

Dissenting Report by Labor Senators

Labor's response to the Chair's report on policy and process

1.1 Labor has always had a strong commitment to reducing unnecessary red tape, and has a track record of sensible reforms to deal with red tape.

1.2 In Government, we abolished more than 16 000 redundant Acts and legislative instruments. We also had our Seamless National Economy reforms that lowered business costs by \$4 billion a year.

1.3 At the same time, we also understand that regulation plays an important role in ensuring the Australian economy, environment and society remain stable and sustainable.

1.4 This stands in contrast to the Government's approach to deregulation. Its approach to deregulation involved the 'war on punctuation', where a series of bills removed 40 hyphens, one comma and one inverted comma; changed two full stops to semi-colons, one semi-colon to a full stop; and inserted two commas, one full stop, one colon and one hyphen.

1.5 This would be all laughable if it were not for other elements of the Government's approach to deregulation, where under the smokescreen of "red tape" the Government has tried to water down consumer protections through attempts to gut the Future of Financial Advice reforms, and cut the wages of cleaners through the abolition of the Commonwealth Cleaning Services Guidelines.

1.6 Labor understands the benefits of appropriate regulation to ensure safe and fair working conditions, the quality and safety of work undertaken and proper protection for consumers.

1.7 Labor Senators have no issues with a review of regulatory reform in the public interest. Reviews are appropriate but should not be conducted for the sole purpose of deregulation for its own sake.

Labor's response to findings and conclusions in the interim inquiries

1.8 Labor responded to the committee's interim inquiries, as follows and as detailed further in Appendix A:

- Dissenting Reports
 - Effect of red tape on tobacco retail
 - Effect of red tape on environmental assessment and approvals
 - Effect of red tape on child care
 - Effect of red tape on occupational licensing
 - Effect of red tape on private education

- Additional Comments
 - Effect of red tape on pharmacy rules
 - Effect of red tape on health services

Inquiry into the effect of red tape on the sale, supply and taxation of alcohol

1.9 The Government should only be looking to consider comprehensive reform of alcohol taxation after there has been a thorough review that encapsulates all relevant tax and health aspects.

1.10 The current Government has thus far proceeded with reform of alcohol taxation in a piecemeal fashion and often without proper community consultation beforehand.

1.11 In relation to the inquiry into the effect of red tape on the sale, supply and taxation of alcohol, Labor Senators believe there should be a thorough review on comprehensive reform of alcohol taxation that includes all relevant tax and health-related aspects of such reform proposals.

1.12 Harmful consumption of alcohol is a major health issue, contributing to chronic disease, injury and premature death. Labor Senators oppose any deregulatory changes that risk increasing this toll.

Inquiry into the effect of red tape on occupational licensing

1.13 In relation to the occupational licensing inquiry, Labor Senators recommend that a review be conducted to identify where tripartite representation has been removed or is absent from quality, skills and safety advisory bodies and that steps are taken to ensure that appropriately resourced tripartite representation is in place.

Appendix A

DISSENTING REPORTS BY LABOR SENATORS TO RED TAPE INQUIRY REPORTS

Effect of red tape on tobacco retail

- 1.1 Labor Senators strongly oppose the recommendations in this report.
- 1.2 Labor's world-first plain packaging laws, along with its leadership on tobacco excise and other preventive health measures, have driven smoking to record lows. The recently-released National Drug Strategy Household Survey shows a continued decline in daily smoking, to 12.2 per cent of Australians. The Survey also shows that just two per cent of teenagers are smoking—suggesting that the scourge of tobacco could be eliminated over time.
- 1.3 But the fight is not yet won. 15000 Australians a year still die from smoking-related disease. Anything that reduces tobacco regulation or re-normalises smoking would add to this tragic toll.
- 1.4 Labor will continue to follow the advice of independent experts on this issue—including the recent advice of the Therapeutic Goods Administration and National

Health and Medical Research Council on e-cigarettes.

