About the Victorian Competition and Efficiency Commission

The Victorian Competition and Efficiency Commission (VCEC), which is supported by a Secretariat, provides the Victorian Government with independent advice on business regulation reform and opportunities for improving Victoria’s competitive position.

The VCEC has three core functions:

- undertaking inquiries into matters referred to it by the Victorian Government
- reviewing regulatory impact statements, measurements of the changes in the regulatory burden and business impact assessments of significant new legislation
- operating Victoria’s Competitive Neutrality Unit.

For more information on the VCEC, visit our website at: www.vcec.vic.gov.au
6 September 2012

Mr Kim Wells MP
Treasurer of Victoria
1 Treasury Place
EAST MELBOURNE VIC 3002

Dear Treasurer

VICTORIAN COMPETITION AND EFFICIENCY COMMISSION 2011-12 ANNUAL REPORT

The Victorian Competition and Efficiency Commission is pleased to present to you its 2011-12 annual report. The report addresses the matters required by the State Owned Enterprises (State Body—Victorian Competition and Efficiency Commission) Order 2004. The Minister for Finance has exempted the Commission from preparing separate financial statements under section 53 of the Financial Management Act 1994.

Yours sincerely

MATTHEW BUTLIN  DEBORAH COPE  BILL MOUNTFORD
Chair  Commissioner  Commissioner
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Foreword

The Victorian Competition and Efficiency Commission turned eight at the end of 2011-12. Our core functions have been undertaking public inquiries on matters referred by the Treasurer; being Victoria’s independent watchdog on assessing regulatory changes and associated regulatory burdens; and managing Victoria’s competitive neutrality policy. The Commission’s role has been to provide independent, evidence-based advice in all three areas.

Over the past eight years, the Commission completed or commenced 17 inquiries on a very wide range of topics. In the past year, new ground was broken in terms of breadth, complexity and type of inquiry subject. The inquiry into a State-based reform agenda to improve Victoria’s productivity, competitiveness and labour force participation was the most wide-ranging the Commission has yet undertaken. In addition, the recently commenced inquiry into the costs of problem gambling is a completely new type of subject.

Our experience has been that a public inquiry is a sound process for making independent, well-researched and publicly tested advice and recommendations that are robust, practical and will improve efficiency and competition in the Victorian economy.

That, of course, does not guarantee acceptance of every recommendation by the ultimate decision-makers. The path forward on many of the matters under terms of reference may contain several choices. Governments may have to take into account considerations not included in terms of reference given to the Commission, and circumstances may need to change to allow some recommendations to be accepted.

Some aspects of inquiry work are not always understood. Not all subjects are suited to the public inquiry process. Achieving a robust outcome depends on engaging well with stakeholders, gathering evidence and developing sound, evidence-based recommendations. The process requires enough time to get participation and reliable evidence. The recently completed inquiry into feed-in tariffs set a new record of formal participation, with over one thousand submissions, short submissions or other contributions from stakeholders. The welcome volume of participation also called for additional time to process this information, and the Treasurer granted an extension to allow this to occur.

Conducting a public inquiry also raises an expectation among participants that there will be some outcome from their contribution. The Commission’s Order in Council sets guidelines for the expected release of the Commission’s inquiry final reports, and the timing of the Government’s response to them. The Government released three final reports and its response to them during 2011-12, covering the manufacturing industry, Victoria’s regulatory framework and the financial services industry. Another two inquiries were released in August 2012 — local government regulation, and Victoria’s tourism industry — and another in September 2012 — feed-in tariffs and barriers to distributed generation. The Commission looks forward to the release of the inquiry into a State-based reform agenda, which had not been released at the time this report was finalised.

Other aspects of the Commission’s work continued to change in 2011-12. Its watchdog role on regulatory impact assessment and reducing regulatory burdens reflected a lift in sunsetting regulation, reduced amending regulation and little call on Business Impact Assessments (BIAs) for new legislation. The upshot was a modest increase in the assessment activity over 2010-11, but not to the levels in the preceding three years. That said, a small number of Regulatory Impact Statements (RISs) were withdrawn during the
year, others were deferred, and requests for advice regarding Council of Australian Governments (COAG) RISs continued. In short, the activity reported against the targets for 2011-12 do not accurately reflect the effort and effectiveness of the Commission in its regulatory watchdog role. In 2012-13, the Commission will develop, with the Department of Treasury and Finance, a more accurate performance measure for this aspect of its activities.

Competitive neutrality continued to be a small element of the Commission’s overall work in 2011-12. All complaint investigations were finalised during the year and the Commission increasingly focused on raising awareness of competitive neutrality with key stakeholders, which will continue in 2012-13.

Recent inquiries into Victoria’s regulatory framework, and a State-based reform agenda have commented on the strategic importance of Victoria’s regulatory system to lifting productivity and competitiveness. Most significantly, both highlighted the importance of strengthening efforts to improve the performance of regulators in administering and enforcing regulation, especially through more effective adoption of risk-based approaches to regulation. The Commission intends to explore this particular approach in some detail with a number of Victorian regulators over the coming year by supporting development of a community of practice of Victorian regulators to accelerate the adoption of good practice, and developing diagnostic tools for evaluating performance. Chapter 1 provides some further detail on the latter. The intended outcome is identifying significant improvements in practice leading to measurable reductions in regulatory burdens.

In concluding, the Commission acknowledges and appreciates the contribution business, community groups, State government agencies, local governments, and the broader community make to its work.

We particularly thank all the people with whom we have worked, who have been participants in the Commission’s public inquiries or with whom we have had contact over the last year. Notwithstanding the competing demands on their time from a wide range of government inquiries, stakeholders have engaged in an active and constructive dialogue with the Commission and contributed essential ideas and evidence to the Commission’s work.

Finally, on behalf of the Commissioners I thank the members of the VCEC secretariat for their efforts and their strong commitment to our work.

M W Butlin
Chair
1 Raising the bar on regulator performance

Key messages

- The quality of Victoria’s regulatory framework is a potential point of competitive advantage for Victoria. Efforts to improve regulation in Victoria have to date concentrated on improving processes for managing the flow of new or amended regulation, and producing targeted reductions in regulatory burdens.

- Despite recognition from business of Victoria’s relatively good processes for scrutinising and reviewing new or amended regulation, it is not clear that regulatory burdens in the State have been significantly reduced.

- Recent reviews of regulation and its administration highlight the need for a regulatory reform agenda to focus on improving the administration and enforcement of existing Victorian regulation, as a way to make additional progress.

- The Commission’s inquiry into Victoria’s regulatory framework argued that internal and external assessments of regulators’ capacity and performance could be facilitated by Government creating a framework to help regulators diagnose problems and identify improvement opportunities.

- Drawing on an assessment of the patterns of issues arising from recent reviews of regulator performance, as well as existing regulatory frameworks and principles, the Commission intends to work with Victorian regulators over the coming year to develop a diagnostic checklist for regulators. The suggested checklist covers:

  1. Objectives and governance:
     - Objectives are clear and have been agreed with government
     - Regulators have sound governance arrangements
  2. Approach and performance:
     - Risk assessment is used to inform all activities
     - Clear processing times for approvals are communicated
     - Regulators provide authoritative advice
  3. Openness and cooperation:
     - Regulators cooperate and share information and expertise
     - Outcomes of regulation and service efficiency are monitored and reported
     - A program exists for evaluating regulations

1.1 Why improving the performance of regulators is important

The current challenging economic and financial environment adds to the ongoing imperative to improve regulatory performance. The key economic challenges facing Victoria include the slowdown in productivity growth rates across a number of sectors of the economy (VCEC 2011e), and the difficult fiscal environment that has required significant restraint in government expenditure. These challenges highlight the need to look at the way regulation is implemented to ensure that desirable outcomes are achieved at least cost to the community.

For some years Victoria has been a national leader in regulatory reform. It is cited as an example to other states and the Commonwealth of what needs to be done in this area.
by groups such as the Victorian Employers Chamber of Commerce and Industry and the Business Council of Australia. Despite this effort, the volume of regulation grows and individual businesses still identify the burden of regulation as a major and growing barrier to doing business.

In the face of these challenges, this chapter argues that a range of new tools are needed to support efforts to improve the way regulators implement regulation. Implementing regulation is the process of giving effect to regulation through administration and enforcement decisions. The effects of regulators’ performance — whether good or bad — are significant for productivity, liveability and the competitiveness of the business environment because of the size and scope of their involvement in Victoria. In 2009-10, there were 65 business regulators employing around 8600 staff, and spending over $2.6 billion and issuing almost 2.9 million licences (VCEC 2011a, p. 1).\(^1\)

When implemented well, well-designed regulation yields significant benefits. For example, the regulations in Victorian Regulatory Impact Statements (RISs) assessed by the Victorian Competition and Efficiency Commission (VCEC) in 2011-12 quantified a range of benefits totalling $640 million over 10 years. But regulation also imposes costs. The same assessed RISs included quantified costs of about $580 million over 10 years (appendix H). Poor implementation of regulation can give rise to significant and unnecessary costs on businesses and individuals, as well as poorer economic, environmental and social outcomes for society.

The remainder of this chapter looks at specific opportunities to improve the administration and enforcement of regulation and, drawing on the Commission’s recent inquiry into Victoria’s regulatory framework and other sources, outlines a checklist of factors to help regulators diagnose problems and identify improvement opportunities.

### 1.2 Opportunities exist to improve the performance of Victoria’s regulators

Recent work by the Commission, the Victorian Auditor-General’s Office (VAGO) and others has highlighted opportunities to improve the administration and enforcement of regulation in Victoria. Relevant work includes:

- VCEC reviews into specific areas of regulation covering local government (VCEC 2010d), the environment (VCEC 2009) and food safety (VCEC 2007a)
- VAGO audits of regulation, including agricultural food safety (2012a), alcohol-related harm reduction strategies (2012b), the building permit system (2011a), contaminated sites (2011b), professional regulation of teachers (2011c), municipal solid waste (2011d), marine protected areas (2011e), vocational education (2010a), groundwater resources (2010b), and hazardous waste (2010c)
- an independent review of compliance and enforcement in the Environment Protection Authority (EPA) (Krpan 2011).

In addition, the Commission recently completed an inquiry into Victoria’s regulatory framework which addressed, amongst other things, opportunities to improve the administration and enforcement of regulation in Victoria (VCEC 2011m). This review,

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\(^1\) These figures exclude the regulatory activities of Victoria’s 79 councils, catchment authorities, water utilities and national regulators.
together with the others mentioned above, highlight opportunities to improve the performance of Victoria’s regulators.

1.2.1 Recent reviews of regulation

Taken together, the various reviews of regulator performance highlight a number of recurring issues. The Commission has grouped these issues into the following categories:

1. Clarity of objectives: A number of reviews have identified problems arising from unclear legislative objectives, and the practice of setting multiple objectives, without providing guidance on how regulators are to resolve trade-offs when they are in competition. The consequences include concerns about the scope for regulators to pursue their own objectives; uncertainty for business and regulatory staff about how regulation will or should be administered; and inconsistent administration and enforcement of regulation. The VCEC report on local government regulation, for example, found that Victoria's land-use planning policy contains more than 70 objectives, many of which are unclear and conflict with each other. It found that insufficient guidance exists to help decision makers (primarily councils) resolve trade-offs among competing objectives. The Commission argued that unclear and conflicting objectives in the land-use planning system had contributed to uncertainty, time delays and costs to business of complying with land-use planning regulation, as well as significant administrative costs to councils (VCEC 2010d, p. xxxiii).

2. The quality of regulators’ governance arrangements: A number of Victorian reviews have identified shortcomings in governance arrangements, including: regulators performing some functions that conflict with their regulatory roles (such as advising Ministers on relevant policy issues, or administering grant schemes open to regulated entities); unclear or shared accountability for particular regulatory functions (especially in areas where local government is also a regulator); gaps in the internal scrutiny of regulatory decisions (such as a process for reviewing enforcement actions to ensure consistency); and gaps in monitoring and reporting on the outcomes and efficiency of regulations. For example, a review of the EPA identified the potential for conflicts between EPA’s regulatory functions, and its role in awarding grants for environmental improvement initiatives. It recommended that these roles be more clearly separated, for example, by moving management of grant schemes to another agency or by implementing a process that puts administration of such grants at ‘arms-length’ from the EPA (Krpan 2011, p. 279-281).

3. Implementing more risk-based approaches to administration and enforcement: Many of the reviews examined by the Commission identified scope to improve regulators’ approaches to managing risk. This is despite 77 per cent of Victorian regulators self-reporting that they adopt risk-based approaches to enforcing regulation (VCEC 2011a, p. 20). The Commission’s inquiry into a state-based reform agenda, for example, identified a number of areas of regulation where scope exists to apply more risk-based approaches. Areas identified included swimming pool testing, food safety regulation, residential tenancy and dispute resolution, waste management policy (the use of a waste hierarchy to guide decision making, and the setting of landfill levies), regulation of vocational training providers,

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2 The Commission recognises that the reviews cover a subset of Victoria’s regulators, and that some of the issues identified by previous reviews and identified in this chapter may have been addressed by recent changes.

3 At the time this report was finalised the Government had not released the Commission’s final report or a response.
accident compensation, liquor licensing, and regulation of bus services and road worthiness inspections (VCEC 2011e).

- **Delays in key regulatory processes:** Business surveys identify delays in approvals and decision making as major challenges in Victoria. For example, almost half of the businesses surveyed about the impact of local government regulation indicated that they felt uncertain about how long approvals and decisions would take. Uncertainty was most pronounced where the most recent contact with councils related to planning and land-use regulations (65 per cent), and building and construction regulations (63 per cent) (VCEC 2010d, p. 44). A survey of State regulators found that in 2009-10 business was advised of the expected processing time for 46 per cent of permits and licences, and the actual time taken to process applications was publicly reported for only 25 per cent of activities (VCEC 2011a, p. 21). Although less prominent, some reviews have also highlighted delays in enforcement actions. For example, a VAGO audit reported that delays in taking enforcement actions had allowed poorly-managed licensed venues to continue to operate as sources of alcohol-related harm (VAGO 2012b, p. xii).

