
8 Other concerns

Specific concerns raised by participants, which did not fall within the broad areas covered previously are addressed in this chapter.

8.1 Medical services

The administrative requirements placed on general practitioners (GPs) and their practices by the Australian Government have been an ongoing concern to the medical profession. Moreover, these issues have been examined in detail by previous reviews and studies. In 2003, the Productivity Commission (PC 2003), at the request of the Australian Government, undertook a study into the administrative and compliance costs placed on GPs and their practices (box 8.1). Many of these issues were again raised by the Regulation Taskforce in 2006 (Regulation Taskforce 2006).

There are also reviews currently underway in this area. In December 2008, the Minister for Health and Ageing (Roxon 2008a) announced a review of Medicare items on the Medical Benefits Schedule (MBS) to reduce the complexity of the system and reduce red tape for GPs with a number of changes to the schedule to take effect from 1, July 2009. A National Primary Health Care Strategy, which is to consider a range of issues affecting GPs, is also being developed. A draft Strategy is expected to be available for the Minister's consideration by mid-2009 (Roxon 2008b).

Concerns raised by participants

The main concern of the Australian Medical Association (AMA) is that the 'red tape' placed on medical practitioners reduces the time available to deal with patients:

Red tape restricts patient access to care with some estimates suggesting that general practitioners, for example, spend up to nine hours per week complying with red tape obligations. Every hour a GP spends doing paperwork equates to around four patients who are denied access to a GP. (sub. 33, p. 1)

The AMA recognises that a significant amount of the ‘red tape’ placed on medical practitioners is to enable government to assess and measure the impact of health initiatives, but considers there is little regard as to the compliance impact on medical practitioners (sub. 33).

Box 8.1 Research study into general practice administrative and compliance costs

In 2003, the Australian Government asked the Productivity Commission to report on the nature and magnitude of the administrative and compliance costs placed on GPs and their practices.

It found that three programs, Practice Incentives Program (PIP), Vocational Registration and Enhanced Primary Care accounted for over 75 per cent of measurable costs. For many programs, GPs actually received government payments for administration that exceeded the measurable administrative and compliance costs. Although there was no explicit payment for preparing information for Centrelink (unlike for the Department of Veterans Affairs), GPs could claim under a standard Medicare consultation. Nevertheless, there was confusion among some GPs as to their eligibility to claim payment under Medicare for such work.

Form filling accounted for a small share of measurable costs, but was a significant source of stress-related and other intangible costs. To reduce both tangible and intangible administrative and compliance costs the Commission put forward a number of recommendations. These included:

- program evaluations should include administrative costs of GPs associated with involvement in the program
- the Practice Incentives Program, Vocational Registration and Enhanced Primary Care should be evaluated and include the costs placed on GPs in administering these programs
- where the Australian Government chooses to remunerate GPs for medical information, the relevant department should fund the payments out of its own budget
- consistent principles, and not identical payment schedules, for remunerating GPs should be adopted between and across agencies
- GPs administrative costs should be monitored through a departmental coordination group over time and these costs should be reported on publicly
- guidelines should be developed, when appropriate, to standardise information collection and form design across government departments and agencies
- the use of information technology in reporting by GPs should be accelerated, including integrating forms into computer software and allowing more forms to be submitted electronically.

Source: PC (2003).

However, the AMA is concerned that Australian Government regulation is being used as a rationing mechanism to discourage medical practitioners from providing more services and, in some cases, to limit the number of services a medical practitioner could provide to a patient in an effort to contain costs. For example, it comments that the funding of new services on the Medicare Benefits Schedule (MBS) came with prescriptive guidelines and rules stipulating how many times a service can be delivered, when it can be delivered, who it can be delivered to and what records were required to be kept (sub. 33).

There is also concern in regard to the use of overly prescriptive regulation, an example being the rebate for GP referred services to allied health services (for example, physiotherapy). Under these arrangements the GP is required to implement specific management plans, communications and documentation to enable the patient access to the allied health service. This is in contrast to the simple processes in place when a patient is referred by a GP for specialist services through a letter of referral (sub. 33).

The current review of the MBS to simplify the schedule and reduce the compliance cost to medical practitioners, while welcomed as a ‘step in the right direction’, is not seen by the AMA as demonstrating a commitment to ease the compliance burden of the MBS on medical practitioners (sub. 33).

The AMA also notes the success of the streamlined authorities program introduced in 2007. Under the streamlined authorities program, medical practitioners are no longer required to contact Medicare to obtain authority to prescribe around 200 of the 450 items on the Pharmaceutical Benefits Scheme (PBS). However, the AMA calls for the authority system to be removed for all items to further reduce unnecessary red tape (sub. 33).

