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A CHARTER FOR NEW FEDERALISM

EXECUTIVE SUMMARY

The Prime Minister, state premiers and chief ministers should commit to rebuilding the Council of Australia Governments (COAG) as the means of delivering the national reforms needed to sustain growth and prosperity in Australia.

The Business Council of Australia calls on the nation's political leaders to agree to a Charter for New Federalism to strengthen and embed improved federal-state cooperation and reforms.

The charter should be a formal agreement between the Prime Minister, state premiers and chief ministers. It should commit leaders to working cooperatively through COAG to deliver national reforms and outline new processes and arrangements to lock in improved collaboration and accountability for outcomes.

Specifically, the charter should:

- Confirm that COAG is the key vehicle for governments to work together to achieve national objectives.
- Outline the key objectives of COAG and commit governments to working together cooperatively to improve growth and prosperity through ongoing national reforms.
- Commit leaders to institutionalising improved cooperation and outcomes through COAG including by:

1. Strengthening the role of COAG.
Specific steps should include:
 - COAG to meet at least twice each year at set times.
 - At least a full day to be set aside for COAG meetings.
 - Publishing agendas prior to meetings and decisions immediately following meetings.
 - Establishing a jointly-funded/resourced permanent secretariat with a rotating chair.
 - Requiring COAG to respond publicly to the recommendations and findings of a federal commission (see paragraph 3 below) in relation to the effectiveness and impact of its activities.
2. Improving COAG's accountability.
Specific measures should include:
 - Publishing reform commitments, clear actions to be taken to achieve measurable objectives, reform timelines, and regular progress reports.
 - Where COAG has delegated work to others, for example, ministerial councils, work programs and progress against them should be reported back to COAG at each subsequent COAG meeting until the work program has been completed. All progress reports should be published on the COAG website.

- Making the COAG Reform Council (CRC) responsible for overseeing reform implementation against commitments, assessing the costs/benefits of reforms, and determining the allocation of benefits payments in accordance with a COAG-approved framework.
 - Requiring the CRC to report back to each COAG meeting on compliance with reform commitments and progress against commitments in terms of both timeliness and the quality of actions.
 - The CRC publishing annual progress reports.
3. Evaluating the contribution of COAG and the COAG reform agenda to sustaining prosperity in the long term, including through establishing a federal commission to assess and report every two years on:
- the broad economic and social outcomes attributable to COAG reforms;
 - issues that remain unaddressed by COAG; and
 - the extent to which the COAG agenda is anticipating future challenges.

INTRODUCTION

The Business Council of Australia (BCA) represents the Chief Executives of 100 of Australia's leading companies. Collectively, these companies account for a substantial share of Australia's domestic and overseas business activity and employ nearly 1 million people. BCA Members therefore have a significant interest in supporting public policy reform that positions Australia as a strong and vibrant economy and society. It is the BCA's objective to develop and advocate, on behalf of its membership, such reforms.

Over the past three years the BCA has researched and advocated the need for a comprehensive reform program to renew key parts of Australia's economy and lay the foundations for continued strong growth and prosperity.

A central theme has emerged from this research: many of the policy failings and reform limitations holding Australia back are directly linked to the problems and poor performance of the current system of federal-state relations.

Australia is a small economy in a fast-moving and increasingly competitive world. Our economy is operating at full capacity and the key challenge we face is how to increase our capacity to continue to grow strongly. Against this background, our governments, now more than ever, must:

- endeavour to allocate scarce resources as efficiently and effectively as possible;
- focus on reducing unnecessary costs and burdens on business and the community;
- be equipped to identify and address complex challenges before they emerge as barriers to growth; and
- foster an environment that enables participation, innovation, and growth.

However, BCA research, particularly in the areas of infrastructure, business red tape, education and tax, clearly shows that the operation of Australia's federal system of government has become a major barrier to realising the nation's potential.

