



Australian Government

Department of Infrastructure, Transport, Regional Development and Local Government

Deputy Secretary

Regulatory Burdens: Social and Economic Infrastructure Services
Productivity Commission
GPO Box 1428
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Submission to Annual Review of Regulatory Burdens on Business

The Department of Infrastructure, Transport, Regional Development and Local Government ("the Department") is pleased to make this submission to the Productivity Commission's *Annual Review of Regulatory Burdens on Business*.

This submission consists of three parts: background and information on the role of the Department, a brief overview of the Australian Transport Council's (ATC) agreed approach to regulatory reforms, and information on the Government's Aviation White Paper. Further detail on regulation administered by the Department can be found at Attachments A-E.

Background

The Department provides policy advice to the Minister for Infrastructure, Transport, Regional Development and Local Government and delivers a variety of programs on behalf of the Australian Government.

The Department conducts research, analysis and safety investigations, provides safety information and advice based upon these investigations, and performs regulatory functions. In undertaking its policy development role, program administration and service delivery, the Department endeavours to involve key stakeholders, clients and customers in its work. Where possible, the Department strives to minimise the disruption to the public from regulation.

The Department's policy advice, programs and regulation cross the following wide range of areas:

- Infrastructure;
- Transport safety and security;
- Motor vehicle safety, emissions, theft protection and energy efficiency;
- Aviation and airports;
- Maritime;
- Regional Development; and
- Local Government

The Divisions within the Department which are heavily involved in regulation are Aviation and Airports (Attachment A), Infrastructure and Surface Transport Policy (Attachments B, C and D), and the Office of Transport Security (Attachment E). These attachments list the regulations each of these divisions is respectively responsible for and describes how they are administered. Where reform processes are currently underway, a brief explanation is also given.

Possible future national regulatory reforms

In September 2008, it was agreed that Regulatory Impact Statements (RISs) should be prepared on a national system for each of rail safety regulation, maritime safety regulation and heavy vehicle regulation. The Australian Transport Council (ATC) will report to the Council of Australian Governments (COAG) in 2009 on the outcomes of the RISs including financial implications and a proposed way forward.

The Department has overall coordination of these RISs, ensuring that these developments are consistent with the requirements of the agreed Office of Best Practice Regulation's processes. The Department is also leading the development of the heavy vehicle regulation RIS, with the Australian Maritime Safety Authority and the National Transport Commission (NTC) preparing the maritime and rail regulation RISs respectively.

The proposed reforms being investigated through these RISs aim to provide efficiency gains through streamlining regulatory approaches across the nation and minimising the burden and costs of regulatory compliance. Currently Australia has many different regulatory regimes across the states and territories; this leads to increased compliance costs for businesses that operate across state boundaries or in several jurisdictions and hampers productivity growth.

Consultation RISs on the proposed reforms have undergone public and industry consultation, and final RISs are expected to be presented by the ATC to COAG for consideration in 2009.

Further details on heavy vehicle regulatory reform can be found online at:
<http://www.infrastructure.gov.au/roads/vehicle_regulation/ris/index.aspx>

Further information on maritime reform can be found online at:
<http://www.amsa.gov.au/Shipping_Safety/Consultation%20RIS%20-%20FINAL%203%20Sept%202008.pdf>

Further information of the National Rail Safety Framework can be found online at:
<<http://www.ntc.gov.au/filemedia/Reports/SingleNatRailSafetyRegDrRISNov08.pdf>>

Aviation White Paper

The Government, through the Department, is working with industry and the community on a National Aviation Strategy (White Paper) for a national plan to support the safe, dynamic and sustainable development of the aviation industry into the future.

In relation to regulation reform in the aviation industry, the Australian Government is committed to providing a regulatory environment conducive to appropriate investment in aviation infrastructure facilities at our airports and in our air traffic management systems; promoting a proper dialogue between airports and surrounding communities; dealing with planning issues around airports in an integrated, considered way and ensuring access to regular air services in regional and remote areas.

Information on the National Aviation Strategy can be found online at:
<<http://www.infrastructure.gov.au/aviation/nap/index.aspx>>

I trust the information provided will assist the Productivity Commission in its review.

Yours sincerely

Lyn O'Connell
Deputy Secretary

20 March 2009

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AVIATION AND AIRPORTS REGULATION

By world standards, Australia's aviation industry is highly liberalised and is well-placed to meet contemporary challenges. Our airlines are among the most efficient in the world due to reforms introduced in the late 1980s and early 1990s to improve the efficiency and competitiveness of our airlines and airports. Australia's aviation industry is essential to the development of the nation's economy. We depend on it to connect to each other and to the rest of the world. More people than ever before are flying to a greater number of destinations on planes that are bigger, quieter and more fuel-efficient.

The Government, through the Department of Infrastructure, Transport, Regional Development and Local Government, is working with industry and the community on a National Aviation Strategy (White Paper)¹ for a national plan to support the safe, dynamic and sustainable development of the aviation industry into the future. In relation to regulation reform in the aviation industry the Australian Government is committed to providing a regulatory environment conducive to appropriate investment in aviation infrastructure facilities at our airports and in our air traffic management systems; promoting a proper dialogue between airports and surrounding communities; dealing with planning issues around airports in an integrated, considered way and ensuring access to regular air services in regional and remote areas.

