



# PROGRESS MADE ON COAG NATIONAL REFORM AGENDA

**I**n February 2006, the Council of Australian Governments agreed on a new national reform agenda to follow on from National Competition Policy. ACCI is pleased with moves to bring about positive change in the new reform priority areas which include the national training system, infrastructure regulation, transport and energy and occupational health and safety, but disappointed that COAG did not agree to further reform to state taxes and workplace relations.

In 1995, the Commonwealth, State and Territory Governments agreed to a wide ranging reform program called National Competition Policy (NCP), which was designed to improve Australia's economic performance by increasing competition across the economy.

Given that this 1995 reform program was due to end in 2005-06, the Council of Australian Governments (COAG) in 2004 asked the Productivity Commission to conduct an inquiry into NCP's future.

The Productivity Commission's report, released in February 2005, found that NCP had provided substantial benefits to Australia's economy and society, significantly increasing productivity, growth and living standards. In particular, the Commission found that NCP reforms to key infrastructure sectors alone contributed at least \$20 billion to Australia's GDP (\$1,000 per person).

ACCI made a detailed submission to this review strongly supporting NCP and arguing for its reform program to continue and be extended to cover training (the submission is available from ACCI's website). The Commission subsequently made recommendations in line with ACCI's submission.

Commonwealth, State and Territory Governments met on 10 February as COAG to decide on the replacement for NCP. COAG agreed that the NCP reform program should continue with the addition of a number of areas including training.

This agreement is for a new National Reform Agenda focusing on human capital reform, competition reform and regulatory reform. These and other issues related to the meeting are the subject of this article.

## HUMAN CAPITAL REFORM – REFORMING THE NATIONAL TRAINING SYSTEM

ACCI is pleased with the breakthrough announced at the COAG meeting regarding reform to the national training system.

COAG has forged a coordinated approach to the removal of impediments to skills recognition and participation which are often caused by the interface between training regulators and other areas of government, particularly agencies responsible for licensing.

All ACCI proposals put to governments over the last three years have been addressed by COAG and importantly, clear timeframes for resolution established. It is vital that these reforms are industry-led. ACCI and its members will be seeking meetings to address the agreements with all relevant government departments as a matter of urgency.

There are four key areas that COAG has agreed to address:

### 1. The Commitment to Quality Training

ACCI has long supported a move from an input-based National Quality Assurance Framework to a more rigorous outcomes-based national set of standards which would apply to all Registered Training Organisations and State Training Authorities.

We have come a long way in the last 10 years in reforming quality assurance arrangements and these outcomes reflect the next steps to be taken.

ACCI is also developing some key principles which should apply to the development and implementation of any new Framework. These include:

- the establishment of a rigorous, nationally consistent quality assurance system incorporating standards for registering authorities;
- ensuring the heightened confidence of industry and employers;
- implementation of a regime of sanctions which clearly outlines the consequences of the failure of providers and authorities to meet essential minimum standards;
- definition of “outcome-based audits” in a clear manner also incorporating definitions of evidence required, particularly around employer satisfaction and participation;
- recognition of diversity of provider size, delivery methods and scope;
- facilitation of the synergy of all audit and continuous improvement activity, including other State/Territory regulation; and
- reduction of red tape whilst maintaining a quality national training system.

## 2. A More Mobile Workforce to Help Meet Skills Needs

Australia operates in a global economy with an increasingly mobile workforce which operates across national boundaries. All nations are examining ways to reduce barriers, whilst maintaining national security, to attract the very best workforce.

ACCI supports full mutual recognition nationally in the area of occupational licensing and believes that the Australian Government should:

- establish consistent nationally agreed competency-based requirements for the regulation of the same occupational activity or function between and within jurisdictions; and
- use the nationally consistent VET system to assess the achievement of those competency-based requirements.

This should provide a seamless transition path through training and assessment to competency-based industry licensing that is underpinned by National Industry Training Packages.

This will provide a number of benefits including:

- reduced barriers to the mobility of labour between

jurisdictions;

- improved consistency in the regulatory requirements of jurisdictional industry regulatory authorities;
- a sound basis on which to improve the mutual recognition of occupational licences between jurisdictions; and
- a strong foundation from which to develop nationally consistent regulatory regimes.

