

**Senate Finance and Public Administration Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

Budget Estimates Hearing 27 May-6 June 2013

Prime Minister and Cabinet Portfolio

**Department/Agency:** Department of Prime Minister and Cabinet

**Outcome/Program:** 1.1 Prime Minister and Cabinet

**Topic:** COAG Reform Updates on Competition Reforms

**Senator:** Senator Payne

**Question reference number:** 37

**Type of Question:** FPA, Monday 27 May 2013, page 99

**Date set by the committee for the return of answer:** 12 July 2013

**Number of pages:** 5

**Question:**

Senator PAYNE: I have some questions in which I want to seek updates on a couple of reforms in each area. In energy market reforms it is question reference No. 11. So in competition it would be the energy market reforms, infrastructure reform, the national transport reforms and the road reform plan. I understand that they are still to be completed. Could you update us on those, when we can expect to see them completed and the reasons for the delays. Then, in November 2012, with the ones the CRC identified as at particular risk, which were OH&S, mine safety, chemicals and plastics, and director's liability, could you give me the same update—that is, the progress on each, the reasons for delay and when we can expect to see them completed.

There are also five competition reforms that are not part of the Seamless National Economy NPA but which are included by the CRC as non-reward payment reforms, four of which have their output at risk. I think they are: legal profession, in terms of time frame; not-for-profit sector fundraising, in terms of time frame; the not-for-profit sector standard chart of accounts, in terms of time frame; and the regulation making and review, in terms of output. Could I get the same update on those.

**Answer:**

The majority of these reforms are under the National Partnership Agreement to Deliver a Seamless National Economy (SNE NP). COAG agreed that from 1 January 2013, where SNE NP reforms remain outstanding, biannual reports on progress are provided to COAG through the Business Advisory Forum (BAF) Taskforce on 1 April and 1 September each year, until such time as reform milestones are completed. The latest report card (April 2013) providing a progress update on SNE NP reforms is available on the COAG website.

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The following is a summary of progress on reforms as requested.

<b>SNE NP - Competition Reforms</b>
<p><b>1. Energy market reforms</b> – On 7 December 2012, COAG endorsed a comprehensive package of energy market reforms, to be implemented by the Standing Council on Energy and Resources (SCER). This incorporates outstanding Seamless National Economy (SNE) commitments on energy and sets out revised timeframes. These reforms are on track, and the Commonwealth is continuing to work with the States and Territories through the SCER to ensure the reform package is fully implemented.</p>
<p><b>2. Infrastructure reform</b> – The Interstate Rail Track, Competitive Tendering and Competitive Neutrality aspects of infrastructure reform are completed.</p> <p><i>Certification of State Access Regimes</i></p> <p>The Certification of State Access Regimes is not yet complete as State and Territory multi-jurisdictional energy access regimes (electricity and gas) have not yet been certified. In addition, Victoria’s rail access regime has not yet been certified.</p> <p><i>Regulation of Significant Ports</i></p> <p>With regard to the Regulation of Significant Ports reform, all States and Territories have completed this reform with the exception of the Northern Territory and Western Australia. The Western Australia Government expects the recommended legislative changes under the COAG review will be implemented in 2014. The Northern Territory Government is finalising their Five Year Port Development Strategy, for their Government’s consideration by the end of 2013-14.</p>
<p><b>3. National Transport reforms</b> –</p> <p><i>National regulator for the operation of heavy vehicles</i></p> <p>On 19 August 2011, COAG signed the Intergovernmental Agreement (IGA) on Heavy Vehicle Regulatory Reform, to establish a National Heavy Vehicle Regulator (NHVR). Western Australia is yet to sign the IGA.</p> <p>Other States and Territories need to introduce legislation to apply the National Law, which is currently occurring. The National Regulator will assume full regulatory responsibilities from 1 September 2013 once the National Law is</p>

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applied in all jurisdictions (other than Western Australia). The registration component of this reform will commence in mid-2015.

#### *National rail safety regulator and investigator*

On 20 January 2013 the National Rail Safety Regulator commenced operation in four jurisdictions, with the ACT, Queensland, Victoria and Western Australia expected to pass legislation to implement the national rail safety laws before the end of 2013.

On 13 September 2012, the Australian Parliament passed the *Transport Safety Investigation Amendment Act 2012*, supporting the role of the Australian Transport Safety Bureau (ATSB) as the national rail safety investigator. The ATSB's expanded role commenced from 20 January 2013.

#### *National maritime safety regulator*

On 9 November 2012, the Standing Council on Transport and Infrastructure (SCOTI) agreed that the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*, (the National Law) which underpins the national arrangements would commence in March 2013.

Legislation to apply the national law was given Royal Assent in NSW on 20 November 2012. All other jurisdictions are working towards passage of legislation to allow the National Regulator to commence on 1 July 2013.

