



Australia: Moving to a Seamless National Economy

How has Australia weathered the global financial crisis?

How has regulatory reform contributed to economic growth?

What is being done to improve regulation?

How is competition and consumer policy administered in Australia?

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Introduction

A sustained effort at promoting regulatory reform has contributed to Australia's success in weathering the global financial crisis; it was among the few OECD countries that did not enter a recession. But this is no time for complacency. The government has laid out an ambitious regulatory reform agenda to build a seamless national economy and unleash productivity.

Australian Competition Law has helped to establish robust and competitive markets. While there has been significant reform over the past decade, some aspects of the transport, energy, water and infrastructure sectors have yet to complete the reforms identified years ago.

But the government is responding to the emerging national interest to reduce costs associated with inconsistent or duplicative regulatory regimes between jurisdictions and impediments to business competitiveness. Regulatory frameworks across the federation are being streamlined to open markets further and to improve the ability to compete globally. A major reform of bio-security management, including border security, will also further improve market openness.

Regulatory reform has been given a high profile in the Commonwealth government, as manifested in the creation of a ministerial post responsible for deregulation. A national reform programme has been developed in partnership with the Australian states and territories (the states) to harmonise key regulations imposed on businesses operating across jurisdictions. Innovative institutional structures have been established at the level of the Council of Australian Governments (COAG) to facilitate national reforms supported by new federal fiscal arrangements.

This *Policy Brief* looks at the advances in regulatory reform in Australia in recent years and the efforts being made towards further progress. ■

How has Australia weathered the global financial crisis?

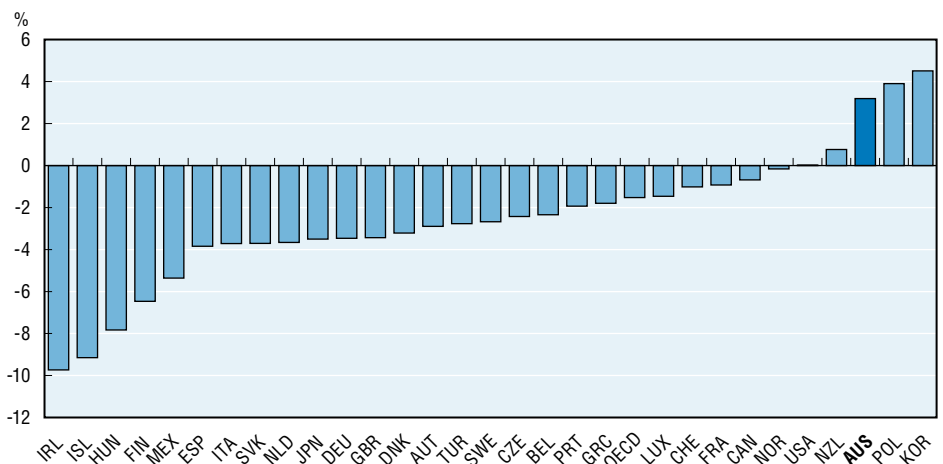
Australia has been one of the best-performing economies in the OECD over the past two decades. From 1992 to 2008, Australia enjoyed 17 consecutive years of economic growth. Over the 1990s, improvements in the regulatory environment, coupled with the emergence of information and communication technology (ICT), led to vigorous growth in productivity. In the 2000s, strong employment and investment growth have driven GDP increases, despite lower productivity. Incomes have also been boosted over recent years by a sharp rise in the terms-of-trade, which have increased by over 65% between 2003 and mid-2008. This increase was primarily driven by the commodities boom associated with the economic rise of China and India. As the global economy moved towards recession in 2008, Australia's terms-of-trade fell, offsetting some, but not all, of the previous gains in terms-of-trade.