It is vital that this does not result in an increase in regulation in the training system.

ACCI does not support a one size fits all approach and proposes that change should be implemented on an industry by industry basis involving industry associations to maintain employer confidence. One reason for this is that in some industries there are matters other than Competency Based Training (CBT) outcomes that are considered as essential parts of the licensing regime.

COAG has taken this bold step and set up clear goals with consultations being cooperatively managed by state governments and industry associations.

ACCI supports skilled migration as part of the solution to skill and labour shortages in the Australian economy. It is recognised that Australia is competing with many other countries for workers with the qualifications and skills in demand in our workforce.

The option of attracting semi-skilled workers is becoming increasingly important. For this reason ACCI supports the new Trade Skills Training Visa, providing it concentrates on employment in regional areas with identified labour shortages and that training is delivered through the New Apprenticeships program. State-specific migration schemes that encourage the location of skilled migrants in regional areas are strongly supported.

ACCI believes that the assessment of qualifications of people seeking to migrate to Australia should be undertaken in their country of origin or some other offshore location such as the country where they were recruited. Licensing should be included as an integral part of this process so those recruited as skilled migrants can work as fully licensed workers on arrival in Australia or be aware of what they need to do to gain the required licence and where this training can be obtained.

This applies equally to the trades and to non-trade occupations where there may be regulatory requirements to work in the industry in Australia that do not apply in other countries (e.g. Responsible Service of Alcohol in the

Hospitality Industry where there are significant skill and labour shortages).

Training to fill gaps in skills identified by the offshore assessment should be undertaken in the offshore location or in Australia. There are currently a number of Australian training providers, public and private, delivering offshore and investigations need to be undertaken regarding the potential for this network's involvement in delivering this assessment and gap training. A joint industry-provider consortia could be developed to provide one-stop shops in specific countries. A tender process could provide accountability for selected consortia. COAG proposals are well on the way to establishing these arrangements, initially in selected countries.

The process of recognising skills of those applying to come to Australia as skilled or semi-skilled migrants, or Australians returning to this country after a period of absence when they may have acquired skills and/or qualifications overseas, needs to be streamlined.

ACCI supports the joint approach by the Department of Immigration and Multicultural Affairs (DIMA), the Department of Employment and Workplace Relations (DEWR) and the Department of Education, Science and Training (DEST) to develop a web portal that will provide simple, comprehensive and up to date information for migrants who are seeking recognition of their qualifications and licensing for their skilled occupations.

### 3. A More Flexible and Responsive Training System

ACCI fully supports competency-based arrangements rather than time-served criteria for the completion of apprenticeships and believes that this system would facilitate the supply of skilled and qualified workers more quickly into the Australian workforce. Quality standards must be maintained.

The concept of "time served" should be removed from training conditions following consultation with industry. While there is considerable support for competency being the major criteria for successful assessment and completion of training, there are instances where there is a need to be able to demonstrate experience and understanding of the working conditions of the industry. Therefore, ACCI is cautious about any new arrangement which simply shortens the duration of an apprenticeship but is not linked to the person's ability to do the job. An appropriate mix of on and off the job training needs to be maintained to provide opportunities for those in training to gain the necessary workplace experience. The COAG proposals support this approach.

ACCI fully supports the proposed industrial arrangements in the Australian Government's *WorkChoices* legislation and looks forward to changes flowing from that legislation that will free up the marketplace for apprentices and trainees. Industrial relations arrangements should be amended so that they specifically allow for competency-based progression. As a priority, industrial arrangements that set a fixed time duration for apprenticeships should be amended to allow for early completion. ACCI has a comprehensive set of proposals which it has provided to the Australian Government.

In addition, industrial arrangements should also be adjusted to allow for competency-based progression for part time apprenticeships across industries.

COAG has also recognised the need for a range of training and employment pathways to meet the challenges of the continually evolving workforce. New qualifications at Certificate II in specific industries are necessary for the training system to meet the needs of a modern workforce and modern organisation of work but must be fully supported by the relevant industries.