- **More consistent enforcement:** A consistent and transparent approach to enforcement, using a graduated set of responses, can help engender higher rates of compliance with regulation and community confidence. For example, an audit of hazardous waste management found that, although EPA’s enforcement policy outlined the enforcement measures available to its authorised officers, it did not include guidance on appropriate penalties and graduated enforcement responses (VAGO 2010c, p. 21). It also found that some compliance and enforcement tools were applied inconsistently — for example, the requirement on licensed entities to provide financial assurances was applied inconsistently, due in part to the lack of clear risk criteria or mechanisms to identify licensees needing to provide such assurances (VAGO 2010c, p. 19).

- **A greater focus on outcomes:** Outcome-based approaches to regulation offer flexibility in how businesses comply but can create uncertainty if regulators are unwilling, reluctant or unable to provide authoritative advice on whether proposed activities comply. Several reviews have commented on the unwillingness, or inability of regulatory staff to provide authoritative advice to business. The review of EPA’s approach to compliance and enforcement attributed EPA’s reluctance to provide advice to several issues, including unclear guidance for business and staff, a misconception that staff should not provide advice, lack of clarity in the roles of environmental protection officers, and staff capability and training (Krpan 2011, p. viii).

- **Improving coordination between regulators:** In areas of regulation involving more than one tier of government, such as environmental approvals and building regulation, or in areas where State and local government regulators intersect (such as land-use planning, liquor control, native vegetation removal, and building regulation), the experience of business with regulation can depend the level of coordination and consistency between regulators. A VAGO audit of the management of marine parks found that Parks Victoria and DPI did not share information about illegal fishing in protected areas. This led to DPI’s fishing compliance activities being prepared in isolation from Parks Victoria (VAGO 2011e, p. 21).

- **Improving performance monitoring and reporting, and evaluation:** Almost all recent reviews of regulation identified opportunities to improve performance monitoring and reporting, and evaluation. For example, VAGO audits of alcohol-related harm reduction strategies, contaminated site management and the Victorian Institute of Teaching, identified how information gaps and inadequate monitoring and performance reporting undermined regulators’ ability to develop and apply effective regulatory strategies, and to demonstrate that they were achieving their
objectives. Surveys of Victorian regulators have also found substantial scope for improvement in monitoring, reporting and evaluation (section 1.3.3).

- **Lifting regulators’ capabilities and systems for administering regulation effectively**: The resources, capability and culture of regulators have an important influence on the way regulation is implemented. Regulators need the resources, including revenue from fees and charges, necessary to perform their functions. Staff need the authority to provide clear advice to business on compliance, and the skills to apply regulation efficiently and effectively. Recent reviews have identified opportunities to improve the resources, capabilities and culture of regulators. The independent review of the EPA, for example, found a lack of clarity in the role of environment protection officers to provide advice on compliance. It recommended that environment protection officers be better trained and supported to provide practical compliance advice (Krpan 2011, p. viii). The Commission’s report on local government regulation found that planning permit fee caps imposed by State Government had made it more difficult for councils to efficiently and effectively administer land-use planning regulations (VCEC 2010d, p. xxxv).

In conclusion, recent reviews of regulator performance in Victoria highlight improvement opportunities in a number of areas. The potential benefits of addressing these issues are likely to be significant. For example, for those reviews undertaken by the Commission, it was estimated that the potential cost saving to business, from implementing the Commission’s recommendations could be around 10 per cent, without reducing the benefits of regulation (VCEC 2010b, p. viii). These savings have been based largely on changes in the way regulators apply regulations and improving regulators’ capacity and resources. These inquiries have also highlighted major differences in capacity, effectiveness and attention to improvement among Victorian regulators.

### 1.2.2 Regulatory framework inquiry

In March 2012 the Victorian Government released the final report of the Commission’s inquiry into Victoria’s regulatory framework. A key purpose of the inquiry was to identify ways to improve the institutional framework that drives ongoing regulatory reform. The final report identified a number of improvements to Victoria’s systems for actively managing the stock and flow of regulation, and for ensuring regulation is administered efficiently and effectively (VCEC 2011c).

The report argued that regulators’ incentives and capacity to administer and enforce regulation efficiently and effectively are a product of the systems in place to encourage continuous improvement. These systems include the accountability frameworks within which regulators operate, as well as mechanisms enabling regulators to cooperate and share information on best practice.

The Commission identified several opportunities to strengthen regulators’ incentives and capacity to improve performance. The report noted that the administration and enforcement of regulation are not subject to clear, whole-of-government performance requirements. This situation contrasts with the design stage of regulation, where the Victorian Guide to Regulation lays out a range of consistent requirements applying to the design and scrutiny of new regulatory proposals (VCEC 2011c, p. 118). The Commission concluded that this lack of clarity contributed to regulation being administered and enforced in a way that had reduced the benefits of regulations and added to uncertainty, delays in decision making, and excessive administrative costs to business.

To help address these issues, the Commission recommended developing a ‘good practice’ standard or checklist that would enable Victorian regulators’ current practices to be assessed, as part of a broader performance reporting framework for regulators. The Commission argued that such a checklist would enable ongoing
(internal or external) assessment of the operational performance of regulators. To complement the development of a performance framework, the Commission also recommended that the Victorian Government develop a more formal peer review process, similar to the approach adopted in the United Kingdom, involving external assessment of regulators’ performance against a consistent set of regulatory enforcement principles (VCEC 2011c, pp. 130-1).

**Government response to the regulatory framework inquiry**

The Victorian Government supported the Commission’s recommendations to develop a performance reporting framework for Victorian regulators (Government of Victoria 2012b, p. 20). The response indicated that the Department of Treasury and Finance would lead the establishment of a framework to achieve a more consistent and coordinated approach to the administration and enforcement of regulation. This framework is to include, amongst other things, statements of expectations for regulators, a whole-of-government regulator performance reporting framework, and a more systematic approach to evaluating existing regulations (Government of Victoria 2012b, pp. 18 and 21). The response indicated that the Government would consider options for a performance reporting framework in 2012 and will assess the merits of a peer review process (Government of Victoria 2012b, p. 20).

**1.3 Towards a good practice checklist for Victorian regulators**

Reflecting the Government’s response to the regulatory framework inquiry, the Commission has considered the question of what should be included in a ‘good practice’ checklist for Victorian regulators. The Commission believes that having such a checklist can help highlight gaps and opportunities to improve and enable regulators to set clear expectations for staff and regulated entities, and to track progress towards desired outcomes. Potentially, a checklist also permits more effective and consistent external assessment of regulators by bodies such as VCEC and VAGO.

The checklist outlined below draws heavily on lists of principles and actions developed in Victoria and other jurisdictions. To ensure its relevance to issues in Victoria, the elements of the checklist were chosen based on an assessment of the major improvement opportunities identified above (section 1.2.1). A proposed good practice checklist for Victorian regulators would address the following three broad areas:

1. Objectives and governance.
3. Openness and cooperation (table 1.1).

The purpose of putting forward a checklist is to stimulate further development and refinement of a list that is tailored to the issues and challenges facing Victorian regulators. The checklist set out below is necessarily broad and requires further tailoring and greater specificity. Ideally, the list would be developed with input from regulators, other government agencies, including departments, VCEC and VAGO, and tested with business and not-for-profit groups.

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4 Several regulators and departments have developed guidance on administration and enforcement, including CAV (2012), DPI (2012) and EPA (2012). See also Government of Victoria (2010b).

5 See for example, Hampton (2005) and OECD (2012).
Table 1.1 Reconciliation of the good practice checklist and regulatory challenges in Victoria

<table>
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<th>Best practice checklist</th>
<th>Identified challenges</th>
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<td><strong>Objectives and governance</strong></td>
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| 1. Objectives are clear and have been agreed with government | • Multiple or unclear objectives  
• Lack of guidance on how to resolve competing objectives |
| 2. Regulators have sound governance arrangements | • Poor or ambiguous internal and external governance arrangements |
| **Approach and performance** | |
| 3. Risk assessment is used to inform all activities | • Limited use of risk-based approaches in implementing regulation  
• Inconsistent application of different enforcement tools |
| 4. Clear processing times for approvals are communicated | • Delays in key regulatory processes such as assessing permit applications or undertaking enforcement  
• Limited or no performance measures |
| 5. Authoritative advice is provided | • Implementing outcomes-based regulation  
• Poor culture and limited authority for staff |
| **Openness and cooperation** | |
| 6. Regulators cooperate and share information and expertise | • Duplication and lack of coordination in the collection of information, assessment of permits and approvals  
• Unnecessary delays in approval processes |
| 7. Outcomes of regulation and service efficiency are monitored and reported | • Quality of governance  
• Inadequate or absent performance measures  
• Poor or no stakeholder feedback |
| 8. A program exists for evaluating regulations | • Very limited use of evaluation  
• Ongoing burdens or limitations in regulatory design and implementation |

Source: VCEC.
1.3.1  Objectives and governance

A number of reviews of regulation have identified opportunities for improving the way objectives are specified and internal and external governance arrangements of regulators. These reviews have also made recommendations for improvements that are worth highlighting in a good practice checklist.

Regulators’ objectives are clear and have been agreed with government

Setting clear objectives, in legislation or in supporting guidance, helps to ensure that regulation and its implementation focus on identified problems and intended outcomes rather than the process (the ‘ends’ rather than the ‘means’). Setting clear objectives also facilitates effective performance monitoring and evaluation, which in turn, underpins continuous improvement, improved accountability and greater community acceptance of regulation (VCEC 2009, pp. 275-6).

Without clear objectives, regulators must make informed judgements about priorities and the limits of their roles. While this gives regulators the flexibility to adapt to changing circumstances, it undermines accountability by making it harder to assess whether regulators have achieved their objectives.

A number of best practices for setting regulators’ objectives have been identified in the literature. The consensus seems to be that while a case-by-case approach is appropriate, the desirable features of regulatory objectives include one or more of the following:

- **Objectives should be clear and focus on outcomes to be achieved** to avoid unnecessary ambiguity. An illustrative example is Victoria’s Food Act 1984 which contains the broad objective that food should be ‘safe and suitable for human consumption’ (s 3a). To address ambiguity about the meaning of ‘suitable’ (whether both quality and safety are relevant), the objective could be expressed as ‘reducing the incidence of food borne illness’ (VCEC 2007a, p. 172).

- **Objectives should not conflict**, or where they do, guidance should be provided to regulators on the factors to consider in decision-making. A number of areas of regulation state that regulators should balance economic, environmental and social objectives. The Hampton principles suggest that objectives should recognise that a key element of a regulators’ work will be to allow, or even encourage, economic progress, and only to intervene when there is a clear case to do so (Hampton 2005, p. 7).

- **Avoid aspirational objectives**: Terms like ‘minimising’ or ‘ensuring’ are sometimes used in regulatory objectives but are often impractical or costly to implement if pursued to extremes. Stating objectives in these terms is inconsistent with adopting a risk-based approach to regulation (see below), can create unrealistic expectations about what regulation can achieve and exposes regulators to unreasonable criticism from regulated businesses, the community and external reviewers.

While objectives are desirably contained in legislation, instruments such as ministerial statements of expectations can clarify government expectations about priorities or how decisions will be made, without compromising the independent exercise of regulatory discretion. The Commission’s inquiry into Victoria’s regulatory framework recommended that the Victorian Government develop statements of expectations for regulators, partly to encourage greater clarity about priorities and assist regulators making trade-offs between competing objectives (VCEC 2011c, p. 115) The Victorian Government supported this recommendation and committed to develop model statements to be in
place for an initial tranche of regulators by the end of 2012, and for all remaining regulators by July 2013 (Government of Victoria 2012b, p. 18).

**Regulators have sound governance arrangements**

How regulators are directed, controlled, resourced and held to account is crucial to the overall effectiveness of regulation. In the regulatory sphere, relevant aspects of governance include the nature of the relationships between the executive management of a regulator and any board of directors, the minister or ministers, and the Parliament (Government of Victoria 2010b, p. 1).

Recent reviews of regulation and previous Victorian guidance have identified key aspects of governance:

1. **Avoid conflicting functions:** The assignment of conflicting functions should be avoided except in cases where there is a clear public benefit and risks can be managed. For example, responsibility for advising the Minister on policy (such as the effectiveness of regulation and the need for changes to the regulatory frameworks), or for administering grants or other programs to raise the level of compliance, should sit with the Minister’s department, with close dialogue with regulators.

2. **Ensure independence:** Regulatory decisions can have a major effect on businesses and the community, and can be politically contentious. The quality of regulation depends on ensuring that decisions are seen to be (and are) based on evidence and expert input, and free of conflicts, bias or improper influence. To build confidence, ensure impartiality, regulators should be arms-length from ministers and the Government. Exceptions arise if regulatory decisions have limited impact on individuals or businesses and/or regulators are not expected to undertake major enforcement actions such as imposing fines or deregistering entities. Ministers should have the power to give general directions to an independent regulator but such directions should be justified, documented and transparent to the public.

3. **Accountability and transparency:** Arrangements should be in place to ensure that regulators discharge their responsibilities in ways that are efficient, effective and fair. As noted, Victorian ministers will in future outline their expectations for regulators in Statements of Expectations. Another aspect of accountability and transparency is the right for affected parties to seek internal or independent review of decisions, with the type of review mechanism linked to the significance of the decision. Regulators should also report regularly and publicly on performance in meeting their objectives and the expectations of ministers (see below).

Other aspects of good governance that are important and have been addressed in other sources of guidance, include the corporate form of regulators, approaches to community engagement and funding (Government of Victoria 2010b).