Effect of red tape on environmental assessment and approvals

- 1.1 Labor is committed to reducing unnecessary red tape and we have always taken a sensible approach to reducing red tape. In Government, Labor abolished more than 16 000 Acts and legislative instruments. We lowered business costs by \$4 billion each year as part of our Seamless National Economy reforms.
- 1.2 Regulations play an important role in ensuring the Australian economy, environment and society remains stable and sustainable. Regulation and legislation also protect consumers and the community, as well as promoting fair trade and competition by describing the rights of businesses and business owners when conflicts arise.
- 1.3 Environmental regulations exist to make sure development is appropriate and sustainable while keeping our fragile environment healthy for future generations. Environment regulation also protects Australia's cultural and heritage sites. They give business clarity and provide a framework for decision-making by government and business.
- 1.4 The EPBC Act was introduced by the Howard Government and is a well-established regulation that has been applied by both Labor and the conservatives. It is the reason that world heritage properties such as the Great Barrier Reef and Uluru-Kata Tjuta are protected. It is the reason national heritage sites such as the Kimberley and Great Ocean Road are protected. The EPBC Act also means wetlands of international importance are not drained and threatened species such as Blue Whales, Flatback Turtles and Koalas are protected.
- 1.5 The Water Trigger in the EPBC Act means that the impact of coal seam gas development and large coal mining development on Australia's precious water resources is carefully considered.
- 1.6 Labor Senators note that the EPBC Act is being reviewed in 2019 as per section 522A of the Act and preliminary work by the Department of the Environment and Energy has begun. While we disagree with a number of the recommendations in the Chair's report, this statutory review should consider opportunities to reduce regulatory burden, including those identified in Recommendations 9, 13, 14 and 15 of the Chair's report.

Effect of red tape on child care

- 1.1 Labor Senators make the following dissenting report in relation to the Chair's report.
- 1.2 Labor Senators support the maintenance of effective and evidence based regulation of the early childhood education and care (ECEC) sector, to safeguard the quality and safety of all ECEC services and the educational development of children. The National Quality Framework (NQF) was agreed to by the Council of Australian Governments in 2009 and introduced to lift the educational and quality standards of the sector. Labor Senators strongly support the NQF. The NQF was developed based on international evidence and best practice. This evidence is regularly reviewed. The evidence confirms that staff ratios lead to better educational and safety outcomes for children. Since the introduction of the NQF, 77 per cent of ECEC services have received a quality rating of meeting or

exceeding the National Quality Standards (NQS). The NQF is a world leading system that a majority of witnesses to the inquiry fully endorsed and supported.

- 1.3 Labor Senators believe that the greatest risk to the viability of ECEC services is this government's failure to adequately fund the sector, not overly burdensome regulation. Labor calls on the Government to restore the \$20 million it cut from the NQF funding in the 2018–19 Budget. This funding supports the safety and compliance work in the states and territories that supports the NQF. Labor calls on the Government to commit funding to the national preschool program for four years olds—the National Partnership Agreement on Universal Access to Early Childhood Education. The Government has refused to fund the program beyond the 2019 school year and this is adding to the difficulties being faced by ECEC services and families.
- 1.4 Labor also notes the Government's new child care system introduces greater complexity and red tape to the system for both ECEC services and families. Families and services now have to account for activity, income, hours of care, and complete numerous forms to access subsidies from the Government. Families and services had to re-register for the new system launch in July 2018 at their own expense, which for services were considerable in both time and resources.

Effect of red tape on occupational licensing

- 1.1 Labor Senators provide the following dissenting report on Red Tape (Occupational Licensing).
- 1.2 Labor Senators reject the premise of the report that occupational licensing reform should start with a presumption against licensing. The inquiry heard strong evidence that occupational licensing is beneficial and necessary to ensure the quality of work performed and the safety of both workers and consumers.
- 1.3 Labor Senators consider that the holding of a licence also sends a powerful signal to consumers, as to the quality and safety of a provider or service. Labor Senators believe that a tripartite system, involving government, business and union representatives, is best placed to consider the quality, skill and safety needs that are inherent in licensing arrangements, and complemented by a risk-based regulatory approach.

Effect of red tape on private education

- 1.1 Labor Senators strongly oppose the recommendations in this report.

Vocational Education and Training

- 1.2 Privatisation and deregulation in the vocational education and training (VET) sector has been a dismal failure.
- 1.3 Experience has repeatedly shown that rent-seeking, and access to government funding in VET with limited regulation, has led to extreme outbreaks of malfeasance by unscrupulous private, profit seeking providers.
- 1.4 VET FEE-HELP is the most recent, but not the only, example of the runaway rorting by unscrupulous for-profit training providers putting profit before the national interest.
- 1.5 As a consequence of rorting in the VET sector the reputation of the sector has been

marred by: dismal completion rates; increased course costs; burgeoning and unfair student debt; insolvency of major private colleges; and predatory behaviour by unscrupulous registered training organisations to enrol students and access government funding.