Recent research undertaken through the National Skill Shortages Strategy (NSSS) in the Building and Construction Industry has provided strong evidence of the need for a range of specialised qualifications to meet the needs of employers and employees in the industry.

Similar needs are being revealed in the Electrotechnology and Communications industries where specialised activities and new technologies are creating a demand for workers skilled in specific competencies.

There should be multiple entry and exit pathways for training to meet individual needs and the needs of business and industry. Exit points at Certificate II that provide occupational outcomes in demand in the Australian workforce should be supported and industrial arrangements that hinder the development and implementation of these courses and the provision of new qualifications need to be amended to remove these impediments.

New Qualifications at Certificate II should be developed so that they provide a legitimate exit point and are also a re-entry pathway for those who wish to come back to training to attain the full trade qualification, or to continue training while working in the Certificate II occupation.

The development of these new qualifications should be undertaken by the relevant Industry Skills Council (ISC) if their industry informs the ISC that the qualifications are needed. The obligation to develop these new pathways should be included in ISC funding agreements and the ISC

Key Performance Indicators.

The National Quality Council should have the power to intervene if the relevant ISC is not prepared to develop the pathway or where a blockage to development is identified by either the Institute of Trade Skills Excellence or an employer organisation. Where such intervention is required the matter should be referred to the Ministerial Council on Vocational and Technical Education (MINCO) so that the authority of the State and Territory Governments can legitimise the intervention.

ACCI will be working with a number of cross industry partners to develop a model for industrial arrangements to support these new pathways. There will need to be a flow of Commonwealth funding to support pilot programmes to implement training in these new qualifications so that the development of qualified workers with skills urgently needed in the Australian economy is not delayed by the need to obtain state-based funding for training development and delivery.

Restrictions on the types of apprenticeships allowed to be undertaken under certain industrial relations arrangements need to be identified, removed and replaced with an approach that provides a more a-priori universal coverage, rather than relying on specific allocations that take place through the award variation process.

ACCI believes strongly that Recognition of Prior Learning (RPL) is a vital element of a flexible training system and needs to be upgraded. COAG has also agreed to address this issue with clear targets and some funding incentives.

A reformed, flexible training system will need to facilitate a workable and effective national RPL system that is geared to the needs of mature-age and existing workers as well as for traditional youth apprenticeships and encourages consistency and quality building confidence for the achievement of valid competency-based outcomes.

There is considerable discussion regarding the upskilling of existing workers to provide alternative sources of skilled labour. If upskilling of existing workers is to reach its full potential to contribute skilled workers, RPL is an essential factor. Many workers have developed skills from long time employment in industries (e.g. builders labourers) but are reluctant to commence trade training from the beginning. RPL provides a pathway for their skills to be recognised and their period of training shortened making the commencement of training more attractive and completion more likely.

Similar considerations apply to people returning to work after injury or those who have been on some form of

welfare support and are returning to the workforce under the Government's Welfare to Work initiatives. RPL can provide pathways which encourage those with skills from their previous periods of employment to re-enter the workforce in positions where they can make an effective contribution.

The current system does not give many incentives for training providers to undertake RPL. In fact it is financially negative for providers and expensive for the employees or employers wishing to have existing skills assessed. A reform of the training system needs to ensure that RPL is an effective and efficient element of the system on both the demand and the supply aspects with appropriate financial support for training providers and employers.

Part of the development of a more flexible training system will need to incorporate training in employability skills that are vital for successful transition into work. This would include life skills training and preparation for work training delivered on a national basis.

#### 4. Targeted Response to Skill Shortages and Regions

The needs of employers and employees in regional areas of Australia must be fully examined to determine the best ways to meet local needs.

Carriage of national projects to develop, trial or pilot strategies to address skill shortages in regional Australia should be vested in industry organisations rather than training providers or Industry Skills Councils.

The development of regional strategies and solutions to skill and labour shortages is hindered by a lack of consistent, reliable data at the regional level. There are a number of statistical instruments that provide information regarding skill and labour shortages (e.g. the Migrant Occupations in Demand List (MODL), the National Skill Shortages (NSS) List and a number of state government lists providing both whole of state and specific regional information). Despite this, regional needs for information are not well served.

