

Better regulation to unleash innovation and productivity in Australia's boardrooms

- As the nation faces an unprecedented productivity crisis, the AICD is calling on the Government and Opposition to commit to a comprehensive deregulation agenda within the first 100 days of the next parliament, including a freeze on new regulation unless critically necessary.
- Australian businesses, not-for-profits and community organisations are struggling under the weight of poorly targeted regulation, often rushed through Parliament, leaving stakeholders to pick up the pieces.
- Fifty-nine percent of directors see regulatory requirements and red tape as the single greatest factor affecting their board's risk appetite, and many smaller organisations lack the resources, time and/or skills to comply with an increasingly onerous and complex set of regulatory requirements.
- This has a flow on effect for customers, shareholders, community members and ultimately the Australian economy.
- Without fit for purpose and harmonised guidelines and regulations Australia will fail to capitalise on the benefits of the digital transformation. Without the innovation that this brings, our productivity will continue to decline.
- In an increasingly volatile global environment, addressing Australia's productivity decline is one of the greatest challenges we face. Without a serious commitment to reducing the weight of regulatory burden on our businesses, this is a challenge we will not be able to meet.
- We need to free Australian boards from meeting agendas dominated by risk and compliance issues, to enable them to maintain a steadfast focus on growing the Australian economy and helping our businesses to remain internationally competitive.
- The AICD's 3-point plan for better regulation, better digital governance and better targeted disclosures aims to help lay the foundations for our businesses to drive a revival in productivity and innovation, to build a better economic future for all Australians.

Our 3-point plan

1. Better regulation through better law-making

- A **twelve-month moratorium on new regulation**, except where critically necessary, to reduce regulatory impost and stimulate productivity.
- A substantive **review of the Corporations Act** to reduce complexity and compliance costs for industry.
- Expansion of the National Competition Policy to **incentivise the states to reduce duplicative, costly and productivity-sapping regulation**.
- **Financial services Regulatory Initiatives Grid expanded** to economy-wide and a stocktake of implementation and consultation timeframes to ensure appropriate sequencing of critical initiatives.
- A **Minister for Better Regulation** in Cabinet.
- **Mandatory post implementation reviews** for new legislation and appropriate monitoring of implementation costs to ensure new laws are working as intended.
- **Mandatory examination of existing law** where new compliance requirements are proposed, to ensure a holistic rather than piecemeal approach is taken.
- **No new director liability laws for corporate misconduct**, recognising that the Corporations Act already provides a clear avenue for personal liability. Director liability laws contribute to the risk averse corporate culture holding back the nation's productivity.
- **Reinvigoration of the regulation impact statement process** to ensure cost benefit analysis is more robust and informed by private sector input.
- **Limitations placed on the use of delegated legislation** to ensure the role of Parliament is not diminished by the Executive.
- Standard **minimum stakeholder consultation periods** across all Commonwealth initiatives to improve the quality of laws passed.
- A more **active role for the Attorney-General** in overseeing the law and regulation making process to ensure that well established principles of lawmaking are regularly followed.

- Establishment of an **expert, independent body** to support government policy making related to corporate law, financial markets and corporate governance.
- Match the UK government's commitment to a **new strategy to ensure regulators and regulation support economic growth**, including: establishment of a baseline for administrative costs of regulation; and a whole of government commitment to a targeted and proportionate regulatory system.

2. Better digital governance to drive productivity

- Urgently **clarify data retention laws** to give businesses clear guidelines around when data must be held and for how long, to limit the impact of future cyber incidents.
- **Postpone legislating outstanding Privacy Act review recommendations**, pending an independent-from-government cost benefit analysis.
- Issue **plain English guidance from government on how existing regulation applies to AI** to encourage its use and reduce legal and compliance costs.
- Prioritise immediate steps for **de-identification of director personal information** on companies registers.
- Funding for initiatives that **equip not-for-profits (NFPs) and charity directors and executives with cyber governance skills**, ensuring they can effectively oversee and respond to digital threats.
- Establishment of one-off funding streams to **assist NFPs and charities in implementing stronger cyber security measures**, including staff training, software upgrades, and external audits.

3. Better targeted disclosures to drive innovation

- **Mandatory Climate Reporting** to apply to groups 1 and 2 only, with NFPs explicitly excluded
- **Replace sector wide economy modern slavery reporting** with more targeted application to the highest risk sectors and businesses.
- **Lift corporate reporting thresholds** more broadly, including mandatory indexation of requirements, to keep pace with the economy.

ACKNOWLEDGEMENT OF COUNTRY

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The Australian Institute of Company Directors is committed to strengthening society through world-class governance. We aim to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society. Our membership includes directors and senior leaders from business, government and not-for-profit sectors.

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