

November 16, 2007

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Productivity Commission  
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Via email: [regulationbenchmarking@pc.gov.au](mailto:regulationbenchmarking@pc.gov.au)

The Australasian Compliance Institute (ACI) would like to take the opportunity to thank the Productivity Commission for its invitation to comment upon the methodology that will be employed in its Business Regulation Benchmarking study. ACI would also like to thank the Productivity Commission for allowing it to make its submission one week after the closing date so that we were able to conduct a survey of our membership prior to making this submission.

ACI is the peak industry body for the practice of compliance in Australasia. Our members are compliance, risk and governance professionals actively engaged in the private, professional services and Government sectors within in Australia, New Zealand, Singapore, Thailand and Hong Kong.

While ACI welcomes any attempts made to reduce unnecessary regulatory and compliance costs faced by its members and as such supports the proposed benchmarking study to be undertaken by the Productivity Commission, ACI believes that improvements can be made to ensure the data collected is a true reflection of regulator costs faced by Australian businesses.

Namely, the study seeks to provide information on;

- The quantity of Regulation
- The quality of Regulation
- The compliance costs of business registration.

In respect to these first two points, the Productivity Commission has included a number of potential quantity and quality indicators in Box 2 which appears on Page 7 of the information paper. ACI believes that while these indicators represent a good starting point, the Productivity Commission should give consideration to the creation of two other indicators.

The first indicator that should be added is one which could be entitled 'Regulatory Effectiveness'. That is the Productivity Commission should develop an indicator around measuring whether or not existing legislation and regulation has actually achieved the intended outcome when it was first introduced. In short, the Productivity Commission should look at relevant pieces of legislation/regulation that affects the Australian

## Principal Members



business community, examine what was the rationale behind its introduction and then determine if these objectives have been met. The legislation could then be classified as being either; effective, partially effective or ineffective. We would then recommend that partially effective legislation/regulation be reviewed and improved and that ineffective regulation be rescinded.

The second indicator that should be included as part of the study should be entitled 'Regulatory Overlap'. This indicator should identify areas of cross and inter jurisdictional overlap which potentially create large and confusing compliance obligations for Australian businesses. If such overlapping or conflicting jurisdictional legislation and regulation exists then ACI believes that harmonisation should occur in order to minimise confusion and compliance obligations and costs. The Regulatory Overlap indicator should measure these occurrence both in terms of intent ( i.e. intentional versus unintentional) as well as in terms of impact on a scale from small/moderate impact to significant impact upon business. Of particular focus should be areas of overlap between Commonwealth and State legislation / regulation.

The third focus of the study is upon the compliance costs of business registration. This is where ACI has its greatest concern with the methodology that is being proposed by the Productivity Commission in this study. While ACI understands that initial set up costs can be significant for new businesses, especially from a compliance perspective, this represents only a very small part of the compliance burden faced by Australian businesses.

ACI believes that the Productivity Commission needs to extend the scope of the study to include ongoing compliance costs faced by existing businesses if it is to achieve any meaningful results as a consequence of undertaking this benchmarking study. Box 3 on Page 9 of the information paper provides a very comprehensive list of one off, start up compliance costs faced by new businesses. To place a dollar value against this list should be a simple exercise in contacting a number of Commonwealth, State and Local Government departments and agencies.

To support our concerns, ACI has conducted a brief survey of its membership who identified their top five compliance costs. The results are as follows:

Compliance Cost	% of Respondents*
Ongoing system monitoring and revision	16.6%
Legislative reform / change	16.6%
Staffing Costs	11.2%
Audit (internal & external)	10.7%
Staff Training	9.5%
Software and IT Systems	9.0%
Reporting Obligations (Internal & External)	9.0%
External Consultants and Legal Advice	8.3%
Documentation Production & Management	5.0%
<b>Licence Fees</b>	<b>2.4%</b>
Community Service Obligations	0.6%
Professional Indemnity Insurance	0.6%
Complaint Resolution Procedures	0.6%

\* Note survey respondents provided more than one response and some minor responses were not included so the total may not equal 100%

Of the compliance costs identified by the ACI Membership, only one can be identified with any certainty as being associated with the start up compliance costs surrounding the registration of a business; that being Licence Fees. From the results of our survey, it can be seen that only 2.4% of respondents identified this in their top 5 compliance costs and this cost came in 10<sup>th</sup> place out of 13 different costs that were nominated by the members.

It can be argued that the 8<sup>th</sup> highest identified cost; external consultants and legal advice would also fit within the registration phase of a business, therefore making an allowance for this, of the 13 costs identified, 11 costs are ongoing in nature and seven other ongoing costs were identified by compliance professions prior to the inclusion of a cost that would satisfy the current scope of the Productivity Commission's benchmarking study.

The fact that compliance professionals nominated 'Ongoing system monitoring and revision' as their number one compliance cost – a cost that falls well outside the scope of the proposed study indicated to ACI that any investigation into compliance costs faced by business that ceases at the start up stage of the business' creation will not provide the Productivity Commission with any meaningful information. In fact all but one on the 13 compliance costs nominated by compliance professionals surveyed by ACI are a cost to their business of an ongoing nature. Therefore we would urge the Productivity Commission to extend the scope of their study to include compliance costs of an ongoing nature.

Once again ACI would like to thank the Productivity Commission for extending this invitation to comment upon the proposed benchmarking study. Should you require any additional information or seek clarification on the comments that appear in this submission, the please do not hesitate to contact ACI on (02) 9292 1788.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Tolar', with a large, sweeping flourish above the name.

**Martin Tolar**  
**Chief Executive Office**