ACCI advocates a review of all current lists dealing with skill shortages. A whole of government approach needs to be applied to the collection of workforce data to facilitate effective strategies to address skill shortages. Consolidation of all lists - national, state and regional, into one comprehensive, easily understood document would facilitate the needs of those researching skill needs in Australia, nationally, in states and in regional areas and the needs of those with interests in attracting skilled and semi-skilled migrants from overseas. Such a list will link

skill shortages information together in a clear hierarchy. Information gathered in this way should include industry-based data as well as the geographically identified data.

### Next Stages of Training Reform

COAG has also identified some additional work to be undertaken by December 2006. These areas, which largely coincide with the other priority areas of ACCI in addition to the four above, are:

- the growing need for higher level skills;
- cultural and workplace change to lift educational participation and attainment;
- possible reforms to funding and other mechanisms to make the training system more responsive to demand;
- options to increase Australia's investment in vocational education and training;
- enhancing user choice through meaningful and timely performance information;
- more appropriate regulation of education and training providers; and
- building stronger relationships between firms and training providers.

ACCI welcomes the intervention of COAG to put pressure on industry and all governments to finally resolve these matters and move forward for the benefit of all Australians. The challenge should be met with open arms by all, not resisted due to self interest or perceptions of loss of control by government bureaucrats.

### COMPETITION REFORM

From its name, it was clear that competition was at the heart of National Competition Policy.

ACCI strongly supports the continuation of these competition reforms under the new National Reform Agenda. The competition reforms under NCP have been very successful, but have not been completed. For example, many anti-competitive regulations remain that have not been reviewed by NCP. Some jurisdictions have been penalised for their failure to review anti-competitive regulations (such as restrictions on retailing hours).

The new agenda should continue the pressure for reform of these regulations.

### Infrastructure Regulation

COAG signed an agreement to provide for a simpler and consistent national system of economic regulation for "nationally significant infrastructure", which includes ports, railways and other export-related infrastructure.

The principles of the Agreement are consistent with ACCI's submissions on the National Access Regime and to the 2005 review of export-related infrastructure. In particular, the agreement specifies that third party access to infrastructure should be commercially negotiated wherever possible (in other words, regulation of access should only occur if commercial negotiations fail).

ACCI also supports the agreement by COAG that:

- all access regimes should include consistent principles;
- regulators should be bound to make access decisions within six months; and
- competitive neutrality principles should be enhanced to ensure government businesses engage in fair competition with the private sector.

ACCI also welcomed the announcement of improved infrastructure planning, in particular the commitment to a five-yearly stocktake of infrastructure and assessment of future needs. COAG also agreed to establish one stop shops in each jurisdiction to facilitate significant development projects.

### Transport

Characteristics of land transport policy have included the lack of transparency and the presence of unclear cross-subsidies and inadequate cost recovery in user charging and pricing, which result in distortions and inefficiencies in the use of land transport facilities and services. Commerce and industry expects both rail and road transport sectors to operate without subsidies, with user charging and pricing being based on full cost recovery and applied in a competitively neutral and transparent manner.

The Productivity Commission has also been asked to report to COAG in 2006 on, inter alia, optimal methods and timeframes for introducing efficient road and rail freight infrastructure pricing. COAG also agreed to review the harmonisation of road and rail regulations for implementation within five years. A review will also be undertaken on urban congestion trends, impacts and solutions. The review's findings will be considered at the first meeting of COAG in 2007.

COAG also announced:

*“a harmonisation of road and rail noting that a national system is crucial to Australia’s economic and social well being. It is essential that decisions made in one jurisdiction should be mutually recognised elsewhere. There should be an integrated, national and efficient decision-making framework to gain access to the national road or rail network.”*

ACCI supports greater harmonisation of regulations throughout Australia. This is particularly important for sectors which are vital to Australia’s competitiveness.

## Energy

ACCI recognises that the Australian Government has a strategic national role to play in the development of energy policy and supports the development by government of a comprehensive, integrated, long term, market-responsive and output-based energy policy that promotes a fully contestable national grid with full interconnectedness.