**1.3.2 Approach and performance**

Many reviews of Victorian regulation have identified opportunities to improve the approach and capabilities of regulators in areas like risk assessment, timeframes for decisions, and the authority and capabilities of regulatory staff.

**Regulators use risk assessment to inform all of their activities**

Recent reviews have identified opportunities to improve outcomes and lessen regulatory burdens through the wider use of risk assessment to inform the administration and enforcement of regulation in Victoria.
The fundamental principle of risk assessment is that regulators’ scarce resources should be allocated across issues based on an assessment of the likelihood and consequences of harm, and the capacity of regulation to reduce the risk of that harm occurring. Regulatory inspections are a commonly cited example of how risk assessment can be used to target regulatory activities. Under a risk-based approach to inspections, low-risk businesses would receive fewer inspections either because the work they do is inherently safe, or because their systems for managing the regulatory risk are good (Hampton 2005, p. 27). The Organisation for Economic Cooperation and Development’s (OECD) principles for assessing regulatory performance call for appropriate risk assessment to be applied not just to risk management practices, but to risk communication strategies as well (OECD 2012, p. 14).

The literature on risk assessment identifies a number of best practice principles for risk-based regulation. The Hampton Review in the UK, for example, identified the following principles to guide risk-based administration and enforcement:

- Risk assessment should be based on a transparent methodology that is simply expressed (preferably mathematically).
- The assessment of risk should take past performance into account, as well as potential future risk.
- Risk assessment should use all available good quality data, and be applied uniformly and impartially, in a dynamic, not static, manner.
- Risk assessment should be carried through into funding decisions (so that resources are concentrated on the highest risks).
- Penalty and enforcement regimes should incorporate deterrent effects and inspections should always include a small element of random inspection (Hampton 2005, p. 31).

As noted, a recent review of the EPA highlighted major deficiencies in that organisation’s approach to risk and recommended that it adopt a proactive, evidence- and risk-based approach to compliance and enforcement (Krpan 2011, p. viii). Subsequently, EPA released a guide on its approach to risk assessment that incorporates principles of risk-based regulation (figure 1.1). EPA’s compliance policy details how it will allocate its resources across its various activities (including licensing, inspections, audits and incident response) to reduce the risk of harms to human health and the environment. The EPA’s approach to allocating resources will take account of not just the inherent risks to human health and the environment, but to the characteristics and track record of regulated businesses.

A way for larger regulators to test the robustness of their risk management approach is to seek third party accreditation, as commonly occurs in business sectors such as finance, insurance, and manufacturing.

While a number of Victorian regulators have incorporated risk-based approaches into the administration and enforcement of regulation the Commission has previously argued that there is scope to go further in a number of areas and to achieve a more consistent approach across Victoria’s regulators, as well as local government.

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6 According to the OECD, ‘risk communication refers to the methods and practices for educating and informing the public about risks when making risk trade-offs, and is a critical component of the risk policy cycle. Improving public understanding of the nature of the risks and the risk management measures can increase the public acceptance of the risk elements that cannot be reduced through further management’ (OECD 2012, p. 27).
The draft report of the Commission’s inquiry into a state-based reform agenda outlined the potential benefits of a whole-of-Victorian Government approach to risk-assessment in the design, administration and enforcement, and review of regulation (VCEC 2011e). Development of such guidance was supported by a number of participants, including government entities, with some also noting the need for regulators to improve their skills and capacity to understand and apply more risk-based approaches. The draft report also identified opportunities to apply risk-based approaches in specific areas of regulation:

- waste management
- liquor control
- roadworthiness inspection
- residential tenancies
- food handling.

**Regulators have clear processing times for approvals which are communicated to applicants**

As noted, several reviews of regulation have identified how delays in regulatory processes have imposed significant costs on businesses and the community. It is important to recognise that the need for steps such as community consultation, whilst adding to timeframes, adds value to approval processes by helping to produce better informed and more widely accepted decisions. Perceived delays can also be caused by factors outside a regulator’s control, for example if an applicant is poorly prepared or unresponsive to a regulator’s requests. In such circumstances, it is usually reasonable to exclude the time taken by proponents to provide missing information, provided that the information requirements were clear in the first instance (VCEC 2011c, pp. 101–102). Nevertheless, the evidence collected in recent reviews suggests there is significant scope to improve regulatory processes to reduce delays and uncertainty about expected timeframes.
A number of actions could strengthen incentives and accountability for improving the timeliness and transparency of regulatory decisions including:

- adopting more risk-based approaches to approval processes by, for example, creating fast-track assessments (for issues that are low-risk, or for applicants with good track records on compliance with regulatory requirements)
- inserting stricter time limits into legislation (such as deemed to comply requirements)
- ministers setting out clear expectations for regulators about timeliness in statements of expectations or ministerial directions
- regulators publishing target timeframes and reporting publicly on performance
- regulators collecting and reporting stakeholder feedback on performance, especially the timeliness of decisions or whether expected timeframes were met
- creating financial or other incentives for improved performance both by applicants and for the regulators, such as guaranteed processing times for complete or pre-certified applications, funding bonuses or penalties for regulators.

Careful design of mechanisms to improve the timeliness of decision making is essential. For example, measuring timeliness for decisions but not outcomes could lead to more rapid but poorer decisions, undermining confidence in regulatory performance. Increased reporting of timeframes brings risks of ‘gaming’ of the data or approval processes by regulators and/or regulated entities. These and other risks need to be addressed in the way such initiatives are designed and implemented.

**Regulators provide authoritative advice**

The behaviour of regulatory staff can influence the views of regulated entities about the complexity of regulation and the willingness and capacity of businesses to comply. Several reviews have identified that regulatory staff may be unable, or unwilling, to provide specific advice on whether proposed activities would comply with regulatory requirements. This results in extra uncertainty and costs to business (particularly small business), particularly in areas where regulation specifies the outcomes that are to be achieved rather than the specific actions needed to comply.

The willingness of staff to provide authoritative advice may depend on organisational culture, internal controls placed on staff for probity and other reasons, and specific legislative requirements. Addressing these issues may require a number of actions including:

- ensuring staff are equipped with the necessary technical and other knowledge
- clarifying the roles of staff (within the relevant legislation), specifying where possible that they are expected to provide authoritative advice and defining clear limits on their role
- supporting staff by developing clear guidance (such as pre-determined positions on recurring issues or questions)
- developing internal quality controls on advice provided to businesses, such as requiring advice to be written down, and peer review of advice.

Because regulatory decisions can have major cost and other implications for regulated entities, safeguards are necessary to protect the integrity of advice. Some regulators also provide businesses with an opportunity to seek an internal review of advice, separately from any appeal rights provided by the regulation.
1.3.3 Openness and cooperation

Recent reviews of Victorian regulation have identified opportunities to improve cooperation and information sharing between Federal, state and local government regulators, performance monitoring and reporting, evaluation of regulations and undertake more evaluations of regulation.

Regulators cooperate and share information with one another

Previous reviews of regulator performance have noted the potential for overlaps and poor coordination and the resultant impacts on regulatory burdens and outcomes.

There may, however, be practical constraints on regulators’ ability to eliminate duplication because of limits on their resources, the requirements in the legislation they administer and the need to obtain the cooperation of regulators at the local government and Federal levels. Another barrier could be that regulators do not have a clear understanding of the legal limits on sharing information.

Notwithstanding these practical barriers, a number of options may be available to improve coordination between regulators:

- Merging regulators or reallocating responsibilities to ensure a single point of accountability. The Victorian Commission for Gambling and Liquor Regulation was created by combining the regulatory functions of the Liquor Licensing Commissioner and the Victorian Commission for Gambling Regulation. A further option is to combine in one organisation functions that are common to multiple regulators. An example could be creating a dedicated group to undertake inspections relating to several areas of regulation.

- Contracting out provision of certain regulatory services (with other regulators or private providers). For example, landholders can already contract with accredited technical experts to obtain assessments of contaminated sites or of any native vegetation offsets required under clearing controls.

- Allowing competitive provision of some regulatory services, with appropriate audit. For example, private building surveyors are authorised to perform regulatory functions under building regulations, such as issuing building permits and carrying out building inspections.

- Enabling one regulator (such as a local council) to provide regulatory advice that binds other regulators, as happens with the United Kingdom’s primary authorities scheme (VCEC 2010d, p. 310).

- Establishing various types of coordinating body, such as the Committee of Food Regulators which brings together the State’s food safety regulators.

- Establishing forums for sharing information on best practice, as recommended in the Commission’s inquiry into Victoria’s regulatory framework (VCEC 2011c, p. 118). This could be done for regulators at a portfolio level, such as DPI’s Forum of Primary Industry Regulators (VCEC 2011c, p. 116), and for all regulators.

- Using existing consultation mechanisms to improve coordination, such as the Council of Australian Governments and intergovernmental committees (for Federal/State issues), or the Local Government Ministerial Forum (at the State/local government level).

- Developing memoranda of understanding (MoU) between State regulators. For example, the Department of Sustainability and Environment (DSE) and DPI entered into an MoU covering mining approvals to resolve areas of confusion and reduce
delays. According to DPI, this helped reduce average processing times by around 45 per cent (VCEC 2009, p. 266).

There is limited evidence on the effectiveness of these various options. In principle, organisational restructures and contracting out are likely to be more costly and risky to implement compared to alternatives such as forming coordinating groups, communities of practice, and developing MOUs, but such options may have greater and more sustainable benefits. Improved performance monitoring and reporting would help build an evidence base on these options for improving cooperation (see below).

**Outcomes of regulation and service efficiency are monitored and reported**

As noted, a characteristic of good governance arrangements is that regulators report publicly on performance in meeting their objectives and the expectations of Ministers. Good monitoring and reporting of performance is also a necessary element of a continuous improvement strategy, and helps build community confidence in the administration of regulation.

Despite its importance, reviews of regulation and its implementation have consistently identified shortcomings in monitoring and reporting on outcomes and service efficiency (such as the timeliness of decisions). The Commission’s most recent survey of Victorian regulators found that the annual reporting practices of Victorian regulators differ widely. Overall, 60 per cent of all regulators report on measures of outcomes or compliance; 35 per cent of regulators report on the timeliness of decisions; 25 per cent report on the allocation of resources across regulatory functions; and 32 per cent report on client satisfaction with regulator activities. Rates of performance reporting by larger regulators were found to be markedly higher than smaller regulators (VCEC 2011a, p. 15).

Regulators have incentives and disincentives to report their performance. The disincentives include the implementation costs, data gaps and perceived difficulties in attributing changes in outcomes to regulatory activities, reputational risks (especially when performance has been poor), and risks that incomplete or partial measures of performance will distort decision making (VCEC 2007b, p. 8).

The Commission’s inquiry into Victoria’s regulatory framework examined options for strengthening incentives to undertake monitoring and reporting on performance. It recommended that the Government develop a performance reporting framework that could be used to assess Victorian regulators’ current practices against a ‘best practice’ standard. The Government supported this recommendation, with the Department of Treasury and Finance tasked to develop a framework to underpin a more consistent and coordinated approach to administrative and enforcement aspects of regulator performance (Government of Victoria 2012b, p. 20).

In the coming year, the Commission intends to work with the Department of Treasury and Finance to develop an approach to reporting on regulator performance.
A program exists for evaluating regulations

Evaluation is broader than monitoring or performance reporting — it tries to explain the observed outcomes and understand the logic of public intervention, to suggest opportunities for improvement (VCEC 2011c, p. 136). Previous reviews have identified a lack of evaluation of regulation and how this has impeded continuous improvement in the way regulation is designed and implemented (VCEC 2009 and 2011c).

The Commission’s inquiry into Victoria’s regulatory framework identified a number of benefits from a more systematic approach to evaluating regulation, including: improvements in the quality of regulation and its administration, improvements in information to aid decision making, improved support for regulation and its reform from stakeholders. It also identified potential barriers, including doubts about its influence on decision making, expertise and cost (VCEC 2011c, pp. 135-140). The Commission recommended that the Victoria Government require departments to conduct evaluation of new and sunsetting regulations with a significant impact, based on whole-of-government guidance. In its response, the Government indicated that it supports early, systematic and proportionate evaluation of high impact sunsetting regulations and targeted reviews of new or amended legislation that introduce new regulatory burdens, based on updated guidance to be incorporated in the Victorian Guide to Regulation (Government of Victoria 2012b, p. 22).

In the coming year, the Commission intends to work with the Department of Treasury and Finance to develop more detailed requirements for the evaluation of regulation.

1.4 Conclusion

In Victorian debates about improving regulation a key focus has been to reduce unnecessary regulation through better design, strengthening independent gatekeeping processes, and reducing regulatory burdens through red tape reduction targets and programs. The recent work of the Commission, VAGO and others has highlighted the importance of addressing the way regulators administer and enforce regulation.

Developing a good practice checklist for Victorian regulators could help to further strengthen incentives facing regulators to improve the administration and enforcement of regulation. The elements of a checklist set out in this chapter has been developed drawing on existing approaches and a review of the scope for improving regulator performance. In the coming year, the Commission intends to work with departments, regulators and other stakeholders to develop the checklist further.
2 The Victorian Competition and Efficiency Commission

2.1 Role of the Commission

The Victorian Government established the Victorian Competition and Efficiency Commission (the Commission) in 2004 to be ‘the State’s foremost advisory body on business regulation reform and opportunities for improving Victoria’s competitive position’ (Government of Victoria 2004a, p. 25). The Commission carries out its advisory role through three complementary functions:

(1) undertaking inquiries into matters referred to it by the Victorian Government
(2) reviewing and advising on the economic impact of significant new legislation and regulation and the adequacy of measurements of the regulatory burden of regulation
(3) operating Victoria’s Competitive Neutrality Unit.

