

# **Implementing the Deregulation Agenda: Cutting Red Tape**

[Across Entities](#)

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Canberra ACT  
4 May 2016

Dear Mr President  
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit across entities titled *Implementing the Deregulation Agenda: Cutting Red Tape*. The audit was conducted in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website—<http://www.anao.gov.au>.

Yours sincerely



Grant Hehir  
Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

## **AUDITING FOR AUSTRALIA**

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# Summary and recommendations

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## Background

1. Unnecessary regulatory burden, or red tape, impedes business competitiveness and affects economic productivity. Reducing this burden has been a key policy objective of successive Australian Governments since the 1970s.<sup>1</sup>
2. A centrepiece of the Government's 2013 *Deregulation Agenda* policy was an annual net reduction target of at least \$1 billion in red tape.<sup>2</sup> Under the Deregulation Agenda, the total estimated compliance and delay costs<sup>3</sup> on individuals, businesses and community organisations from proposed regulatory changes—whether it be new regulation, amendments or removal of existing regulation—was to be quantified. Government portfolios were also assigned an annual red tape reduction (savings) target by Ministers. The combined total of the portfolio targets set in both 2014 and 2015 significantly exceeded the annual target of \$1 billion.<sup>4</sup>
3. In the Australian Public Service, overall policy responsibility and whole-of-government coordination for the Deregulation Agenda lies with the Department of the Prime Minister and Cabinet (PM&C). All portfolios were required to establish dedicated Deregulation Units. These units were based in departments of state and were responsible for: driving implementation of the policy within their portfolio<sup>5</sup> (including cultural change based on reduced reliance on regulation and improving communication with key portfolio stakeholders); providing advice and support to portfolio business areas; and providing PM&C with regular reports on progress towards savings targets.

## Audit objective and criteria

4. The audit objective was to assess the effectiveness of selected departments' implementation of deregulation initiatives. To form a conclusion against the audit objective, the ANAO adopted the following high level audit criteria:
  - effective whole-of-government oversight and guidance was available to support implementation of the Government's Deregulation Agenda;
  - selected departments established sound governance, risk management and other arrangements to identify, assess and quantify potential deregulation measures; and
  - effective processes were in place to monitor and report on achievements, including savings realised, from the Deregulation Agenda.

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1 Figure 1.1 shows a timeline of key Australian Government deregulation milestones.

2 Other central elements of the policy included: a more consistent Regulatory Impact Analysis process; improved stakeholder consultation; and the development of a regulator performance framework.

3 Delay costs are expenses and loss of income experienced through waiting for required regulatory decisions such as environmental approvals.

4 The total of all portfolio targets in 2014 and 2015 was \$2.65 billion. See Appendix 2 for details of the portfolio targets.

5 Including for any regulatory bodies within each portfolio.

5. In addition to examining the role of PM&C as the central coordinating department for the Deregulation Agenda, the audit examines implementation of the Agenda by three selected portfolio departments—Communications and the Arts; Health; and Industry, Innovation and Science. The ANAO also reviewed the estimated savings or costs of a sample of 29 measures developed and implemented by these portfolios in 2014.

## Conclusion

6. The incoming Government's Deregulation Agenda included an annual net reduction target of at least \$1 billion in red tape, and on taking office in late 2013, internal portfolio-level reduction targets were set by Ministers, with a combined value of \$2.65 billion for 2014 and 2015.<sup>6</sup> By the end of 2015, the Government had publicly announced measures to deliver estimated total net savings of \$4.80 billion. Portfolio reporting to PM&C advised that some \$3.97 billion in net savings had been implemented in 2014 and 2015—exceeding the internal target of \$2.65 billion by \$1.32 billion.

7. PM&C moved quickly to put in place a governance framework to support implementation of the incoming Government's Deregulation Agenda. The selected departments established internal Deregulation Units with clearly articulated roles, responsibilities and consultative mechanisms, and involved senior APS leaders to provide impetus. The selected departments' approaches to calculating the savings (and in some cases the costs) of the 29 measures examined by the ANAO was consistent with whole-of-government guidance provided by PM&C and had regard to government expectations that departments adopt a risk-based and proportionate approach to assessing the benefits of removing or adjusting regulatory arrangements.

8. Ministers agreed in December 2013 that significant regulatory changes—potentially including some red tape reduction measures—would be subject to a post-implementation review process within five years, and that the economic impacts of the overall Deregulation Agenda would be assessed by the Productivity Commission or another equivalent body within three years. As at the end of 2015, no whole-of-government post-implementation reviews or evaluations had been conducted, although some of the audited portfolios advised that they planned to undertake stakeholder surveys. Portfolio-level surveys are not a substitute for the structured third-party assessment of impact agreed by Ministers at the commencement of the program, and PM&C should take the necessary steps to implement the Australian Government's decision that the Deregulation Agenda's economic impacts be assessed within three years.

## Supporting findings

### Central Coordination

9. PM&C moved quickly to put in place a governance framework to support implementation of the incoming Government's Deregulation Agenda policy following the 2013 election. The whole-of-government framework clearly defined relevant roles and responsibilities and consultative mechanisms, and involved senior APS leaders to provide impetus.

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6 Portfolio targets for 2014 were set in December 2013, with 2015 targets assigned in March 2015. The sum of individual portfolio targets was set at greater than \$1 billion to minimise the risk of the target not being met as a result of delays in implementing deregulatory proposals. Individual portfolio targets were not published.



10. PM&C provided portfolios with a suitable range of guidance material and tools, adopting a staged approach to their preparation and dissemination. The three departments selected for this audit advised the ANAO that there were some operational challenges during the initial implementation of the Deregulation Agenda, but 'work-arounds' were developed as necessary and lines of communication remained open.

11. PM&C supported portfolios through a range of coordination and communication mechanisms. It nominated portfolio liaison officers for Deregulation Units and hosted a range of information sharing events. PM&C also chaired a Senior Executive Service (SES) Reference Group.

12. PM&C actively monitored progress towards the achievement of portfolios' individual savings targets through mandated quarterly reporting arrangements, and reported internally on progress towards the red tape target.

### **Portfolio measures**

13. The selected departments established internal Deregulation Units with clearly articulated roles and responsibilities that were consistent with guidance issued by PM&C. These Deregulation Units actively worked with their business areas and portfolio entities to raise awareness of the Government's Deregulation Agenda, to support the identification and costing of potential deregulatory measures in line with government policy, and to facilitate internal reporting. A range of initiatives was also established to promote internal cultural and behavioural change consistent with the Deregulation Agenda.

14. The selected departments adopted a range of approaches to harness stakeholder input on potential deregulation measures at the portfolio level, including the use of existing consultative forums, mechanisms targeted at specific reforms, and newly established Ministerial Advisory Councils.

15. The selected departments had regard to government expectations that they adopt a risk-based and proportionate approach to assessing the benefits of removing or adjusting regulatory arrangements.

16. The ANAO's review of a sample of 29 measures<sup>7</sup> indicated that the selected departments' approaches to costing those measures were consistent with the guidance provided by PM&C. The ANAO's review also indicated that the estimated savings (or costs) of each of the measures in the sample were supported by relevant and documented sources, or there was evidence of a reasonably informed professional judgement. Two measures (seven per cent of the sample) contained material costing errors that were not identified in quality assurance checks, but the errors were not of a type indicating systemic methodological problems in the affected portfolio.

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7 While 27 of these were deregulatory in nature—thus producing red tape savings—two of the measures imposed additional regulatory costs.

## Monitoring and reporting on program implementation

17. Each portfolio's progress against its assigned savings target was effectively monitored by PM&C through a mandated process. Overall progress against the whole-of-government target was also actively monitored and publicly reported on a regular basis.

18. The incoming Government's policy was an annual net reduction target of at least \$1 billion in red tape. On taking office, internal portfolio-level reduction targets were set by Ministers, with a combined value of \$2.65 billion for 2014 and 2015.<sup>8</sup> By the end of 2015, the Government had publicly announced measures to deliver estimated total net savings of \$4.80 billion. Portfolio reporting to PM&C advised that some \$3.97 billion in net savings had been implemented in 2014 and 2015—exceeding the internal target of \$2.65 billion by \$1.32 billion.

19. The ANAO's review indicates that, on the basis of portfolio reporting to PM&C:

- the net savings implemented at the end of 2015 exceeded the Government's announced target (of at least \$1 billion per year) by \$1.97 billion; and
- implementation of the \$4.80 billion in announced net savings remained a work in progress, with some 82.7 per cent (\$3.97 billion) of announced savings implemented in 2014 and 2015. The ANAO was advised that substantial time-lags between receiving agreement to measures and their implementation may occur where legislative changes or complex stakeholder negotiations are required to give effect to a measure.

20. During 2015, the implementation of the Deregulation Agenda was subject to an internal review undertaken by members of the SES Reference Group. Key outcomes from the review were initially considered by Ministers in November 2015, with further consideration of specific proposed policy changes expected to occur in the first half of 2016. Pending this, some administrative changes to implementation arrangements were adopted by portfolios and PM&C from late 2015.

21. Ministers agreed in December 2013 that in order to further track progress, estimated red tape reductions would be subject to a post-implementation review process and the economic impacts of the Deregulation Agenda would be assessed by the Productivity Commission or another equivalent body within three years.

## Recommendation

### Recommendation No. 1 Paragraph 4.18

The ANAO recommends that the Department of the Prime Minister and Cabinet take the necessary steps to implement the Australian Government's decision of December 2013 that the economic impacts of the Deregulation Agenda be assessed within three years.

#### **Department of the Prime Minister and Cabinet's response:**

*Implementation of this decision is currently being discussed with the Government.*

---

8 See footnote 6.

## Summary of entity responses

22. The Department of the Prime Minister and Cabinet; the Department of Communications and the Arts; the Department of Health; and the Department of Industry, Innovation and Science provided formal comment on the proposed audit report. A summary of these responses is provided below, with the full responses provided at Appendix 1.

### Department of the Prime Minister and Cabinet

I welcome the ANAO's assessment that my Department has been effective in implementing the Government's Agenda.

In relation to the recommendation that necessary steps be taken to implement the Government's December 2013 decision that the economic impacts of the Agenda be assessed within three years, I can confirm that implementation of this decision is currently being discussed with the Government.

I note that the draft report includes information on portfolio targets agreed among Ministers but not announced by the Government. As presented, this information does not fully reflect the role these targets played in supporting the Government's achievement of its red tape reduction objective. This issue is addressed in my Departments' formal response to the report (enclosed).<sup>9</sup>

### Department of Communications and the Arts

The Department of Communications and the Arts welcomes the report arising from the *Implementing the Deregulation Agenda: Cutting Red Tape* audit which provides a fair overview of the implementation and management of the deregulation agenda during the relevant period.

### Department of Health

I am pleased to note the audit's positive findings for Health, with all deregulatory measures selected from the portfolio being classified as fully supported by the evidence, containing no material costing errors, and positive findings from ANAO's stakeholder consultations on the realised impact of Health's measure selected for the targeted consultations.

I note that the proposed report makes no recommendation specifically aimed at the Department, and note the report's single recommendation about measuring the economic benefits of regulatory reform at the whole-of-government level.

### Department of Industry, Innovation and Science

There are considerable costs to business arising from complying with regulations at all levels of government. The department is fully committed to pursuing regulation reform, which is crucial to encouraging investment, innovation and growth by businesses. That is why I welcome the audit's findings that the department established suitable internal governance and administrative arrangements to facilitate implementation of the Government's Deregulation Agenda.

I am pleased to note that the Industry, Innovation and Science portfolio has exceeded the allocated savings target it was set and, as at 31 December 2015, it has an exceptionally high implemented net savings against target achievement record. The department will continue to ensure strong governance and administrative practices in implementing the Agenda.

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9 See Appendix 1 and footnote 6.



## **Audit Findings**



# 1. Background

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## Introduction

1.1 The *Australian Government Guide to Regulation* defines regulation as ‘any rule endorsed by government where there is an expectation of compliance’.<sup>10</sup> Deregulation in this context can be described as reducing the ‘red tape’ burden of regulation, by removing or reducing regulation which imposes an unnecessary or unreasonable burden on people or businesses and ensuring that new regulation is imposed only when absolutely necessary. At the Commonwealth level, regulatory requirements can be imposed through legislation, subordinate legislation<sup>11</sup>, or government administrative processes or practices.