COAG announced continued reform of the energy sector. ACCI has adopted a policy supporting the National Energy Market and a national regulator. ACCI welcomed COAG’s restatement of its commitment to achieving a genuinely national electricity transmission grid and moving forward on a national distribution and retail framework, particularly the phase out of energy retail price regulation. COAG also recommended the introduction of smart meters to improve price signals for consumers. ACCI considers this a positive initiative to assist demand side management.

A high-level COAG Energy Reform Implementation Group will be established to detail implementation arrangements for the further reforms.

## REGULATORY REFORM

ACCI released a regulation discussion paper in November 2005 entitled *Holding Back the Red Tape Avalanche*.

The paper made a number of recommendations such as improving gate keeping mechanisms, improving Regulatory Impact Statements, better measurements of compliance costs and measures to address the stock of regulation. The COAG communiqué has largely taken up these recommendations.

COAG announced that *“Governments will establish and maintain effective arrangements at each level of government that maximises the efficiency of new and amended regulation and avoid unnecessary compliance costs and restrictions on competition.”* This will be achieved through establishing and maintaining ‘gate keeping mechanisms’, improving compliance cost measures

and broadening the scope of regulation impact analysis to recognise the cumulative burden on business.

COAG has also undertaken to address six regulatory ‘hotspot’ areas to become an annual review where regulatory reform provides significant net benefits to business. ACCI supports this approach to reducing the stock of regulation.

Finally COAG undertook to benchmark, measure and report on regulatory burdens across all levels of government using a common framework. It was also noted that some jurisdictions may wish to set quantifiable targets. The COAG regulatory statement also noted that the Regulation Task Force and its recommendations were before the Australian Government and the determination of this process would also have a major impact on the overall regulatory framework.

## Occupational Health and Safety

ACCI welcomed the inclusion of Occupational Health and Safety (OHS) on the COAG agenda, reflecting the increasingly high profile given to OHS by ACCI and its members and in the community.

ACCI has worked hard with governments at all levels over many years to achieve a nationally consistent OHS framework. Many of the objectives of the 2005 ACCI OHS Policy Blueprint *Modern Workplace: Safer Workplace* (the Blueprint) are making their mark at the highest levels of government.

ACCI welcomed COAG’s decision to request that the Australian Safety and Compensation Council (ASCC) work with the jurisdictions and industry to develop strategies to improve the development and uptake of national OHS standards to improve national consistency. This decision reflects the ACCI OHS Policy as articulated in the Blueprint.

ACCI is however disappointed that the communiqué makes no mention of the development of prevention strategies.

The national focus is on improving Australia’s OHS performance as articulated in the *National OHS Strategy* and the national targets for injury reduction.

All the national stakeholders have the same objective - to achieve safer workplaces. However industry has very different views on how this mutual objective should be achieved, given that COAG, the Workplace Relations Ministers Council (WRMC), ASSC and the Jurisdictions all focus on regulations, compliance and enforcement whereas industry’s focus is on practical injury prevention strategies

in the workplace.

The COAG decisions have the potential to influence the WRMC approach to the adoption of nationally consistent national standards packages which are developed through the ASCC.

The ACCI Blueprint elements that are compatible with the COAG decisions include:

- *“governments and regulators understanding their proper role to put in place a framework of laws and programs that is reasonable, balanced and practical” (Outcome 1);*
- *“Where national OHS standards are appropriate they should be developed through tripartite consensus involving balanced representation of governments, representatives of employers and of employees and be nationally consistent in their implementation (Recommendation 16); and*
- *“employers, employees and jurisdictions should agree to work together to develop and adopt national standards packages...new or revised standards are submitted together with an implementation plan and an agreed timeframe to WRMC for endorsement and approval” (Regulation Reform 6).*

Whilst ACCI has welcomed the COAG decisions, we are disappointed that two key areas have not been addressed, both of which are potential barriers to achieving national consistency and improved OHS performance:

- COAG has a strong focus on regulatory reform with no focus or even a mention of the development of prevention strategies, which ACCI believes is the key to improved OHS performance at the workplace; and
- COAG’s decision that there be no reduction or compromise in standards for legitimate safety concerns in current OHS standards will result in increasing the burden of OHS regulations to the highest common denominator without recognition of what is the most practical and effective way to achieve improved workplace safety.