The issue of the administrative costs surrounding the Practice Incentive Program (PIP) and the provision of medical reports and other ‘form filling’ for Centrelink, Veterans Affairs and other Government agencies was also raised by the AMA, because little progress had been made in these areas since the Commission’s 2003 study into GP administrative and compliance costs (PC 2003). The AMA also notes that many of the recommendations contained in both the Commission’s study and the Regulation Task Force report have not been implemented (sub. 33).

Assessment

Clearly, much of the regulation of concern to the AMA is in place to contain costs due to the significant amount of Government funding underpinning Medicare and

the PBS. Also, information is required to monitor and assess broader health outcomes and the effectiveness of Government funds in achieving these outcomes.

In a number of areas the Government has been hesitant to make changes due to concerns that without such regulation the costs of funding health care would increase. For example, in responding to the Regulation Taskforce (2006), which recommended that all the remaining recommendations of the Commission's review (PC 2003) be implemented, the Government (Australian Government 2006) made it clear that it wanted to retain measures such as locational provider numbers and the PBS approval authority.

A similar response was provided to the Regulation Taskforce (2006) recommendation that the Australian Government should consider removing the PBS authority approval requirements or allow GPs to re-use an authority number for a repeat prescription where a patient's condition was unlikely to change. The rationale was that such measures were required to limit the costs to the Government and the taxpayer as well as maintain the overall integrity of the health system (Australian Government 2006).

However, the Australia Government also commented that it would simplify a number of programs identified as incurring considerable compliance costs on medical practitioners, such as the PIP, but it would not support GPs being remunerated for providing medical information (Australian Government 2006). The Department of Health and Ageing has subsequently consulted with the medical profession to simplify and make a number of administrative changes to the PIP (sub. DR96). The preparation of information for Centrelink and other government agencies and the remuneration for such services has been an ongoing issue for GPs and was examined in detail by the Commission (PC 2003) in its previous review (box 8.1).

There has been some progress in reducing the red tape placed on GPs. For example, there is the current review of Medicare items and the introduction of the streamlined authority program in respect of approval for some PBS medicines. The streamlined authority arrangements are limited to those authority required medicines that treat chronic and stable long term conditions, with stable dosage requirements and those that are less at risk of misuse and over prescription (sub. DR96). However, a number of the 'red tape' issues impacting on GPs addressed in the previous reviews remain in place.

The Australian Government should implement the remaining recommendations from the Productivity Commission's 2003 Review of General Practice Administrative and Compliance Costs and the recommendations from the Regulation Taskforce's 2006 review relating to general practice which include:

- *introducing a single provider number for each general practitioner*
- *removing the Pharmaceutical Benefits Scheme authority approval requirement or allowing GPs to re-use an authority number for a repeat prescription where a patient's condition is unlikely to change*
- *rationalising the incentive programs for GPs.*

8.2 Construction

Concerns raised by participants

The Northern Territory Government (sub. 45) is concerned that the accreditation required for contractors to tender for Australian Government funded projects under the National Code of Practice for the Construction Industry and the Australian Government Safety Accreditation scheme disadvantages contractors in the Northern Territory:

The National Code of Practice for the Construction Industry threshold on federally funded works (\$5m) and the Federal Safety Accreditation threshold on federally funded works (\$3m) disadvantaged Territory based contractors. (sub. 45, p. 1)

In particular, the Northern Territory Government states that these requirements have an adverse impact on the development of training and business opportunities in remote Indigenous communities. Many of the small contracting businesses tendering for work in remote communities are not accredited and as the Australian Government tends to 'bundle up' up construction work across communities into larger contracts in excess of the threshold these businesses are unable to tender for the work. However, the Office of the Federal Safety Commissioner, responsible for improving OHS in the building and construction sector, says it is unaware that this is occurring (sub. DR90).

To ensure the generally smaller contracting businesses operating in the Northern Territory are able to tender for Australian Government funded projects, the Northern Territory Government suggests adjustments to the thresholds or a delay in their implementation in the Northern Territory.

The Northern Territory Government supports adjustment of the relevant thresholds, or delay in their implementation in the Territory, having regard to our unique business environment and the need to provide development opportunities for small and medium sized construction companies. (sub. 45, p. 2)

The Federal Safety Commissioner's view is that accreditation has not disadvantaged Northern Territory builders:

There has been no suggestion that Northern Territory-based builders are unable to compete for tenders for building work due to difficulty in applying for, and attaining, accreditation in the Territory. ...