Between 1997 and 2003 long-term leases for fourteen of the larger regular passenger transport airports² and eight general aviation aerodromes³ were sold by the Commonwealth to private companies – generally referred to as airport privatisation. While this process allowed the privatised airports to be operated in a commercial manner, the Commonwealth retained freehold ownership of the site and maintained a level of regulatory oversight through aviation laws, notably the Airports Act and its regulations, civil aviation safety regulations and transport security rules.

In addition to the twenty-one leased federal airports, there are some 230 aerodromes under the Aerodrome Local Ownership Plan. The Commonwealth has no direct role in the operation, maintenance or development of the local aerodromes. However, prior consent of the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government is required if a relevant aerodrome is to be closed.

The following is a summary of the regulatory arrangements that apply to the twenty-one leased federal⁴ airports, other airports and airlines.

¹ <http://www.infrastructure.gov.au/aviation/nap/index.aspx>

² Adelaide, Alice Springs, Brisbane, Canberra, Darwin, Coolangatta (now Gold Coast), Hobart, Launceston, Melbourne, Mt Isa, Perth, Sydney, Tennant Creek, Townsville

³ Archerfield, Bankstown, Camden, Essendon, Hoxton Park (now a freehold site), Jandakot, Moorabbin, Parafield

⁴ Listed in footnotes 2 and 3 (not Hoxton Park)

Summary of regulatory requirements for airports and air services in Australia

From 1 July 2007 economic regulation applies to five leased federal airports that are subject to the *Airports Act 1996*. These airports are Adelaide, Brisbane, Melbourne, Perth, Sydney. Non-economic regulation relating to airport planning and development, environmental protection and other matters applies to the twenty-one leased federal airports that are subject to the *Airports Act*. A list of these airports is in the footnotes.

Airports may be subject to specific regulation such as that for curfews at Sydney, Essendon, Coolangatta and Adelaide, the noise levy at Adelaide Airport and flight corridor regulation in Sydney. Fuel spillage regulations apply to all Australian airports and aerodromes. Aircraft are subject to noise regulations.

Most aviation safety activities are regulated by the Civil Aviation Safety Authority, a statutory authority independent of the Department.

Five Leased Federal Airports (Adelaide, Brisbane, Melbourne, Perth, Sydney) – Leasing and Reporting (*Economic Regulation*)

Airports Act 1996 and regulations
Trade Practices Act 1974
 Airport Lease

Regulatory Framework	Current Reform Processes
<p>From 1 July 2007, the arrangements for pricing oversight of leased federal airports are as follows:</p> <p>Price monitoring of all charges for aeronautical services and facilities⁵ provided by the five major airports (Adelaide, Brisbane, Melbourne, Perth, Sydney) under a dual-till system⁶;</p> <p>Price monitoring of car parking services by the five major airports enumerated above⁷ (While monitoring of car parking services lapsed in 2007, this was reinstated by the Government in April 2008);</p> <p>Price notification and price cap for the provision of aeronautical services to regional airlines at Sydney Airport⁸;</p> <p>Accounts and reports information requirements under Part 7 of the <i>Airports Act</i> and <i>Airports Regulations</i>;</p> <p>Quality of service monitoring at the price-monitored airports under Part 8 of the <i>Airports Act</i> and the <i>Airports Regulations</i>;</p> <p>A major independent review of the regulatory regime will be undertaken in 2012; and</p> <p>A national access regime under Part IIIA of the <i>Trade Practices</i></p>	<p>Economic regulation of airports is currently under review in the development of a National Aviation Strategy (White Paper). Chapter 8 of the Green Paper refers. The changes under consideration reflect tuning of the current arrangements rather than a substantial change to the light-touch regulatory arrangements.</p>

⁵ 'Aeronautical services and facilities' are those services and facilities at an airport necessary for the operation and maintenance of civil aviation at the airport (see Regulation 7.02A, *Airports Regulations 1997*).

⁶ Price monitoring is undertaken by the ACCC pursuant to Direction 29. ACCC directions relating to airport economic regulation are made under Part VIIA of the TPA.

⁷ Price monitoring for car parking is undertaken by the ACCC pursuant to Direction 31, a copy of which may be found in www.accc.gov.au.

⁸ Refer to Direction 30 and Declaration 91, at www.accc.gov.au.

Act 1974.

The pricing regime that applies to leased federal airports was the subject of separate Productivity Commission reviews in 2002⁹ and 2006¹⁰.

Twenty-one Leased Federal Airports – Planning and Development (*Non-Economic Regulation*)

Airports Act 1996 and its associated regulations:

Airports Regulations 1997, Building Control Regulations 1996, Control of On-Airport Regulations 1997, Environment Protection Regulations 1997, Ownership Interests in Shares Regulations 1996, Protection of Airspace Regulations 1996.