1.2 Reducing the burden of regulatory red tape has been a key policy objective of successive Australian governments over several decades (see Figure 1.1). Particularly since the 1990s, there have been periodic reviews on this subject and associated government responses. In 2006, following the *Report of the Taskforce on Reducing Regulatory Burdens on Business* (the Banks Report), the then government announced the introduction of a strengthened regulation-making and review framework. This framework included mandating the use of the ‘Business Cost Calculator’ to quantify the compliance cost of proposed regulatory options and annual reviews to examine the cumulative stock of regulation and identify an ongoing red tape reduction agenda.

1.3 In December 2007, the then new government’s regulatory reform agenda was given heightened visibility with the creation of the new Cabinet portfolio position of the Minister for Finance and Deregulation. While the Minister for Finance had always been in Cabinet, this was the first time that the Australian Government had a position with responsibility for regulatory reform. Notably, the then government’s reform agenda included:

- establishing Better Regulation Partnerships with ministerial colleagues to improve the effectiveness of existing regulation;
- implementing a ‘one-in one-out’ process for regulations<sup>12</sup>; and
- undertaking a review of pre-2008 subordinate legislation with a view to reviewing or removing redundant regulation.<sup>13</sup>

1.4 Deregulation in the form of red tape reduction initiatives with specific savings targets has been pursued by a number of state governments over the last decade, including New South Wales, Victoria, South Australia and Queensland. Reported savings have varied, with the NSW Government, for example, reporting that over the three years to 2014 it achieved annual savings to business and the community of \$815 million.

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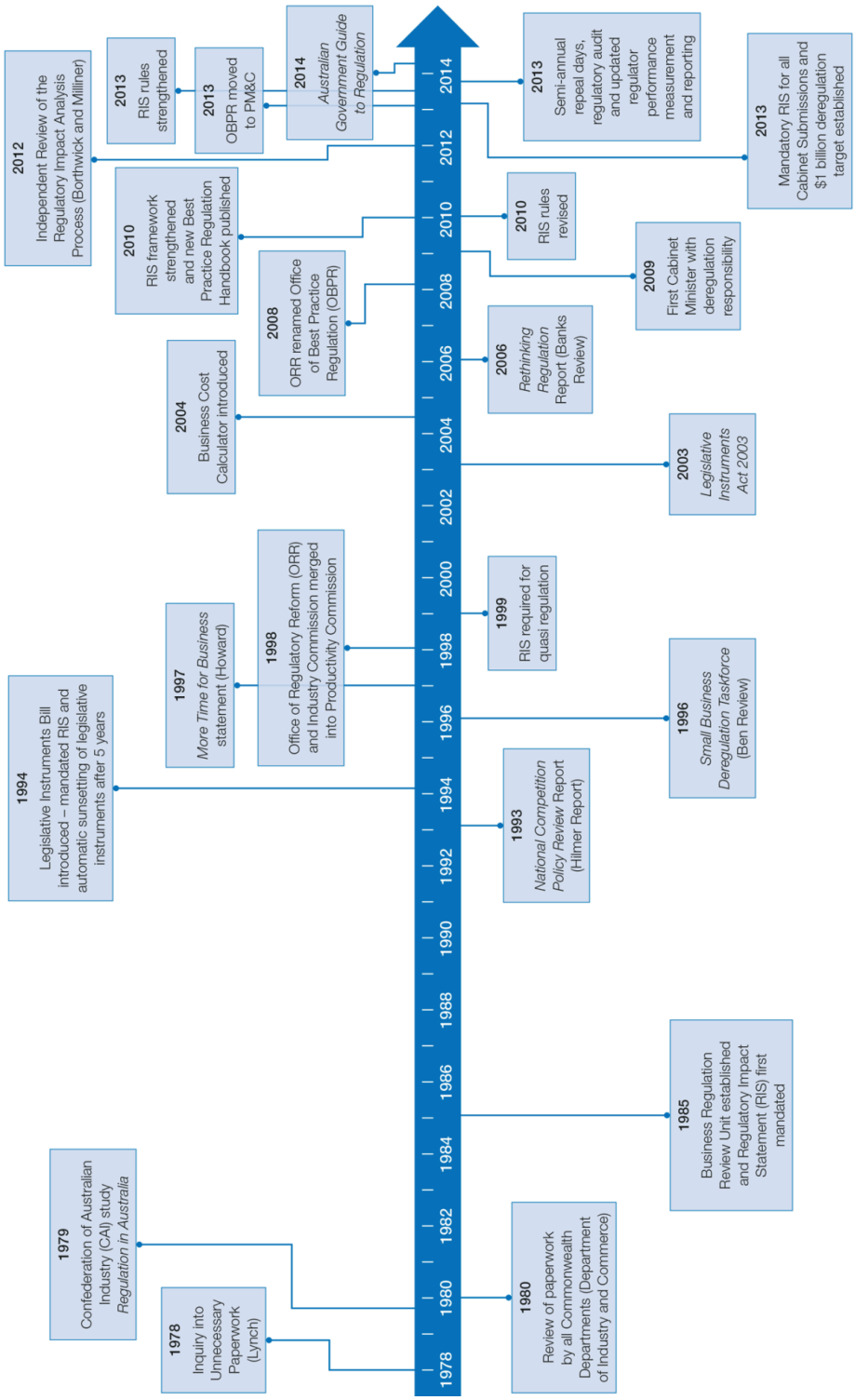
10 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *The Australian Government Guide to Regulation*, 2014, p. 62.

11 Subordinate legislation includes regulations, rules, orders or other decisions that are authorised to be made under legislation. Depending on the legislation, it may be made by the Governor-General, a Minister, or a delegate of the Minister.

12 Rather than mandatory ‘one-in one-out’, this process only actually required entities to demonstrate that opportunities for an off-setting regulatory removal had been considered.

13 According to Department of Finance and Deregulation annual reports, the review considered 11 600 regulatory items, of which 3 000 had been removed as at 30 June 2013.

**Figure 1.1: Timeline of major deregulation events 1978-2015**



Source: Deregulation in Australia in Treasury Economic Roundup, Issue 2, 2014 as updated by ANAO.



## The Government's Deregulation Agenda

1.5 A centrepiece of the Government's 2013 *Deregulation Agenda* policy was an annual net reduction target of at least \$1 billion in red tape.<sup>14</sup> To support implementation of this whole-of-government target each government portfolio was assigned an annual red tape reduction (savings) target.<sup>15</sup> The combined total of the portfolio targets set in both 2014 and 2015 exceeded the annual target of \$1 billion.<sup>16</sup>

### Quantifying regulatory savings and costs

1.6 The Deregulation Agenda requires that the total estimated regulatory costs—both compliance and delay costs<sup>17</sup>—on individuals, businesses and community organisations resulting from proposed regulatory changes—whether it be new regulation or amendments or removal of existing regulation—be quantified. This estimation is made in accordance with the Regulatory Burden Measurement (RBM) framework, itself based on a methodology used by the Victorian Government.

1.7 Where the impact of the change is to *reduce* the cost of compliance with the relevant regulation, this counts towards a portfolio's savings target. Any reduction in a portfolio's own operating costs resulting from the change is not counted. Any *increase* in the cost of compliance is also counted.

1.8 Portfolios were required to undertake a stocktake to quantify the total cost of complying with all forms of regulation administered by them, including any delay costs. The stocktake, completed at the end of 2014, estimated that the total annual cost of all Australian Government regulation was around \$65 billion per year, or about 4.2 per cent of Australia's gross domestic product.<sup>18</sup> By far the largest contributor was the Treasury portfolio, mainly due to the costs of complying with the tax system (around \$40 billion), and corporate and financial sector regulation (around \$6.3 billion).

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14 Other central elements of the policy included: a more consistent Regulatory Impact Analysis process; improved stakeholder consultation; and the development of a regulator performance framework.

15 Portfolio targets for 2014 were assigned in December 2013, with 2015 targets assigned in March 2015.

16 The total of all portfolio targets in 2014 and 2015 was \$2.65 billion. See Appendix 2 for details of the portfolio targets.

17 Delay costs are 'expenses and loss of income incurred through a lost opportunity caused by an application or approval delay.' Commonwealth of Australia, Department of the Prime Minister and Cabinet, *The Australian Government Guide to Regulation*, 2014, p. 60.

18 This percentage is broadly consistent with earlier estimates: Productivity Commission, *Potential Benefits of the National Reform Agenda*, Report to the Council of Australian Governments, Canberra, 2006, p. XXXVI; *Get out of your own way—Unleashing productivity*. Building the Lucky Country Series # 4, Deloitte, 2014, page 39.

**Table 1.1: Estimated annual cost of compliance with Australian Government regulation by portfolio—as at October 2013**

Portfolio	Compliance costs (\$ billion) <sup>a</sup>	Per cent of total
Communications	1.35	2.0 %
Education	1.83	2.8 %
Employment	2.63	4.0 %
Human Services	3.75	5.7 %
Immigration	1.56	2.4 %
Industry	2.15	3.3 %
Treasury	47.0	71.9 %
All others combined	5.12	7.8 %
<b>Total</b>	<b>65.39</b>	<b>100.0%</b>

Note a: The sampling methodology used to estimate the annual cost of compliance differed by portfolio, figures are therefore not directly comparable. Compliance Costs Total differs from the total \$65.37 billion reported in the Australian Government Annual Deregulation Report 2014 due to rounding.

Source: The Australian Government Annual Deregulation Report 2014, p. 32.

## Repeal Days

1.9 As noted above, some regulatory changes may require the repeal or amendment of legislation. In both 2014 and 2015, the Government designated two parliamentary sitting days—one in autumn and one in spring—to introduce such legislation, propose the repeal or amendment of subordinate legislation and provide an update to Parliament on the Government’s progress towards its deregulation savings target. Over the course of 2014 and 2015, fewer proposals were introduced on these Repeal Days.<sup>19</sup> Rather, relevant legislation was progressively introduced through the year in the ordinary course of Parliamentary business.

## Roles and responsibilities for implementing the Deregulation Agenda

### Department of the Prime Minister and Cabinet

1.10 In the Australian Public Service, overall policy responsibility and whole-of-government coordination for the Deregulation Agenda lies with the Department of the Prime Minister and Cabinet (PM&C). To carry out this function, in late 2013, the Office of Deregulation (OoD) was established within PM&C.

1.11 Separately, the existing Office of Best Practice Regulation (OBPR) was transferred from the Department of Finance to PM&C. OBPR complements the role of OoD through, among other matters, administering the Regulation Impact Statement (RIS) system and providing portfolios with advice regarding processes and the estimation of regulatory costs and savings.

<sup>19</sup> Across the 2014 Autumn and Spring Repeal Days, several bills were introduced in addition to the bulk repeal of regulations by the Attorney-General. The Government estimated that, subject to approval by Parliament, these bills would repeal over 10 000 legislative instruments and 1800 Acts of Parliament. The Australian Government Annual Red Tape Reduction Report 2015 identifies that legislation was introduced in 2015 to repeal an additional 1796 Acts of Parliament.

1.12 A Secretaries' Committee on Deregulation was also created, chaired by the Secretary of PM&C, with other members drawn from key portfolios.<sup>20</sup> In addition, a Senior Executive Service Reference Group (SES Reference Group) was established, chaired by the head of the OoD, with all portfolios represented.

### Individual portfolios

1.13 Under the Deregulation Agenda, all portfolios were required to establish dedicated Deregulation Units<sup>21</sup> led by a Senior Executive Service (SES) Officer, to provide impetus and senior leadership to the initiative. These units were based in relevant departments of state and were responsible for driving implementation of the policy within their portfolio.<sup>22</sup> Key implementation tasks included: cultural change based on reduced reliance on regulation; improving communication with key portfolio stakeholders; providing advice and support to portfolio business areas; and providing PM&C with regular reports on progress towards savings targets. To provide further impetus, performance against the Deregulation Agenda also formed part of departmental secretaries' annual performance reviews.

## Evolution of the Government's Deregulation Agenda

1.14 As part of the Spring 2015 Repeal Day, the Government announced the start of a 'new chapter' in this policy area. It stated that:

... we need to build into our efforts the process of continual regulatory review—to ensure that our regulatory frameworks remain fit for purpose.

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This does not mean that on-going removal of unnecessary and ineffective red tape will stop .... We are enhancing the policy reform agenda so that it has a broader focus, while still relieving the regulatory burden.<sup>23</sup>

1.15 This development reflects an evolution towards 'better regulation' rather than focusing primarily on deregulation and reducing compliance costs. Reflecting this change, in late 2015 the Office of Deregulation was renamed as the Regulatory Reform Division, and portfolio Deregulation Units were renamed as Regulatory Reform Units.