The Commission is established under the State Owned Enterprises (State Body — Victorian Competition and Efficiency Commission) Order 2004 (Government of Victoria 2004b). The Order prescribes how the Commission should undertake its activities and the independent role of its Commissioners. The Order also outlines the principles with which the Commission must comply, stating that it must demonstrate:

- an overarching concern for the wellbeing of the community as a whole, rather than the interests of particular industries or groups
- the provision of analysis and advice that is independent and rigorous.

The Order requires the Commission to report annually on its performance against its work program. Chapters 3, 4 and 5 provide this report for each of the Commission’s three functions. Section 2.4.1 provides information on the Commission’s performance indicators.

The Commission is serviced by a Secretariat of staff who report to the Commissioners, and its independence is supported by the arrangements under which the Commissioners and Secretariat staff operate. Section 2.2 discusses this further.

2.1.1 Inquiries

Inquiries enable the Commission to examine, in detail, areas of the Victorian economy referred to it by the Treasurer on behalf of the Government. During 2011-12, the Commission submitted two final reports: Inquiry into a More Competitive Victorian Manufacturing Industry; Inquiry into a State-based Reform Agenda; one draft report: Inquiry into Feed-in Tariffs and Barriers to Distributed Generation; and commenced one inquiry: Inquiry into the Social and Economic Costs of Problem Gambling. Three Government responses to Commission inquiries were released during 2011-12: Inquiry into Victoria’s Manufacturing Industry; Inquiry into Victoria’s Regulatory Framework; and Inquiry into Regulatory Impediments in the Financial Services Sector. Chapter 3 provides more information about inquiries.
2.1.2 Regulation review

The Commission’s second function is to provide advice on the adequacy of the analysis in Regulatory Impact Statements (RISs) and Business Impact Assessments (BIAs). These documents are prepared by departments or agencies proposing new or amended regulations (in the case of RISs) or legislation (in the case of BIAs). RISs are required only when regulation imposes a significant economic or social burden on a sector of the public, and BIAs are required for legislation expected to have a significant effect on business or competition. Ministers determine whether their regulatory proposal meets the relevant threshold tests.

By advising on the adequacy of the analysis in RISs and BIAs, the Commission encourages those developing regulations or legislation to follow good practice, as defined in the Victorian Guide to Regulation (Government of Victoria 2011a). Good practice includes clearly specifying the problem to be addressed, then identifying and, where possible, quantifying the costs and benefits of different options for addressing that problem.

The Commission’s role was extended in October 2010 to verify measurements of changes in the burden of regulation (Government of Victoria 2010a). The Regulatory Change Measurement (RCM) methodology is used to measure changes in administrative, substantive compliance and delay costs.

The Commission also provided advice to Victorian Government departments on the development of Council of Australian Governments (COAG) RISs as well as advising on the adequacy of the supplementary impact analysis prepared by the Victorian Government on the proposed national model occupational health and safety laws.

In 2011-12, the Victorian Government released its response to the Commission’s final report, Inquiry into Victoria’s Regulatory Framework: Strengthening Foundations for the Next Decade, and supported 35 recommendations (wholly, in principle or in part) and is further considering four other recommendations. Three recommendations were not supported. The Government’s response endorsed the work of the Commission to improve regulatory outcomes, and successful implementation of the recommendations supported by the Government will further enhance Victoria’s regulatory performance.

Chapter 4 reports on the Commission’s activities in 2011-12 and explains how it is assisting agencies to develop RISs, BIAs and RCMs, as well as the Commission’s role in implementing the Government’s response to the regulatory framework inquiry.

2.1.3 Competitive neutrality

The Commission’s third function is to encourage government agencies and local governments to apply the Government’s Competitive Neutrality Policy (Government of Victoria 2000) in their significant business activities. The aim is to improve efficiency by ensuring government businesses competing with private businesses do not enjoy a competitive advantage simply because they are publicly owned. The policy is applied only where it is in the public interest to do so. Chapter 5 reports on the Commission’s competitive neutrality activities.

2.1.4 Allocation of resources across functions

Table 2.1 estimates how the Commission’s resources were allocated across its functions in 2011-12. Seventy-four per cent of the Commission’s expenditure was allocated to inquiries, 19 per cent to regulation review and 7 per cent to competitive neutrality. Competitive neutrality requires comparatively fewer resources given generally
satisfactory compliance with the policy, although the number of complaints can vary from year to year.

### Table 2.1 Resource use, 2011-12

<table>
<thead>
<tr>
<th></th>
<th>Inquiries</th>
<th>Regulation review</th>
<th>Competitive neutrality</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff (full-time equivalents)(^a)</td>
<td>15.4</td>
<td>5.1</td>
<td>2.1</td>
<td>22.6</td>
</tr>
<tr>
<td>Total expenditure(^b)</td>
<td>$3.21m</td>
<td>$0.81m</td>
<td>$0.31m</td>
<td>$4.34m(^c)</td>
</tr>
</tbody>
</table>

Notes: \(^a\)Average staffing over the year, includes Commissioners and Secretariat staff. \(^b\)Includes Commissioner remuneration, expenditure on Secretariat salaries and related staff costs, and expenditure directly related to each function, such as printing and travel. The breakdown across functions for some expenditure (such as recruitment, office supplies and rent) is estimated because it cannot be directly attributed to each function. Excludes some support services provided by the Department of Treasury and Finance, such as library services, human resources and information technology. \(^c\)Total figures do not add up due to rounding.

Source: Commission analysis.

### 2.2 About the Commission

#### 2.2.1 The Commissioners

The Commission’s Order in Council states that Commissioners:

- are responsible for managing the affairs of the Commission
- may exercise the powers of the Commission.

The Commission must consist of a chair (who is a Commissioner) and two to four additional Commissioners, all of whom must have experience as business leaders, academics and/or public policy practitioners. The Government has appointed two full-time Commissioners and one part-time Commissioner from diverse backgrounds (boxes 2.1, 2.2 and 2.3), which fosters the provision of broadly-based, independent advice as required by the Order. Commissioners come to their own views about the issues raised in all three of the Commission’s functions.

Most of the Commissioners’ time is spent on work related to public inquiries, although Commissioners approve all competitive neutrality investigation reports. The Commissioners have authorised the executive members of the VCEC’s Secretariat to provide advice on the adequacy of RISs, BIAs and RCMs, under their guidance and direction (VCEC 2011j). Commissioners are consulted on RISs, BIAs and applications of the RCM that raise particularly challenging analytical issues. The Commissioners approve the RIS/BIA review procedures and monitor their implementation by the Secretariat. Eight formal Commission meetings were held during 2011-12, with each meeting being attended by all Commissioners.

While the Commission is accountable to the Treasurer, the following arrangements support its capacity to develop an independent view:

- The Governor-in-Council appoints Commissioners, and their appointments can be terminated only on the grounds of misbehaviour, or physical or mental incapacity.
- A framework agreement exists between the Secretary of the Department of Treasury and Finance and the Chair of the Commission to ensure the
independence of the Secretariat’s advice to the Commission. The agreement covers the direction of staff, information sharing, ministerial briefing, and administrative policies and procedures, and is published on the Commission’s website.

- The transparency of the Commission’s processes are established by the Order, which specifies that:
  - the content and action taken in respect of any direction made by the Treasurer to the Commission must be reported in the annual report, which the Treasurer should publicly release within three months of receiving it
  - the Treasurer should publicly release final inquiry reports within six months of receiving them from the Commission.

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**Box 2.1 Chair Butlin**

Dr Matthew Butlin was appointed Chair of the Victorian Competition and Efficiency Commission for a period of three years, from 1 October 2008. He has been reappointed for a further three years until 30 September 2014.

Dr Butlin’s business and private sector experience includes senior executive roles in Newcrest Mining, CRA (now Rio Tinto), management consulting and the Business Council of Australia. His public policy experience includes senior roles in Commonwealth departments, and as a Commissioner of the Productivity Commission. He was a visiting economist at the Japanese Government’s Economic Planning Agency and was an external member of the Defence Department’s Defence Executive between 1998 and 2000.

Dr Butlin was trained at the Australian National University and the Massachusetts Institute of Technology and has published in the fields of economics, economic history and management consulting, including innovation. He is currently on the councils of Leadership Victoria and the Economic Society of Australia, and is President of the Society’s Victorian Branch.

At the Commission, Dr Butlin has presided on the inquiries into a State-based reform agenda, Victoria’s manufacturing industry, Victoria’s regulatory framework, environmental regulation, financial services, and streamlining local government regulation. He has contributed to the inquiries into feed-in tariffs and barriers to distributed generation, Victoria’s tourism industry and the sharing of government and community facilities. He is also currently contributing to the inquiry into the social and economic costs of problem gambling.
**Box 2.2  Commissioner Cope**

Deborah Cope was appointed as a part-time Commissioner in November 2008 and converted to full time on 1 September 2010. In 2011, she was reappointed for a further three years until 30 September 2014. Ms Cope has over 25 years’ experience in public policy, including 15 years with the Commonwealth Government and over 10 years as a consultant to public sector and other clients. Her consulting business, PIRAC Economics, provided economic analysis and policy advice to clients in Australia and overseas, in areas that include regulatory reform, competition policy, consumer policy, infrastructure regulation, and competitive neutrality.

Ms Cope was the Deputy Executive Director of the National Competition Council, Deputy CEO of the Office of Northern Development and previously worked with the Productivity Commission, the Industry Commission and the Industries Assistance Commission.

Ms Cope was a Board member for the Centre of Social Research (Darwin) and the Co-operative Research Centre (CRC) for Tropical Savannas. She also chaired the industry consultative committee for the CRC for Tropical Savannas.

Ms Cope presided on the inquiry into feed-in tariffs and barriers to distributed generation and the inquiry into Victoria’s tourism industry. She has contributed to the inquiries into a State-based reform agenda, Victoria’s manufacturing industry, Victoria’s regulatory framework, the sharing of government and community facilities, and financial services. She is currently contributing to the Commission’s work testing approaches to improving the performance of regulators.
Box 2.3 Commissioner Mountford

Bill Mountford was appointed as a Commissioner in October 2010. He has a wide range of experience in both the private and public sectors. He has run a number of Government agencies, most recently the Victorian WorkCover Authority where he was CEO until 2003. He was Executive Director of the Australian Manufacturing Council, a tripartite advisory body to the Minister for Industry, Science and Technology from 1988 until 1994. He was also a Ministerial Advisor to the Victorian Minister for Industry, Commerce and Technology from 1984 until 1985.

He spent many years working as a consultant focused on strategic and organisational issues including board reviews. He is currently a Director of Insight Economics, which provides public policy and business strategy advice to governments and businesses.

Mr Mountford provides advice to corporate boards, typically through evaluations of their performance. He is also a director of Melbourne Health, the State Government’s metropolitan health network based around the Royal Melbourne Hospital.

Mr Mountford graduated from Monash University with a Bachelor of Economics (Honours) and has a Master of Philosophy in Economics from Cambridge University. He has also completed the Advanced Management Program at the Harvard Business School.

Mr Mountford is presiding on the inquiry into the social and economic costs of problem gambling and has contributed to the inquiries into a State-based reform agenda, Victoria’s manufacturing industry and Victoria’s tourism industry.
2.2.2 The Commission’s secretariat

The Commission is supported by a Secretariat of approximately 18 full-time equivalent staff\(^1\) (appendix B). The Secretariat has specialist expertise in economic and regulatory analysis and competitive neutrality policy, and dedicated legal and administrative support. It comprises employees of the Victorian public sector, who are bound by the employment and conduct principles contained in the Public Administration Act 2004 (Vic). The Secretariat selects its own staff and appoints independent consultants and contractors who assist the Commission through the Secretariat’s Executive Director.

The Secretariat is solely dedicated to servicing the Commission and is not subject to direction by the Department of Treasury and Finance on matters relating to the Commission’s functions. Its Executive Director is subject to the direction of the Commission when preparing advice and analysis on issues raised by the Commission’s inquiries, reviews and competitive neutrality functions (figure 2.1).

Figure 2.1 Management structure, 30 June 2012

Material provided by agencies or the public that the Commission accepts on a confidential basis is not provided to the Department of Treasury and Finance (or any other part of government) without the express permission of the information source. The Department, however, keeps the Commission and its Secretariat abreast of policy and other relevant developments necessary for the Commission to undertake its role.

To ensure the Commission operates as efficiently as possible, and to help it gain access to the Department’s facilities and expertise, the Secretariat operates within the Department’s administrative policies and procedures. The Department provides support functions to the Commission, such as information technology, finance, procurement, human resources and library services, and assigns a pro rata share of those overheads when reporting in the State Budget output, on Regulatory Services—Business Environment Policy Advice (Government of Victoria 2012a, pp. 321–322).

\(^1\) As at June 2012.
2.3 The Commission’s operating principles

2.3.1 A community-wide perspective and transparency

The Commission is required to adopt a community-wide perspective and this has important implications for the way it conducts itself.

Public inquiries

The Commission’s perspective when undertaking its inquiry function is based on its Order in Council, which requires that it act with an overarching concern for the well-being of the community as a whole (Government of Victoria 2004b). Accordingly, the Commission has regard to long-term and indirect effects across the community as a whole, rather than just focusing on the direct effects on particular groups. Broad-based research and consultation assist this process. The inquiry process commonly involves:

- preparing an issues paper that is widely circulated after press advertising
- inviting submissions from all interested parties and actively seeking views from those with different perspectives
- posting all submissions and highlights of some roundtable discussions on the Commission’s website
- publishing draft reports that enable interested parties to respond to preliminary analysis and permit the broader community to judge whether the Commission has taken a community-wide approach
- submitting a final report to Government.

In addition to its internal quality control processes, the Commission seeks, from time to time, external expert review of selected parts of its inquiry reports.

Regulation review

The Commission’s review function encourages proponents of legislative or regulatory proposals to analyse thoroughly the nature and extent of each policy issue that requires intervention. Moreover, the Subordinate Legislation Act 1994 (Vic) and the Victorian Guide to Regulation (Government of Victoria 2011a) require an assessment of the economic, social and environmental costs and benefits of any proposal, consistent with a community-wide view.