The impact of the global recession on Australia has been less severe than in most other OECD countries. The economy has benefited from a healthy macroeconomic situation, coupled with a strong fiscal position when the crisis started. However, the current account deficit persists, averaging 4.5% of GDP, with a net investment income deficit. Australia's well-regulated and resilient financial sector has limited the impact of the financial crisis on the economy. Monetary and fiscal policies shielded businesses and citizens from the more damaging effects of the global recession, and Australia has benefited from the rapid rebound of some Asian economies, particularly that of China. Australia was the first G20 country to increase interest rates in the second half of 2009 in response to emerging inflation risks. ■

How has regulatory reform contributed to economic growth?

Increased exposure to international trade during the 1980s, and the product market liberalisation conducted in the 1990s under the National Competition Policy Framework, reduced barriers to entry and increased competition in the Australian economy. This contributed to an impressive surge in productivity

Figure 1.
CUMULATIVE OECD GDP GROWTH FORECASTS, 2009-10



in the 1990s, which, according to a 2005 Productivity Commission report, added at least 2.5%, or AUD 20 billion, to Australia’s GDP.

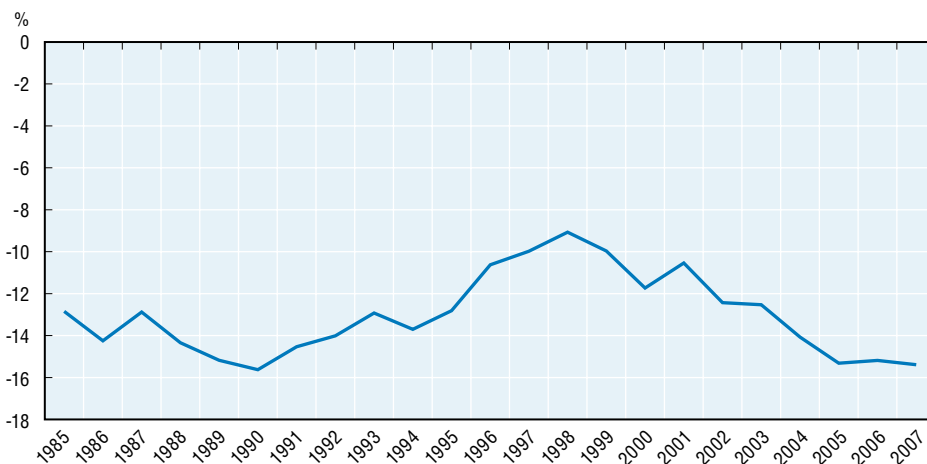
From 1993-94 to 1998-99, labour productivity increased at an annual rate of 3.3% per year – the fastest on record – and helped to close the productivity gap between Australia and the United States. Employment and labour-market flexibility also increased over the period, suggesting that gains in productivity were not acquired at the expense of increasing underemployment. This was facilitated by the decentralisation of wage-bargaining mechanisms in 1991 under the Hawke-Keating Labour government, followed by the *Workplace Relations Act* in 1996. Further changes were introduced under the 2006 *Work Choices* legislation. However, these measures did not receive broad support during the 2007 Australian federal election.

ICT and innovation have also increased productivity and diffusion of technology internationally was a key driver of productivity growth. Australia has become a leading adopter and beneficiary of ICT investment. The August 2008 report, *Venturous Australia – Building Strength in Innovation*, found that 98% of new technologies are sourced from outside the country. The Australian economy experienced a slowdown in productivity over the past recent decade and further productivity improvements are required if Australia is to return to a higher long-run growth path. ■

What is being done to improve regulation?

Australia benefits from a mature system for regulatory management, with early and comprehensive adoption of OECD good practices and innovative approaches. The government elected in 2007 has encouraged reform, announcing a commitment to “continuous improvement” in regulatory quality. The government has endorsed the principles of good regulatory processes recommended by the Banks Taskforce on Reducing the Regulatory

Figure 2.
LABOUR AND MULTI-FACTOR PRODUCTIVITY, AUSTRALIA VERSUS THE UNITED STATES
The gap in labour productivity



Burdens on Businesses (Productivity Commission, 2006), adopted by the previous government, and has reaffirmed the commitment to best-practice regulation requirements.