Airport Lease

Regulatory Framework	Current Reform Processes
<p>The twenty-one leased federal airports are subject to a range of non-economic regulation under the <i>Airports Act</i> and associated regulations:</p> <p><i>Master Plan</i> Airports are required to prepare a Master Plan, which is a 20 year strategic plan identifying, among other things, development objectives, demand management strategies, noise exposure level forecasts and proposals for land use. Master Plans are subject to ministerial approval. A Master Plan is required every five years.</p> <p><i>Major Airport Development</i> Before conducting major developments, airports are required to submit a major development plan, which is subject to ministerial approval.</p> <p><i>Proposed building activity</i> Every on-airport building activity at an airport requires approval by an Airport Building Controller under the <i>Airports (Building Control) Regulations 1996</i>.</p> <p><i>Environmental Strategy</i> Airports must prepare an environmental strategy approved by the Minister, to ensure that all airport operations are undertaken in accordance with environmental legislation and standards.</p> <p><i>Demand Management Scheme</i> The minister may formulate a demand management scheme at an airport. This may impose restrictions such as a category exclusion scheme, movement cap or a slot allocation scheme. Such arrangements are currently in place at Sydney Airport pursuant to the <i>Sydney Airport Demand Management Act 1997</i>.</p>	<p>Improvements to the regulation of planning and development at the federal airports is currently under review in the development of a National Aviation Strategy (White Paper). Chapter 8 of the Green Paper refers.</p> <p>The improvements are aimed particularly at increasing integration of planning with the state planning for the region.</p>

⁹ *Price Regulation of Airport Services*, Productivity Commission Inquiry Report No. 19, 23 January 2002.

¹⁰ *Review of Price Regulation of Airport Services*, Productivity Commission Inquiry Report No. 40, 14 December 2006.

<p><i>Ownership Restrictions</i> Airports are also subject to ownership restrictions. These restrictions are a 49% limit on foreign ownership and a 5% limit on airline ownership. In addition, there is a 15% limit on cross ownership between Sydney Airport and Melbourne, Brisbane or Perth Airports.</p> <p><i>Excluded services</i> Airport operators are not to provide air traffic or rescue and fire-fighting services without ministerial approval. These services are usually provided by Air Services Australia. ASA is a government owned business that provides the above services to airports on a commercial basis.</p> <p><i>Airport Lease</i> A number of regulatory controls are applied to airports through the terms of the Airport Crown Lease.</p>	
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Domestic air services

Regulatory Framework	Current Reform Processes
<p>Domestic airlines operate without aviation-specific Commonwealth economic regulation, although economy-wide regulation such as the Foreign Investment Review Board and <i>Trade Practices Act 1974</i> may apply. Safety and security regulations also apply to operations.</p>	N/A

International air services

Regulatory Framework	Current Reform Processes
<p>International airlines operate within a framework governed by international air services agreements negotiated between governments. Australian international airlines are required to obtain capacity allocations in accordance with the <i>International Air Services Commission Act 1992</i>. The <i>Air Navigation Act 1920</i> requires international airlines to hold an International Airline Licence. Australian international airlines are subject to ownership restrictions in the <i>Qantas Sale Act 1992</i> (in the case of Qantas), or the <i>Air Navigation Act 1920</i> (in the case of other airlines). Safety and security regulations also apply to operations.</p>	Legislative processes to simplify the International Airline Process are currently underway.

Aviation – Environment

Sydney Airport Curfew Act 1995 and Regulations
Adelaide Airport Curfew Act 2000 and Regulations

Air Navigation (Essendon Airport) Regulations 2001
 Air Navigation (Coolangatta Airport Curfew) Regulations 1999
 Air Navigation (Fuel Spillage) Regulations 1999
Aircraft Noise Levy Act 1995 and Regulations
Aircraft Noise Levy Collection Act 1995
 Air Navigation (Aircraft Noise) Regulations 1984
 Air Navigation (Aerodrome Flight Corridor) Regulations 1994

Regulatory Framework	Current Reform Processes
<p>Commonwealth imposed airport curfews restrict movements at the four curfew airports (Sydney, Adelaide, Coolangatta and Essendon). Curfews were implemented to provide communities around airports with respite from aircraft noise. Non-compliance is a criminal offence with a monetary sentence (a maximum of \$550,000 at Sydney). Provision is made for some curfew dispensations in exceptional circumstances.</p> <p>Airlines are currently charged a levy on jet landings at Adelaide airport to recoup the cost of the Adelaide Airport Noise Insulation Program.</p> <p>Noise permits. Historical and adventure flight operators are generally required to apply for an annual permit to operate aircraft which have not been certified to meet normal manufacturing requirements for noise outputs.</p> <p>All aircraft fuel spillage or 'dumping' is required to be reported to the Department.</p>	<p>The regulation and process of noise permits for historical and other non-noise compliant specialised aircraft are currently being updated as a result of the 2007 ICAO USOAP safety audit of Australia.</p>

Aviation – Safety

Regulatory Framework	Current Reform Processes
<p>Most safety regulatory activities are controlled by the Civil Aviation Safety Authority (CASA), an independent statutory agency within the Infrastructure portfolio.</p> <p>Obstacle Limitation Surfaces. The Department regulates building development around the leased federal airports under the Airports (Building Control) Regulations 1996 to ensure that airport safety and operations are not adversely affected by new proposals.</p>	<p>CASA is conducting a Regulatory Reform Program (RRP). The RRP is intended to update Australia's aviation safety regulations and ensure that they provide appropriate safety coverage for Australia's aviation industry.</p> <p>A Bill to amend CASA governance and enhance some safety powers is being considered in Parliament. If passed, this amendment will improve CASA's ability to remove unsafe operators</p>