The Commission’s role includes advising on whether the analysis in RISs is adequate to facilitate genuine and informed public consultation about the merits of a regulatory proposal. The Subordinate Legislation Act requires a community-wide approach, stating that any sector of the public on which a proposed regulatory measure may impose a significant economic or social burden must be consulted. The responsible Minister must provide a Certificate of Consultation to Parliament’s Scrutiny of Acts and Regulations Committee, detailing who was consulted in the RIS process.² Through its involvement in the RIS and BIA processes, the Commission assists departmental officers to specify options for addressing the identified problems and to pursue solutions that yield the highest net benefit for the whole Victorian community. Since 1 January 2010, the Commission has been also required to verify compliance of RCM reports where the

² The relevant guidelines are made under the Subordinate Legislation Act 1994 and published in the Victorian Guide to Regulation, Appendix E.
change in regulatory costs exceeds $10 million per annum, and, as of 1 July 2011, verify compliance of all RCM reports.

The Commission provided advice on all RISs and BIAs against criteria in a checklist drawn from the Victorian Guide to Regulation. The criteria used to verify compliance of RCM reports are specified in the Regulatory Change Measurement Manual. This process helps the Commission to apply a transparent and consistent process and provide consistent, unbiased and rigorous advice. The Commission publishes all the RISs that were released for public consultation on its website. This allows stakeholders to assess the rigour and consistency of the Commission’s review of RISs. The Commission also publishes RCMs that it verified and that were released publicly.

**Competitive neutrality**

The Commission advises a range of stakeholders — including government businesses, local government, private business operators and members of the community — about competitive neutrality. The Commission assesses competitive neutrality issues against the Government’s Competitive Neutrality Policy and publishes the results of investigations of complaints on its website. A description of how the Commission implements its competitive neutrality function is set out in conventions published on the Commission’s website.

### 2.3.2 Independent and rigorous advice

The Order requires the Commission to provide independent and rigorous advice. Independence enables the Commission to analyse issues raised in inquiries, RISs, BIAs, RCMs, or matters relating to competitive neutrality, impartially and without interference. The Commission places the highest priority on maintaining its independence, particularly given that participants in any of its functions expect the Commission to give them a fair hearing, independent of any sectional perspective. In addition, the Commission takes account of the Charter of Human Rights and Responsibilities Act 2006 (Vic) and considers that its work is consistent with the human rights set out in the Charter.

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3 The Regulatory Change Measurement Manual is available on the Department of Treasury and Finance website.
Box 2.4  **Boundaries of the Commission’s role**

The Commission’s role and authority are outlined in its Order in Council and the Subordinate Legislation Act 1994 Guidelines. There are some common misunderstandings about the boundaries of the Commission’s role, which are discussed below.

**Inquiries**

Once a final inquiry report is submitted to the Treasurer, the Commission’s formal role ceases. The Order states that:

- The Treasurer should publicly release the final report within six months of receiving it from the Commission.
- The Government should publicly release a response to the final report within six months of the Treasurer receiving that final report from the Commission, regardless of the date of release of the final report by the Treasurer.

In practice, the Commission’s advice may be sought by policy makers about the reasoning behind its recommendations prior to decisions by the Victorian Government.

**Regulation review**

The Commission advises on the quality of the analysis in a Business Impact Assessment (BIA) and Regulatory Impact Statement (RIS) and does not comment on the merits of the policy proposal.

The Order states:

- The Commission will review the quality of business impact assessments and regulatory impact statements having regard to relevant guidelines issued from time to time by the Government, and provide comment on these assessments and statements to the Department of the Minister responsible for the proposed legislation.

The Commission’s role ends after the RIS is finalised and released for public consultation. Departments and agencies are accountable to the Scrutiny of Acts and Regulations Committee (SARC) of Parliament for ensuring that a proper consultation process has been followed, in accordance with the requirements in the Subordinate Legislation Act. The Subordinate Legislation Act 1994 Guidelines (paragraph 180) states that:

- If the Minister does not adequately address valid criticisms and suggestions made in relation to a statutory rule or legislative instrument released for public consultation, SARC may criticise the statutory rule or legislative instrument. Under section 15A of the Act, SARC must be provided with a copy of all comments and submissions received in relation to the RIS.

For a BIA, the Commission’s role ends once the BIA is submitted to Cabinet or the relevant Cabinet Committee.

**Competitive neutrality**

The Commission’s role is confined to education through the provision of information, and assessing complaints. The Commission cannot initiate an investigation without a formal complaint. The complaints system is an important incentive for compliance.

2.4 Performance reporting

Performance reporting measures the relationships between resources, outputs and outcomes. The Government expects the Commission to deliver an outcome specified in Budget Paper no. 3 under the heading Regulatory Services—Business Environment Policy Advice:

This output provides advice on ways the Government can improve the business environment. The output contributes to guiding Government actions to increase Victoria’s productivity and competitiveness. It does this by:

- reviewing regulatory impact statements, business impact assessments and regulatory change measurement assessments;
- undertaking inquiries into matters referred to it by the Government; and
- operating Victoria’s competitive neutrality unit. (Government of Victoria 2012a, p. 321)

The Commission contributes to the outcome of increasing Victoria’s productivity and competitiveness by advising the Government on how it can improve the regulatory and policy environment. The Commission’s purpose under its Order is to ‘maintain and improve competition and efficiency in the Victorian economy’ (Government of Victoria 2004b). The Commission seeks to fulfil this through the quality and timeliness of its advice. It is not a decision-maker and does not implement policy decisions. Its performance is, therefore, best measured by the extent to which its advice leads to more informed decision-making, rather than by direct economic outcomes. Chapter 3 records the many recommendations that the Government has accepted from the Commission’s inquiries. Chapter 4 assesses where the Commission’s activities have helped improve the decision-making process for new regulation and legislation. While it is difficult to demonstrate a causal connection between these indicators and improved economic outcomes, they show how the Commission is influencing government policy formation. Chapter 5 examines competitive neutrality activity and the outcomes of investigations.

2.4.1 Performance indicators

The Commission reports on indicators relating to the quantity of its outputs for its inquiry and regulatory review functions, the quality of its three outputs taken together, and the timeliness of its regulatory review activities in Budget Paper no. 3 (table 2.2). Quality is measured by a service provision rating from the Commissioners; this measure rates the quality of the Secretariat’s output. The Commission has also developed a more comprehensive set of subsidiary performance indicators than listed in table 2.2 (reported in chapters 3, 4 and 5).
Table 2.2  **Budget paper performance measures and final outcomes, 2011-12**

<table>
<thead>
<tr>
<th>Performance measures</th>
<th>Unit of measure</th>
<th>Target</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Quantity</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public inquiries</td>
<td>no.</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Reviews of RISs, BIAs and RCMs(^a)</td>
<td>no.</td>
<td>45</td>
<td>18</td>
</tr>
<tr>
<td><strong>Quality</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Service provision rating (Commissioner rating)(^b)</td>
<td>%</td>
<td>80</td>
<td>87.5</td>
</tr>
<tr>
<td><strong>Timeliness</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complete the initial assessment phase of BIAs within 10 working days of receipt</td>
<td>%</td>
<td>90</td>
<td>100</td>
</tr>
<tr>
<td>Complete the initial assessment phase of RISs within 10 working days of receipt</td>
<td>%</td>
<td>90</td>
<td>100</td>
</tr>
<tr>
<td>Complete the initial assessment phase on RCM estimates within 10 working days of receipt</td>
<td>%</td>
<td>90</td>
<td>100</td>
</tr>
<tr>
<td>Complete inquiry reports by the due date</td>
<td>%</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Notes:  
\(^a\) The number of RISs, BIAs and RCMs submitted to the Commission for advice was less than forecast. During the year, the Commission was asked to provide advice in relation to several of COAG RISs. The Commission will review the expected number of RISs for 2013-14 in light of recent trends and discuss this with the Department of Treasury and Finance as part of the 2013 budget process.  
\(^b\) This is a subjective assessment by the Commission of the quality of services provided by the Secretariat to the Commission.

Sources:  
Government of Victoria 2012a, pp. 321-322; Commission data.
# Inquiries

## 2011-12 Highlights

Against a target of working on three inquiries, the Commission worked on four inquiries in 2011-12 (completing two and commencing two others). The Commission:

- submitted the final report on the inquiry into Victoria’s manufacturing industry on 1 September 2011
- released the draft report on the inquiry into a State-based reform agenda on 10 November 2011, and submitted the final report to the Treasurer on 27 January 2012
- commenced the inquiry into feed-in tariffs and barriers to distributed generation and released a draft report on 18 May 2012. The Treasurer extended the due date to 27 July 2012 in consideration of the substantial number of submissions from participants following the release of the draft report.
- commenced an inquiry into the social and economic costs of problem gambling on 14 June 2012.
- extended its use of social media by introducing a new engagement approach for the inquiry into the social and economic costs of problem gambling through a dedicated Twitter feed and integrated Facebook page.

## Focus in 2012-13

In the coming year, the Commission will:

- complete the inquiry into feed-in tariffs and barriers to distributed generation. This has already been achieved with the final report presented to the Treasurer on 27 July 2012.
- complete the inquiry into the social and economic costs of problem gambling. The Commission released an issues paper on 20 July 2012 and must submit the final report to the Treasurer by 14 December 2012. In the interim, the Commission expects to release a draft report in October 2012, inviting interested parties to comment on the Commission’s approach.
- undertake other inquiries as the Victorian Government may direct
- monitor and assess the effectiveness of its new social media platforms in improving the accessibility of the Commission’s inquiries to participants and increasing the Commission’s productivity in obtaining views and evidence from participants.

## 3.1 Introduction

A core function of the Commission is to conduct inquiries on terms of reference given to it by the Victorian Treasurer. Inquiries are headed by a panel of two or three Commissioners depending on workloads and complexity of the inquiry, with one Commissioner being designated by the Chair as the Presiding Commissioner. The inquiry process typically involves extensive public consultation with individuals, businesses, interest groups, and government departments and agencies.

The Commission worked on four public inquiries during 2011-12 (table 3.1).
The first half of 2011-12 was taken up with completing two large and complex inquiries into Victoria’s manufacturing industry and a State-based reform agenda. Both inquiries involved extensive consultation and substantial research and analysis, including commissioned research on specific technical areas. The manufacturing inquiry benefitted from a major research program commissioned and funded by the Department of Business and Innovation, with input from the Commission. The external analysis and research undertaken as part of the State-based reform agenda was funded by additional resources allocated to the Commission for that purpose.

Two final inquiry reports were submitted to the Treasurer: on 1 September 2011 for the inquiry into Victoria’s manufacturing industry and 27 January 2012 for the State-based reform agenda inquiry. The Victorian Government released its response to the manufacturing industry inquiry on 19 December 2011. At the time of writing the Government had not released its response to the inquiry into a State-based reform agenda.

The Treasurer referred two new inquiries to the Commission in the second half of 2011-12: the inquiry into feed-in tariffs and barriers to distributed generation in January 2012 and the inquiry into the social and economic costs of problem gambling in June 2012. The feed-in tariff and barriers to distributed generation and State-based reform agenda inquiries formed the bulk of the Commission’s inquiry program for 2011-12.

The Commission submitted its final report on the feed-in tariffs and barriers to distributed generation inquiry to the Treasurer on 27 July 2012. The Commission intends to release a draft report for its inquiry into the social and economic costs of problem gambling in October 2012 and must submit a final report to the Treasurer by 14 December 2012.

<table>
<thead>
<tr>
<th>Inquiry</th>
<th>Date commenced</th>
<th>Date completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria’s manufacturing industry</td>
<td>2 March 2011</td>
<td>Submitted to the Treasurer 1 September 2011</td>
</tr>
<tr>
<td>State-based reform agenda</td>
<td>29 April 2011</td>
<td>Submitted to the Treasurer 27 January 2012</td>
</tr>
<tr>
<td>Feed-in tariffs and barriers to distributed generation</td>
<td>13 January 2012</td>
<td>Submitted to the Treasurer 27 July 2012</td>
</tr>
<tr>
<td>The social and economic costs of problem gambling in Victoria</td>
<td>14 June 2012</td>
<td>Due 14 December 2012</td>
</tr>
</tbody>
</table>

Source: Commission analysis.

3.2 Getting value from inquiries

3.2.1 Matching issues with process

Over its eight year existence, the Commission has completed, or commenced, seventeen inquiries ranging from complex, broad subjects such as a State-based reform agenda, local government regulation and environmental regulation to more narrowly defined subjects such as feed-in tariffs for electricity, shared facilities and financial services.

The most obvious output from inquiries are the analysis, advice and recommendations (where sought in the terms of reference) for the Government on the inquiry subject
matter. A public inquiry is a robust process for creating these outputs. It helps to improve public policy outcomes by engaging with participants — initially to understand the range of views and receive evidence so that the Commission can develop a draft view on the issues. Following the public release of the draft view, there is a further opportunity for participants to provide additional comment, evidence and argument in response to the Commission’s analysis and independent conclusions.

A key strength of the process is helping to promote an understanding of the need for policy change — or not — as the case may be. The feedback on Commission draft recommendations helps government to gauge the range of responses to policy options (including issues that may be shared by a range of stakeholders), and to assess the probable impact of the inquiry recommendations. The process helps to explain how policies work in practice and where, based on the experience of participants, practical improvement opportunities exist. Such engagement with the community also creates an expectation that the Government will respond to the inquiry. Where such action is not forthcoming, or is significantly delayed, the willingness of participants to contribute in the future may be diminished.

The Commission’s experience in inquiries over the past eight years suggests four indicators for a ‘good’ inquiry topic:

1. The subject is suited to a transparent, independent, and evidence-based public process, and there is sufficient time to engage interested parties.