ACCI is disappointed that COAG did not use this opportunity to provide national leadership on the important business issues of moving towards a nationally consistent workers’ compensation framework and in particular Self Insurance. These issues currently generate a proliferation of state-based regulation which is a major cost and administrative burden on industry.

## ADMINISTRATIVE ARRANGEMENTS

An important part of the 1995-2006 NCP was the introduction of competition payments to States and Territories. These payments were designed to encourage the reform effort by ensuring that these jurisdictions shared in the economic benefits of reform that flowed to the Commonwealth.

The Australian Government has now decided to discontinue competition payments because the introduction of the GST has meant all jurisdictions directly share in the benefits of reform. However, it has indicated it will provide funding on a case-by-case basis to *“ensure a fair sharing of the costs and benefits of reform.”* ACCI supports these decisions.

The abolition of competition payments means that the incentives to reform may be reduced. Therefore, ACCI encourages COAG to monitor the reform effort by jurisdictions and if the reform effort decreases, the Australian Government may need to consider some incentives and/or penalties on jurisdictions.

ACCI supports the establishment of a COAG Reform Council to monitor the reform agenda. This will replace the National Competition Council which oversaw the NCP reform program.

## CLIMATE CHANGE

COAG also agreed to plan for collaborative action on climate change. ACCI supports the development of a new national *Climate Change Plan Of Action* which takes up the direction recently endorsed by the Asia Pacific Partnership on Clean Development and Climate (AP6) nations of Australia, China, India, Japan, Korea and the US. The plan of action must acknowledge that R&D will play a pivotal role in addressing overall emissions levels. ACCI further supports the development of a national framework on the take-up of renewables, low emission technologies and change adaptation. ACCI looks forward to working with the high-level interjurisdictional Climate Change Group to find viable solutions to global warming.

For the *Climate Change Plan of Action* to be successful it needs to adopt the AP6 approach and involve business in solutions to greenhouse gas emissions such as the recently announced AP6 public and private sector taskforces covering different energy technologies and energy intensive industries.

ACCI recognises the importance of a coordinated approach to measuring greenhouse gas emissions, however it does not support the suggestion of the States that such emissions be included in the National Pollutant Inventory (NPI).

## DISAPPOINTMENTS

### State Taxes

ACCI was disappointed that COAG did not take the opportunity to agree on further reforms to state taxes. In particular, the States and Territories should meet the spirit of the original GST deal by abolishing all taxes that were included in that agreement. Significant progress has been made in this direction, but much more needs to be done:

- most jurisdictions have agreed to abolish taxes included in the GST agreement, but New South Wales in particular lags;
- the timetable for abolition of taxes is very slow - it is proposed that some taxes will not be abolished until 2010; and
- the jurisdictions have specifically argued that stamp duty on transfers of property should be retained, despite the cost this imposes on business.

ACCI maintains our position that all the States should abolish all of the taxes included in the 1999 GST agreement, particularly including stamp duty on business property.

This is not a new business wish list – we are only asking the States and Territories to keep to the spirit of the original GST deal.

These taxes, many of which impact directly on the business community, reduce growth and the ability of business to provide jobs and lead to increases in the price of goods and services to consumers. ACCI believes that the delays and exemptions mean that the States are not meeting the spirit of the 1999 agreement.

### Workplace Relations

The COAG meeting occurred in the context of a highly contested policy debate during the preceding 12 months over workplace relations reforms as outlined in the Commonwealth's *WorkChoices* legislation.

For years, workplace relations policy in Australia has been driven by differing economic, social and political values of governments. It has also been shaped by trade union, employer and industrial politics. Given these realities, and the different political colours of current Commonwealth and State/Territory governments, COAG members could be forgiven for not seeking agreement on the detail of the *WorkChoices* package.

However, ignoring *WorkChoices* altogether was a mistake.