### Audit approach

1.16 The audit objective was to assess the effectiveness of selected departments' implementation of deregulation initiatives. To form a conclusion against the audit objective, the ANAO adopted the following high level audit criteria:

- effective whole-of-government oversight and guidance was available to support implementation of the Government's Deregulation Agenda;

20 This committee is a sub-committee of the Secretaries' Board. That Board has members drawn from all portfolios.

21 While the Department of Human Services is part of the Social Services portfolio and the Department of Veterans' Affairs is part of the Defence portfolio, these departments established their own Deregulation Units.

22 Including for any regulatory bodies within each portfolio.

23 See *House Hansard*, 12 November 2015.

- selected departments established sound governance, risk management and other arrangements to identify, assess and quantify potential deregulation measures; and
- effective processes were in place to monitor and report on achievements, including savings realised, from the Deregulation Agenda.

1.17 In addition to examining the role of PM&C as the central coordinating department for the Deregulation Agenda, the audit examines implementation of the Agenda by three selected portfolio departments—Communications and the Arts; Health; and Industry, Innovation and Science. The ANAO also reviewed the estimated savings or costs of a sample of 29 measures developed and implemented by these portfolios in 2014. Collectively, these measures have been estimated by these portfolios to deliver an annual net compliance saving of some \$284.4 million.

1.18 The audit scope did not include the 2014 regulatory stocktake, the development of the 2014 Regulator Performance Framework<sup>24</sup> or the implementation of the strengthened RIS process.

1.19 The audit was conducted in accordance with ANAO Audit Standards at a cost to the ANAO of approximately \$712 533.

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24 The Regulator Performance Framework established a common set of performance measures against which regulators will report on the outcomes of their efforts to administer regulation. The first assessment period for regulators under the framework is 2015-16. See <<https://www.cuttingredtape.gov.au/resources/rpf>>.

## 2. Central coordination

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### Areas examined

This chapter examines how the Department of the Prime Minister and Cabinet (PM&C) coordinated, supported and monitored portfolios' implementation of the Deregulation Agenda.

### Conclusion

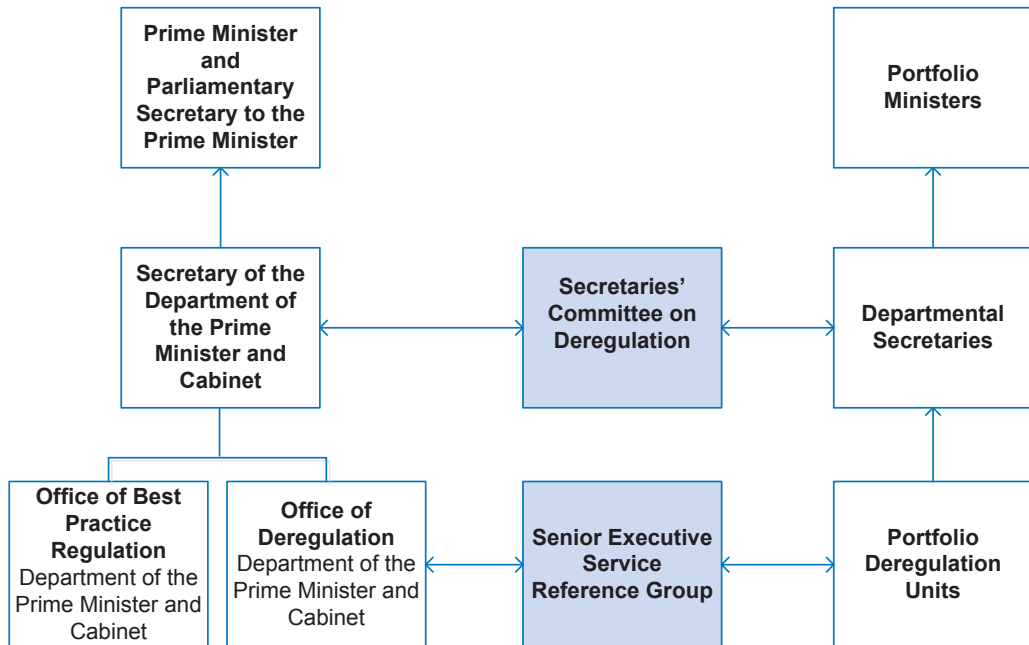
PM&C moved quickly to put in place a governance framework to support implementation of the Deregulation Agenda. The framework clearly defined relevant roles, responsibilities and consultative mechanisms, and involved senior APS leaders to provide impetus. PM&C also provided portfolios with a range of guidance material in a staged manner, and supported portfolios through a range of coordination and communication mechanisms. There was active monitoring of portfolios' progress towards the achievement of their individual savings targets, through mandated quarterly reporting arrangements.

### Did the Department of the Prime Minister and Cabinet establish a suitable governance framework with clearly defined roles and responsibilities?

PM&C moved quickly to put in place a governance framework to support implementation of the incoming Government's Deregulation Agenda following the 2013 election. The whole-of-government framework clearly defined relevant roles and responsibilities and consultative mechanisms, and involved senior APS leaders to provide impetus.

2.1 PM&C acted promptly to support implementation of the incoming Government's Deregulation Agenda. Ministers agreed to the key aspects of the framework in November 2013, with the detail of specific roles and responsibilities settled by mid December 2013. Figure 2.1 shows the interaction between the various bodies in the governance framework.

**Figure 2.1 Key bodies in the Deregulation Agenda governance framework<sup>25</sup>**



Source: ANAO analysis.

2.2 A Secretaries' Committee on Deregulation was established in November 2013. It comprised the Secretary of PM&C (chair) and the secretaries of six other key departments<sup>26</sup> and was intended to provide 'advice on the policy design and implementation of the government's Deregulation Agenda'. While the Committee's initial terms of reference contemplated that it would meet monthly, the meeting frequency was changed to three times per year in a revised version of the terms of reference. The Committee met three times: in November 2013; June 2014; and November 2014. In April 2015, meeting arrangements were changed to include deregulation matters on the broader Secretaries' Board agenda up to four times per year, with the existing Secretaries' Committee on Deregulation being held in abeyance. This change in arrangements was introduced in part to promote regular engagement with all secretaries and allow issues to be raised and addressed quickly.

2.3 In October 2013, PM&C also established a Senior Executive Service (SES) Reference Group. Chaired by PM&C, all heads of the portfolio Deregulation Units were members of this group. Initially meeting weekly or fortnightly<sup>27</sup>, the SES Reference Group was the key cross-portfolio engagement mechanism for facilitating ongoing communication between PM&C and the portfolios. The ANAO's review indicates that the SES Reference Group was a useful mechanism and supported

25 This figure reflects titles and names before Machinery of Government changes that took effect in late 2015. The functions of the Secretaries' Committee on Deregulation were absorbed by the Secretaries' Board from 2015.

26 These were: Treasury; Agriculture; Attorney General's; Environment; Health; and Communications. Secretaries of other departments were to be invited to attend 'as required'. These members were selected as their portfolios were considered to have among the largest scope for implementing deregulatory measures.

27 The group met as required in 2013, and for much of 2014 met fortnightly. From 2015, the frequency of meetings ranged from weekly to monthly.

implementation of the Deregulation Agenda. As noted in Chapter Four, an internal review of implementation of the Deregulation Agenda was also facilitated by the SES Reference Group. That review was considered by the Secretaries' Board in August 2015 and resulted in formal advice being provided to Ministers about options for the evolution of the Deregulation Agenda.

2.4 At the operational level, the other key bodies<sup>28</sup> in the overall framework were:

- Office of Deregulation (OoD), established within PM&C, which had the role of setting up, coordinating, monitoring and reporting on the implementation of the Government's red tape reduction agenda;
- Office of Best Practice Regulation (OBPR), also within PM&C, advised departments on regulatory impact assessment requirements and the costings of proposed regulatory and deregulatory measures; and
- Deregulation Units drove each portfolio's deregulation activity, including by: supporting portfolio business areas; coordinating the 2014 stocktake of regulatory burden; facilitating external stakeholder consultation; and providing portfolio liaison and reporting to OoD, including on progress towards their individual portfolio reduction targets. The establishment of portfolio Deregulation Units reflected the intention that responsibility for implementing the Deregulation Agenda, and meeting individual targets was devolved to portfolios. Devolved responsibility was intended to promote ownership within each portfolio and encourage cultural change in the way regulation is viewed and used.

### **Did the Department of the Prime Minister and Cabinet provide portfolios with suitable guidance material and tools in a timely way?**

PM&C provided portfolios with a suitable range of guidance material and tools, adopting a staged approach to their preparation and dissemination. The three departments selected for this audit advised the ANAO that there were some operational challenges during the initial implementation of the Deregulation Agenda, but 'work-arounds' were developed as necessary and lines of communication remained open.

2.5 PM&C took a staged approach to the development of guidance material for distribution to portfolios. Importantly, an updated Australian Government Guide to Regulation was developed in March 2014 and early guidance was provided on timelines for the completion of a range of key portfolio activities under the Deregulation Agenda, assisting portfolios to appropriately plan and allocate resources in order to meet government expectations. Table 2.1 identifies some of the key activities to be implemented in 2013 and 2014. Early guidance was also provided on the specifics of some of these activities, including the establishment of Ministerial Advisory Councils and portfolio Deregulation Units.

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28 The key bodies reflect titles and names before Machinery of Government changes that took effect in late 2015.

**Table 2.1: Key initial activities to be implemented in 2013 and 2014 for the Deregulation Agenda**

Required completion date	Activity
End of December 2013	Ministers to write to the Prime Minister seeking approval for ministerial advisory bodies.  Portfolios required to establish Deregulation Units.
End of January 2014	Departments to commence stage one of departmental audits of existing regulation.
End of February 2014	Policy approval required for March repeal day items.
End of March 2014	First Parliamentary repeal day on 26 March 2014.
End of June 2014	Stage one of departmental audits complete.
End of December 2014	Stage two of departmental audits complete.  Departmental annual public reports on red tape reduction finalised.

Source: ANAO analysis of PM&C documentation.

2.6 Guidance was also provided on key technical and methodology matters. In January 2014, PM&C issued an interim guidance note on the revised RIS process. This note included guidance on how to quantify regulatory costs under the RBM framework by using a modified version of the existing Business Cost Calculator tool (BCC tool). Training was also provided by the OBPR to portfolios on the new RIS process and RBM framework.

2.7 One challenge for PM&C was developing technical guidance material while portfolios were undertaking costings for the measures to be included in the March 2014 Repeal Day progress report. There was discussion of relevant matters at the SES Reference Group, and PM&C also issued a series of guidance notes from January 2014 onwards that were intended to answer frequently asked questions raised by portfolio Deregulation Units. These notes covered issues such as:

- what is considered to be a regulation;
- how regulation that does not require a regulation impact statement should be costed;
- the type of costs that can be included in calculations;
- whether costings require updating because of amendment of legislation as it passes through parliament;
- how to apportion savings between portfolios when they have overlapping regulatory responsibilities;
- the treatment of government business enterprises; and
- preparing for Repeal Days.

2.8 In August 2014, a finalised version of the RBM framework along with 16 other guidance documents were circulated to Deregulation Units to assist portfolios with various aspects of preparing RISs and calculating the regulatory burden. At the same time, the RBM Cost Calculator tool (RBM tool) was introduced to replace the BCC tool.



2.9 The departments selected for this audit advised the ANAO that the RBM tool was not always fit for purpose. In particular, they considered that:

- it lacked the capacity to deal with complexities;
- it was difficult to use and not intuitive, especially for officers who were not in Deregulation Units; and
- files created using the tool corrupted at times.

2.10 As a consequence, some departments and portfolio entities prepared costing calculations consistent with the RBM Framework for certain measures using Excel spreadsheets, subject to OBPR's approval. In the ANAO's sample of 29 measures assessed (see Chapter Three), 18 measures were costed using alternative tools to the RBM or BCC tool. While the use of the tool was not mandatory, PM&C advised the ANAO that its use was preferred because it provided transparency around how the costing methodology was applied and assurance that the calculations were accurate. PM&C further advised the ANAO that OBPR approved the use of other tools in recognition that some costings were more complex than could be accommodated in the RBM tool. There would be value in PM&C considering whether enhancements could be made to the RBM tool to broaden its applicability.

2.11 The departments selected for this audit advised the ANAO that, in spite of experiencing some difficulties with preliminary advice and guidance from PM&C during the initial implementation of the program, PM&C was responsive to feedback and they noted improvements over time as procedures consolidated.

## Did the Department of the Prime Minister and Cabinet provide ongoing support to portfolios and monitor progress against savings targets?

PM&C supported portfolios through a range of coordination and communication mechanisms. It nominated portfolio liaison officers for Deregulation Units and hosted a range of information sharing events. PM&C also chaired a Senior Executive Service (SES) Reference Group.