2. An area where the policy issues are not settled, where there is credible evidence of a significant problem, and where it is possible to make precise, action-focused recommendations that are capable of being implemented by the Victorian Government.

3. The potential impact is likely to be large.

4. The subject matches the Commission’s strengths in: competition-and-efficiency-promoting policies and principles; regulatory reform; and application of market design.

In addressing terms of reference, the Commission starts by clarifying the scope of the inquiry and identifying high priority areas for evaluation. Several considerations typically are relevant, such as the policy frameworks (including intergovernmental arrangements), legislation and regulation, applying the Commission’s obligation to improve community-wide net benefit, and understanding key technical issues. These considerations, and the Commission’s initial view of the critical issues for the inquiry, are set out in an issues paper to test with stakeholders.

The robustness of the Commission’s final advice depends heavily on effective engagement and consultation with stakeholders in addition to the Commission’s independent analysis and research. The necessary degree of consultation depends on the breadth of stakeholders and the intensity of views. Completing an inquiry in six months to a high level of robustness can be challenging unless the subject is tightly defined, specific skills are available and the consultation is targeted. The constraint can be reduced by providing some flexibility in adjusting timeframes at the margin, as the experience with the inquiry into feed-in tariffs and barriers to distributed generation showed. That inquiry generated a very high level of response by stakeholders following the release of the draft report, and additional time was needed to digest the additional evidence, analysis and comment.
3.2.2 Measuring and assessing outcomes

The Government has published detailed responses to the Commission’s recommendations for most of its completed inquiries. The final reports of two of the Commission’s inquiries (State-based reform agenda, and feed-in tariffs and barriers to distributed generation) were under consideration at the time this annual report was finalised.

Victorian Governments have supported, from the Commission’s first inquiry, the majority of its recommendations — in full, in part or in principle. On occasion, governments have rejected parts of the Commission’s advice and recommendations. The extent to which the Commission’s advice and recommendations is accepted is a relevant partial indicator of the relevance and practicality of the Commission’s inquiry outputs. That said, the Commission does not expect all of its recommendations to be accepted. Indeed, many recommendations may be challenging and may prompt criticism from sectors whose interests may be adversely affected.

The Commission’s role is to provide independent advice. It is not an executive body making decisions. Other advice may be considered by the Victorian Government, making it difficult to draw a straightforward link between the Commission’s advice and subsequent policy changes. Moreover, the impact of each inquiry may take some time to become fully apparent, and challenging recommendations may become easier to implement as circumstances change. This suggests an assessment of the Commission’s performance should take into account the indirect links between Commission inquiry reports and the eventual implementation of options and recommendations, and the lags that may occur in implementation.

As noted previously, the inquiry process itself often promotes more informed understanding among stakeholders about the strengths and weaknesses of regulatory regimes and practical policy changes. Such understanding in turn can help identify and assess possible practical improvements in Victoria and in some cases more broadly. For example, Commonwealth and state officials outside Victoria have used the Commission’s reports on food regulation, environment, transport congestion, the metropolitan retail water sector, and regulatory frameworks in preparing policy advice.

The Commission also sets out, where possible, to quantify the value of recommendations. Examples of this work include the Commission’s inquiries into food regulation, environmental regulation, local government regulation, a State-based reform agenda, and feed-in tariffs and barriers to distributed generation. These estimates indicate significant improvements are possible through the Commission’s recommended reforms.

Reflecting the potential value of the information, analysis and advice prepared by the Commission, this chapter reports on the Government’s responses to inquiries and on the use of the Commission’s inquiry reports by key interested parties.
3.3 Recent inquiries

3.3.1 Inquiry into regulatory impediments in the financial services sector

The Commission’s final report, On Sound Commercial Terms: An Inquiry into Regulatory Impediments in the Financial Services Sector (VCEC 2010c), was released by the Treasurer on 22 December 2011. The report was released with the Government’s response, which supported, supported-in-principle, or supported-in-part, all 19 of the Commission’s recommendations.

3.3.2 Inquiry into streamlining local government regulation

The Commission submitted its final report, Local Government for a Better Victoria: An Inquiry into Streamlining Local Government Regulation, to the then Treasurer on 24 August 2010. The Commission’s final report was released publicly by the Treasurer on 14 August 2012, as well as the Government’s response. The Government supported 17 recommendations, and supported-in-principle or supported-in-part 16 recommendations. One recommendation was not supported and three are under review.

3.3.3 Inquiry into Victoria’s regulatory framework

The Commission submitted its final report, Inquiry into Victoria’s Regulatory Framework: Strengthening Foundations for the Next Decade (VCEC 2011c), to the Treasurer on 29 April 2011. The Commission’s final report was released publicly by the Treasurer on 5 March 2012, along with the Government’s response. In its response, the Victorian Government supported 15 recommendations, supported-in-principle or supported-in-part a further 20 recommendations, will consider four recommendations further, and did not support three recommendations.

The Commission’s draft report, Part 2 — Priorities for Regulatory Reform, which focussed on specific regulatory hotspots, was incorporated into the inquiry into a State-based reform agenda (see below).

3.3.4 Inquiry into Victoria’s tourism industry

The Commission submitted its final report, Unlocking Victorian Tourism, to the Treasurer on 1 June 2011. The Commission’s final report was released publicly by the Treasurer on 23 August 2012, as well as the Government’s response. The Government supported 10 recommendations, and supported-in-principle or supported-in-part a further 5 recommendations. One recommendation was referred to the Taxi Industry Inquiry, and another was superseded by recent Victorian legislative changes.

3.3.5 Inquiry into Victoria’s manufacturing industry

On 2 March 2011, the Treasurer directed the Commission to inquire into improving the competitiveness of the Victorian manufacturing industry. The Commission released its draft report, Victorian Manufacturing: Meeting the Challenges (VCEC 2011k), for public consultation on 22 June 2011. The final report was submitted to the Treasurer on 1 September 2011. The Treasurer released the Commission’s final report (VCEC 2011l) and the Government’s response on 19 December 2011. The Government supported, supported-in-principle, or supported-in-part, 42 of the Commission’s 44 recommendations.
3.3.6 Inquiry into a State-based reform agenda

On 19 April 2011, the Treasurer directed the Commission to inquire into a State-based reform agenda to improve Victoria’s productivity, competitiveness and labour force participation. This inquiry will help the Victorian Government shape a future reform strategy — recognising and reflecting the economic opportunities and challenges facing the State and the role of a state government in a federal system.

The Commission released its draft report, Securing Victoria’s Future Prosperity: A Reform Agenda (VCEC 2011e), on 10 November 2011 and submitted its final report to the Treasurer on 27 January 2012. The draft report identified five reform areas: education and training; State taxation; land-use and infrastructure planning and investment; regulatory reform; and innovation.

The Commission also published information papers into Victoria’s productivity performance, competitiveness benchmarking (including a report by ACIL Tasman), transport reform (prepared for the Commission by AECOM), and labour force participation (see www.vcec.vic.gov.au). The inquiry project team was augmented by secondees from the Department of Education and Early Childhood Development, the Department of Primary Industries, and the Essential Services Commission. The inquiry received 118 submissions from participants (see figure 3.2).

The Commission looks forward to this report being released.

3.3.7 Inquiry into feed-in tariffs and barriers to distributed generation

On 13 January 2012, the Victorian Treasurer directed the Commission to conduct an inquiry into feed-in tariff arrangements and barriers to distributed generation. The terms of reference asked the Commission to assess the design, efficiency and effectiveness of feed-in tariffs, recommend whether existing feed-in tariffs should be continued, phased-out or amended and identify barriers to the development of a network of distributed renewable and low emission generation in Victoria. The Minister for Energy and Resources subsequently wrote to the Commission, received 3 February 2012, regarding specific issues that had been brought to his attention. This letter was published on the Commission’s website.

A draft report, Power from the People: Inquiry into Distributed Generation (VCEC 2012a), was released on 18 May 2012 outlining the Commission’s consultations to date, analysis and draft recommendations, drawing on 86 submissions and 844 pro forma contributions. The Commission was to provide a final report to the Government by 13 July 2012. The draft report prompted a further 114 submissions and 100 short submissions, and the Chair sought from the Treasurer a two week extension to 27 July 2012 so that due consideration could be given to the additional material. The Treasurer granted the extension and the Commission subsequently provided a final report to Government on 27 July 2012.

This inquiry attracted the highest amount of stakeholder participation of any Commission inquiry, with a total of 200 submissions, 100 short submissions or comments and 844 pro forma contributions.
3.3.8 Inquiry into the social and economic costs of problem gambling in Victoria

On 14 June 2012, the Victorian Treasurer directed the Commission to undertake an inquiry into the social and economic costs of problem gambling in Victoria. The Commission is to provide a final report by 14 December 2012.

The Commission has been asked to investigate the costs, including the cost of providing services to problem gamblers and their families and friends, costs to the social welfare system, costs associated with impacts on the mental and physical well-being of individuals and the health system, and costs to the justice system. The terms of reference also ask the Commission to examine the costs of problem gambling to business, including lost productivity and the impact of gambling related crime.

The Commission released an issues paper on 20 July 2012 describing the scope of the inquiry, the information it is seeking, and outlining the process and timetable for the inquiry (VCEC 2012b). A draft report is expected to be released in October 2012.

3.4 Performance reporting

The Commission’s performance objective for inquiries is to deliver reports that:

- are of a high standard
- are based on wide consultation
- inform Parliament and government decision-making
- are undertaken efficiently in accordance with required processes
- are delivered on time.

3.4.1 Quality of output

While it is difficult to draw a definitive link between the Commission’s advice and subsequent government decisions, a number of indicators provide a broad perspective on the quality of the Commission’s inquiry outputs. That said, figure 3.1 shows the Government’s response to recommendations for each inquiry. The majority of recommendations have been supported, to some degree.

Generally, it is difficult to assess exactly the current status of implementing the Government’s responses because work is simultaneously performed in many related areas by a number of agencies. Furthermore, in many cases, options that the Government supported in principle in its response to final reports have been addressed fully or partly by other initiatives. For some other options, no immediate action was required and it is too early to assess their implementation. In general, however, and as noted in the Commission’s draft report into Victoria’s regulatory framework, the amount of public information on the implementation of the Government’s response is limited. The Commission considers this reporting gap should be addressed. This point has been made by a number of stakeholders, including the November 2011 report by the Minerals Council of Australia on regulation in the mining industry (KPMG 2011), among others.

One other overall measure of quality is the Commission’s assessment of the Secretariat’s service. As reported in chapter 2, the rating of 87.5 per cent in 2011-12 exceeded the target of 80 per cent. This rating primarily reflected the successful completion of a substantial work program of public inquiries.
Figure 3.1  Government’s response to inquiry recommendations

Note: Excludes the Labour and Industry Act inquiry, which made one recommendation and was supported by Government.

Source: Government responses to Commission inquiry recommendations.
The usefulness of the inquiries’ contribution to policy-making and public understanding is also indicated by the use made of inquiry outputs in other government decision-making and reporting processes.

- The Productivity Commission (PC) makes use of the Commission’s reports in its own research and evaluation projects. For example, research reports on the Role of Local Government as Regulator and Identifying and Evaluating Regulatory Reforms (PC 2012; PC 2011a) refer to Commission inquiries into Victoria’s regulatory framework, environmental regulation, local government regulation, and Victoria’s tourism industry. Furthermore, the PC’s inquiry into Australia’s Urban Water Sector (PC 2011c) references the Commission’s housing construction sector inquiry and retail water sector inquiry.

- A discussion paper prepared by the Business Council of Australia (BCA) for the COAG Business Advisory Forum refers to the Commission’s inquiry into a State-based reform agenda, citing analysis on a need to adopt a risk-based approach to regulation. The BCA also draws evidence on the nature of environmental regulation from the Commission’s environmental inquiry (BCA 2012).

- A discussion paper prepared by Local Government Victoria for the Department of Planning and Community Development referred to the Commission’s inquiry into local government regulation and inquiry into housing construction regulation (Local Government Victoria 2011). The paper seeks to provide options addressing the matters raised in these reports.

The number of references to the Commission in Parliament can illustrate the extent to which the Commission informed Parliament (table 3.2).

<table>
<thead>
<tr>
<th>Inquiry</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Regulation in Victoria</td>
<td>3</td>
</tr>
<tr>
<td>Victoria’s manufacturing industry</td>
<td>30</td>
</tr>
<tr>
<td>State-based reform agenda</td>
<td>7</td>
</tr>
<tr>
<td>Feed-in tariffs and barriers to distributed generation</td>
<td>11</td>
</tr>
<tr>
<td>General</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>59</td>
</tr>
</tbody>
</table>

Note: Values are estimates based on word search of Hansard documents.
Source: Parliament of Victoria, Hansard.

3.4.2 Quality of process

The Commission’s Order in Council requires the Commission to operate efficiently, and act with concern for the well-being of the community as a whole. The Commission has interpreted these requirements as meaning it should encourage engagement with, and participation by, stakeholders and the public in its conduct of inquiries. The Commission considers there is a strong relationship between the number and quality of direct consultations and submissions, and the quality and the robustness of inquiry recommendations.
Submissions, roundtable discussions, individual meetings and other means of engaging stakeholders, such as the website, are essential to the Commission’s inquiries (figure 3.2). Over the past few years the number of Commonwealth and state inquiries has increased significantly. The Commission appreciates the participation of interested parties in its inquiries, and always seeks to present their views accurately in its reports. A priority for the Commission’s inquiry process is to reduce the costs to stakeholders to engage and participate.

The Commission seeks to encourage participation in, and raise awareness of, its inquiries by disseminating issues papers when a new inquiry commences, and distributing inquiry circulars (to keep inquiry participants informed of progress), draft and final reports, and inquiry-related research papers. The Commission uses Twitter to inform stakeholders about its consultation process and the release of its inquiry reports.