#### **4. Road Reform Plan** – COAG agreed in July 2012 to revised reporting milestones for this reform:

- a) development of proposed new pricing, funding and expenditure (including appropriate governance and institutional) arrangements for heavy vehicles by December 2012;
- b) preparation of draft agreements necessary to give effect to the new pricing, funding and expenditure arrangements for heavy vehicles by December 2012; and
- c) COAG to consider a decision on implementation of any new arrangements following a RIS expected to be completed by end of August 2013.

In line with the revised milestones associated with the COAG agreed broadened scope of reforms, work is progressing on the development of a Regulation Impact Statement exploring implementation options which will be considered by SCOTI before being submitted to COAG.

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**SNE NP - Deregulation Priorities**

**5. OH&S** – The model national occupational health & safety laws have commenced in all States and Territories except Victoria and Western Australia. The Victorian Government advised that it will not be introducing the model laws in its current form and Western Australia advised that its decision to implement the model law is subject to analysis of the local costs and benefits of the reform.

**6. Mine Safety** – This reform requires introduction of ‘core’ mine safety regulations in all states and the Northern Territory, and ‘non-core’ regulations for higher risk activities such as underground coal mining in New South Wales, Queensland and Western Australia.

The Select Council on Workplace Relations is currently considering the ‘core’ model Work Health and Safety (Mines) Regulations, with South Australia and Tasmania indicating that they expect to implement the regulations in 2014.

In terms of the non-core regulations, Queensland and Western Australia are in the process of drafting or amending their respective mine safety Acts and Regulations. In New South Wales, the new Work Health and Safety (Mines) Bill 2013 was introduced into the Legislative Council on 29 May 2013.

In January 2013, Victoria advised that it will not adopt the mine safety regulations in their current form.

**7. Chemicals and Plastics** – Thirteen of the 30 Productivity Commission (PC) recommended Chemicals and Plastics reforms remain to be completed under the SNE NP. All Early Harvest Reforms have been completed for the purposes of the SNE NP.

COAG agreed in April 2012 that the review of Chemicals and Plastics assessment process will be progressed through the Better Regulation Ministerial Partnership between the Minister for Health and Minister for Finance and Deregulation.

Regular reports on the implementation of the Chemicals and Plastics reform are available at

[www.innovation.gov.au/INDUSTRY/CHEMICALSANDPLASTICS/SCOC](http://www.innovation.gov.au/INDUSTRY/CHEMICALSANDPLASTICS/SCOC).

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**8. Directors' Liability** – The final milestone for Directors' liability reform requires all jurisdictions to develop a legislative plan for the agreed reforms and to introduce legislation. Legislation has been passed by the Commonwealth, New South Wales, South Australia, Victoria and the Australian Capital Territory, and introduced in Queensland, and Tasmania. Western Australia and the Northern Territory are yet to introduce legislation.

**Other Regulatory Reforms (not covered by the SNE NP)**

**9. Legal Profession** – For the national legal profession reform to be realised, individual States and Territories need to take action. A key step in constructing a national framework requires proposed legislation to be enacted by the Parliament of a host jurisdiction. It would then need to be adopted in identical terms in each of the other participating states and territories. In September 2011 the former Attorney-General, the Hon Robert McClelland MP, released a draft National Legal Profession Law (the National Law). While New South Wales and Victoria are committed to the introduction of a national legal profession scheme, all other jurisdictions have indicated that they will not participate in a national scheme at this stage.

Victoria has agreed to introduce legislation to implement the reforms. The Commonwealth is not aware of when this will occur.

**10. Not-for-Profit Sector Fundraising** – Consumer affairs ministers will consider charitable fundraising regulation, including the timing of the Charitable Fundraising Working Group's work plan, at the Legislative and Governance Forum on Consumer Affairs in July 2013.

**11. Not-for-Profit Sector Standard Chart of Accounts** – The Australian Charities and Not-for-profits Commission (ACNC), which commenced operations on 3 December 2013, has assumed responsibility for the review and maintenance of the standard chart of accounts. The ACNC will consider changes to the Standard Chart of Accounts as appropriate, in consultation with key stakeholders. All COAG milestones for this reform have been completed.

**12. Regulation making and Review** – The remaining 2012-13 milestones for the regulation making and review reform are the completion of a Productivity Commission (PC) benchmarking study, and for jurisdictions to respond. The PC Report, *Regulatory Impact Analysis: Benchmarking*, was released in December 2012 and jurisdictional responses to the report are provided in Annex B to a paper prepared for the Business Advisory Forum Taskforce, titled "Lifting Regulatory Performance" (March 2013), which is available at [www.coag.gov.au](http://www.coag.gov.au).