



Australian Government

Senator Nick Sherry's speeches

ADDRESS AT THE STANDING COMMITTEE OF ATTORNEYS-GENERAL HARMONISATION FORUM

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Sydney, NSW

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This Standing Committee provides a forum for Attorneys-General to discuss and progress matters of mutual interest.

I often say that reform cannot stop; it needs to be an on-going process which reshapes our regulatory landscape to contribute to lifting productivity and keeping our economy strong.

That's why I'm very pleased to address this Harmonisation Forum, a SCAG initiative, and I'm also very pleased that it's directly engaging business representatives on microeconomic reform priorities.

I take this opportunity to acknowledge those business representatives here today.

I have seen some of you around the traps lately - on several occasions.

The saying goes that travel broadens the mind.

Well, in the past couple of months I've seen a lot of the country.

From North Queensland to Tasmania and any number of points west, I've been meeting groups to announce and discuss initiatives to improve the lot of Australia's small business sector.

On most of these occasions, there's been a direct link between the issues we're discussing with businesses and business groups of all shapes and sizes, and the Government's reform agenda to work with the states and territories to deliver a Seamless National Economy.

Last week, I was in suburban Moorabbin, meeting members of the Melbourne Business



Awards group, an association that for two decades has celebrated the business acumen of its members in the city's light industrial heartland.

It was an ideal venue to release, discuss and invite comment on an options paper for a national small business dispute resolution service. I will go into more detail on that a little later.

Regulatory Reform

Properly designed and appropriately used regulation will deliver important outcomes for the wellbeing of Australians at minimal cost to business, consumers and the community.

As a federation, the costs of regulation in Australia are multiplied where each state and territory has a different set of rules for business and individuals operating across borders.

There are more than 30,000 businesses operating in multiple jurisdictions, having to deal with this real and everyday concern.

In cumulative terms, these costs can significantly detract from Australia's potential at a time when we need to boost productivity to better deal with contemporary policy challenges, such as our ageing population.

A Better Regulation Agenda

To address these challenges, the Gillard Government has an ambitious better regulation agenda in place to ensure Commonwealth regulation is effective and efficient - and to streamline state and territory regulation. Given the focus of today's forum, I want to elaborate on the important work taking place at a COAG level.

The COAG regulatory reform agenda

Through COAG, the Gillard Government is working with all states and territories to deliver a significant package of 27 deregulation priority reforms, eight competition reforms and reforms of regulatory processes under the National Partnership Agreement to Deliver a Seamless National Economy.

The Department of Finance and Deregulation has estimated that 10 of the 27 business regulation reforms under this agenda are worth about \$3.5 billion a year to the economy as a whole, with \$1.8 billion of this flowing to business.

Of course, there are also financial benefits to the states and territories, with the Federal Government providing \$450 million in reward payments in addition to the \$100 million facilitation payments already provided.

I'm sure your Premiers and Treasurers are watching the progress of the COAG reform agenda closely, not least because, in many cases, this revenue share has already been factored into state budgets.

Speaking of reward payments, I should briefly mention one reform which state and territory Attorneys-General have oversight of (through the Ministerial Council for Corporations) which isn't tracking too well at the moment - directors' liability.

In its most recent report, the COAG Reform Council (CRC) assessed that the harmonisation

objectives of the directors' liability reform were unlikely to be achieved and that it was clear the reform would benefit from greater scrutiny.

To address this risk, the BRCWG set up a sub-committee led by NSW which has reviewed reform progress and come to a conclusion similar to that of the CRC.

The sub-committee has proposed a process for getting the reform back on track, which it will be putting forward to COAG in the coming months.

The Commonwealth is on board, and I am expecting that all the states and territories will be fully behind getting this reform back on track, and will take all necessary steps to ensure that this reform is completed in a timely manner well before the end of 2012 (when the Seamless National Economy reform agenda ends), and in a manner which meets the reform's objectives.

I'm pleased to report that already 13 reforms, or around half, of all the 27 priority deregulatory Seamless National Economy reforms are now complete.

Here are two examples:

- On 1 July last year, Standard Business Reporting commenced, allowing business to quickly and efficiently prepare and lodge business information electronically to a range of Commonwealth and state and territory agencies. Once fully operational in 2014, this is estimated to save business nearly \$800 million a year.
- On 1 January this year, the Australian Consumer Law commenced, replacing 20 separate Acts and providing a single regime to protect consumers. The Productivity Commission estimates it will deliver a net gain to the community every year of between \$1.5 and \$4.5 billion.

This good progress has been a product of effective cooperation between the Commonwealth and the states and territories. And contrary to some views in the media and elsewhere, I think it reflects well on the structure and processes of COAG and the work of Ministerial Councils.

We are effectively turning the Federation-era rail gauge regulatory system, into a modern national regulatory system - no easy task.

This good progress enabled COAG to announce on 13 February that it intends to deliver the Seamless National Economy agenda by 31 December 2012 - a full six months ahead of schedule.

As well, COAG announced it is commissioning work on a future competition and regulatory agenda for consideration by the end of 2011.

COAG has clearly stated the next wave of reforms will be based on stakeholder consultation and with a focus on ensuring reform proposals have a strong evidence base.

