benchmarking exercise and facilitating and coordinating data provision. It must also be given the opportunity to scrutinise and comment on the preliminary results.

The Commission is requested to review the benchmarking exercise at the conclusion of year three and report on options for the forward programme of the benchmarking exercise.

Yours sincerely

  
PETER COSTELLO

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## A.1.4 Letter from the Assistant Treasurer requesting the Commission to commence this study



**The Hon Chris Bowen MP**  
**Assistant Treasurer**  
**Minister for Competition Policy and Consumer Affairs**

16 DEC 2008

**Mr Gary Banks AO**  
**Chairman**  
**Productivity Commission**  
**GPO Box 1428**  
**CANBERRA CITY ACT 2601**

Dear Mr <sup>Gary</sup>Banks

I am writing to you regarding the 2009 work plan of the Productivity Commission's Performance Benchmarking of Australian Business Regulation study.

In response to your request of 12 September 2008, this matter was raised at the 24 October 2008 Council of Australian Governments' Business Regulation and Competition Working Group meeting.

The BRCWG:

- noted the merit in continuing the benchmarking work program;
- agreed that occupational health and safety and food safety regulation should be considered by the Commission in year 2;
- requested that the Commission complete the OH&S and food safety benchmarking reports by December 2009; and
- agreed to revisit the Commission's future work plan in relation to the benchmarking study in 12 months time.

I would be grateful if you could undertake whatever action is necessary to fulfil the BRCWG's direction. The Commission may structure its work as it sees fit within the timeframe indicated above.

I have copied this letter to the Minister for Finance and Deregulation and the Minister Assisting the Finance Minister on Deregulation.

Yours sincerely

**CHRIS BOWEN**

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CANBERRA ACT 2600



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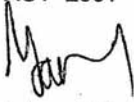
**A.1.5 Letter from the Assistant Treasurer granting the Commission an extension to this study**



**ASSISTANT TREASURER  
SENATOR THE HON NICK SHERRY**



Mr Gary Banks AO  
Chairman  
Productivity Commission  
GPO Box 1428  
CANBERRA CITY ACT 2601

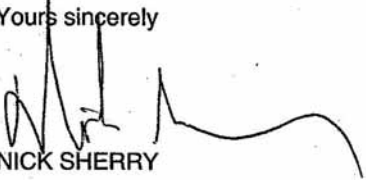
Dear Mr Banks 

Thank you for your letter of 20 August 2009 requesting an extension of the reporting date for the Productivity Commission's study benchmarking the burdens on business of occupational health and safety regulatory regimes.

I note the delays in obtaining critical information required for the Commission's study from the heads of workplace safety authorities, because of their intent to meet COAG's requirement for delivery of a model OHS Act. As such, I agree to the extension you have requested and the Commission should now provide a final report to the Government at the end of March 2010.

I look forward to receiving a copy of the final report.

Yours sincerely

  
NICK SHERRY

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## A.2 Submissions

Table A.1

<i>Participant</i>	<i>Submission number</i>
Association of Consulting Engineers Australia	5
Australian Chamber of Commerce and Industry	6
Australian Federation of Employers and Industries	26
Australian Finance Conference	15
Boral Limited	3
Business Council of Australia	21
Business SA	2
Carol O'Donnell	10
Chamber of Commerce and Industry WA	7
Community and Public Sector Union	19
CRC Construction Innovation	16
Department of Commerce WA	4
Housing Industry Association Ltd	18
Master Builders Australia	20
Master Builders of Australia	1
Minerals Council of Australia	25
Music Council of Australia	24
National Disability Services	14
Northern Territory Horticultural Association	12
NSW Business Chamber	11
NSW Minerals Council	9
NT WorkSafe	22
Safety Institute of Australia Inc	13
Suncorp	23
The Brainary	17
Workcover NSW	8