	<p>from Australia's airspace, close various loopholes and allow CASA to more appropriately consider foreign operators ability and willingness to comply with Australian safety regulations.</p>
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Airspace – Governance and control
Airspace Act 2007 and regulations

Regulatory Framework	Current Reform Processes
<p>The Airspace Regulations authorise the Office of Airspace Regulation to classify and designate Australian airspace according to the International Civil Aviation Organization prescribed standards and thereby determine the level of air traffic services to be provided.</p>	<p>A second iteration of the Australian Airspace Policy Statement is currently being developed.</p>

Airports are also subject to regulation under other legislation including the *Air Services Act 1995*, *Civil Aviation Act 1998*, *Customs Act 1901* and the *Migration Act 1958*.

ATTACHMENT B

MARITIME REGULATION

The Maritime Branch in the Infrastructure and Surface Transport Policy Division of the Department focuses on the development of maritime transport regulation to achieve efficient, productive, safe and sustainable outcomes that are environmentally friendly and enhances Australia's international competitiveness. The Branch undertakes a range of regulatory tasks and functions including those aimed at addressing competition issues in coastal and international liner shipping trades, and is committed to developing a superior regulatory regime to enhance the safety of shipping and the protection of the marine environment from the adverse effects of shipping.

Engagement in Coastal shipping

- Part VI *Navigation Act 1912*

Regulatory Framework	Current Reform Processes
<p>Part VI <i>Navigation Act 1912</i> is the regulatory framework for engaging in coastal shipping. Part VI generally applies to the carriage of interstate coastal cargoes. Ships engaging in these trades are required to be licensed (the main criteria being that the crew are paid Australian wages – there are no nationality requirements for the ship or crew). In circumstances where licensed ships are not available or not adequate for a particular shipping requirement, a permit may be issued to a non-licensed ship (the wages criteria does not apply) if the Minister deems it is in the public interest.</p>	<p>The House of Representatives Standing Committee on Infrastructure Transport Regional Development and Local Government conducted a review of coastal shipping policy and regulation, receiving a total of 81 submissions from stakeholders. The Committee released its report '<i>Rebuilding Australia's Coastal Shipping Industry</i>' on 20 October 2008. The Australian Government is currently considering its response to the Committee's recommendations. The Government is looking to address issues such as a declining number of Australian registered trading vessels; an ageing fleet; a shortage of skilled maritime employees; and demands from industry for greater policy certainty from government. Refer: http://www.aph.gov.au/house/committee/itrdlg/coastalshipping/report.htm for details of the Committee's report.</p>

Maritime Environment Protection – Ship Sourced pollution

- *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*
- *Navigation Act 1912 (Divisions 12-12D of Part IV)*
- *Protection of the Sea (Harmful Anti-fouling Systems) Act 2006*

Regulatory Framework	Current Reform Processes
<p>MARPOL The primary convention for the prevention of marine pollution by ships is the International Maritime Organization's International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (known as MARPOL 73/78). MARPOL, deals with the prevention of pollution that might result from accidents such as collisions or groundings, as well as all types of waste generated during the normal operation of ships.</p> <p>The technical requirements of this Convention are included in six separate Annexes which provide regulations for the Prevention of Pollution by Oil, Noxious Liquid Substances in Bulk, Harmful Substances Carried by Sea in Packaged Form, Sewage, Garbage, and Air Emissions from ships.</p> <p>The legislation giving effect to MARPOL 73/78 in Australia is the <i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i> and the <i>Navigation Act 1912 (Divisions 12-12D of Part IV)</i>, and parts of several Marine Orders made under this legislation.</p> <p><i>Control of Antifouling Systems on Ships</i> The <i>International Convention on the Control of Harmful Anti-fouling Systems on Ships</i> (the HAFS Convention) prohibits the use of harmful organotins in anti-fouling paints used on ships and establishes a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.</p> <p>Broadly, the HAFS Convention applies to ships of 400 gross tons and above engaged in international voyages, and to facilities used by the oil production industry. Surveys will be undertaken before a mandatory International Anti-fouling System Certificate can be issued and when an anti-fouling system is changed or replaced.</p> <p>The HAFS Convention has been implemented in Australian domestic legislation by the <i>Protection of the Sea (Harmful Anti-fouling Systems) Act 2006</i> which commenced on 17 September 2008.</p>	

