



July 2015

Jonathan Coppel
Presiding Commissioner
Productivity Commission Study of the MRA and TTMRA
Level 12, 530 Collins Street
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Dear Jonathan

Thank you for the opportunity to contribute to the Commission's review of the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Arrangement (TTMRA).

We did not submit a response to the initial issues paper as the agreements are focussed more on the freedom of movement of goods and services rather than what we refer to as 'business registration'. However, upon review of the draft report we now feel that we should provide a comment on the paper, to clarify some of the issues raised in the report as well as to highlight some further details on some of the initiatives that are referred to in the paper, particularly where they refer to 'business registration'.

By way of clarification:

Business Registration

The phrase 'business registration' is used several times in both the issues paper and draft report and in some instances seems to be referring to different things. This may lead to some confusion which may have implications for any recommendations, so we think the paper would benefit from some clarity.

The Terms of Reference ask the Productivity Commission to (among other things):

- ...address matters identified by the Cross-Jurisdictional Review Forum (CJRF), including, but not restricted to:
- the nature and extent of any problem caused by use of goods requirements that restrict the sale of goods under both the MRA and TTMRA, and the costs and benefits of any solutions proposed;

- the issues associated with extending mutual recognition to business registration requirements under the MRA or TTMRA where similar requirements would result in an individual being registered, and the costs and benefits of any options proposed¹.

The CJRF's 2009 review of the mutual recognition schemes proposed extending mutual recognition to include business registration. This proposal has been picked up by this current review, and phrased as a question:

3.3 Is there still a case for expanding mutual recognition to business registration, given that there is now a national system of business registration within Australia and authorities are working towards a single entry point for registering businesses operating on both sides of the Tasman?

The CJRF's concept of 'business registration' is most frequently used to refer to registrations that are more accurately classed as occupational licences and permits, which are typically State/Territory-managed registrations. Some examples are provided, including: food handling licences, a permit for a café to place chairs and tables on a footpath². We believe this is what was intended to be meant when referring to 'business registration', however, the phrase is also used in the current review to refer to the national business names registration system:

The introduction in 2012 of a national registration scheme for Australian businesses means that businesses now only need to register once in order to operate across jurisdictions within Australia. In light of this change, it appears that the case for expanding mutual recognition to business registration within Australia has diminished³.

By way of clarification, the national Business Names register which has been managed by the Australian Securities and Investments Commission (ASIC) since 2012 replaced several state-based business and trading names registers. A business name is a registered name or title under which a person or entity conducts business. The business names register enables businesses to use the same name when operating across jurisdictions in Australia. This is not the same as saying all business registration – covering licences, permits, business names and business numbers – are nationalised.

We believe the paper needs to more clearly define what is meant by 'business registration' and indicating where the discussion extends beyond that definition.

Mutual recognition scheme scope

Page 174 of the draft report states:

“...registration of business entities that are not individuals is outside the scope of the mutual recognition schemes.”

The basis for this comment is unclear as we could not find any such reference to the scope limitation in either of the agreements or previous review documents. If the intention is to so limit the schemes then this should be more explicit, such as at the start

¹ 2014 Review of the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement, terms of reference paragraph 1c.

² Productivity Commission Review of Mutual Recognition Schemes, January 2009, page 117.

³ Productivity Commission Review of Mutual Recognition Schemes – Issues Paper, January 2015, page 15

of the relevant section and a mention in the executive summary. Our preference, however, is to have business entity registration included in scope.

Single business entry point

Page 15 of the issues paper and pages 17 and 174 of the draft report mention a 'single entry point for business registration, and the mutual recognition of business and company numbers', referencing the Trans-Tasman Outcomes Implementation Group (TTOIG). While that item of work between ASIC and the New Zealand Companies Office (NZCO) to recognise their respective registrations is supported by us, it is just one element of business registration – incorporated entities – and so there needs to be caution when referencing the work lest it be interpreted as covering all entities for all registrations.

Mutual recognition of business identifiers

There are two initiatives underpinning this agenda.

Page 174 of the draft report refers to the TTOIG initiative between the Registrar of the Australian Business Register (ABR) and the Registrar of the New Zealand Companies Office (NZCO) towards the establishment of a single business identifier recognised by both countries. By way of further explanation, New Zealand is currently implementing its single national business identifier – the New Zealand Business Number (NZBN). We have been providing advice on the design, implementation and administration of the NZBN based on our experiences in Australia, with a view to potential future mutual recognition of business identifiers. To that end, in March 2015 both Registrars signed off on a 'working arrangement' that contains principles to guide the work towards mutual recognition of the Australian Business Number (ABN) and NZBN. Depending on the degree to which the business identifiers and administrative processes can be aligned, there is potential to significantly reduce the administrative burden of businesses that wish to operate across the Tasman. Indeed, there appears to be some appetite for the work in the business community.

The NZCO recently consulted with some trans-Tasman businesses about their perceptions of the benefits of the alignment or mutual recognition of the ABN and the NZBN. While the details of such an alignment are yet to be determined, the perceptions ranged from neutral to very warm with the 'alignment' generally being seen to encourage business between both countries.

The other initiative that is currently being progressed is referred to as Streamlined Business Registration for which funding was approved in the 2015 federal Budget. The initiative consists of three elements:

- Creating a single online business registration space by the end of May 2016 that will enable new businesses to register for their ABN, Business Name and Company Registration in the one place, whilst still integrating with other Australian taxation office registrations (such as the Goods and Services tax (GST) and Pay As You Go (PAYG) registrations).
- By July 2016, reduce the number of business identifiers by ceasing to issue Australian Company Numbers and business tax file numbers to new businesses and instead issuing them with an ABN.
- Update the ASIC web application programming interface (API) by February 2016 and create and expose APIs for the ABN by February 2016. The APIs make it possible for software developers to build the registration processes into their software, enabling third parties to offer simple online registrations.

Collectively, these three items of work should make it easier for businesses to interact with government.

By way of response:

3.3 Is there still a case for expanding mutual recognition to business registration?

In so far as 'business registration' is referring to business licences and permits, we will defer to other respondents who are better placed than us to respond.

However, where 'business registration' includes company registration, business names registration and ABN registration, they are already held at a national level, so there are no border-imposed limitations on gaining these registrations. The replacement of state-based trading names registrations with a national business names register has provided consistency, certainty and clarity to businesses that want to operate interstate. This is supported by the national business identifier – the ABN – which the Australian Government is committed to enhancing as it will be a core element of the government's digital transformation agenda. The establishment of a single business registration interface will make it easier for businesses to get their key registrations.

At an international level, the answer is somewhat different. There are disconnects between the New Zealand and Australian business registrations but there were projects under the TTOIG looking to the alignment or mutual recognition of registrations across the Tasman. Specifically, the initiatives between the NZCO and ABR and between the NZCO and ASIC should reduce or remove some of the red tape for businesses that want to operate across the Tasman.

We believe some changes need to be made to the current draft finding 6.3, which currently says:

Following the introduction of national business registration in Australia in 2012, there is no longer a strong case to extend mutual recognition to general business registration requirements.

For the purposes of the MRA, we agree with the sentiment of draft finding 6.3 in that 'there is no longer a strong case to extend mutual recognition to business registration requirements', not just because of the establishment of the national business register but because the key business registrations are already held at the national level. In respect of the TTMRA we believe draft finding 6.3 should be amended to recognise that there is still work to be done to reduce the registration burden of operating across the Tasman, however, the work between the NZCO, ABR and ASIC will go some way to making it easier for businesses to expand their operations.

Yours sincerely,

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