PM&C actively monitored progress towards the achievement of portfolios' individual savings targets through mandated quarterly reporting arrangements, and reported internally on progress towards the red tape target.

### Support

2.12 As the central coordinating entity, PM&C's role included providing ongoing support to Deregulation Units. In addition to providing guidance material, PM&C conducted a number of events to assist the dissemination and sharing of knowledge and experiences regarding implementation of the Deregulation Agenda. These included:

- four 'community of practice' events over 2014 and 2015 centred on the role of regulators in implementing the Deregulation Agenda; and
- three forums, one in 2014 and two in 2015 for officers from portfolio Deregulation Units.

2.13 To further share experiences between portfolios, PM&C published a Deregulation Units Key Approaches guide in September 2015. This guide highlighted initiatives and strategies individual Deregulation Units had developed and implemented, structured around five themes.<sup>29</sup>

2.14 PM&C also opened various communication channels to facilitate contact with portfolios. These included:

- assigning specific OoD and OBPR liaison officers to each portfolio as principal points of contact for questions from Deregulation Units about costings, reporting requirements or other matters; and
- establishing dedicated OoD and OBPR email addresses/inboxes to support the flow of information between PM&C and the portfolios.

2.15 PM&C chaired and provided secretariat support to the SES Reference Group, which in turn was a key source of support for portfolios. This group met regularly and provided an avenue through which the heads of the Deregulation Units could communicate and seek guidance or advice on approaches to a variety of implementation issues. PM&C also used the SES Reference Group as a mechanism for: feedback on draft guidance documentation; providing updates on the progress of implementing the Deregulation Agenda; and discussing key issues.

2.16 There is evidence that PM&C was generally responsive to issues raised at the SES Reference Group. For example, in response to concerns raised by some portfolios about perverse outcomes of the regulatory costing methodology, the OoD convened a cross portfolio Regulatory Burden Measurement Framework working group (RBM working group) to examine the broader consequences of any potential change to the costing methodology. The SES Reference Group was also instrumental in conducting a review of the Deregulation Agenda in 2015 and proposing recommendations for change. These recommendations were incorporated into the Review of Whole-of-Government Internal Regulation (Belcher Red Tape Review)<sup>30</sup> and some of these recommendations were submitted to Ministers for consideration.

## Monitoring

2.17 PM&C was responsible for accurately assessing progress towards the achievement of the \$1 billion annual net deregulation targets. As such, PM&C's oversight of Deregulation Units focussed on monitoring progress towards achieving individual portfolio targets. In addition to communicating key dates associated with reporting, PM&C circulated templates to support a consistent approach to quarterly reporting and provided information for Repeal Days.

2.18 One concern noted by PM&C during the early stages of the program was that portfolios may have been failing to report all regulatory measures that increased compliance costs. PM&C also observed at the June 2014 meeting of the Secretaries' Committee on Deregulation that a majority of the savings measures (including some with estimated annual savings of more than \$20 million) in the most recent portfolio quarterly reports were self-assessed, as they did not trigger a

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29 The five themes were: changing culture and building capacity; consulting and collaborating; supporting regulators; reducing regulatory duplication; and coordinating, monitoring and reporting.

30 Barbara Belcher, Independent Review of Whole-of-Government Internal Regulation, Report to Secretaries' Committee on Transformation, Volume 2, Chapter 16, p. 102.

RIS process sign off.<sup>31</sup> To maintain an appropriate level of quality assurance in reporting, PM&C requested that future quarterly reporting be approved at the Deputy Secretary level.<sup>32</sup>

2.19 The reporting mechanism from the second quarter of 2014 consisted of:

- a table setting out:
  - a description of each measure and its associated regulatory cost or deregulatory saving;
  - the identified offset for each new regulatory measure with an associated cost;
  - the policy authority for each measure; and
- a summary covering sheet showing the total net deregulatory savings for the current reporting period, the total net savings already reported in the current year, the running net total and the balance of the portfolio's target for the current year. This covering sheet was to be authorised by an officer at Deputy Secretary level or above.

2.20 As part of PM&C's oversight role it launched the *Cutting Red Tape* website — a public facing website containing information on the Government's Deregulation Agenda including a range of published guidance material. This website continues to serve as a portal through which members of the public can make submissions raising red tape concerns or propose solutions.

2.21 PM&C was also responsible for public reporting against the whole-of-government red tape target (discussed further in Chapter Four). In this role, PM&C published public summaries of the deregulation initiatives costed toward the \$1 billion red tape reduction target in the lead-up to each Repeal Day. PM&C also required Deregulation Units to undertake an annual reconciliation of figures and the implementation status of deregulation measures to inform the 2014 and 2015 Australian Government Annual Deregulation Reports.

2.22 Internal PM&C reporting to the Secretary and the relevant Minister also provided visibility of achievements towards the red tape target. PM&C advised the ANAO that this reporting was done on an as-required basis. The types of briefs provided to the Secretary and the relevant Minister included:

- quarterly reports on how portfolios were tracking toward the \$1 billion dollar red tape reduction target;
- reports seeking approval for changes or clarifications to RBM methodology issues where required;
- briefs supporting meetings with stakeholders to discuss the Government's objectives for the Deregulation Agenda; and
- advice on portfolio forward work plans and entity capacity to achieve the forecast estimates of regulatory savings.

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31 That is, OBPR was not necessarily involved in the calculation of the estimated savings or costs associated with the relevant measure.

32 Following acceptance of relevant recommendations of the 2015 internal review and the Belcher Review, the frequency of reporting to PM&C was reduced to triannual reporting. After initial concerns about quality assurance and under-reporting had been addressed and in light of the maturity of the program, a decision was taken by the Assistant Minister for Productivity to allow departments to determine an appropriate level of sign-off of reports.

### 3. Portfolio measures

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#### Areas examined

This chapter reviews the internal governance arrangements established by the selected departments to support portfolio level implementation of the Deregulation Agenda, and examines the processes used by the selected departments to identify, assess and cost red tape reduction measures.

#### Conclusion

Each of the selected departments established suitable arrangements to co-ordinate and support internal implementation of the Government's Deregulation Agenda. The selected departments also sought to harness stakeholder input on potential deregulation measures. The ANAO's review of a sample of 29 measures<sup>33</sup> indicated that the selected departments' approaches to costing those measures were consistent with the guidance provided by PM&C. The ANAO's review also indicated that the estimated savings (or costs) of each of the measures in the sample were supported by relevant and documented sources, or there was evidence of a reasonably informed professional judgement. Two measures (seven per cent of the sample) contained material costing errors that were not identified in quality assurance checks, but the errors were not of a type indicating systemic methodological problems in the affected portfolio.

#### Did the selected departments establish suitable internal governance and administrative arrangements to facilitate implementation?

The selected departments established internal Deregulation Units with clearly articulated roles and responsibilities that were consistent with guidance issued by PM&C. These Deregulation Units actively worked with their business areas and portfolio entities to raise awareness of the Government's Deregulation Agenda, to support the identification and costing of potential deregulatory measures in line with government policy, and to facilitate internal reporting. A range of initiatives was also established to promote internal cultural and behavioural change consistent with the Deregulation Agenda.

3.1 Each of the selected departments established dedicated Deregulation Units charged with driving deregulation activity within the portfolio, including managing its progress towards individual portfolio reduction targets.<sup>34</sup> As required under the Deregulation Agenda, the units were established by the end of 2013, within existing resources, and were led by a senior departmental executive.

3.2 While the selected departments adopted different approaches to governance and administrative arrangements to support portfolio implementation of the Deregulation Agenda, there was an overall consistency with the relevant guidance. Each of the Deregulation Units coordinated deregulation activities and disseminated information across the portfolio, with

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33 While 27 of these were deregulatory in nature—thus producing red tape savings—two of the measures imposed additional regulatory costs.

34 The guidance note on establishing Deregulation Units prepared by PM&C in December 2013 identified that two of the units' key tasks were to coordinate activities underpinning the Deregulation Agenda including reporting to OoD, and undertaking or oversighting cost estimates.

responsibility for costing measures generally devolved to business areas.<sup>35</sup> The Deregulation Units also established their own internal governance arrangements to provide their respective Executive with oversight of reporting to PM&C and proposed areas for reform.

3.3 To support the costing of measures by business areas, Deregulation Unit staff distributed guidance materials across the portfolio, provided advice to business areas, reviewed the costing estimates, and established internal procedures to ensure costed measures were included in reporting against the portfolio target.

3.4 Deregulation Units liaised within their portfolio to identify short, medium and long term reforms. They also monitored progress towards the red tape reduction target to inform their quarterly reporting to PM&C as well as for their own departmental Annual Deregulation Report.

3.5 Deregulation Units were also expected to:

- drive cultural change based on reduced reliance on regulation;
- encourage more responsive and client-focused regulator behaviour; and
- educate staff about the Government's Deregulation Agenda.

3.6 The ANAO's review indicated that Deregulation Units within each of the selected departments facilitated this broader change agenda across business areas to meet the portfolio's objectives. For example, groups such as the Deregulation Board within Communications, a Reference Group of Experts within Industry, and a Community of Practice within Health, were established to discuss deregulation initiatives, promote cultural change and/or promote engagement with stakeholders.

3.7 Deregulation Units used several means to disseminate key messages and expectations about the Deregulation Agenda. These mechanisms included: letters of expectation from relevant Ministers to portfolio regulators seeking responses on how regulators intended to contribute to the red tape reduction target; departmental webpages with capacity for public input on deregulation opportunities; and the publication of reviews or background papers on a range of regulatory issues.

3.8 The Deregulation Units also introduced a number of initiatives to educate staff within their portfolios and promote cultural change, including:

- holding seminars and workshops to provide staff with a forum to collaborate and discuss, question and share information; and
- developing presentations and written materials for internal use explaining both the Government's program and how to deliver on expectations.

3.9 Deregulation Units also communicated regularly to their Executive and relevant Ministers about achievement of milestones and forward work planning, as well as providing quarterly briefs on progress towards red tape reduction targets.

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35 A 'business area' may be a branch, division or other entity (including a regulator) within the portfolio. In Communications some measures were directly costed by the Deregulation Unit.

## Did the selected departments draw on stakeholder input and assess risk when identifying deregulation measures at the portfolio level?

The selected departments adopted a range of approaches to harness stakeholder input on potential deregulation measures at the portfolio level, including the use of existing consultative forums, mechanisms targeted at specific reforms, and newly established Ministerial Advisory Councils.

The selected departments had regard to government expectations that they adopt a risk-based and proportionate approach to assessing the benefits of removing or adjusting regulatory arrangements.

### Stakeholder input

3.10 The Australian Government Guide to Regulation emphasises the importance of policymakers consulting with affected businesses, community organisations and individuals during the regulatory policy development process and with each other, to avoid creating cumulative or overlapping burden. Stakeholder input is equally important in identifying opportunities to remove regulation that may be unwarranted or no longer necessary.

3.11 Prior to commencement of the Deregulation Agenda, each of the selected departments had already progressed a range of regulatory reform activities as part of its core business activities. These reform activities included mechanisms for stakeholder consultation such as reviews, forums and roundtables. Some of the measures reported or proposed in 2014 and 2015 drew on earlier stakeholder input. The departments advised the ANAO that the 2014 regulation audit stocktake, internally driven environmental scans, and recommendations from previous reviews also contributed ideas on reforms worth pursuing in the medium and long term.

3.12 The ANAO observed that a number of the deregulatory measures pursued by the selected portfolios and announced in 2014 originated from election commitments, Government decisions, or were pre-existing initiatives<sup>36</sup> (that is, development of the measures had started prior to the 2013 election).

3.13 To facilitate the ongoing identification of regulatory reform opportunities, the selected departments established a number of channels to receive stakeholder input. Some of the initiatives that generated areas for reform included:

- the (then) Minister for Communications wrote to a broad range of stakeholders (including businesses in the telecommunications, broadcasting and technology sectors, copyright holders, consumer organisations and academics) requesting ideas for reform. The Parliamentary Secretary to the Minister held Telecommunications Deregulation Stakeholder forums;
- the Department of Health established an Expert Review on Medicines and Medical Devices Regulation;

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36 Costs/savings associated with pre-existing initiatives were counted towards the net red tape target if the relevant policy decision had been made post 2013 election or if, following a request by the portfolio, the Government agreed to the measure being included in the target.

- the Department of Industry held meetings to discuss sector wide reforms in areas such as Greenhouse and Energy Minimum Standards; and
- the use of suggestion/comment areas on departmental websites provided opportunities for stakeholders and members of the public to contribute ideas which were reviewed by Deregulation Units and, where relevant, passed on to business areas for further consideration.