Commercial Vessel Safety

- *Navigation Act 1912*

Regulatory Framework	Current Reform Processes
<p>There are eight different marine safety regulatory systems (the Commonwealth Government, six states and the Northern Territory (NT)) governing the operation of commercial vessels in Australia.</p> <p>The Commonwealth Government regulates trading vessels engaged on interstate and international voyages, fishing vessels engaged on overseas voyages and ships belonging to Commonwealth government departments and authorities, and some aspects of offshore industry vessels, and ships that do not fall within the state/NT jurisdiction. State and NT governments regulate the safety of domestic vessels (namely trading ships on intrastate voyages, fishing vessels, pleasure craft and vessels on inland waterways).</p> <p>The Commonwealth Government's primary legislation for regulating maritime safety is the <i>Navigation Act 1912</i>. At present, there are more than fifty legislative and subordinate legislative instruments pertaining to maritime safety in Australia. This legislation, among other things, specifies how and when a standard applies to domestic commercial vessels operating in a jurisdiction. The standards applied are set out in the Uniform Shipping Laws Code 1979, the National Standard for Commercial Vessels 1997, or a combination of both, generally depending on the age of the vessel and its jurisdiction.</p> <p>In 1997, a Council of Australian Governments' (COAG) Inter Governmental Agreement (IGA) sought to establish uniform or consistent marine safety legislation and operational practices throughout Australia, and created the National Marine Safety Committee (an intergovernmental committee) to assist in accomplishing the required reforms.</p>	<p>The objectives of the 1997 IGA have not been met due to divergent legislative and administrative frameworks. This has resulted in unnecessary costs, duplication of effort and variations in safety requirements and the way they are administered. As part of a suite of initiatives on transport uniformity, COAG has requested that a Regulation Impact Statement (RIS) be prepared on a proposed single national system for safety regulation of commercial vessels.</p> <p>Commonwealth and state maritime officials under the auspices of the Australian Transport Council (ATC) has been working on the development of the RIS since early 2008. Under the proposed reform, the system will be administered by a single national regulator, the Australian Maritime Safety Authority (AMSA) under the broadened application of the Navigation Act 1912 (Cth). The design of the proposed national system allow for the delivery of regulatory services by state maritime agencies operating under contractual or agency arrangements agreed with AMSA.</p> <p>The ATC will report to COAG in the first half of 2009 on the outcome of the</p>

	RIS, including financial implications and proposed ways forward.
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Marine Safety

- *Navigation Act 1912*
- *Shipping Registration Act 1981*

Regulatory Framework	Current Reform Processes
<p><i>Navigation Act 1912</i> The Navigation Act sets minimum manning levels for ships and requires crew members to have at least minimum prescribed qualifications. Provisions relating to pilotage set minimum standards for coastal pilots and regulate the activities of pilotage providers. The application of the International Convention for the Safety of Life at Sea and other Conventions requires Australian-registered ships and other ships entering Australian ports to meet prescribed standards in relation to both the construction of ships and the equipment carried on board.</p> <p><i>Shipping Registration Act 1981</i> The Shipping Registration Act compels Australian-owned ships to be registered and provides for the registration of mortgages on ships. The requirement for registration does not apply to ships less than 24 metres in tonnage length, Government ships, fishing vessels and pleasure craft.</p>	