There are a total of 29 accredited construction companies with offices in the Northern Territory, including nine accredited local builders. There are also a number of Territory-based companies in the process of seeking accreditation. (sub. DR90, p. 12)

Assessment

The National Code of Practice for the Construction Industry establishes minimum standards — covering workplace relations, OHS, security of payment and procurement — head contractors must meet to be eligible to tender for Australian Government funded work. The assessment of a contracting firm's workplace relations can initially be conducted on line through the Department of Education, Employment and Workplace Relations. The scheme does not apply to subcontractors.

The Australian Government Safety Accreditation scheme requires head contractors to have a suitable OHS management system in place and meet specified performance standards. Accreditation comprises a desk top assessment and on-site audit.

The arrangements surrounding the eligibility to contract for Australian Government funded construction work ensure that the standards required by the Australian Government in relation to workplace relations and safety are met. Also, it is not clear that there are any significant barriers to smaller contractors gaining accreditation. The issue for unaccredited smaller contractors and businesses tendering for work in remote Indigenous communities appears to be the 'bundling up' of construction work across a number of communities into a single contract which exceeds the threshold.

In this case, it is the contract management arrangements that impede smaller businesses from competing for Australian Government funded construction work, not their accreditation status.

Changing contract management arrangements in remote Indigenous communities, or adjusting the threshold to develop business and training opportunities in remote Indigenous communities and assist smaller contractors in the Northern Territory are policy related issues. As such, they are matters for the Australian and Northern Territory Governments and outside the scope of this review.

8.3 Public administration and safety

Reporting requirements for local governments administering Australian Government funded programs

The Northern Territory Government (sub. 45) is concerned as to the multiple reporting requirements placed on local governments in the Northern Territory administering Australian Government funded programs:

Councils in the Northern Territory, especially Shires servicing remote Indigenous communities, administer a number of Commonwealth funded programs. The effective administration of these programs is viewed as beneficial not only to the Northern Territory as a whole, but as providing significant benefits for disadvantaged Indigenous people.

Councils are accountable for the delivery of these programs and are subject to regular and complex financial and non-financial reporting requirements, in addition to statutory reporting compliance frameworks. The additional accountabilities require a considerable degree of human, system and financial resources to ensure that funding programs are met. (sub. 45, p. 4)

The Northern Territory Government considers that the packaging of multiple grants under a single consolidated reporting regime would alleviate the administrative burden placed on local government. To this end, the Northern Territory Government suggests the use of cooperative agreements between funding agencies to streamline or reduce reporting formats against grant programs (sub. 45).

Assessment

These reporting requirements are likely to place an administrative burden on local government, particularly given the limited resources of the many small local government bodies operating in the Northern Territory. The consolidation of reporting requirements, as proposed by the Northern Territory Government, may reduce this burden on local government bodies in the Northern Territory. Where possible, Australian Government funding agencies should consolidate reporting

requirements for these smaller local governments that meet the necessary accountability and outcome requirements.

Australian Government five-year leases under the Northern Territory emergency response legislation

The Northern Territory Government (sub. 45) points out that under the Australian Government's Northern Territory emergency response legislation the Australian Government has implemented compulsory five-year leases of specific communities in the Northern Territory. These leases provide the Australian Government with ownership of the infrastructure in these communities. Consequently, local governments in these communities are unable to sub-lease previously rented properties and use that income to support the operational cost of managing these properties. This legislation underpinning these arrangements was granted an exemption from the RIS process under the exceptional circumstances provisions. The RIS process is discussed further in chapter 9.

Assessment

The details of the compulsory leasing arrangements and the ownership of infrastructure assets under the Australian Government's Northern Territory Emergency Response is a policy decision for the Australian Government and outside the scope of this review.

8.4 Other issues

Land access negotiations

The Government of South Australia (sub. 49) notes that case-by-case negotiations with the Australian Government to access large areas of land in South Australia owned or regulated by the Australian Government for defence purposes can cause delays and uncertainty in the development of economic infrastructure. The infrastructure projects traversing these areas included gas pipelines, freight transport networks and infrastructure supporting mining operations.

To avoid these delays and provide greater certainty and well-balanced outcomes, it calls for the Australian Government to develop principles to guide land access negotiations (sub. 45).

Assessment

To the extent that protracted land access negotiations impact on how and when infrastructure services are provided, they do impose a regulatory burden. The development of principles to guide negotiations may be beneficial in providing access to Australian Government owned land. However, the development and use of such principles in these negotiations have wider policy ramifications that are outside the scope of this review.

Comments on the *Environmental Protection and Biodiversity Conservation (EPBC) Act 1991*

The Government of South Australia (sub. 49) is concerned with unnecessary delays and uncertainty facing major infrastructure projects in dealing with the EPBC Act.