Reforming and improving federal-state relations is no longer just a governance issue; it is an economic imperative. With the economy operating at full capacity, the costs of dysfunctional federal-state relations have become more significant and far-reaching.

The new federal Labor government has indicated a strong commitment to a broad reform agenda. This is welcome. Progress in areas such as infrastructure, health and education, the development of national approach to climate change, and tackling the costs and challenges of an ageing population, are of fundamental importance to Australia's economic and social prosperity.

Achieving outcomes in these areas will require a concerted effort from individual governments but also collaboration and planning across all levels of government. This, in turn, requires strengthening federal-state policy infrastructure and frameworks to ensure that coordinated reform agendas can be agreed to across governments in a timely and effective way, that these reform commitments are implemented as expected, and that reform efforts are maintained.

The BCA therefore calls on the federal, state and territory governments to agree, through the Council of Australian Governments (COAG), to a Charter for New Federalism.

INTRODUCTION CONTINUED

The charter would be a formal agreement between the Prime Minister and state premiers and chief ministers, preferably through statute.

The charter would seek to:

- Confirm the commitment by each federal, state and territory leader that COAG is the key vehicle for governments to work together to achieve national objectives.
- Summarise the key objectives of COAG and highlight the commitment by each leader to work together in a coordinated and cooperative way to enhance growth and prosperity in Australia through ongoing reform.
- Outline new processes and arrangements to institutionalise improved cooperation and outcomes through COAG. This should include:

- establishing arrangements to strengthen the role of COAG, including by ensuring that the activities and deliberations of COAG are properly supported and resourced;
- committing to processes to improve the accountability of COAG, and each of the governments involved, for reform decisions and their implementation; and
- creating a mechanism for ensuring that COAG reform programs deliver the broader outcomes necessary to sustain economic and social prosperity into the future.

Each of these areas and the recommendations proposed should form the key elements of the Charter for New Federalism.

Detail on what the BCA sees as the priorities for institutionalising improved cooperation and outcomes through COAG are outlined below.

INSTITUTIONALISING IMPROVED COOPERATION AND OUTCOMES

As the new federal government looks to progress an ambitious and important national reform agenda, a priority for state and federal governments should be to institutionalise the arrangements for their ongoing engagement and cooperation to address national challenges in a way that enhances social and economic prosperity.

In other words, the first step in any renewed COAG reform agenda should be to put in place the federal–state structures to ensure that governments in Australia can work cooperatively and effectively together. Business and the wider community want to see the success of COAG become self-perpetuating.

Strengthening the role of COAG

Experience has shown that under the present system of intergovernmental arrangements, the levels of cooperation needed to meet current and future challenges are rarely achieved.

While there have been periods of significant activity and accomplishments by COAG (see 'National Competition Policy: a role model'), on the whole, the actions and achievements of COAG have been sporadic and unreliable.

National Competition Policy: a role model

One of the most sustained and successful programs of cooperation across governments has been the implementation of National Competition Policy (NCP). Those broad economic reforms could not have been achieved by any one level of government acting alone. Instead, underpinned by institutional arrangements, including intergovernmental agreements, the establishment of the National Competition Council (NCC) to act as an advisory body and to provide national oversight to the NCP and processes for the division of benefits of reform, effective institutional arrangements have led to successful and sustained reform outcomes.

INSTITUTIONALISING IMPROVED COOPERATION AND OUTCOMES CONTINUED

Since COAG was established in 1992, it has met on average just once a year and then usually for only a few hours (see Figure 1). Further, history has shown that COAG meetings are often dominated by political positioning rather than genuine policy leadership.