3.14 The Deregulation Agenda policy set by Government required portfolios to establish a Ministerial Advisory Council (MAC) or equivalent stakeholder mechanism to provide advice to their Minister, and the portfolio more broadly, about opportunities to reduce red tape as well as providing a broader consultation mechanism on policy matters.

3.15 Communications and Health each established new MACs, although neither Council met regularly. Communications' MAC met formally in March 2014, with separate meetings held with each of their key sectors—telecommunications and broadcasting. Communications advised the ANAO that the (then) Minister and Parliamentary Secretary continued to consult on an informal basis with the MAC. Health's MAC met only twice, in August and November 2014. Records of these meetings indicate that MAC members discussed ideas for reform opportunities across the health sector; however, there was limited evidence that the MAC had any impact on Health's forward planning for the Deregulation Agenda.

3.16 Industry advised the ANAO that its Minister chose to use established consultative mechanisms such as the VET reform taskforce rather than establish a MAC. In addition, the Growth Centres Advisory Council established in 2015 as part of the Government's Industry, Innovation and Competitiveness Agenda, was expected to serve as a key source of advice regarding opportunities for regulatory reform.

3.17 In July 2015, the ANAO invited 22 key stakeholder groups<sup>37</sup> associated with the selected departments (six from Industry, six from Communications, and 10 from Health) to provide comment on: the extent to which their organisation was consulted about potential regulatory reforms; and whether, in circumstances where the organisation made suggestions, they were kept informed about progress, and any impact perceived from the implementation of the proposal. The ANAO received six responses.<sup>38</sup> These particular stakeholders stated that their expectations were not always met, either due to a lack of consultation specifically about the deregulation program, not being kept informed of the progress of reform ideas, or that the end result fell short of their expectations—although, in this regard, the ANAO notes that the decision to adopt specific proposals is a matter for Government. Nonetheless, all of these stakeholders also advised the ANAO that their organisation was supportive of the departments' efforts towards regulatory reform, and that they were keen to engage either in relation to specific reforms or more broadly with the Government's Agenda.

3.18 In February 2016, the ANAO conducted three targeted stakeholder consultations exploring the benefits realised from a selected deregulation measure introduced by each of the Communications, Health and Industry portfolios in 2014. Each of these stakeholders had participated in forums or discussions with the relevant portfolio during the development of the

37 The ANAO received advice on these relevant stakeholder groups from Communications, Health and Industry.

38 Responses were received from two Industry stakeholders, one Communications stakeholder and three Health stakeholders. As the number of responses received was small, the findings are indicative only.



respective measure or its implementation. The feedback received from these stakeholders indicated that they were satisfied with the engagement with the relevant portfolio.

3.19 Improving stakeholder engagement was one of the matters covered in the July 2015 internal review of the Government's Red Tape Reduction Framework, led by members of the SES Reference Group. That review acknowledged that MACs 'have not always proven to be the main or best mechanism for engaging stakeholders' and recommended more effective use of existing and alternative processes.

## Risk assessment

3.20 Under the Commonwealth Risk Management Policy<sup>39</sup>, the systematic management (including assessment and proportionate mitigation) of risk is expected to be embedded in key business processes in all Commonwealth entities, including departments of state. The expectation that Commonwealth entities will adopt a risk-based approach to regulation is also embedded in the Deregulation Agenda. A risk-based approach is expected in respect to decisions to impose new regulatory approaches as well as decisions to remove or adjust existing regulation. The ANAO examined whether the risk associated with removing or adjusting regulatory arrangements was assessed by the selected departments and considered by relevant decision-makers.

3.21 The selected departments advised the ANAO that the risks associated with a measure are generally considered as part of the policy development process within their portfolios. Of the 29 measures examined by the ANAO, 10 were subject to a RIS.<sup>40</sup> These RISs included analysis of the risks associated with the preferred policy option. The ANAO also found evidence of proportionate consideration of risk for each of the other 19 self-assessed measures, documented in policy authority papers, program implementation plans or advice to the relevant Minister.

## Were the selected departments' approaches to quantifying savings and costs consistent with whole-of-government operational guidance?

The ANAO's review of a sample of 29 measures indicated that the selected departments' approaches to costing those measures were consistent with the guidance provided by PM&C. The ANAO's review also indicated that the estimated savings (or costs) of each of the measures in the sample were supported by relevant and documented sources, or there was evidence of a reasonably informed professional judgement. Two measures (seven per cent of the sample) contained material costing errors that were not identified in quality assurance checks, but the errors were not of a type indicating systemic methodological problems in the affected portfolio.

3.22 A key focus of the Deregulation Agenda is the commitment to reduce red tape by \$1 billion a year. As already noted, portfolios must estimate the costs and savings associated with regulatory reforms.

39 Commonwealth of Australia, Department of Finance, *Commonwealth Risk Management Policy*, July 2014, Canberra.

40 A RIS is required for all Cabinet submissions and for decisions made by entities that are likely to have a regulatory impact on businesses, community organisations or individuals unless the proposed change is a minor or machinery change. The RIS must outline a minimum of three policy options and provide an assessment of the net benefit associated with each option. Analysis of risks and impacts informs this assessment. All RISs are reviewed by OBPR.



3.23 When developing a regulatory or deregulatory proposal, portfolios are required to seek a preliminary assessment from OBPR to determine if a RIS is required. Costs or savings associated with a RIS are calculated by the portfolio and must be agreed by OBPR. If a RIS is not required portfolios are responsible for self-assessing the costs and savings. Seventy-five per cent of the 198 measures with identified costs or savings announced in 2014 and 2015 Repeal Day reports were self-assessed and accounted for \$1.87 billion (or 43.5 per cent) of the estimated net \$4.3 billion savings reported.<sup>41</sup> The costs or savings for the remaining 25 per cent of measures (n=65) were reviewed and agreed by OBPR.

3.24 Portfolios were required to quantify the cost of compliance with Commonwealth regulation using the RBM framework. The RBM estimates the dollar impact of government activities in the form of compliance costs on businesses, community organisations and individuals. The estimates are annualised costs averaged over 10 years and may include:

- administrative costs, such as submitting applications, records management and reporting;
- substantive costs, such as increased business operational costs, training employees, and purchasing necessary equipment; and
- delay costs, which are expenses and loss of income experienced by the business through waiting for required regulatory decisions such as environmental approvals.

3.25 Direct financial costs (for example, licence and permit fees) and opportunity costs are excluded from the RBM framework.<sup>42</sup>

3.26 The operation of the RBM can potentially have some anomalous effects:

- In some cases, a net increase in costs can result even when the associated measure is of a deregulatory nature. An example is streamlining the disclosure obligations for simple corporate bonds.<sup>43</sup> This measure reduced the regulatory burden for each regulated party but increased the overall affected population.
- Conversely, reductions in compliance costs resulting from the abolition or downsizing of government programs or other activities are counted as a saving—even when the program or activity is of net benefit to the relevant business, organisation or individual. For example, where a recipient of a government grant is required to provide periodic reports as a condition of their grant, the cessation of future grant funding, because of the closure of the program, means that the savings from no longer having to report can be counted under the RBM.

3.27 The appropriateness of the above outcomes was discussed by departments through the SES Reference Group in 2014 and the relevant Parliamentary Secretary was also briefed on the

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41 A total of \$4.49 billion in net savings has been reported in the biannual Repeal Day summaries to November 2015; however only \$4.3 billion could be categorised in the ANAO analysis as self-assessed or agreed by OBPR. Although the remaining \$0.19 billion was reported, the figures were not disaggregated by costing method and are therefore not included in this calculation.

42 Opportunity costs are included if they relate to a delay or should be considered in the context of a full cost-benefit analysis.

43 A 'corporate bond' is a bond issued by a corporation in order to raise financing for a variety of reasons such as ongoing operations or to expand business. To be considered as 'simple', the debt securities must satisfy certain prescribed conditions.

matter at that time. The matter was also canvassed in the 2015 internal review, but ultimately no change was proposed as departments were unable to find a solution 'that would adequately address the complex range of issues associated with different cases'.

3.28 The RBM framework provides that, in assessing the costing information presented in a RIS, OBPR assesses a number of areas including whether the assumptions are reasonable, the data sources are referenced and whether there are basic errors in the maths. PM&C advised the ANAO that OBPR also assesses whether any judgements underlying the costings are reasonable and defensible, and whether all relevant components have been included. The OBPR Best Practice Regulation Report states that in agreeing to the costing, the OBPR is effectively quality assuring them.

3.29 PM&C advised that OoD and OBPR do not, as a rule, perform quality assurance on portfolio self-assessed costings, although OBPR is available to provide advice to portfolios. Following concerns of under-reporting of new regulatory measures raised during a meeting of the Secretaries' Committee on Deregulation in 2014, PM&C advised departments that the measures and costings reported quarterly by portfolios had to be certified as complete and accurate by a portfolio Deputy Secretary. The ANAO's analysis shows that each of the selected departments complied with this requirement.<sup>44</sup>

3.30 Within each of the audited portfolios, business areas were responsible for conducting quality assurance checks with some oversight from Deregulation Units. Processes involved in quality assurance varied.

3.31 Industry advised the ANAO that:

- the Deregulation Unit generally became involved in a self-assessed costing at the beginning of the process;
- where methodological issues arose the Deregulation Unit advised on the most 'reasonable, conservative approach';
- the relevant General Manager or Head of Division then approved the costing before self-assessed costings were reported to PM&C; and
- the Deregulation Unit checked costings submitted to OBPR for consistency, correct assumptions (including wage rates and on-cost multipliers where required), as well as a 'sense' check.

3.32 Health advised the ANAO that costings developed by the respective business areas were reviewed by the Deregulation Unit and feedback provided to the business area, as appropriate. All costings were cleared at the Division Head level.

3.33 Communications advised the ANAO that for those measures not reviewed/agreed by OBPR, the assumptions and policy parameters were settled through discussion between the Deregulation Unit and the responsible business area.

3.34 The ANAO examined the costing estimates for a sample of 29 portfolio measures reported to PM&C in 2014 by the Deregulation Units of the selected departments. The measures were

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44 Following the 2015 internal review, this requirement was removed and Deputy Secretaries can now delegate that responsibility to the Deregulation Unit head.

announced publicly at or before the March 2015 Repeal Day.<sup>45</sup> Collectively these proposals contributed 91 per cent of the net deregulatory savings attributed to the selected portfolios and 13 per cent of the \$2.45 billion reported for all portfolios as at March 2015. Ten (34%) of the 29 costings were agreed by OBPR and 19 (66%) were self-assessed. Appendix 3 sets out all 29 measures in the ANAO's sample.

3.35 The ANAO reviewed the material components of each proposal in its sample and made an overall assessment of whether the evidence supplied to the ANAO by the selected departments supported the costings for each measure. The ANAO analysis involved:

- examining the extent to which the costings in the sample complied with the relevant guidance material provided by PM&C;
- reviewing the evidence supporting the assumptions underpinning the costings (for example the number of affected individuals or businesses); and
- checking the costings for any material calculation errors.

3.36 The ANAO's review (set out in Table 3.1) indicates that each of the 29 costings was supported by reasonable, relevant and documented sources, or there was evidence of a reasonably informed professional judgement. However, two costings (seven per cent) contained material errors and as a consequence are 'not supported' by the ANAO's analysis.

**Table 3.1: Overview of the ANAO's review of measures**

Assessment category	Communications	Health	Industry	Total
Supported	9	11	7	27
Partially supported	0	0	0	0
Not supported	1	0	1	2
<b>TOTAL</b>	<b>10</b>	<b>11</b>	<b>8</b>	<b>29</b>

Notes: The criteria against which the costings were reviewed are outlined in Appendix 4.

Source: ANAO.

3.37 The ANAO observed that: neither of the costings with material errors demonstrated an inherent or systemic problem in the affected portfolio's approach to costing<sup>46</sup>; and each of the material errors could have been identified through a quality assurance check.<sup>47</sup>

45 The ANAO's initial sample included all measures implemented by the selected portfolios in 2014 and costed at +/- \$2m (n=28). This sample excluded all VET measures introduced within the Industry portfolio. Prior to the audit's commencement, one of the measures in the ANAO's initial sample was transferred out of the relevant department as part of the 2014 machinery of government changes, and was excluded from the ANAO's sample. This measure was replaced with two measures costed at +\$1m, resulting in a final sample of 29 measures.

46 The error in the relevant costing within Communications resulted from inputting the wrong line of data from a publicly sourced dataset. This error resulted in the value of the savings being underestimated by approximately \$5m.