## A.3 Advisory committee meetings

### Government Advisory Panel Roundtable (5 February 2009, Melbourne)

#### Commonwealth

Department of Finance and Deregulation

#### Victoria

Department of Premier and Cabinet  
Department of Treasury and Finance

#### South Australia

Department of Premier and Cabinet  
Department of Treasury and Finance

#### Northern Territory

Department of the Chief Minister  
Northern Territory Treasury

#### New South Wales

Department of Premier and Cabinet

#### Queensland

Department of Treasury (Office for Regulatory Efficiency)

#### Western Australia

Department of Treasury and Finance

#### Tasmania

Department of Treasury

#### ACT

ACT Treasury

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## A.4 Visits and consultations

Table A.2

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*Commonwealth and National Organisations*

Australian Chamber of Commerce and Industry, Melbourne  
Australian Council of Trade Unions  
Australian Food and Grocery Council  
Australian Industry Group, Melbourne  
Business Council of Australia  
Comcare  
Department of Innovation, Industry, Science and Research — Industry and Small Business Policy  
Master Builders Australia  
National Farmers Federation  
Safe Work Australia Council

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*Australian Capital Territory*

ACT Government – Office of Industrial Relations

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*New South Wales*

Australian Industry Group  
Department of Premier and Cabinet NSW  
John Holland Group  
New South Wales Minerals Council  
NSW Business Chamber  
Westpac Banking Corporation  
Woolworths  
WorkCover New South Wales

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*Victoria*

Coles  
Department of Premier and Cabinet (Vic)  
Public Transport Safety Victoria  
Safety Institute of Australia  
Total Construction  
Victorian Department of Treasury and Finance  
WorkSafe Victoria

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*Queensland*

Australian Mines and Metals Association  
CRC Construction Innovation  
Department of Employment, Economic Development and Innovation (Safety and Health) (Qld) — Mining OHS inspectorate  
Department of Premier and Cabinet (Qld)  
Department of Transport and Main Roads (Qld)  
Department of Treasury (Queensland Office for Regulatory Efficiency)  
Justice and Attorney-General (Workplace Health and Safety Queensland)  
Queensland Chamber of Commerce and Industry  
Rio Tinto

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**Table A.2 (Continued)**

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*South Australia*

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Department of Premier and Cabinet and Department of Treasury (SA)  
Hickinbotham Homes  
Meals on Wheels (Australian Secretariat)  
SafeWork SA  
South Australian Farmers Federation

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*Western Australia*

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Chamber of Commerce and Industry (WA)  
Department of Treasury and Finance (WA)  
Fortescue Metals Group  
Small Business Development Corporation (WA)  
Unions WA  
VDM Construction  
WorkSafe WA

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*Northern Territory*

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Department of the Chief Minister (NT)  
Energy Resources of Australia Ltd  
Fresha Products  
Northern Territory Horticultural Association  
Northern Territory Resources Council  
Northern Territory Treasury  
NT Worksafe

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*Tasmania*

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Cadbury Schweppes  
Department Treasury and Finance (Tas)  
Incat  
Mundy & Sons Fine Foods  
WorkCover Tasmania  
Workplace Standards Tasmania

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*New Zealand*

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NZ Department of Labour  
NZ Ministry of Economic Development

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## A.5 Surveys and providers of information

As part of this study, the Commission surveyed all core OHS regulators and three mining-specific regulators in New South Wales, Queensland and Western Australia (table A.3). Details on those surveys are contained in appendix B.

In addition to submissions and consultations, data and information were also provided to the Commission by a leading Australian retailer.

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**Table A.3 Australian and state and territory government OHS regulators**

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<i>Regulators</i>	
Cwth	Comcare
NSW	WorkCover Authority of New South Wales NSW Department of Industry and Investment
Vic	WorkSafe Victoria
Qld	Workplace Health and Safety Queensland Department of Employment, Economic Development and Innovation
SA	SafeWork SA
WA	WorkSafe WA Department of Mines and Petroleum
Tas	Workplace Standards Tasmania
NT	NT WorkSafe
ACT	ACT WorkCover

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