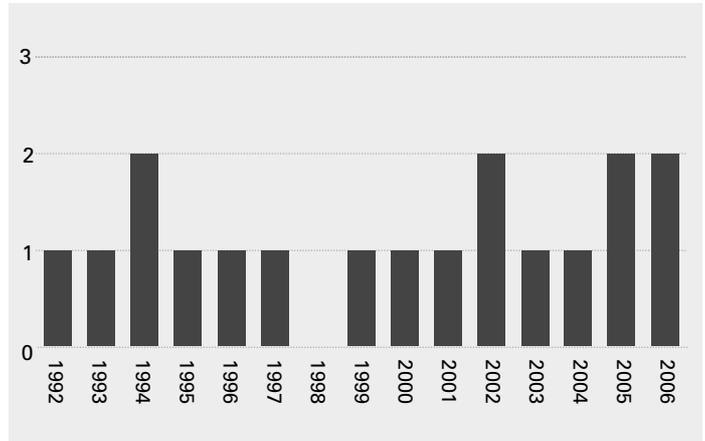
When progress has been achieved through COAG, this has been largely dependent on the energy and aspirations of a few individual political leaders driving the reform agenda. Often this is against the backdrop of significant community and business agitation for concerted reform across governments. Australia cannot continue to rely on such ad hoc drivers of reform.

A commitment to formal, permanent institutional arrangements to embed cooperation and accountability for reform implementation and outcomes must be a priority.

In order to revitalise COAG, the Charter for New Federalism should establish a commitment for:

- COAG to meet at least twice each year at set times.
- At least a full day to be set aside for COAG meetings.
- Meeting agendas to be published prior to meetings on the COAG website.
- Decisions and commitments agreed to be published immediately following meetings on the COAG website.
- A jointly-funded (pro-rata basis) permanent secretariat/ COAG staff be established with a rotating chair (perhaps a senior bureaucrat).
- A requirement for COAG to respond publicly to the recommendations and findings of a federal commission in relation to its activities (see below).

FIGURE 1:
Number of COAG meetings held, 1992–2006



Source: www.coag.gov.au

Improving COAG’s accountability

Past experience clearly shows that even when COAG has agreed to significant reform commitments, implementation and follow-up has been slow, inconsistent or non-existent (see the ‘Water reform’ case study below).

Water reform: a case study in cooperative failure

Water reform has been on the agenda of COAG since 1994 when COAG agreed ‘to implement sustainable water management arrangements that account for all uses of water (agriculture, industry, household and the environment)’. While there has been progress in many areas there remains the critical issue of declining reliability of supply.

COAG elevated water reform as a priority again in 2004 when most of Australia’s governments agreed to an ambitious water reform program, the National Water Initiative (NWI). The stated objective of the NWI is to achieve:

‘... a nationally compatible, market, regulatory and planning-based system of managing surface and

groundwater resources for rural and urban use, that optimises economic, social and environmental outcomes, and is able to adapt to future changes in the supply of, and demand for, water.’

The NWI included a number of milestones. The first milestone of the NWI was that, by June 2005, the maximum amount of water that could be traded out of the irrigation areas in the southern Murray–Darling Basin would be increased from two to four per cent per annum. The threshold is supposed to be increased to 100 per cent by 2014.

The initial water trading milestone has not been met. Many of the key building blocks to ensure a nationally compatible market have yet to be agreed to and implemented and the systematic management of surface and ground water resources is yet to occur.

To make sure the benefits of reform efforts by COAG are not delayed or eroded, the BCA recommends the following commitments be included in the charter to strengthen accountability and improve transparency:

- Where COAG has delegated work to others (for example, ministerial councils), work programs and progress against them should be reported back to COAG at each subsequent COAG meeting until the work program has been completed. All progress reports should be published on the COAG website.
- Reform commitments should articulate clear actions, goals and implementation timelines. These should be published on the COAG website.
- Where legislation is required to give effect to reforms, the Prime Minister and premiers/chief ministers should commit to taking legislation to their respective parliaments in the form agreed at COAG and within an agreed timeframe.
- The COAG Reform Council (CRC) should be made responsible for overseeing the implementation of all reforms agreed to by COAG. The CRC must be properly resourced to carry out this role. Specific functions for the CRC should include:
 - Monitoring progress against agreed commitments by federal and state/territory governments.
 - Reporting back to each COAG meeting on compliance with reform commitments and progress against commitments in terms of both the timeliness and quality of actions.
 - Assessment of the costs and benefits of reform.
 - The development of a broad framework defining the criteria and scope for any benefits payments to be made to the states/territories, for COAG approval.
 - The determination of actual benefits to be paid to the states/territories in accordance with a COAG approved framework.
 - Preparation and publication of annual reform progress reports, including an explanation of benefits payments made, and a clear and frank assessment of the performance of the federal government.