Recent reforms have strengthened Australia's system for Regulatory Impact Assessment to examine the benefits of new regulation, making it among the most rigorous and comprehensive in the OECD. A new policy function has been created in the Department of Finance and Deregulation to promote better regulation across the administration, complementing the Office of Best Practice Regulation, which performs a gatekeeping function and also provides training and direct assistance in applying cost-benefit analyses. The Minister for Finance and Deregulation has initiated a number of partnerships with other ministerial colleagues to identify and ensure progress with major regulatory policy reforms. The government is reviewing all pre-2008 Commonwealth subordinate legislation to identify scope for reform and remove unnecessary costs to business.

Australia has been innovative in using benchmarking to compare regulatory practices across the states and the Commonwealth, and to examine the burden in particular sectors of Commonwealth regulation. The country is also implementing a range of e-government strategies to streamline reporting requirements for business, including the use of standard business reporting to pre-fill government forms and a one-stop shop portal for business and citizens.

In addition, a new agenda for Commonwealth-state relationships includes efforts to build a national seamless economy, harmonising key regulations across jurisdictions. This will be underpinned by innovative fiscal arrangements. From November 2008, under a new COAG Intergovernmental Agreement (IGA) on federal financial relations, the number of Specific Purpose Payments made by the Commonwealth to the states for outcomes in specific policy areas was reduced from over 90 to 5, while increasing overall funding. The IGA puts a new focus on general performance outputs, and where the Commonwealth requires states to pursue jointly approved regulatory reforms, National Partnership agreements are used to provide incentive payments and reward state efforts.

In November 2008, 27 priority areas of regulatory reform and 8 competition reforms were cited in a National Partnership Agreement to Deliver a Seamless National Economy. Delivery on the deregulation priorities is supported by a AUD 100 million facilitation payment, and a further AUD 450 million in reward payments are scheduled for the period to 2012-13, contingent on states' performance. The agenda also involves reforms in the areas of energy, transport, infrastructure, planning and the environment. The agenda is managed by the Business Regulation and Competition Working Group, which includes high-level representation from the states and is co-chaired by the Minister for Finance and Deregulation and the Minister Assisting the Finance Minister on Deregulation. ■

How is competition and consumer policy administered in Australia?

Australia has an integrated approach to promoting market competition. The Australian Competition and Consumer Commission (ACCC) has the primary responsibility for enforcing the *Trade Practices Act 1974 (TPA)*, which is Australia's competition, fair trading and consumer-protection legislation. The TPA enhances consumer welfare by prohibiting certain anticompetitive conduct, such as restrictive agreements and practices, abuse of dominance and misuse of market power, and mergers and acquisitions that substantially reduce competition. The combination of consumer protection and sector regulation establishes a cohesive and integrated policy approach. The broad complementary enforcement and regulatory powers of the ACCC assist compliance and promote public support for pro-competitive reforms.

Since the development of the National Competition Policy Framework, Australia has maintained consistent and complementary competition laws and policies that apply to all businesses, regardless of ownership. This is supported through requirements for competitive neutrality; agreement that price oversight of state or territory government business enterprises is primarily the responsibility of the concerned state; and agreement regarding structural reform of public monopolies by introducing competition. Removing "exemptions" was closely related to rationalising infrastructure regulation in the context of the competition policy, because infrastructure services and regulation provided by states were not subject to Commonwealth Competition Law. Impediments to competition have been progressively removed and a common, coherent scheme for assessing and regulating sectoral access to essential facilities has been established. The scope of exceptions to Competition Law has been reduced.

Australia's Competition Law was the subject of the 2003 *Dawson Review*, and the amendments recommended in the Review and a subsequent Senate Committee have been largely implemented. While these represent general improvements, notably in terms of increased sanctions for cartels, the scope and effectiveness of the prohibition against misuse of market power may be less clear now than it was before the amendments. This may reflect the influence of small business "politics" in Australian Competition Law, as the TPA now includes a prohibition against predatory pricing that could curb discounting by large corporations. The new prohibition risks creating uncertainty and is inconsistent with international precedents.