Part X of the *Trade Practices Act 1974*

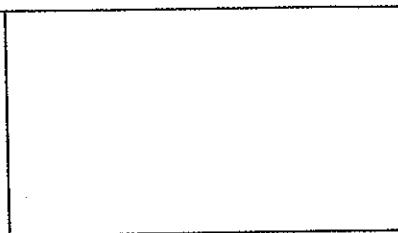
- *Trade Practices Act 1974*

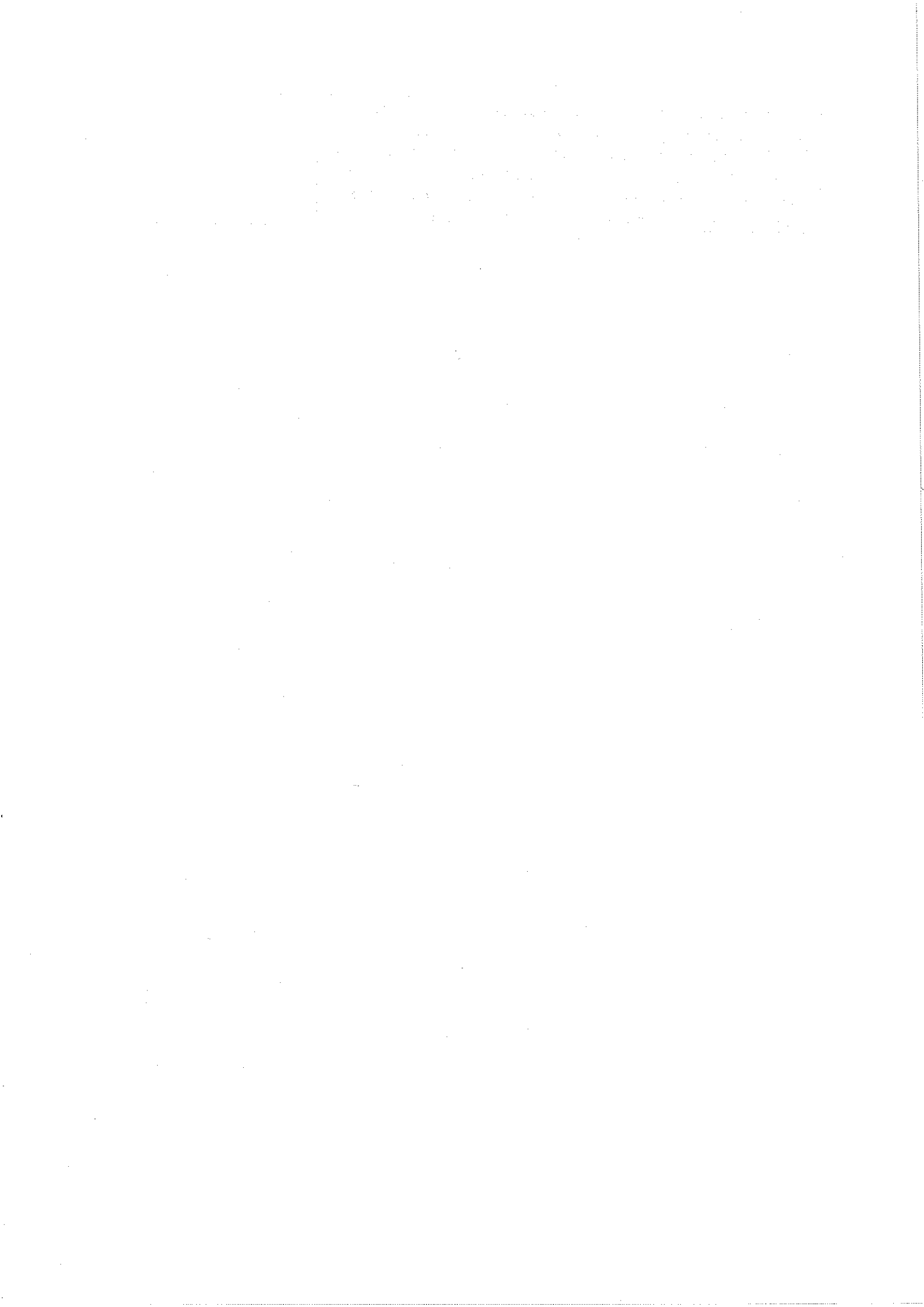
Regulatory Framework	Current Reform Processes
<p>Part X of the <i>Trade Practices Act 1974</i> (the TPA) is the Australian regulatory regime in relation to liner shipping. It is primarily concerned with liner agreements such as conferences and consortia, providing conditional exemptions to their members from the competition safeguards contained in section 45^[1] and parts of section 47^[2] of the TPA.</p> <p>Part X provides a legislative framework within which shipping conferences and their customers can engage in commercial negotiations. If shippers are dissatisfied with the conduct of the</p>	<p>Commitment to review legislation at least once every ten years. Current reforms in progress following a PC review in 2005 are subject to Parliamentary and other Government priorities.</p>

^[1] Contracts, arrangements or understandings that restrict dealings or affect competition

^[2] *Exclusive dealing.*

parties to a conference agreement, they can complain directly to the Australian Competition and Consumer Commission (ACCC), or to the Minister for Transport and Regional Services (the Minister), who will refer the matter to the ACCC for investigation. Where appropriate, the Minister may direct that an agreement's registration pursuant to Part X be cancelled.





HEAVY VEHICLE REGULATION

The Transport Integration and Reform Branch manages and implements the road transport regulation reforms of the Council of Australian Government's national reform agenda. It also advises on energy and environmental aspects of vehicles, the transport of dangerous goods, accessible transport and industry issues.

Heavy Vehicle Registration – Federal Interstate Registration Scheme (FIRS)

- *Interstate Road Transport Act 1985*
- *Interstate Road Transport Charge Act 1985*
- *Interstate Road Transport Regulations 1986*
- *Interstate Road Transport Charge Regulations 2009 (pending)*

Regulatory Framework	Current Reform Processes
<p>The FIRS scheme was introduced under the <i>Interstate Road Transport Act 1985</i> (the IRT Act) in 1987 as a means of providing uniform charges and operating conditions to heavy vehicles engaged solely in interstate operations. It was used as a tool to open greater access for heavy vehicles.</p> <p>The States and Territories administer FIRS on behalf of the Australian Government. They register vehicles and collect charges as Registration Authorities under the IRT Act. Section 6, 7 and 23 of the IRT Act and associated agreements provides for operating arrangements between the Government and State/Territories.</p> <p>All revenue collected is returned to the Commonwealth for distribution back to the states and territories on a quarterly basis. A ministerial determination under the IRT Act further sets out how the amounts collected are to be distributed to the States and Territories (in accordance with an agreed formula). The Act and the Determination also explicitly requires the funds to be expended on the maintenance and upkeep of the road network.</p>	<p>The Australian Transport Council agreed to recommend to the Council of Australian Governments (COAG) that, subject to the outcomes of regulatory impact assessments, COAG endorse in-principle the establishment of a single national system of heavy vehicle regulation, registration and driver licensing.</p> <p>The establishment of a Federal Registration Scheme would lead to the closing of FIRS.</p>

Heavy Vehicle Charges – Road User Charge

- *Fuel Tax Act 2006*

Regulatory Framework	Current Reform Processes
<p>The fuel based road user charge forms the second component of heavy vehicle charges - the other being heavy vehicle registration charges (both FIRS and state and territory charges). Heavy vehicle charges are a cost recovery mechanism and are</p>	<p>Following a request by COAG to develop a new heavy vehicle charges determination, the Australian Transport</p>

calculated on a periodic basis (as part of a heavy vehicle charges determination) to ensure heavy vehicles pay for their share of past road construction and maintenance costs.

The road user charge offsets the fuel tax credit paid to eligible businesses for the fuel excise tax paid on each litre of fuel.