COAG's contribution to sustaining prosperity

It is important to ensure that the reform agendas agreed to and implemented by COAG are well targeted to meet both current and future needs and challenges and therefore contribute in a significant way to future growth and prosperity.

This requires a commitment to independent assessment of the impact of reforms over time to determine whether the reforms implemented are contributing to growth and prosperity and that there are not gaps in the COAG reform agenda.

Forward-looking reform agendas

As a nation, we must seek to better anticipate barriers and opportunities for growth. Australia's track record suggests that collaborative action across governments in key areas has not been achieved until a crisis has been reached, and even then the effectiveness and timeliness of policy responses is often less than is needed. The experience with water policy noted above is a clear case in point.

The Federal Commission

The BCA's preferred option to achieve this, as outlined in *Reshaping Australia's Federation*, is the establishment of a dedicated joint federal–state policy body – a federal commission – to independently research and recommend reform initiatives to COAG and assess the effectiveness of reform outcomes.

- The federal commission should assess and report on:
- The broad economic and social outcomes flowing from the COAG reforms over time (taking into account the work and findings of the CRC).
 - Whether there are issues impacting current economic and/or social prosperity that remain unaddressed or inadequately addressed by COAG and its reform program (including unnecessary costs related to our federal system of government).
 - Whether the COAG agenda is anticipating future challenges.

THE FEDERAL COMMISSION CONTINUED

The federal commission should be:

- Answerable to all governments, through COAG.
- Independent of any single or tier of government.
- Jointly funded and staffed by the Commonwealth and states.
- Overseen by a board of individuals drawn from a range of community, government and business backgrounds.

The establishment of such a federal commission remains the BCA's preferred long-term approach. But, given the urgent need for reform action the BCA believes the Productivity Commission could be tasked with performing the role of the federal commission for an interim period.¹ This would enable reforms to be progressed quickly but in a manner consistent with an ideal longer-term framework for COAG.

The Productivity Commission, and subsequently the federal commission, should publish a 'federation' report addressing the above issues every two years.

CONCLUSION

With the economy operating at full capacity, barriers to growth or misallocations of resources, including as a result of poor or inappropriate policy settings, become increasingly important. This means that now more than ever improving dysfunctional federal–state relations is an economic priority.

Confidence in COAG and its reform agenda has been undermined by a history of inconsistent and lacklustre performance.

Agreeing to a Charter for New Federalism, as called for by the BCA, would provide an important, concrete demonstration that the federal, state and territory leaders are genuinely committed to improving federal–state relations and actually delivering the reforms needed to enhance prosperity in Australia.

Strengthening the institutional foundations of COAG will also give business and the wider community greater confidence that federal, state and territory leaders will be able to tackle constructively the more systemic challenges in Australia's federal system of government, including the appropriate allocation of responsibilities across jurisdictions.

Note

1. The BCA regards the work of the Productivity Commission very highly, but there are a number of constraints on the activities of the Productivity Commission that the BCA considers limit its ability to be effective in this role over the long term. Specifically, the Productivity Commission is unable to initiate its own research priorities but must rely on issues being referred to it from the federal Treasurer and at present the federal government is not required to respond to the recommendations of the Productivity Commission. These limitations are important, in the context of facilitating broad ownership of a COAG reform agenda and its timely and effective implementation.