- 1.6 VET FEE-HELP was introduced by the Coalition in 2008 and opened up in 2012. In the five years under Labor, loans totalled \$1.4 billion. Under three years of the Coalition loans skyrocketed by a further \$5.8 billion.
- 1.7 The Australian National Audit Office has reported that the Government Actuary assessed that \$1.2 billion of loans were wrongly issued under VET FEE HELP. The number of people misled and subjected to unfair debts is yet to be determined.
- 1.8 It is estimated that close to 75 per cent of all VET FEE HELP funding went to private providers. This included \$600 million to just one provider, Careers Australia, which subsequently went into receivership leaving 18 000 students stranded without qualifications and holding unfair debts, 1000 employees robbed of their entitlements, and money owing to suppliers.
- 1.9 In addition to the scandalous provider behaviour exhibited in the VET sector, there is evidence that privatisation in VET has led to widespread and persistent concerns relating to quality, and in particular the development of low quality training markets driven by low-cost, high-profit provision. For example the prevalence of low cost, short courses was reported in a series of strategic reviews by Australian Skills Quality Authority of the aged and community care, early childhood education and care, and the construction and security industries.
- 1.10 It is clear that sound and fit-for-purpose regulatory standards are fundamental to ensuring quality delivery and for ensuring consumer protection in vocational education and training.
- 1.11 If public money is to flow to educational organisations then those organisations must be of the highest standards and the bar for entry must be appropriately high.
- 1.12 Labor recognises that the current design of the VET system is flawed. The reliance on a market to deliver quality vocational education and valued training qualifications is one of many factors that require close examination and review.
- 1.13 As such, no amount of regulatory oversight and intervention will adequately correct the current problems in the vocational education system. Importantly, regulation reduction will simply promote reduced oversight and increased exploitation of students.
- 1.14 In government Labor will establish an independent and comprehensive inquiry into the post-secondary education system, ensuring that public TAFEs and universities sit at the centre of the system as anchoring and publicly accountable institutions.
- 1.15 That inquiry will make recommendations about regulation and consumer protection, in light of the review of the whole post-secondary education system.

Higher Education

- 1.16 Australia has a well-established higher education system with a strong public university sector and a number of quality private providers. Unlike VET, public universities have not been subject to the same level of private competition and they have benefited significantly from reforms put in place by a number of Labor governments.
- 1.17 Labor's policy in 2009 to uncap university places (through the demand-driven system) has been one of the greatest changes seen to higher education in this country in a generation.
- 1.18 This reform, in conjunction with greater funding for access and equity opened the door of university to more than 200 000 more Australians. Our reforms also saw increased participation from traditionally underrepresented groups. Between 2008 and 2016, we've seen:
- Low SES undergraduate student enrolments increase by 55 per cent;
 - Indigenous undergraduate student enrolments grow by 89 per cent;
 - Enrolments of regional and remote students increase by 48 per cent; and
 - Enrolments of undergraduate students with a disability more than double.
- 1.19 Not only did we boost participation, the demand-driven system drove innovation in modes of delivery and industry collaboration. This was noted by the Liberals' 2014 review of the demand-driven system.
- 1.20 In 2011, Labor introduced a national system of regulation with the creation of the Tertiary Education Quality and Standards Agency – fundamentally streamlining regulation of the sector, reducing the number of jurisdictions from nine to one. The regulatory system was also designed to be proportionate and risk-based.
- 1.21 Labor believes the national regulatory system in higher education needs more time to mature. In order to ensure the settings continue to be fit-for-purpose, we will examine regulation as part of our once-in-a-generation national inquiry into post secondary education in Australia.

ADDITIONAL COMMENTS BY LABOR SENATORS TO RED TAPE INQUIRY REPORTS

Effect of red tape on pharmacy rules

- 1.1 Since 1990, the location rules have been an important part of the regulation of community pharmacy. Labor supported the extension of these rules in 2015 and recently supported legislation removing the sunset clause on the rules.
- 1.2 Labor notes the concerns of some stakeholders about the collection and remittance of GST, and the associated paperwork burden. The Howard Government introduced the GST in 1999, and the tax took effect on 1 July 2000. The nature of the GST is such that collection and remittance of GST is tasked to business, particularly small businesses.

- 1.3 Labor is sympathetic to the notion of reducing red tape for small businesses. However, caution should be exercised in proposals that seek to prioritise one sector of the economy over others.

Effect of red tape on health services

- 1.1 Labor Senators make the following additional comments on the Red Tape (Health Services) Report.
- 1.2 Comment on Recommendation 2 — Labor Senators are committed to improving preventive health and primary health care, to help keep Australians healthy and out of hospital wherever possible. However, Labor Senators note concerns that allowing insurers to cover out-of-hospital care could undermine the universality of Medicare and create a two-tiered primary health care system. Labor Senators also note concerns that introducing a second major payer into primary health care could have an inflationary effect, driving up costs for patients and taxpayers.
- 1.3 Comment on Recommendations 3 and 4— Labor has proposed a Productivity Commission inquiry into the private health system, which would be the most significant review of private health in 20 years (since the then Industry Commission's last review). Pending its terms of reference, which Labor will develop in consultation with experts and the sector, the inquiry could consider cost drivers for private health insurance, the regulation of the prostheses market, and other reform proposals. Labor Senators urge the Government to adopt Labor's proposal for a Productivity Commission inquiry.

Senator Murray Watt

Deputy Chair