Council voted in February 2008 to approve new heavy vehicle charges to ensure ongoing cost recovery from heavy vehicles.

The COAG Road Reform Plan, announced as part of the COAG National Reform Agenda in April 2007, includes a research program to develop the building blocks to move towards more direct charging of heavy vehicles such as mass-distance, location-based charging. COAG will make decisions on future heavy vehicle charging reforms following consideration of the outcomes of the research program and whether the benefits are expected to clearly outweigh the costs.

VEHICLE STANDARDS REGULATION

The Vehicle Safety Standards Branch (VSSB) administers the *Motor Vehicle Standards Act 1989* (the MVSA). The MVSA operates in conjunction with state and territory legislation allowing for the use of vehicles on public roads. In effect, the MVSA provides assurance to state and territory governments that vehicles when first supplied to the market in Australia meet minimum standards for safety, emissions, theft protection and energy efficiency and are therefore suitable for registration and use.

The MVSA achieves this objective by regulating importers and manufacturers of road vehicles. Applications to supply vehicles to the market in Australia are assessed against requirements determined in the national standards, the Australian Design Rules (ADRs).

The ADRs are subject to ongoing amendment to take into consideration new technology and desire for improvements in the minimum standards afforded to road users. As the motor vehicle industry is an international industry, it is the Government's policy to harmonise with international regulations. To this end the ADRs are being harmonised with regulations made by the United Nations Economic Commission for Europe (UNECE) World Forum for Harmonisation of Vehicle Regulations (Working Party 29).

Vehicle Standards

- *Motor Vehicle Standards Act 1989*

<u>Regulatory Framework</u>	<u>Current Reform Processes</u>
<p>From January 1989, all motor vehicles and trailers were required to be approved under the Act for supply to the market. In general, approval is issued after the vehicle is assessed as complying with the national standards or if it does not comply with the national standards is deemed suitable for supply to the market. The national standards are the ADRs, which cover vehicle safety, emissions, theft prevention and energy efficiency.</p> <p>The process whereby vehicles are certified as meeting the applicable ADRs is called vehicle certification. The VSSB system of administering vehicle certification is called the Road Vehicle Certification System (RVCS), which is an electronic web based system based on receiving test evidence from vehicle manufacturers proving that vehicles meet the applicable ADRs.</p> <p>The ADRs are largely harmonised with the UNECE vehicle regulations, which are administered by Working Party 29.</p> <p>The Government's policy of harmonising the ADRs</p>	<p>A program of harmonising the ADRs with the UNECE regulations has been ongoing since 1997, with the support and participation of the automotive industry and the state and territory jurisdictions.</p> <p>In addition, a regular review of the Act is conducted every 10 years, involving all stakeholders.</p>

with the UN ECE regulations is fully supported by the Australian automotive industry and the state and territory transport jurisdictions.

Consistent with this policy, VSSB participates in Working Party 29 activities, and therefore has a direct input into the development of new international vehicle regulations.

TRANSPORT SECURITY REGULATION

The Office of Transport Security (OTS) plays a key role in ensuring the security of aviation, maritime, offshore oil and gas, and air cargo activities. OTS key tasks include transport security intelligence and operations; transport security regulation, policy and planning; and audit, compliance and protective security measures. The OTS approach to regulation is to ensure that decision-making is consistent with the current and emerging maritime, aviation, offshore oil and gas, and air cargo environments and their inherent threats, vulnerabilities and associated risks, and that industry complies with the law and regulations by effecting changes in industry participant behavior towards their regulatory obligations.

Following is a summary of the regulatory arrangements that apply.

Maritime & Surface Security

- *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA) and its associated regulations (MTOFSR).

Regulatory Framework	Current Reform Processes
<p>MTOFSA and MTOFSR provide a security regulatory framework for the maritime and offshore gas industries. . It centres on all Australian security regulated ships, ports, port facilities, offshore facilities, and service providers, developing security plans to manage different levels of risk, defined through the International Ship and Port Facility Security Code (ISPS). It is an offence to operate without a security plan in force. OTS provides security risk context statements to guide industry in identifying their security risks and vulnerabilities as the basis of developing a security plan. OTS is also responsible for issuing International Ship Security Certificates (ISSCs) for Australian security regulated ships. It is an offence for an Australian security regulated ship not to have an ISSC when it is being used for maritime transport. In 2009, there are approved security plans in place for:</p> <ul style="list-style-type: none"> • 57 Australian regulated ships; • 73 security regulated ports; • 91 port facility operators which receive security regulated ships within security regulated ports; • 37 port service providers that support security regulated ships; and • 16 offshore facility operators and their associated service providers engaged in operations relating to the extraction of oil and gas. <p>MTOFSA/R sets down criminal offences to ensure people comply with their obligations under the legislation. To provide flexibility in enforcing this legislation there are also enforcement options that can be used instead of, or in addition to, criminal prosecution. They include:</p> <ul style="list-style-type: none"> • infringement notices; • enforcement orders; 	<p>New maritime security measures, which amended the MTOFSR, came into force on 7 February 2009. Amendments to MTOFSA came into force on 8 February 2009. During the development of these amendments the Office of Best Practice Regulation (OBPR) was contacted to provide advice on the level of regulatory analysis for the proposed amendments. The OBPR advised that the amendments have nil to low impacts on business compliance costs and other impacts on business and individuals (including restrictions on competition) also appear negligible. An MSIC review commenced on 1 July 2008 which will consider the effectiveness of the current arrangements. Cost of Security Regulation Project will commence in March 2009 A maritime security port</p>