Some aspects of the National Competition Policy remain unfinished. The regulatory regime for third party access to natural monopoly infrastructure has been subject to criticism, particularly in terms of access to railway lines, with litigation used as a means to frustrate the operation of the system. In October 2009, the government introduced legislation to enact binding time limits on decision makers for regulatory decisions on access. The Australian Energy Market Operator has commenced operations, including a new national electricity transmission planning function; however some reforms in the energy sector have yet to be completed. The government has set up a company to build and operate a new network to deliver super-fast broadband

services under a modified access regime that should better promote competition in telecommunications services. ■

How can market openness contribute to higher economic growth?

Australia has maintained a policy of market openness with full integration of its markets into international competition. Openness to trade (exports and imports) has contributed positively to productivity and to economic growth. Around two-thirds of Australia's trade is with the Asia-Pacific economies, including rapidly growing Asian markets in China, Korea, and India. Australia's trade policy places the highest priority on a successful conclusion to the World Trade Organisation Doha Round of multilateral trade negotiations. Australia also pursues regional and bilateral free trade agreements with important trading partners.

Various domestic processes provide for transparency and for disseminating information, including by using Regulatory Impact Assessment. Stakeholders are routinely consulted on regulatory changes likely to affect trade. Value-for-money and transparency also apply to public procurement. A central website lists all the contracts and annual procurement plans awarded through the AusTender website. Australian Customs and Border Security have also streamlined customs procedures to facilitate the transit of goods.

While Australia's market openness generally reflects a strong commitment to free trade, the country's trading partners have criticised Australia's mandated quarantine inspections for air and sea vessels and for air passengers. A major review of the quarantine system, the *Quarantine and Biosecurity Review*, conducted by an independent panel and released in 2008, recommended a move away from mandated inspection targets in favour of a risk-based approach to reduce the burden of border controls. As of September 2009, the government has moved to a risk management system for border control, and has implemented a number of other reforms as recommended in the Review.

Foreign equity restrictions remain in certain sectors, and foreign purchases of Australian businesses or real estate are subject to screening procedures. To address concerns about these constraints, the government issued a set of transparency principles in February 2008 and also announced some liberalisation measures in September 2009, with the threshold for investment screening for non-US investments raised to AUD 219 million, and exempting new direct investment. This is expected to exempt a fifth of the applications from screening. ■

What are the lessons for future economic performance?

Australia has endorsed a new growth-oriented reform agenda focusing on strengthening regulatory quality to boost productivity growth. Many of the challenges facing the Australian economy have inter-jurisdictional dimensions. Success depends on co-ordinated actions by a number of agencies at state level, as well as state parliaments passing and amending state laws. Productive Commonwealth-state relationships are crucial for the reform agenda. In the future, the challenge will be to co-ordinate regulation of national markets so that new barriers are not created and so that all

jurisdictions regulate with regard to the national interest without requiring financial incentives.

Australia represents a “role model” for OECD countries in its approach to regulatory reform. Success will require maintaining momentum for reform, including through the more difficult task of implementing those reforms. The goal is to underpin the development of policy settings with an effective culture of early engagement with regulatory policy considerations. Regular communication with businesses and the community on the benefits of reforms will also be necessary to maintain support and ensure that the reforms that are likely to deliver the greatest welfare benefits are pursued. Previous efforts at benchmarking the performance of all jurisdictions should be continued as a way of providing good examples and maintaining the focus on national objectives. COAG has well-designed frameworks for assessing national regulatory proposals, but the application of these frameworks by ministerial councils needs to be strengthened.

Ultimately, the goal is for Commonwealth and state governments to work together to regulate national markets, with a shared understanding of the benefits of doing so. Current institutional frameworks appear well designed and effective, but they will have to stand the test of time. ■

**For further
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For further reading

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