The error identified in Industry's measure resulted from applying the wrong formula when recalculating the on-costs associated with the measure. This error resulted in the cost attributed to the measure being overestimated by approximately \$1.5m.

47 Since commencement of the audit, the Department of Industry, Innovation and Science has implemented an internal quality assurance check process for costings.

3.38 The ANAO's review also indicates that each of the costings in the sample complied with the requirements set out in PM&C guidance material, and was consistent with the RBM framework. Further, none of the costings included components excluded from the RBM framework (for example opportunity costs or direct financial costs), all costings were annualised over ten years, and used default labour rates unless evidence was available to support the use of other labour rates.

3.39 The estimates generated for the sample of 29 measures were generally conservative. For example, in some circumstances components for which there was no reliable data were excluded from the costing or the 'low end' estimates were used when consultation with relevant stakeholders identified that a range of numbers could be relevant. Evidence from consultation undertaken by Industry and Communications to inform some of their costings also indicated that stakeholders considered that some of the costing components were conservatively estimated.

3.40 The self-assessed measures in the sample reviewed by the ANAO were as rigorously costed as those subject to a RIS and submitted to OBPR for agreement.

3.41 In cases where primary source data was available, assumptions underpinning the costings of portfolio measures were well-documented. Primary data was not, however, always available. For example, estimates of the time required to complete an activity (for example, prepare an annual report) or estimates of the number of individuals reasonably expected to participate in an activity (for example, applying for a grant) may not be known. In such cases, professional judgements—based on experience or informed through consultation—were required.

3.42 In some cases, the data relied upon to inform costings was provided by a stakeholder group and the selected departments advised that the accuracy of this data was not routinely checked. The selected departments further advised they were not typically able to verify this data in any meaningful way given the absence of alternative data sources, and also so as not 'to impose additional burden on the provider'. The selected departments informed the ANAO that in these circumstances they exercised professional judgement about how to use the data. In some cases, selected departments or portfolio entities tested their assumptions with relevant stakeholders. The ANAO reviewed communications between relevant business areas and the Deregulation Unit or other stakeholders which demonstrated that, in some cases, assumptions were tested and refined.

3.43 The ANAO found that there was limited guidance, at both the whole-of-government and portfolio levels about expectations regarding quality control, including the level of documentation or evidence required to support assumptions used in preparing costing estimates.<sup>48</sup>

3.44 The ANAO reviewed evidence of the quality assurance processes undertaken at the portfolio level including approval of the costing estimates, and found evidence that each of the measures had been cleared at the appropriate level of authority. The ANAO reviewed communications and other documentation held by the Deregulation Units which provided evidence of some quality assurance being undertaken within the portfolios, including testing of assumptions and calculations. However, the Deregulation Units of selected departments did not consistently retain information on the quality assurance applied by relevant business areas.

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48 These expectations are made explicit in the Victorian Regulatory Change Measurement Manual which identifies that if sufficient information does not exist or is too costly to obtain, defensible assumptions should be made about the data (for example, proxy data or similar studies from other jurisdictions) and that these assumptions should be transparent.

## 4. Monitoring and reporting on program implementation

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### Areas examined

This chapter examines processes used to monitor, assess and report on implementation of the Deregulation Agenda, including savings realised and wider economic impacts.

### Conclusion

Progress against portfolio-level and overall savings targets was effectively monitored by PM&C and publicly reported. The ANAO's review of portfolio reporting to PM&C indicated that some \$3.97 billion in net savings had been implemented in 2014 and 2015—exceeding the agreed internal target of \$2.65 billion by \$1.32 billion.

During 2015, the implementation of the Deregulation Agenda was subject to an internal review undertaken by members of the SES Reference Group. Key outcomes from the review were initially considered by Ministers in November 2015, with further consideration of specific proposed policy changes expected to occur in the first half of 2016.

As at the end of 2015, there was no agreed framework to assess the economic impacts of the Deregulation Agenda. An assessment had been agreed by Ministers in December 2013.

### Areas for improvement

The ANAO has recommended that PM&C takes the necessary steps to implement the Australian Government's December 2013 decision that the Deregulation Agenda's economic impacts be assessed within three years.

### Has progress against savings targets been effectively monitored and reported?

Each portfolio's progress against its assigned savings target was effectively monitored by PM&C through a mandated process. Overall progress against the whole-of-government target was also actively monitored and publicly reported on a regular basis.

The incoming Government's policy was an annual net reduction target of at least \$1 billion in red tape. On taking office, internal portfolio-level reduction targets were set by Ministers, with a combined value of \$2.65 billion for 2014 and 2015.<sup>49</sup> By the end of 2015, the Government had publicly announced measures to deliver estimated total net savings of \$4.80 billion. Portfolio reporting to PM&C advised that some \$3.97 billion in net savings had been implemented in 2014 and 2015—exceeding the internal target of \$2.65 billion by \$1.32 billion.

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49 Portfolio targets for 2014 were set in December 2013, with 2015 targets assigned in March 2015. The sum of individual portfolio targets was set at greater than \$1 billion to minimise the risk of the target not being met as a result of delays in implementing deregulatory proposals. Individual portfolio targets were not published.

The ANAO's review indicates that, on the basis of portfolio reporting to PM&C:

- the net savings implemented at the end of 2015 exceeded the Government's announced target (of at least \$1 billion per year) by \$1.97 billion; and
- implementation of the \$4.80 billion in announced net savings remained a work in progress, with some 82.7 per cent (\$3.97 billion) of announced savings implemented in 2014 and 2015. The ANAO was advised that substantial time-lags between receiving agreement to measures and their implementation may occur where legislative changes or complex stakeholder negotiations are required to give effect to a measure.

4.1 During 2014 and 2015, portfolios were required to provide quarterly reports to PM&C on the total net savings represented by measures agreed to (but not necessarily implemented) in that quarter.<sup>50</sup> These reports also recorded the cumulative value of the savings for all agreed measures for the relevant calendar year, enabling PM&C to readily monitor the progress of each portfolio against its assigned savings target. While progress reports have noted, since the end of 2014, whether the measures for that quarter have been implemented, most portfolios do not update the status of measures that were reported as unimplemented in previous quarters or years. As a consequence, PM&C is only able to accurately monitor overall implementation status once a year, through preparations for the annual public reporting process.

4.2 Public reporting of measures against whole-of-government savings targets occurs three times a year, providing adequate visibility of 'headline' progress under the program. Consolidated whole-of-government reporting on implementation status only occurs once a year, through annual reports released in March each year.<sup>51</sup>

4.3 The incoming Government's policy was an annual net reduction target of at least \$1 billion in red tape. On taking office in 2013, internal portfolio-level reduction targets were set by Ministers<sup>52</sup>, with a combined value of \$2.65 billion for 2014 and 2015. By the end of 2015, the Government had publicly announced measures<sup>53</sup> to deliver estimated total net savings of \$4.80 billion. The ANAO's review, based on portfolio reporting to PM&C, indicates that some \$3.97 billion in net savings had been implemented in 2014 and 2015—exceeding the agreed internal target of \$2.65 billion by \$1.32 billion. Table 4.1 shows that, of the \$4.80 billion of publicly announced net savings, \$3.97 billion (or 82.7 per cent) had been implemented as at 31 December 2015.

4.4 The ANAO was advised that substantial time-lags between receiving agreement to measures and their implementation may occur where legislative changes or complex stakeholder negotiations are required to give effect to a measure. Further, some savings decisions taken by government may not be implemented where legislative changes are not agreed, or where stakeholder agreement is not obtained.

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50 Once the decision-maker (which might be Cabinet, the relevant Minister or an entity senior executive) agrees to proceed with a deregulatory measure, there may be a time-lag before the measure is publicly announced or stakeholders are otherwise informed. In their reporting to PM&C, portfolios may include 'agreed but unannounced' measures as counting towards their savings target.

51 For 2014 both whole-of-government and portfolio-specific annual reports were prepared. The portfolio-specific reports were discontinued for 2015.

52 See footnote 49.

53 These announced measures represent decisions taken by Government.

**Table 4.1: Total announced and implemented net savings**

Year	Announced Net Savings (\$ billion)	Implemented Net Savings (\$ billion)	Percentage Implemented as 31 December 2015
2014	2.31	1.76	76.2%
2015	2.49	2.21	88.8%
<b>Total</b>	<b>4.80</b>	<b>3.97</b>	<b>82.7%</b>

Source: ANAO analysis of portfolio data provided to PM&C.

4.5 Table 4.2 sets out the total announced and implemented net savings for Communications, Health and Industry from commencement of the Deregulation Agenda in 2013 to the end of 2015.

**Table 4.2: Outcomes against savings targets in the Communications, Health and Industry portfolios to 31 December 2015**

Portfolio	Assigned net savings target <sup>a</sup> (\$ million)	Announced net savings (\$ million)	Announced net savings against assigned target (\$ million)	Implemented net savings (\$ million)	Implemented net savings against assigned target (\$ million)
Communications	160.0	351.0	+191.0	349.5	+189.5
Health	220.0	249.0	+29.0	132.8	-87.2
Industry	126.0	372.2	+246.2	367.2	+241.2

Note a: The assigned net savings target is the sum of the portfolio-level targets set by Ministers for 2014 and 2015.

Source: ANAO analysis of 2015 reports prepared by portfolios.

4.6 In terms of announced savings, all three portfolios have exceeded their individual targets. For Health, while implementation of savings relative to its target has been slower, portfolio reporting indicates that it expects most of the remaining measures to be implemented through administrative means during 2016.

4.7 The outcomes achieved against savings targets for all 17 portfolios are outlined in Appendix 2. The majority of portfolios have exceeded their targets, both in terms of announced and implemented savings.

## Has a whole-of-government framework been established to assess the operation and impacts of the Deregulation Agenda?

During 2015, the implementation of the Deregulation Agenda was subject to an internal review undertaken by members of the SES Reference Group. Key outcomes from the review were initially considered by Ministers in November 2015, with further consideration of specific proposed policy changes expected to occur in the first half of 2016. Pending this, some administrative changes to implementation arrangements were adopted by portfolios and PM&C from late 2015.

Ministers agreed in December 2013 that in order to further track progress, estimated red tape reductions would be subject to a post-implementation review process and the economic impacts of the Deregulation Agenda would be assessed by the Productivity Commission or another equivalent body within three years. The ANAO has recommended that the economic impacts be assessed.



4.8 When the program was first established towards the end of 2013, Ministers agreed that significant regulatory changes—potentially including some red tape reduction measures—would be subject to a post-implementation review process<sup>54</sup> within five years, and that the economic impacts of the overall Deregulation Agenda would be assessed by the Productivity Commission or another equivalent body within three years.

4.9 During 2014, PM&C commenced planning for an internal evaluation of the implementation of the Deregulation Agenda, including its own role as the central coordination entity. Importantly, the internal evaluation was also intended to assist in developing a framework for ongoing monitoring and evaluation to support the independent economic impact assessment planned for 2016. This planning work was not completed however, as it was overtaken in part by a 2015 internal review of the program driven by members of the SES Reference Group.

4.10 The 2015 internal review addressed a range of administrative efficiency matters. Its recommendations were considered by the Secretaries' Board and also adopted by the Belcher Red Tape Review.<sup>55</sup> Following this, a number of changes were agreed by Government to improve or streamline the initiative's administration, including:

- a reduction in the frequency of periodic portfolio reporting to PM&C;
- allowing Regulatory Reform Unit (formerly Deregulation Unit) heads to approve the periodic reports to PM&C rather than requiring sign-off at the Deputy Secretary level;
- discontinuing portfolio-specific annual deregulation reports; and
- for lower-value measures, introducing more flexibility as to how the relevant savings or costs are quantified.

4.11 The 2015 internal review did not directly deal with the issue of the future evaluation of the impacts of the program.<sup>56</sup> PM&C advised the ANAO that it remained its intention to undertake the overall assessment of the program's economic impacts.

4.12 Any evaluation activity or impact assessment of the Deregulation Agenda faces practical challenges. Research undertaken by the Productivity Commission in 2011 noted that, despite various state and overseas governments reporting considerable savings through their own red tape reduction programs, businesses often perceived that these reductions had minimal impact on their costs. The Commission suggested that possible reasons for such perceptions included:

- while the absolute burden reduction numbers may be large in aggregate, these may be quite small when expressed as a cost for an individual business;
- there may be a delay in the visibility of results to business, as legislation may take time to be repealed, or there may be a delay in the impacts of the reform;

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54 Further background on such reviews is in *Post-Implementation Reviews*, OBPR Guidance Note, July 2014. See <[http://www.dpmc.gov.au/sites/default/files/publications/017\\_Post-implementation\\_reviews\\_0.pdf](http://www.dpmc.gov.au/sites/default/files/publications/017_Post-implementation_reviews_0.pdf)>.