While the detail of *WorkChoices* is a matter of political and industrial dispute, there are policy directions that continue the necessary trend towards decentralisation and workplace bargaining over wages and conditions in Australian workplaces. Those themes fit comfortably with the broad policy direction acknowledged as necessary for our modern economy in the 1990s by both the Keating Labor Government and subsequently the Howard Coalition Government. In the days following COAG this reality was publicly acknowledged by one of the leaders of our trade union movement, ACTU Secretary Greg Combet, who whilst arguing for better collective bargaining rights and critical of *WorkChoices*, acknowledged that economic change had meant that “*decentralised bargaining is here to stay*” (AFR 20/2/06). Our heads of government, in a meeting that provided direction on policies to promote growth in productivity, could have at least expressed similar sentiments.

One further aspect of *WorkChoices* which crosses the political and industrial divide and should have been on the COAG table is the creation of a single national system of workplace relations in Australia. It is disappointing that it wasn't.

At a time of significant change to the framework of Australian workplace relations laws, the community could rightly have expected our political leaders to discuss how a national framework could be smoothly implemented, whilst differing on the content of such laws. Instead we now have the blunt instrument of a High Court challenge by the States and Territories that seeks to overturn the equally blunt but necessary use of the corporations power in the *WorkChoices* legislation.

Whilst *WorkChoices* moves significantly in the direction of a national system, gaps in coverage will remain even if the High Court challenge is unsuccessful. It is in the national interest that the remaining duplication in Commonwealth and State workplace relations laws be removed. The referral of powers by Victoria in 1997 remains a template for future COAG and ministerial consideration. If adopted, Australia would largely end the ‘horse and buggy’ era of industrial regulation, and not before time.

As outlined in ACCI's October 2005 paper *Functioning Federalism and the Case for a National Workplace Relations System*, current multiple overlapping systems of Commonwealth and State regulation on employment laws are the product of colonial disputes of the 1890s and unsuited to the modern era of national economic integration and globalisation. They breach almost every principle of efficient and effective regulatory design. They impose duplicate but different regulation on the same topics, create uncertainty over legal rights and obligations, have no coherent basis for

their coverage and cost the taxpayer over \$100 million per year in the duplication of courts, tribunals, bureaucracies and inspectorates.

The preference of industry is for one single national system to be established through co-operative arrangements between Commonwealth and State governments, as is the case in Victoria. In the absence of intergovernmental agreements, use of the Commonwealth corporations power is the next best option.

While a federal system of government can produce benefits of competitive federalism in some areas of public policy, this is not the case in the industrial relations context. Claims that retention of State industrial relations systems act as a force for beneficial competition or as a future 'safe haven' against Commonwealth laws are wrong and should be roundly dismissed. The lessons of history and Australian constitutional law show that employers and employees under State systems have no free choice of jurisdiction and can be legally forced into Commonwealth laws by union action, whether or not a State government or those employers and employees agree.

The intention in re-basing the system should be to move to a simpler national system, not to make change for change's sake. One single set of national laws should be designed to improve the quality of employment regulation by giving primary authority over wages and employment conditions to people in workplaces, not to centralise such decisions in the hands of government at any level, Commonwealth or State.

A shift to a national system is not a panacea to cure all ills, but it is a major structural microeconomic reform. There are some risks, but not greater than the risks inherent in current approaches. That COAG did not seize this opportunity in February 2006 is to be regretted. It can only be hoped that after the adversarialism of a High Court outcome all Australian governments take a different and more constructive approach to each other on this aspect of necessary economic reform.

## CONCLUSION

COAG meetings are important occasions for Australian governments to come together and discuss the national policy framework.

February's COAG meeting made significant progress in breathing new life into National Competition Policy and in committing government to tackling serious regulatory reform issues as well as a recognition of the need to for a better coordinated approach to the vocational education and training system. ACCI supports these endeavours.

However, ACCI is disappointed that COAG passed up the opportunity to discuss state taxes and further national workplace relations reform.

ACCI will continue its work to keep all of these issues at the forefront of political debate this year and is committed to structural policy changes that strengthen the Australian economy and the ability of business to create jobs and wealth.