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Public Support for Science and Innovation

To Whom It May Concern:

**SUBJECT: SUBMISSION IN RESPONSE TO THE PRODUCTIVITY COMMISSION DRAFT  
RESEARCH REPORT**

In response to the Public Support for Science and Innovation's Productivity Commission Draft Research Report, there are four key concerns that we would like to raise.

1. Entity/net benefit for the R&D Tax Concession

The R&D Tax Concession was originally introduced at a headline rate of 150% and a Company tax rate of 49%. This meant that the net benefit for a company eligible to claim the R&D Tax Concession was in fact 24.5 cents per dollar.

The Headline rate is slightly confusing because the actual concession is the component ABOVE the normal 100% deduction for expenditure. So if the rate is 125% the actual concession is usually 25%... notwithstanding any component from the 175% benefit.

The concession was introduced as an incentive for companies to undertake R&D as defined. This has in fact happened. However there is an acute need for MORE incentive so that the % of GDP is TWICE the current level.

Accordingly the base concession MUST remain and it should be calculated so that there is a simple benefit of say 10 or 15% of expenditure. Legislation that was drafted with this as the aim would mean there was no need to change the legislation every time the tax rate changes.

The premium component should also be derived from a net benefit of 25 or 30% of eligible expenditure.

It is CRUCIAL for BOTH aspects of the concession to remain to MAINTAIN the current rate of increase in R&D expenditure.

## 2. Position with grants (especially in relation to the clawback)

There is a strange situation with Grants in that Companies need to make a detailed application to undertake something on behalf of the Federal Government for which they are effectively paid via a Contract with the Commonwealth.

The company has to undertake the work to the satisfaction of the Government and is paid for achieving objectives in the plan.

There is a requirement in the Tax Concession (S73C) that states that if the company is in receipt of a grant then CLAWBACK applies. This is calculated at X2 the amount of the Grant.

It would seem to be reasonable that Clawback should be calculated at X1. Rather than the punitive X2. This is a most puzzling point that seems to punish Grant recipients.

## 3. Structure of rural R&D

There does seem to be an opportunity to improve the Rural R&D Organisations. My view would be to separate the funding into two separate areas. It could well be that each operation would need three entities. Two for funding and one for operations.

Aim would be to keep the Matching Government funds for Research and then to apply the Industry funds to Development. If the Research group come up with a good idea it could be licensed over to the Industry group.

That way each of the stakeholders has a direct say in what happens in relation to their specific interests. We could elaborate further on this if appropriate.

#### 4. Intellectual Property

I am really perplexed by our Intellectual Property arrangements. If an inventor wishes to search the prior art there is no simple central database to check through. The IPA site is very slow and awkward.

The USPTO has an excellent search function.

I would have thought this was an area for you to be interested in given the history of it.

My understanding of the subject of PATENTS is that they were devised by King Charles II as a means of ENCOURAGING dissemination of Trade Secrets so that a wider range of Artisans could use the "latest techniques."

The Australian system seems to rely on a series of steps to prevent just that.

For example an objector to a patent application can delay proceedings just by objecting, and then requesting extensions which are usually granted. Surely there should be a guillotine applied after say 6 months of objections? i.e. Provide reference material for judgement or withdraw.

Also if parties have collaborated in any way on work that leads to a patent surely there should be an automatic right to license the technology with a royalty range the only point for resolution?

Furthermore if someone wishes to license the technology surely there could be a mechanism to provide a license always subject to agreeing royalty payments and rates within a defined band??

The current monopoly use of the patent can BLOCK progress.

Yours Sincerely

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