55 Barbara Belcher, *Independent Review of Whole-of-Government Internal Regulation*, Report to Secretaries' Committee on Transformation, Volume 2, Chapter 16, p. 102.

56 There was extensive discussion in the SES Reference Group about the limitations of the Regulatory Burden Measure (RBM) framework to capture the range of impacts of measures, with Ministers subsequently agreeing that PM&C undertake stakeholder consultation on broadening the RBM framework with an intention to capture more costs considered a burden by stakeholders. Ministers also agreed to some adjustments in the existing post-implementation review processes.



- jurisdictions may focus on ‘easily removable red tape’—obsolete regulations that are not usually complied with, so only imply a cost ‘on paper’. Conversely, some measures may still be complied with once the regulation is removed; and
- regulations that are classed as the most burdensome may not be the most ‘irritating’ to business.

4.13 Business surveys undertaken by the Australian Chamber of Commerce and Industry in 2013 and 2014 reported on perceptions of the burden imposed by government regulation. In 2013, 69.4 per cent of survey respondents considered this burden had increased over the previous year; while in 2014, the figure was 72.4 per cent.

4.14 A World Economic Forum survey indicated that, relative to other countries, Australian business executives’ perceptions of the burden imposed by government regulation in Australia have fluctuated significantly over the last decade. Australia’s ranking has ranged from a high of 54<sup>th</sup> out of 124 countries (2006), to a low of 128<sup>th</sup> out of 148 (2013) countries. In 2015 Australia was ranked 80<sup>th</sup> out of 140 countries.<sup>57</sup>

4.15 The ANAO conducted some targeted stakeholder consultations associated with a significant deregulation measure in each of the selected portfolios in this audit, to gauge views on the impact of these measures and the extent to which the expected benefits were realised. The results were mixed—some measures had clearly achieved some very positive impacts benefitting both businesses and relevant consumers, while other anticipated impacts are less clear at this time. (A summary of the ANAO’s consultations is set out in Appendix 5.) The reasons for the impact of selected measures falling short of Government and stakeholder expectations included:

- an unanticipated economic downturn in the relevant industry, which resulted in fewer projects (whose proponents were expected to benefit from the measure) commencing;
- changes in related policy and procedures, arising in part from the introduction of the measure, led to apparent increases in the overall regulatory burden impacting on other areas of the stakeholder’s business; and
- technical problems with on-line services were experienced by some businesses and customers leading to some additional costs to business and delays/inconvenience for customers.

4.16 The ANAO was advised that some portfolios are planning to undertake stakeholder surveys to gauge their perceptions of the impacts of the program.<sup>58</sup> Such review activity is potentially useful, particularly in cases where impacts from specific measures are expected to be evident relatively quickly. Similarly, in cases where portfolios identify a risk of significant unintended consequences, early information would place them in a better position to make adjustments to mitigate risk. However portfolio-level review of specific measures is not a substitute for a review of the impact of the agenda as a whole.

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57 World Economic Forum Annual Global Competitiveness Reports 2005–06 to 2015–16. It should be noted that relatively modest changes in executive perceptions regarding regulation have significant effects on relative country rankings.

58 In 2015, the Office of Hearing Services within the Health portfolio completed a survey of service providers affected by the introduction of the Hearing Services Online Portal. The Industry portfolio advised that it is implementing a verification process to test the compliance burden of its most significant regulations.

4.17 Ministers had agreed in December 2013 that in order to further track progress, estimated red tape reductions would be subject to a post-implementation review process and the economic impacts of the Deregulation Agenda would be assessed by the Productivity Commission or another equivalent body within three years.

### **Recommendation No.1**

4.18 The ANAO recommends that the Department of the Prime Minister and Cabinet take the necessary steps to implement the Australian Government's decision of December 2013 that the economic impacts of the Deregulation Agenda be assessed within three years.

**Department of the Prime Minister and Cabinet response:** *Implementation of this decision is currently being discussed with the Government.*

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Grant Hehir  
Auditor-General

Canberra ACT  
4 May 2016

# Appendices



## Appendix 1 Entity responses



**Australian Government**  
**Department of the Prime Minister and Cabinet**

SECRETARY

Ref: EC16-000586

Mr Grant Hehir  
Auditor-General  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear ~~Mr~~ <sup>Grant</sup> Hehir

Thank you for Dr Ioannou's letter of 23 March 2016, issued pursuant to section 19 of the *Auditor-General Act 1997*, enclosing the proposed audit report on *Implementing the Deregulation Agenda: Cutting Red Tape*.

I welcome the ANAO's assessment that my Department has been effective in implementing the Government's Agenda.

In relation to the recommendation that necessary steps be taken to implement the Government's December 2013 decision that the economic impacts of the Agenda be assessed within three years, I can confirm that implementation of this decision is currently being discussed with the Government.

I note that the draft report includes information on portfolio targets agreed among Ministers but not announced by the Government. As presented, this information does not fully reflect the role these targets played in supporting the Government's achievement of its red tape reduction objective. This issue is addressed in my Department's formal response to the report (enclosed).

The Department has separately provided more detailed comments to the audit team on the draft report.

I would welcome the opportunity to revisit the Department's response where there are significant changes in relevant parts of the final report.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Martin Parkinson'.

Martin Parkinson PSM  
/9 April 2016

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## ATTACHMENT A

### PM&C Response to Recommendation 1 (for p.7 of the report)

#### Recommendation 1:

The ANAO recommends that the Department of the Prime Minister and Cabinet take the necessary steps to implement the Australian Government's decision of December 2013 that the economic impacts of the Deregulation Agenda be assessed within three years.

Implementation of this decision is currently being discussed with the Government.

#### **PM&C's Formal response to the audit report on *Implementing the Deregulation Agenda: Cutting Red Tape* (For Appendix 1 of the report)**

PM&C welcomes the ANAO's assessment that the Department has been effective in implementing the Government's Deregulation Agenda. PM&C notes that the report confirms that the Government's \$1 billion commitment in each of 2014 and 2015 was exceeded by a large margin.

PM&C notes that the audit report includes individual portfolio targets agreed by Ministers but not announced by the Government. As presented, this information does not fully reflect the role these targets played in supporting the Government's achievement of its red tape reduction objective.

The approach in the report of making direct comparisons of internal targets and individual portfolio results risks misinterpretation of individual portfolios' success or failure in implementing the agenda. Internal portfolio targets were used to manage implementation risk. In setting the sum of these targets to be substantially more than the Government's \$1 billion annual commitment, the Government took into account the risks associated with the limited information available when the internal targets were agreed. This over provision allowed for the likelihood that some portfolio targets would be difficult to achieve and assisted in achieving the overall objective of at least \$1 billion per year across all portfolios, consistent with the Government's public announcements on the agenda.

In addition to managing implementation risk, internal targets played an important role in encouraging effort and supporting cultural change across all portfolios. This approach proved effective: as the report notes, the \$1 billion commitment in each of 2014 and 2015 was well surpassed.

PM&C notes that the \$1 billion annual target and the internal portfolio targets were defined by the Government in terms of *decisions to be taken*. For that reason, PM&C cautions against comparisons of portfolio figures for *decisions implemented* with targets which were set on a *decisions to be taken* basis. The difference between these figures relates to the role the Parliament plays in shaping and determining implementation of deregulation proposals.



Australian Government

Department of Communications and the Arts

**Dr Heather Smith PSM**

Secretary

Dr Tom Ioannou  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
19 National Circuit  
BARTON ACT 2603

*By email*

Dear Dr Ioannou

**Implementing the Deregulation Agenda: Cutting Red Tape**

Thank you for providing the Australian National Audit Office's proposed report arising from the *Implementing the Deregulation Agenda: Cutting Red Tape* audit. The Department of Communications and the Arts (Department) welcomes the report which, in our view, provides a fair overview of the implementation and management of the deregulation agenda during the relevant period.

While the report's recommendation does not relate to the Department, we support continued efforts by Government to assess the economic impact and 'felt effect' of policies aimed at cutting red tape and improving national productivity. The final report provides a strong foundation for future work in this area including the design of a strengthened regulation reform agenda. We thank the Australian National Audit Office and the audit team for its significant work in conducting the audit.

Yours sincerely

Dr Heather Smith PSM  
19 April 2016

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• website [communications.gov.au](http://communications.gov.au) • [arts.gov.au](http://arts.gov.au)



**Australian Government**  
**Department of Health**

**SECRETARY**

18 April 2016

Dr Tom Ioannou  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Dr Ioannou

*Tom*

**Implementing the Deregulation Agenda: Cutting Red Tape**

Thank you for your letter of 23 March 2016 providing an opportunity for the Department to comment on the proposed Australian National Audit Office (ANAO) report of the above audit.

I am pleased to note the audit's positive findings for Health, with all deregulatory measures selected from the portfolio being classified as fully supported by the evidence, containing no material costing errors, and positive findings from ANAO's stakeholder consultations on the realised impact of Health's measure selected for the targeted consultations.

I note that the proposed report makes no recommendation specifically aimed at the Department, and note the report's single recommendation about measuring the economic benefits of regulatory reforms at the whole-of-government level.

I appreciate the diligent work undertaken by the audit team in producing a thorough report and look forward to receiving the final report.

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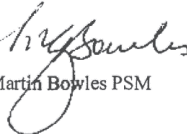
GPO Box 9848 Canberra ACT 2601



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If you have any questions about this matter, please contact Ms Celia Street, Assistant Secretary, Integrity Branch, on (02) 6289 7735.

Yours sincerely



Martin Bowles PSM



**Australian Government**  
**Department of Industry,  
Innovation and Science**

Secretary

Dr Tom Ioannou  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
By email: tom.ioannou@anao.gov.au

Dear Dr Ioannou

Thank you for your letter of 23 March 2016 seeking comment from the Department of Industry, Innovation and Science on the proposed audit report on *Implementing the Deregulation Agenda: Cutting Red Tape*.

There are considerable costs to business arising from complying with regulations at all levels of government. The department is fully committed to pursuing regulation reform, which is crucial to encouraging investment, innovation and growth by businesses. That is why I welcome the audit's findings that this department established suitable internal governance and administrative arrangements to facilitate implementation of the Government's Deregulation Agenda.

I am pleased to note that the Industry, Innovation and Science portfolio has exceeded the allocated savings target it was set and, as at 31 December 2015, it has an exceptionally high implemented net savings against target achievement record. The department will continue to ensure strong governance and administrative practices in implementing the Agenda.

A summary response for inclusion in the body of the report is at [Attachment A](#).

Thank you for the opportunity to comment on the proposed audit report.

Yours sincerely

Glenys Beauchamp

16 April 2016

## ATTACHMENT A

### **Summary of Department of Industry, Innovation and Science's Response for Inclusion in the Report Summary**

The Department of Industry, Innovation and Science acknowledges the Australian National Audit Office's (ANAO) report on Implementing the Deregulation Agenda: Cutting Red Tape.

The department welcomes the ANAO's conclusion that the department established suitable internal governance and administrative arrangements to facilitate implementation of the Government's Deregulation Agenda. To instigate cultural change and support costings of measures by business areas, departmental Deregulation Unit staff distributed guidance materials, held workshops and established internal procedures. Sound governance arrangements contributed to the findings that the measures the department was responsible for were supported by reasonable, relevant and documented sources.

The department also acknowledges that the audit revealed evidence of proportionate consideration of risk associated with proposed measures. The department will continue to adopt a risk-based approach to decisions to impose regulatory approaches, remove or adjust existing regulations. All measures were costed in accordance with the Regulatory Burden Measure.

The department notes that one of its measures examined contained a material costings error, which was not identified in quality assurance checks. To prevent any such future occurrences, since the commencement of the audit, the department has implemented a more rigorous internal quality assurance checking process for all costings.

Engaging with industry is one of the key activities of the department. Line areas liaise, consult and interact on a daily basis with industry associations, companies, non-government organisations, research and science bodies, and individuals. As such, the department used existing consultative mechanisms such as the VET Reform Taskforce and the Growth Centre Advisory Council to obtain stakeholder input on potential regulatory reform opportunities. The department will continue to strive for an open and transparent consultation mechanism to enable industry's views to be heard throughout the policy and programme development process.

Regulation reform is one of the four pillars of the department's Strategic Plan. This department will continue to strongly focus on regulation reform, as the key to lowering costs, fostering innovation and ensuring the competitiveness of businesses.