The Government of South Australia (sub. 49) points out that it has raised these issues in its submission to the Senate Standing Committee on the Environment, Communication and the Arts inquiry into the operation of the Act and to the Independent Review of the EPBC Act. The independent review released an interim report for public comment in June 2009 and a final report will be provided to the Minister by the end of October 2009. The Senate Standing Committee will release its second report during 2009.

Assessment

The operations and outcomes of the EPBC Act are currently being reviewed by the Independent Review and the Senate inquiry. As such, the concerns surrounding delays and uncertainty resulting from the operations of the EPBC Act would be better addressed through these broader processes. The Terms of Reference for the Independent Review of the EPBC Act require the review be guided by Australian Government Policy objectives, including simplifying the regulatory burden on people, businesses and organisations while maintaining appropriate and efficient environmental standards. Clearly, delays and uncertainty in the development of major infrastructure should be given adequate attention by these reviews.

Inconsistencies in project and environmental approval processes

The Minerals Council of Australia (sub. 9) is concerned about inconsistencies across jurisdictions in project approval processes and environmental assessments and approvals. Similar concerns were addressed in the Commission's *Annual*

Review of Regulatory Burdens: Primary Sector (PC 2007) and have also been examined in the Commission's recent *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector* (PC 2009). Moreover, development approvals and environmental assessments and approvals have been identified as a COAG 'Hot Spot' for regulatory reform.

Assessment

COAG has made significant progress in addressing duplication and inefficiency in environmental assessment processes, particularly through the implementation of environmental assessment bilateral agreements between the Australian and state and territory governments. COAG has also agreed that the Australian and state and territory governments, 'will work expeditiously to develop bilateral agreements, where efficiencies can be achieved in meeting the requirements of the EPBC Act' (Australian Government 2008a).

With respect to development assessment processes and approvals, the Commission notes that progress is being made by the states and territories, through the Local Government and Planning Ministers' Council, in streamlining processes through, for example, increasing the use of 'complying' development to speed up approvals, reforming intergovernmental referral processes and encouraging greater use of electronic processing.

The Commission encourages COAG to continue to assign a high priority to achieving further harmonisation and efficiencies in project development and environmental assessment and approval systems.

Duplication of Indigenous heritage protection legislation in the development of oil and gas projects

The Government of South Australia (sub. 49) refers to the finding in the Productivity Commission's *Review of the Regulatory Burdens on the Upstream Petroleum Sector* draft report that the duplication of Australian and state and territory government's Indigenous heritage legislation protecting Indigenous heritage sites appeared to be a source of delays and uncertainty in the development of oil and gas projects.

The Government of South Australia (sub. 46) suggests that the review examine the degree to which this duplication impacts on economic infrastructure projects and identify measures to streamline approval processes for development while ensuring Indigenous heritage is not compromised. It also notes that the South Australian

Indigenous heritage legislation is currently under review with the aim of seeking greater consistency with the Australian Government's legislation.

Assessment

In its final report, the Productivity Commission (2009) in its *Review of the Regulatory Burdens on the Upstream Petroleum (Oil and Gas) Sector* made a number of recommendations to overcome delays and uncertainty in respect of the duplication of Indigenous heritage protection legislation. The Commission recommended:

- that the Australian Government, in considering applications for a heritage protection 'declaration' under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, should take into account previous state and territory government's assessments and decisions about the same heritage site
- the Australian Government legislation be amended to accredit state and territory Indigenous heritage regimes that comply with a set of minimum standards
- the transferability of heritage agreements when title ownership changes, provided the new owner was willing to adhere to the original work program and the conditions of the original heritage approval.

Native Title regulation

The Minerals Council of Australia raises concerns about complexity and inefficiency in the native title system, in particular:

... the effectiveness of Indigenous Representative organisations (including Native Title Representative Bodies and Prescribed Bodies Corporate) is being hampered by inadequate resourcing and overly restrictive operating parameters. (sub. 9, p. 28).

Assessment

The Commission examined these issues in the 2007 Primary Sector Review and recommended that 'recent Australian Government reforms to the native title system — aimed at building capacity for Native Title Representative Bodies (NTRBs) and encouraging agreements ... be given time to take effect and then be subject to independent evaluation within five years of implementation' (PC 2007, p. 196). The Australian Government (Australian Government 2008a) accepted this recommendation 'in principle' and noted:

Some or all aspects of the recent reforms may be reviewed through other means within the next five years. ... AGD [The Attorney-General's Department] is continuing to monitor the implementation and impact of the reforms. (p. 38)

Specific concerns about native title were also examined in the Commission's recent *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector* (PC 2009).