<ul style="list-style-type: none"> • ship enforcement orders for regulated Australian ships; • injunctions; and • the demerit points system. <p>The maritime security regime also provides for a Maritime Security Identification Card (MSIC) introduced in January 2007. Approximately 100,000 MSICs have been issued to persons required to work in secure areas of ports. All MSIC holders have undergone appropriate security background checks.</p> <p>Industry related preventative security costs are associated with the security risk assessment, the development of the security plan, implementation of the security plan, security identification cards, training of officers with security responsibilities and other staff and crew, maintaining security plans and conducting internal audits and security exercises.</p>	<p>wide assessment project has commenced to deliver improved efficiencies with respect to security measures at ports.</p>
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Aviation Security

- *Aviation Transport Security Act 2004 (ATSA)* and its associated regulations (*ATSR*)

Regulatory Framework	Current Reform Processes
<p>The ATSA and ATSR establish a regulatory framework to safeguard against unlawful interference with aviation and to meet Australia's obligations under the Convention on International Aviation. Under the ATSA, certain aviation industry participants (AIPs) are obliged to develop, and comply with, transport security programs (TSPs).</p> <p>The application of the Act and its regulations see some 180 airports designated as being security controlled airports. This requires them to establish airside and landside areas, security zones and event zones for those airports. It also requires that they have a TSP in place.</p> <p>AIPs are also required to comply with a number of other laws/regulations/directions. These include the screening of passengers and luggage, on-board security, and weapons and prohibited items. AIPs are also obliged to comply with reporting obligations in relation to aviation security incidents and to provide specified security information.</p> <p>Compliance with the Act and its regulations creates substantial compliance costs for AIPs – including in the preparation of TSPs, maintenance of screening regimes, and auditing by Commonwealth officials of their screening procedures.</p>	<p>The ATSA and ATSR are constantly monitored to ensure that they are effective and appropriate with impact on business the minimum required to protect the Australian travelling public.</p>

Supply Chain & Identity Security

- *Aviation Transport Security Act 2004 (ATSA)* and its associated regulations (ATSR)
- *Maritime Transport and Offshore Facilities Security Act 2003 (MTOFSA)* and its associated regulations (MTOFSR).

Regulatory Framework	Current Reform Processes
<p>The ATSR require people accessing secure areas of security controlled airports with RPT services to be background checked and display an Aviation Security Identification Card (ASIC) or a Visitor Identification Card (VIC).</p> <p>The MTOFSR have a similar scheme that requires people accessing maritime security zones to display a Maritime Security Identification Card (MSIC) or be continuously monitored by an MSIC holder.</p> <p>The Australian Government limits its role to managing the regulatory standards, and administrative processes, attached to the regimes. It requires Australian industry participants to exercise the day-to-day responsibility of issuing ASICs and MSICs to staff, and managing the retrieval and disposal of the cards. Airport operators, airlines, ports and offshore facilities have the primary responsibility for controlling access to their facilities, including undertakings for assurance of identity.</p>	<p>The MTOFSR are currently undergoing an internal Departmental review of the regime to ensure the scheme continues to achieve its intended objectives and to reassess the settings and legislative requirements underpinning the MSIC scheme.</p> <p>The Department has recently undergone an internal review of the ASIC regime to ensure that the scheme continues to achieve its intended objectives. Within that review a number of initiatives were identified that would reduce unnecessary regulatory burden on aviation industry participants including:</p> <ul style="list-style-type: none"> • the reduction in the number of ASIC issuing bodies (currently 191). This will reduce the administrative and financial burden for many smaller regional airports; • reduction of duplication in issuing body reporting.; and • identification of redundant regulations which will be removed in future regulation amendments.

Air Cargo Security

- *Aviation Transport Security Act 2004 (ATSA)* and its associated regulations (ATSR)
- *Aviation Transport Security Amendment Act 2006*

Regulatory Framework	Current Reform Processes
<p>Australia's air cargo security requirements have been developed around the Regulated Air Cargo Agents (RACA) scheme. All RACAs are required to have a Transport Security Program (TSP) approved by the Department that sets out security measures to be applied to air cargo. The existing RACA scheme covers approximately 950 participants in the air cargo supply chain such as freight forwarders and cargo terminal operators. A number of amendments to the ATSA came into effect on 15 September 2007 relating to air cargo to make provision for a new class of industry participant, the Accredited Air Cargo Agent (AACA).</p>	<p>The introduction of the AACCA scheme this year is designed to supplement current air cargo security regulation arrangements. The RACA scheme will continue to operate in parallel to the new AACCA scheme to form a broader Regulated/Accredited Air Cargo Agent (R/AACCA) scheme. The model for the scheme is highly flexible allowing security arrangements to be tailored to business role and type whilst reducing the regulatory burden on government and businesses. An industry engagement and consultation program to support the introduction of the AACCA scheme has been funded for the 2007-08 and 2008-09 financial years.</p>