## Appendix 2 Assigned portfolio targets and net savings under the Deregulation Agenda 2014 and 2015

**Table A.1: Portfolio outcomes against assigned savings targets to 31 December 2015**

Portfolio	Assigned net savings target <sup>a</sup> (\$ million)	Announced net savings <sup>b</sup> (\$ million)	Announced net savings against assigned target (\$ million)	Implemented net savings <sup>c</sup> (\$ million)	Implemented net savings against assigned target (\$ million)
Agriculture <sup>d</sup>	165.0	90.6	-74.4	83.7	-81.3
Attorney-General's	55.0	66.0	+11.0	63.6	+8.6
Communications	160.0	351.0	+191.0	349.5	+189.5
Defence (including Veteran's Affairs)	27.0	46.3	+19.3	45.3	+18.3
Education and Training	200.0	237.5	+37.5	111.4	-88.6
Employment	166.0	216.2	+50.2	171.3	+5.3
Environment	150.0	987.4	+837.4	659.2	+509.2
Finance	75.0	88.0	+13.0	72.3	-2.7
Foreign Affairs and Trade	10.0	16.8	+6.8	12.2	+2.2
Health	220.0	249.0	+29.0	132.8	-87.2
Human Services	230.0	241.8	+11.8	241.8	+11.8
Immigration and Border Protection <sup>e</sup>	140.0	143.8	+3.8	57.2	-82.8
Industry and Science	126.0	372.2	+246.2	367.2	+241.2
Infrastructure and Regional Development	110.0	140.7	+30.7	129.2	+19.2
Prime Minister and Cabinet	13.0	12.3	-0.7	12.3	-0.7
Social Services	150.0	249.1	+99.1	136.6	-13.4
Treasury	650.0	1286.9	+636.9	1326.0	+676.0
<b>Total</b>	<b>2647.0</b>	<b>4795.6</b>	<b>+2148.6</b>	<b>3971.6</b>	<b>+1324.6</b>

Note a: Portfolio targets for 2014 were set by Ministers in December 2013, with 2015 targets assigned in March 2015. The sum of individual portfolio targets was set at greater than \$1 billion to minimise the risk of the target not being met as a result of delays in implementing deregulatory proposals. Individual portfolio targets were not published.

Note b: Includes all savings decisions taken by government.

Note c: Includes only those decisions taken by government that have been fully implemented. Portfolio progress on implementation of measures against assigned targets was not assessed. The ANAO was advised that substantial time-lags between receiving agreement to measures and their implementation may occur where legislative changes or complex stakeholder negotiations are required to give effect to a measure. Further, some

savings decisions taken by Government may not be implemented where legislative changes are not agreed, or where stakeholder agreement is not obtained.

Note d: PM&C advised the ANAO that as a result of information gained during the regulation stocktake process, the Department of Agriculture and Water Resources' 2014 savings target was identified as overly ambitious. PM&C advised that it did not review the target or reset the figure. PM&C further advised the ANAO that the Department of Agriculture and Water Resources' savings targets after 2014 reflected a more realistic view of what was feasible and the Department has been actively engaged and contributing to the reform agenda.

Note e: The Department of Immigration and Border Protection (DIBP) advised the ANAO that three measures make up the majority of the gap between their announced savings and the 'not implemented' figure: Seamless Travellers; 457 Visa Review Recommendations; and Student Visa Reform. DIBP further advised the ANAO that it was recognised at the time of the relevant decisions that the full implementation of these measures would need to occur over a number of years.

Source: ANAO analysis of 2015 reports prepared by portfolios.

## Appendix 3 Portfolio measures reviewed by ANAO

**Table A.2: ANAO sample of portfolio measures**

Measure	Announced annual saving (s) or cost (c) for the portfolio (\$ million)	Regulatory Impact Statement (RIS) or Self-assessed
<b>COMMUNICATIONS</b>		
Identity checks for prepaid mobile carriage services	33.91 (s)	RIS
Optional battery back-up	21.45 (s)	RIS
Standard form of agreement	6.58 (s)	Self-assessed
Pre-paid identity checks (new methods)	6.22 (s)	Self-assessed
Reduced customer information requirements for mobile premium services	3.78 (s)	Self-assessed
Mobile premium services revocation	2.72 (s)	Self-assessed
Deregistration of emarketing code	2.64 (s)	Self-assessed
Broadcasting audit relief	2.40 (s)	Self-assessed
Review of restricted access system declaration	2.23 (s)	Self-assessed
Local number portability	2.04 (s)	Self-assessed
<b>HEALTH</b>		
Business improvement to the Hearing Services Program	19.10 (s)	RIS
Improving grants management in Health	18.16 (s)	Self-assessed
Simplified and Consistent Health and Medical Research	14.54 (s)	Self-assessed
Private Health Insurance Legislation Amendment Bill 2013	10.68 (s)	Self-assessed
Implementation of electronic submissions of data dossiers (e-CTD)	9.01 (s)	Self-assessed
Changes to a system designed for funding arrangements	6.20 (s)	Self-assessed
Pre-market assessment requirements for Australian-manufactured medical devices	6.12 (s)	RIS

Measure	Announced annual saving (s) or cost (c) for the portfolio (\$ million)	Regulatory Impact Statement (RIS) or Self-assessed
Cost savings to industry following removal of product from the ARTG through Section 9F (TGA)	2.67 (s)	Self-assessed
Health Insurance Allied Health - Better Access	2.01 (s)	Self-assessed
Increased Pharmaceutical Benefits Scheme Claims Threshold	1.32 (s)	Self-assessed
Medicine Shortages Information Initiative	1.06 (s)	Self-assessed
<b>INDUSTRY</b>		
NOPSEMA one stop shop	59.99 (s)	RIS
Commercialisation Australia	4.23 (s)	Self-assessed
Energy Efficiencies Opportunities	26.77 (s)	RIS
Australian Industry Opportunity Officers	5.95 (s)	RIS
Innovation Precincts Program	12.39 (s)	RIS
Growth Centres	3.73 (c)	RIS
Entrepreneurs Infrastructure Program	4.46 (c)	Self-assessed
National Construction Code: Fire Hose Reels	8.28 (s)	RIS

Source: ANAO representation of data provided by PM&C.

## Appendix 4    Categorisation of ANAO review of portfolio measures

**Table A.3:    ANAO review criteria**

Category	Explanation
Supported	<ul style="list-style-type: none"> <li>all material costing components<sup>59</sup> are based on documented and reasonable/relevant data sources (in the case where a 'professional judgement' or similar is used in the costing, there must be some basis to indicate the judgement is reasonably informed); <u>and</u></li> <li>there are no material errors in the total costing.</li> </ul>
Partially supported	<ul style="list-style-type: none"> <li>less than 50 per cent of the material costing components lack documented and reasonable/relevant data sources; <u>and</u></li> <li>there are no material errors in the total costing.</li> </ul>
Not supported	<ul style="list-style-type: none"> <li>more than 50 per cent of the material costing components lack documented and reasonable/relevant data sources; or</li> <li>there is a material error in total costing.</li> </ul>

Source: ANAO.

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59 A **material costing component** is one that either represents 10 per cent or more of the total reported saving/cost or is more than \$1 million. A **material error in the total costing** is either an error of at least 10 per cent or more of the total reported saving/cost or is more than \$1 million.



## Appendix 5 Examining the benefits realised—feedback from targeted stakeholder consultations

### Box 1 The Hearing Services Online Portal, Department of Health

The ‘Hearing Services Online Portal’ was launched in 2014 and, at that time, was estimated by the Australian Government to deliver benefits to business and consumers amounting to \$19 million a year. These benefits were anticipated to be achieved mainly through enabling real time confirmation of client eligibility and application processing, reducing record keeping requirements, eliminating numerous paper forms and reducing the risk of businesses providing services for which they cannot claim a government rebate.

Hearing Care Industry Association (HCIA) members advised the ANAO that the Department of Health’s Office of Hearing Services (OHS) had worked closely with stakeholders in the design and implementation of the portal. There were opportunities for key hearing service providers to prepare for the launch of the portal and provide feedback to OHS, including through face-to-face discussions on any implementation issues.

HCIA members considered that the portal itself has had a ‘huge impact’ for service providers and customers and that the ‘anticipated benefits have been pretty well achieved’. Specifically, they noted that processes were quicker and easier and that the capacity to verify client eligibility instantaneously had reduced confusion for customers and reduced the administrative burden on service providers. HCIA members advised the ANAO that ‘what is less easy to quantify are the human benefits—how many lives we’ve changed by speeding up the process’.

HCIA members stated that there was still room for improvement. For example, members advised the ANAO that some ‘tweaking’ needs to occur to allow for more seamless service delivery during infrequent periods where either the portal or Centrelink ICT systems are down. There is also a need to better manage relocations of clients from one service provider to another. This said, the HCIA noted that OHS has remained open to seeking improvements in the operation of the portal in light of experience.

## Box 2 Prepaid mobile identity verification, Department of Communications and the Arts

In late 2013, the Australian Communications and Media Authority (ACMA) introduced regulatory changes to increase the ways through which prepaid mobile service providers (such as Optus, Vodafone Hutchison Australia and Telstra) could carry out the required customer identity checks before activating the service. ACMA made further changes in 2014 to enable previous identity checks to be used when an existing customer is seeking to activate new services. The Australian Government estimated that these changes would together deliver annual benefits to business and consumers of \$40 million<sup>a</sup>. The bulk of these benefits were anticipated to be achieved by reducing the time and costs for identity checks through allowing the existing Australian Government Document Verification Service (DVS) to be used for such checks and moving away, over time, from verification at point of sale, to verification online at point of activation.

The Australian Communications Consumer Action Network (ACCAN) advised the ANAO that its members would like to see further streamlining of the obligations on telecommunications service providers, and is concerned about the practical barriers prepaid identity checks place on some consumers. In particular, ACCAN advised that there are ongoing issues for Indigenous people living in remote and rural communities and new migrants—who often have difficulty activating prepaid SIMs when they do not have ID, or do not have the forms of ID specified in the framework.

The Australian Mobile Telecommunications Association (AMTA) members advised the ANAO that they considered that, to date, the anticipated benefits for service providers have largely not been realised. In particular, AMTA was of the view that while 80 percent of customer identifications are successfully validated using the DVS, increased costs have arisen in cases when the DVS fails to successfully validate a customer's identification. In these circumstances customers may resubmit their details (service providers are charged a fee each time a customer attempts to use the DVS), contact a call centre for assistance and/or visit a service providers shop front. AMTA members further advised that the DVS-related problems occur for customers who are less likely to have the type of identification most readily validated using the DVS—particularly young people, overseas visitors and the homeless.

AMTA members raised their concerns over the implementation of the DVS in a submission to the ACMA as part of the review of the Prepaid Determination which commenced in late 2015.

Note a: The Department of Communications and the Arts advised the ANAO that the majority of the estimated annual savings of \$33.91 million attributed to the introduction of the DVS were for mobile carrier channel partners and retailers providing prepaid point of sale services (some of which are also mobile carriers) with smaller proportions of savings relating to consumers (32 per cent) represented by ACCAN and for mobile carriers (6 per cent) represented by AMTA. The proportion of retailers providing prepaid point of sale services that are also mobile carriers is not known.

**Box 3 The one-stop-shop for offshore petroleum environmental approvals in Commonwealth waters, Department of Industry, Innovation and Science**

The 'one-stop-shop for offshore petroleum environmental approvals in Commonwealth waters' measure was implemented in February 2014 and at that time was estimated by the Australian Government to deliver benefits to businesses amounting to \$119 million a year. These benefits were anticipated to be achieved mainly through streamlining the Commonwealth approvals process with a consequent reduction in delay costs to industry.

The Australian Petroleum Production & Exploration Association (APPEA) advised the ANAO that, due to a significant decrease in commodity prices combined with a number of previously committed petroleum projects nearing completion, there has been a 'significant fall in the number of new projects that have achieved the status of final investment decision since the "one-stop-shop" deregulation measure was announced'. As a consequence, APPEA considered that the anticipated benefits of streamlining approvals processes for new projects 'have likely been less [to date] than originally anticipated for APPEA members'.

APPEA also considered that since the introduction of the measure, some 'routine' forms of exploration activities have seen an increase in the regulatory burden, with the increase 'in part associated with the legislative process that introduced the "one-stop-shop" measure, together with the way that the regime is now being administered' by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). APPEA advised the ANAO that they continue to have constructive discussions with NOPSEMA to reduce regulatory burden.

Although the intended benefits of this measure may not have been fully realised, APPEA stated that overall, they 'support reforms that streamline environmental approvals and assist in removing duplication both across and within jurisdictions'.