Table 3.3 provides a snapshot of the distribution of issues papers and reports during 2011-12. The numbers represent the number of physical reports sent out and emails sent to stakeholders with links to the relevant report. Figure 3.2 shows the number of participants in the Commission’s inquiries. The wide variation in participation reflects in part the inherent interest of specific issues, and the competing demands on the time of stakeholders to engage with inquiries.

Table 3.3  Number of reports/emails circulated in 2011-12

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory impediments in the financial services sector</td>
<td></td>
<td></td>
<td>45/121</td>
</tr>
<tr>
<td>Streamlining local government regulation</td>
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<td></td>
<td>NA⁷</td>
</tr>
<tr>
<td>Victoria’s regulatory framework</td>
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<td></td>
<td>135/459</td>
</tr>
<tr>
<td>Victoria’s tourism industry</td>
<td></td>
<td></td>
<td>NA⁷</td>
</tr>
<tr>
<td>Victoria’s manufacturing industry</td>
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<td></td>
<td>177/511</td>
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<tr>
<td>State-based reform agenda</td>
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<td>106/910</td>
<td>NA⁷</td>
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<td>Feed-in tariffs and barriers to distributed generation</td>
<td>0/325</td>
<td>176/1017</td>
<td></td>
</tr>
</tbody>
</table>

Note: ⁷ Submitted to Government, but not released publicly by 30 June 2012.

Source: Commission analysis.
Figure 3.2  Consultation process as at 30 June 2012

Note:  Excludes the Labour and Industry Act inquiry, which included 4 submissions, 1 meeting and no roundtables.

Source:  Commission analysis.
As part of making its inquiries more accessible, the Commission established a Twitter account, @VCEC_Victoria, in February 2011 to provide a new avenue to raise awareness amongst stakeholders and participants. During 2011-12, 297 groups/individuals started following the Commission on Twitter. The Commission now has 417 followers, and tweeted 91 times. While this additional input is useful, it does not replace the role of deliberate, evidence-rich submissions in underpinning the Commission’s role.

The inquiry into a State-based reform agenda provided an opportunity for the Commission to expand its use of social media. Figure 3.3 shows activity on the Commission’s State-based reform agenda inquiry webpage accessed through a Twitter link. There were 163 total clicks on the link, with most of this activity occurring around the release of key reports. Statistics also showed most of this activity was from interested parties in Australia, however, about 15 clicks were from individuals located in other parts of the world, including the United Kingdom, the United States of America, Germany and Croatia.

**Figure 3.3**  Clicks on a link to the State-based reform agenda inquiry webpage — May 2011 – June 2012

![Clicks on a link to the State-based reform agenda inquiry webpage — May 2011 – June 2012](image)

*Source: Commission analysis, based on Bitley analytics.*

The Commission conducted an internal review of its use of social media during 2011-12 and decided to focus on establishing a presence on Facebook, as a substitute to attempts by the Commission to establish its own ‘blog-like’ system, VCEConnect. While VCEConnect continues to operate on the Commission’s website, the new inquiry into the social and economic costs of problem gambling has used Facebook to initiate an online ‘conversation’ with interested groups and individuals.

As at 2 July 2012, the Commission’s Facebook page had attracted 21 ‘likes’ and five posts by individuals interested in being involved in the inquiry. The Commission also developed a new Twitter account dedicated exclusively to the inquiry, @gamblinginquiry was launched alongside the Commission’s Facebook page, on 14 June 2012. As at 30 June 2012 it had attracted 96 followers.
3.5 Costs of Commission inquiries

The Commission is required to conduct its activities efficiently and this section looks at the costs of conducting its inquiries.

Tables 3.4 and 3.5 provide a snapshot of the financial information reported in appendix A, summarising the salary and administrative costs of providing the Commission’s inquiry outputs.

### Table 3.4 Salary cost of inquiries 2011-12\(^a\)

<table>
<thead>
<tr>
<th>Inquiry</th>
<th>Cost ($m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria’s manufacturing industry</td>
<td>0.687</td>
</tr>
<tr>
<td>State-based reform agenda</td>
<td>1.385</td>
</tr>
<tr>
<td>Feed-in tariffs and barriers to distributed generation</td>
<td>0.592</td>
</tr>
<tr>
<td>Social and economic costs of problem gambling in Victoria</td>
<td>0.142</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2.806</strong></td>
</tr>
</tbody>
</table>

*Note: \(^a\) Estimates the share of total Secretariat salary costs (including related costs such as payroll tax and superannuation) directly related to the inquiries. Note that the time period for an inquiry ranges from six to 12 months, which influences the total salary cost.*

*Source: Commission analysis.*

### Table 3.5 Administrative expenditure of inquiries 2011-12

<table>
<thead>
<tr>
<th>Cost item</th>
<th>Cost ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Travel and venue hire</td>
<td>4 511</td>
</tr>
<tr>
<td>Printing, design and editing</td>
<td>19 013</td>
</tr>
<tr>
<td>Consultants and contractors</td>
<td>392 393</td>
</tr>
<tr>
<td>Other(^a)</td>
<td>14 534</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>430 451</strong></td>
</tr>
</tbody>
</table>

*Note: \(^a\) Includes other direct costs such as advertising hearings, media monitoring, transcription and editing services, and purchases of other miscellaneous items. Excludes additional general Secretariat administrative expenses such as recruitment, rent, office supplies and telephones, which were allocated to the costs of the inquiry functions in table 2.1.*

*Source: Commission analysis.*

The costs of running public inquiries vary depending on the nature and complexity of the issues, the amount of public consultation and participation in the inquiry, and the inquiry duration. Such factors limit opportunities to benchmark the Commission’s performance against that of other bodies. Some other bodies with public inquiry processes (such as the Victorian Essential Services Commission and the Independent Pricing and Regulatory Tribunal of New South Wales) do not report the costs of individual inquiries. The Productivity Commission, however, reports the costs of its inquiries. The total cost (including estimated overheads) per inquiry completed by the Productivity Commission in 2010-11, for example, varied from $0.405 million (for an inquiry into impacts and benefits of COAG Reforms) to $2.344 million (for an inquiry into aged care) (PC 2011b, p. 130).
3.5.1 Timelines

The 2011-12 Budget Papers specify that the annual output target for the Commission is three public inquiries (Victorian Government 2011b, p. 367). During 2011-12, the Commission completed two inquiries and commenced two others. The Commission completed all of its inquiry reports by the dates specified by Government.
4 Regulation review

2011-12 highlights

The Regulatory Impact Statement (RIS) and Business Impact Assessment (BIA) processes continue to lead to improvements in Victorian regulatory proposals. Lower-cost or more effective alternatives continue to be identified through these processes, while still achieving the Victorian Government’s policy objectives.

- Five of six new and amending regulatory proposals the Commission provided advice on in 2011-12, were revised during the RIS process to be more effective and/or reduce the costs for affected parties.
- Five of seven ‘sunsetting’ regulations the Commission provided advice on in 2011-12, were remade to be more effective and/or reduce the costs for affected parties compared to the regulations they replaced.

Throughout the year, the Commission:

- provided final advice on 13 RISs, two BIAs and three Regulatory Change Measurements that were completed in 2011-12
- conducted ten training workshops to assist agencies to improve the quality of analysis in RISs and BIAs — these workshops, which included improved guidance on applying threshold tests, were attended by 157 participants.

Focus in 2012-13

In the coming year, the Commission will focus on:

- supporting the implementation of the Government’s response to the Commission’s inquiry into Victoria’s regulatory framework
- improving the quality and accessibility of the advice the Commission provides to Departments on the analysis of regulatory proposals.

4.1 Introduction

The Victorian Government promotes the rigorous assessment of regulatory proposals to ensure that Victorian regulation best serves the community.

- Regulatory Impact Statements (RISs) assess proposals for new, sunsetting or amending regulations and legislative instruments (subordinate legislation).
- Business Impact Assessments (BIAs) assess proposals for Bills that provide for new or amending primary legislation.
- Regulatory Change Measurements (RCMs) measure the change in administrative, substantive compliance and delay costs of regulatory reforms.

The RIS and BIA processes aim to improve the quality of regulatory proposals by providing high quality information and analysis. BIAs provide this information to Ministers and Cabinet. RISs inform key stakeholders and the general public, as well as Ministers and Cabinet, and allow stakeholders to comment on the information and analysis provided. This helps ensure that the Government’s objectives for ‘good regulation’ are met, and the regulatory measures are the minimum necessary to achieve the Government’s objectives (Government of Victoria 2011a, pp. 23–24). The Commission has found that the RIS and BIA processes have led to significant savings in the costs
imposed by Victorian legislation and regulation, relative to a situation with no regulatory review process (VCEC 2011f).

4.2 The Commission’s regulatory review roles

4.2.1 The Commission’s advisory role

Advising on the adequacy of RISs, BIAs and RCMs

The Commission provides independent advice to Ministers about whether RISs comply with the Subordinate Legislation Act 1994 (Vic) and BIAs comply with the Victorian Guide to Regulation. The Commission also verifies RCM compliance with the Regulatory Change Measurement Manual.

In 2011-12, the Commission provided final advice on 13 RISs, two BIAs and verified three RCMs.

What the Commission’s advice means

The Commission will advise a Minister that a RIS or BIA meets the requirements of the Subordinate Legislation Act or the Victorian Guide to Regulation, respectively, if the following are satisfied:

1. the problem to be addressed by any legislation or regulation is clearly specified, and appropriate data on the extent of the problem are provided
2. a range of feasible options to address the problem is considered
3. the assessment of costs and benefits of each option is robust and includes adequate data and transparent assumptions and judgements.

The Commission’s advice does not indicate endorsement of the policy proposal, or of any subjective judgements made in determining the best option for implementing the policy objectives. The Commission advises whether the analysis in a RIS or BIA is sufficiently robust and transparent to enable scrutiny of the costs and benefits of the proposal and feasible options by the public or by Cabinet.

If the Commission advises that a RIS does not meet the requirements of the Subordinate Legislation Act, the Minister can still release the RIS publicly — this happened on one occasion in 2010-11. If the Commission advises that a BIA does not meet the requirements of the Victorian Guide to Regulation, the Minister can still put the proposed legislation and BIA forward for consideration by Cabinet. However, the Commission’s letter of advice that summarises its concerns with the analysis must be attached to the RIS and in the case of a BIA, details of the Commission’s concerns must be attached to the cabinet submission. In its response to the Commission’s inquiry into Victoria’s regulatory framework, the Government supported the Commission’s recommendation that its letters be attached to all RISs, even those the Commission rated as adequate (Government of Victoria 2012b, p. 13). This will improve transparency of any qualifications the Commission includes in its advice. The Commission’s letter was already required to be attached to every BIA that is considered by Cabinet.

For an RCM to be verified as adequate it must meet the requirements of the Regulatory Change Measurement Manual. The Commission’s advice is, again, focused on the quality of the analysis rather than the merits of the regulatory change.
Assisting with COAG RISs

If regulatory proposals are developed through intergovernmental processes, such as the Council of Australian Governments (COAG), they are typically assessed at the national level through a COAG RIS. The relevant Victorian Minister must determine whether the analysis in the COAG RIS is sufficient to exempt Victorian legislation or regulations from the Victorian BIA or RIS process.

Though data on the number of exemptions are difficult to produce as BIA exemptions are Cabinet-in-Confidence, the Commission has noted an increase in requests for advice on COAG RISs coinciding with the implementation of COAG’s seamless national economy reforms since 2009. While this has potentially reduced the number of RISs and BIAs the Commission has provided advice on, it has involved additional work for the Commission advising Victorian Government departments on the development of COAG RISs.

The Commission has no formal role in the development of COAG RISs or the decision to exempt Victorian legislation or regulations from the Victorian BIA or RIS process. However, the Government supports departments preparing advice for their Minister seeking the Commission’s advice on whether the analysis contained in the COAG RIS would meet the requirements of the Victorian Guide to Regulation, as reaffirmed in its response to the Commission’s regulatory framework inquiry.

For example, the Commission was asked to advise on the adequacy of a supplementary impact analysis on the impact of national model occupational health and safety laws that was commissioned by the Victorian Government in 2011-12. Consistent with its role with RISs and BIAs, the Commission advised on the quality of the analysis of the proposed laws, including the supporting evidence and the transparency of any assumptions, rather than the merits of specific proposals. The Commission advised that the analysis adequately assessed the benefits and costs of the proposed laws for Victoria.

In January 2012, the Commission provided input based on its experience of both the Victorian and COAG RIS processes to the Productivity Commission’s study to benchmark the efficiency and quality of Commonwealth, state and territory, and COAG Regulatory Impact Analysis (RIA) processes. The Commission was also consulted as part of the review of the Australian Government’s best practice regulation requirements, conducted by Mr Robert Milliner and Mr David Borthwick AO, and by the Queensland Competition Authority on establishing their inquiries and regulatory impact assessment processes.

Assisting with interpretation of the Subordinate Legislation Act

Thresholds enable the scrutiny of regulation to focus on the areas where it can add the most value. The threshold test for determining whether a RIS is required is set out in the Subordinate Legislation Act, the Subordinate Legislation Act 1994 Guidelines and the Victorian Guide to Regulation. The threshold test for a BIA is set out in the Victorian Guide to Regulation.

Ministers decide whether their proposals meet the threshold tests for a RIS (significant economic/social burden on a sector of the public) or a BIA (significant effect on business and/or competition) (Government of Victoria 2011a, pp. 46–51). The Commission has no formal role in this decision, but the Government, in its response to the Commission’s regulatory framework inquiry, supported early consultation with the
Commission when considering the threshold test as the Commission is well-placed to assist based on its experience in providing advice on RISs and BIAs (Government of Victoria 2012b, p. 13). In 2011-12, the Commission’s advice has been sought on the application of the threshold test on approximately 40 occasions, including several requests for advice regarding regulations implemented through legislative instruments, which became subject to the RIS process from 1 July 2011.