I view stakeholders as partners in the reform process and I look to industry to point out areas where we can reduce rules and regulations, particularly those operating in multiple jurisdictions.

The Business Regulation and Competition Working Group, chaired by the Minister for Finance and Deregulation Penny Wong and myself, is due to report to COAG in the coming months on its progress in developing the forward agenda.

The group's first stakeholder consultation forum in March this year was attended by 14 peak industry and other bodies.

Business Names

The Gillard Government of course remains strongly committed to delivering current reforms, such as a new national system for registering business names.

Currently in development, it will mean businesses no longer have to register a business name separately in each jurisdiction.

The net benefits for this project are expected to be more than \$1.5 billion over eight years to business, government and consumers.

At the moment, a business operating in every state and territory faces a cost of more than \$1,000 to register their business name for three years.

Under the new national system, businesses will have to pay only one fee in the order of \$70 to register their business name nationally for three years.

Trades Licensing

And COAG's national trade licensing system reform aims to harmonise the complex, overlapping and inconsistent trade licensing regimes business must navigate to operate across Australia.

From 1 July 2012, the National Licensing System will apply to air-conditioning and refrigeration mechanics, plumbing and gas-fitting, property agents and electrical occupations.

Trades people and businesses will need to qualify and pay for only one licence to operate right across Australia.

Personal Property Securities

Another priority area for COAG is the issue of Personal Property Securities or PPS - a reform whose delivery is being overseen by SCAG.

This reform will create a national legal framework for the use of personal property as security.

Despite our good intentions, access to finance remains one of the sticking points for small business, and the use of assets - other than land - will assist in a ready source of cash flow.

The reform will provide a mechanism that will reduce uncertainty for lenders.

Under the existing system, many businesses have lost litigation with banks and others who claim goods held by defaulting customers.

Provisions in the *Personal Property Securities Act 2009* commencing in October 2011 will allow suppliers to register their interest on a PPS Register.

This has two benefits: it guarantees suppliers can repossess their goods if a customer defaults and means they will need to register only once where they are ongoing suppliers of goods.

Access Economics reports that where unsecured lending is replaced by secured lending - as the Government proposes through these reforms - the cost of borrowing may drop by three to four per cent.

I commend SCAG's work in overseeing the delivery of this reform - the benefits of the reform will soon start flowing.

Business Disputes Resolution Paper

Many of the businesses that will benefit from these reforms are small and medium enterprises.

They will also stand to benefit from another initiative I launched last week - the options paper on a national business to business disputes resolution process.

I instigated this initiative after reading the findings of a 2010 survey by my Department. The survey revealed around one in five small businesses had experienced a dispute of some kind with another business in the previous five years.

The survey also revealed many business people were unaware of the range of existing dispute resolution mechanisms.

Many surveyed felt their dispute warranted third party involvement, but they steered away from acting because of the perceived cost.

I want a disputes resolution system that avoids overlapping or duplication of existing dispute resolution services,

It also has to bring together existing services, which the Australian Government will enhance and supplement where necessary.

This is consistent with the Commonwealth's Strategic Framework for Access to Justice in the Federal Civil Justice System.

The four options

These are the options I released for consideration.

1. National Information and Referral Service

This would combine a telephone hotline and website directing small businesses to available dispute resolution services and assistance.

This could build on services already offered by the government's Small Business Support Line and the recently introduced business.gov.au's Advisor Finder.

2. National Dispute Resolution Service

A National Dispute Resolution Service would provide information and referrals, but also offer mediation where no appropriate low cost dispute resolution service exists.

Where no service exists, a mediator drawn from a standing panel would assist with disputes.

3. National Small Business Tribunal

A National Small Business Tribunal would specifically deal with small business disputes, its investigation and conciliation roles backed by Commonwealth legislation.

The tribunal would be a national network and a one-stop shop for small business disputes. It could be based in a capital city potentially using existing federal court infrastructure.

4. *Small Business Advocate*

The Small Business Advocate would offer independent representation of small business interests and concerns within the Australian Government.

The advocate would investigate and advise government on a wide variety of small business issues, including dispute resolution.

A successful system will be one that is able to keep out of the courts those disputes which can be dealt with by low-cost and speedy services.

The options paper is available on the Department of Innovation's website at:
www.innovation.gov.au.

Conclusion

Ongoing national microeconomic reform is vital to lift productivity, keep our economy strong and create jobs. These reforms include those which are part of the Seamless National Economy Agenda, reforming small business dispute resolution mechanisms, as well as those possible future reforms which will be discussed today.

Just this week, I announced the Productivity Commission will undertake a study focusing on effective identification of regulatory reform opportunities and the evaluation of reform outcomes.

Good regulatory reform relies on effectively identifying reform opportunities in order to prioritise the allocation of resources to areas of the highest likely benefit. I think forums such as this one today are an important part of this process and provide a unique opportunity to consider options and map out future reform directions.

I mentioned at the beginning of this address I place great store in the opportunity to tend to small business interests, to see and hear what they're doing in all parts of the country.

Manufacturers, food businesses, tourism operators, retailers they all play an essential part in the health of our economy, for they are its heart.

We must listen to them to develop policies and deliver reforms that will secure our economic future.