4.2.2 The Commission’s training role

The Commission’s training role allows it to promote best practice regulation and to improve regulatory analysis, based on the principles set by the Government (Victorian Government Gazette 2004). In its training role, the Commission:

- distributes information about the requirements for RISs, BIAs and RCMs to be considered adequate (and when they are required)
- trains departments and agencies and advises on best practice regulatory principles
- publishes information about Victoria’s business regulators in The Victorian Regulatory System
- publishes completed RISs and RCMs on its website.

The Government acknowledged, in its response to the Commission’s regulatory framework inquiry, the Commission plays a key role in training and capability development through its provision of detailed training workshops to departmental policy officers on undertaking impact assessments (Government of Victoria 2012b, p. 7).

Training workshops

In 2011-12, the Commission conducted ten training workshops to assist agencies to improve the quality of analysis in RISs and BIAs — these workshops were attended by 157 participants.

Table 4.1 outlines topics covered in RIS/ BIA and cost-benefit analysis (CBA) workshops. Sections 4.3.1 and 4.3.4 contain quantity and quality measures for these workshops.
Table 4.1  Workshop topics

<table>
<thead>
<tr>
<th>Better policy making using RISs and BIAs</th>
<th>Cost benefit analysis for regulatory proposals</th>
</tr>
</thead>
<tbody>
<tr>
<td>- principles of good practice regulation</td>
<td>- introduction to/overview of CBA</td>
</tr>
<tr>
<td>- applying threshold tests</td>
<td>- how to estimate costs and benefits in practice</td>
</tr>
<tr>
<td>- defining the policy problem</td>
<td>- data sources, methods of obtaining data, and overcoming data limitations</td>
</tr>
<tr>
<td>- identifying the policy objectives</td>
<td>- appropriate/robust methods for setting assumptions</td>
</tr>
<tr>
<td>- options to address the problem</td>
<td>- approaches and tools for measuring benefits that are difficult to quantify/monetise (e.g. social and environmental benefits)</td>
</tr>
<tr>
<td>- introduction to CBA, including multi-criteria analysis</td>
<td>- how to deal with/incorporate uncertainty and risk</td>
</tr>
<tr>
<td>- small business and competition impacts</td>
<td>- incorporating direct and indirect costs and benefits</td>
</tr>
<tr>
<td>- implementation and enforcement</td>
<td>- brief practical overview of concepts such as the value of a statistical life, discount rates, and other relevant evaluation methods/decision tools.</td>
</tr>
<tr>
<td>- evaluation strategy</td>
<td></td>
</tr>
<tr>
<td>- importance of consultation.</td>
<td></td>
</tr>
</tbody>
</table>

Source: Commission training material.

The Commission has provided customised workshops on the RIS/BIA development process to the needs of individual departments. Most notably in 2011-12, a presentation on the Commission’s role was provided as part of the Department of Primary Industries (DPI) RIS Assist series. Staff from the Commission’s secretariat also participated as discussants at other seminars in the series, which is aimed at improving the quality of DPI’s RISs and better integrating analysis into regulatory design.

4.3  Performance reporting

4.3.1  Quantity of regulatory review activities

Independent advice on RISs, BIAs and RCMs

The Commission provided final advice on 13 RISs, two BIAs and three RCMs during 2011-12, which is an increase on the outcome in 2010-11, but still below the numbers reached in previous years and the target contained in Budget Paper 3 (table 4.2).

Appendix H lists the 12 regulations for which a RIS was prepared in 2011-12 and where the RIS was publicly released. One RIS had not been published at the time of producing the Annual Report. The appendix includes information on the estimated costs and benefits of these proposals, consultation periods, and publication of the Commission’s assessment letters. Appendix I lists the bill considered by Parliament in 2011-12 for which a BIA was prepared and on which the Commission provided advice. The Commission provided advice in 2011-12 on the adequacy of a further BIA, but the Bill considered in this BIA had not been introduced into Parliament by the time this Annual Report was finalised.
Table 4.2  Number of RISs, BIAs, SCMs and RCMs completed 2009-10 to 2011-12

<table>
<thead>
<tr>
<th>Output</th>
<th>Target</th>
<th>2009-10</th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory Impact Statements</td>
<td>45a</td>
<td>29</td>
<td>11</td>
<td>13</td>
</tr>
<tr>
<td>Business Impact Assessments</td>
<td></td>
<td>15</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Standard Cost Model Measurementsb</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Regulatory Change Measurementsb</td>
<td>-</td>
<td>1</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>45</td>
<td>48</td>
<td>14</td>
<td>18</td>
</tr>
</tbody>
</table>

Notes:  
- a This target is based on historical data and discussions with the Department of Treasury and Finance’s Cabinet and Parliamentary Services section. The Commission has no control over the number of RISs, BIAs or RCMs received.  

Source: Commission data.

The Commission has no control over the number of RISs, BIAs or RCMs received each year. The number rises and falls in line with the volume of the Government’s legislative program and the proportion of new and amending legislation/regulation and remade sunsetting regulation assessed by the responsible Minister as meeting the threshold for a RIS or BIA. For example, the Commission provided final advice on 19 RISs for sunsetting regulation in 2009-10, but only seven in 2011-12. Four regulations that were due to sunset in 2011-12 which were expected to require a RIS were extended until 2012-13. Another two do not appear to have been remade. The Commission may have provided final advice on up to 19 RISs during 2011-12 if each of the regulations in these two groups had been remade.

Appendix G lists regulations that expire in the next two years, some of which are expected to be remade, and outlines whether a RIS is likely to be prepared. Twenty-one regulations expected to be remade in 2012-13 are also expected to require a RIS. The Commission also expects the number of RCMs completed to continue to rise in 2012-13. As noted above, the number of RISs for new and amending regulations and BIAs for primary regulation cannot be forecast with any accuracy.

The Commission will review the expected number of RISs for 2013-14 and discuss this with the Department of Treasury and Finance as part of the Victorian Government budget process in 2013.

Training workshops

The Commission’s training workshops continue to be well attended. In 2011-12, the Commission held seven RIS/ BIA workshops, attended by 94 participants, and three CBA workshops, attended by 63 participants (Table 4.3). The Commission targets workshops at participants likely to be involved in regulatory proposals that require either a RIS or a BIA.
### Table 4.3  Training workshops, 2010-11 and 2011-12

<table>
<thead>
<tr>
<th>Output</th>
<th>Target</th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>RIS/BIA training workshops</td>
<td></td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>SCM training workshops</td>
<td></td>
<td>0(^b)</td>
<td>0(^b)</td>
</tr>
<tr>
<td>CBA training workshops</td>
<td></td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Total attendees at workshops</td>
<td>na(^a)</td>
<td>171</td>
<td>157</td>
</tr>
</tbody>
</table>

Notes:  
\(^a\) The number of training workshops held is driven by participant interest (na = not applicable).  
\(^b\) The Commission provided SCM training workshops from 2006-07 to 2009-10. With the introduction of the RCM methodology in 2009-10, responsibility for these training workshops transferred to DTF.

Source: Commission data.

#### 4.3.2 Average cost of independent advice

Approximately $811 000 of the Commission’s 2011-12 expenditure was allocated to the regulatory review function, a decrease of 8 per cent compared with 2010-11.

The Commission has developed an improved methodology for calculating the average cost to the Government of the Commission’s advice, training and related support. This methodology takes account of the Commission’s advice on some RISs, BIAs and RCMs spanning more than one financial year and the average number of iterations of advice changing depending on the nature and complexity of proposed legislation or regulation. The previous methodology allocated all of the costs of a financial year to the advice completed in that year and assumed the Commission’s effort in relation to RISs, RCMs and BIAs remained constant.

Using the improved methodology, the average cost to the Government of the Commission’s advice, training and related support was approximately $42 800 for each RIS, $28 200 for each RCM and $30 200 for each BIA (table 4.4). The average cost for RISs is roughly the same as in 2010-11, however the average unit costs for RCMs and BIAs are down by around 40 per cent due to fewer iterations of advice being required, on average, to complete the an RCM and BIA in 2011-12.
### Table 4.4  Indicative unit cost of the Commission’s advice, 2010-11 and 2011-12

<table>
<thead>
<tr>
<th>Output</th>
<th>Number</th>
<th>Old methodology</th>
<th>New methodology</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Average unit cost of Commission’s advice ($)</td>
<td>Total cost of Commission’s advice ($)</td>
<td>Average unit cost of Commission’s advice ($)</td>
</tr>
<tr>
<td>2010-11</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RISs</td>
<td>11</td>
<td>58 800</td>
<td>647 000</td>
</tr>
<tr>
<td>RCMs</td>
<td>1</td>
<td>58 800</td>
<td>58 800</td>
</tr>
<tr>
<td>BIAs</td>
<td>2</td>
<td>88 200</td>
<td>176 500</td>
</tr>
<tr>
<td>Total</td>
<td>14</td>
<td>63 000</td>
<td>882 300</td>
</tr>
<tr>
<td>2011-12</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RISs</td>
<td>13</td>
<td>42 700</td>
<td>555 100</td>
</tr>
<tr>
<td>RCMs</td>
<td>3</td>
<td>42 700</td>
<td>128 100</td>
</tr>
<tr>
<td>BIAs</td>
<td>2</td>
<td>64 000</td>
<td>128 100</td>
</tr>
<tr>
<td>Total</td>
<td>18</td>
<td>45 100</td>
<td>811 200</td>
</tr>
</tbody>
</table>

Notes:  
\(^a\) Total costs may not add up due to figures being rounded to the nearest hundred dollars. Based on a BIA taking up to 50 per cent more resources than a RIS or RCM, on average.  
\(^b\) Total costs do not add up due to figures being rounded to the nearest hundred dollars. Total does not equal the Commission’s expenditure allocated to the regulatory review function as some of each year’s expenditure is allocated to RISs, RCMs and BIAs that were not completed at the end of that financial year.

Source: Commission analysis.

### 4.3.3 Quality of analysis

The quality of the RIS/BIA process can be assessed against the extent to which it helps to improve the quality of regulatory proposals. The Commission’s contribution is difficult to assess in isolation, as a number of parties contribute to improving regulatory analysis. In particular, the agencies preparing a RIS or BIA carry the responsibility for these documents. The Commission works with these agencies to help them to improve the quality of their analysis, where necessary. Effective consultation with stakeholders can further improve the analysis. The Commission has developed indicators of the overall impact of the RIS/BIA process on the quality of analysis, which are outlined below.

Implementation of the Government’s response to the Commission’s regulatory framework inquiry (box 4.1) will lead to improvements in the quality of analysis of regulatory proposals as well as performance measures of that quality.
Box 4.1  Strengthening foundations for the next decade

In 2010, the Victorian Government directed the Commission to inquire into Victoria’s regulatory framework. The purpose of this inquiry is to improve regulation in Victoria by identifying areas where the cost of regulation should be reduced as a matter of priority and ways of improving the institutional framework that drives ongoing regulatory reform. The terms of reference also asked the Commission to consider the scope for using more innovative regulatory and non-regulatory tools to achieve the Government’s objectives.

The Commission submitted its final report, *Inquiry into Victoria’s Regulatory Framework: Strengthening Foundations for the Next Decade*, to the Treasurer on 29 April 2011. The Commission’s final report was released publicly by the Treasurer on 5 March 2012, along with the Government’s response. In its response, the Victorian Government supported 15 recommendations, supported 20 recommendations either in principle or in part, with a further four recommendations subject to further review, and did not support three recommendations.

The Commission will support DTF as it implements the Government’s response to the Commission’s inquiry into Victoria’s regulatory framework, by:

- reviewing and updating quality measures to enable performance trends in impact analysis to be reported in the Commission’s annual reports (recommendation 3.4)
- contributing to the revision of Victorian Guide to Regulation (recommendation 2.1)
- advising on the adequacy of analysis in evaluations of high impact regulations (recommendation 6.2).  

Sources: VCEC 2011m; Government of Victoria 2012b.

Improvements in regulatory proposals

The RIS/BIA process has three elements: structured analysis of the different options being considered by the policy agency; independent advice on the resulting analysis by the Commission; and external consultation, publicly in the case of a RIS or within government for a BIA. Each element contributes to more effective and/or less costly regulatory proposals. Box 4.2 provides examples of changes made to regulatory and legislative proposals as a result of the RIS/BIA process, and, where possible, the associated quantifiable impacts. The examples also include changes made to sunsetting regulations, which highlights the importance of evaluating the effectiveness of existing regulations.
Box 4.2  Changes in regulatory proposals

The Commission monitors the changes in regulatory proposals from its first involvement and, where possible, seeks to quantify the impact of any changes. Examples of changes made to regulatory proposals subject to the RIS processes during 2011-12 are as follows.

New and amending legislation/regulation

New and amending regulations are designed to address problems that are not addressed in the current regulatory framework. The RIS process can help to ensure that the most appropriate alternative for addressing the problem is chosen.

- The Department of Human Services initially proposed to include 17 new standards for rooming houses in regulations they introduced in 2011. However, the RIS identified that six standards would impose a net cost and these were removed from the preferred option. This amendment was estimated to reduce the present value of the costs of the regulations by around $54 million over 10 years.

Sunsetting regulation

When reviewing sunsetting regulations, agencies use the RIS process to evaluate the ongoing need for government regulation and consider alternative government responses to the identified problem that takes into account changes over time.

- Local Government Victoria amended the Local Government (Long Service Leave) Regulations to require portability of entitlements when an employee moves from the Victorian Public Service to local government and to provide access to entitlements from seven, rather than ten, years to increase whole-of-government labour mobility. The remade regulations also removed a requirement for local governments to maintain a separate long service leave account, which was inconsistent with modern accounting standards.


Improved analysis in RISs and BIAs

The Commission aims to increase the capacity of departments and agencies to improve continuously the quality of analysis in RISs and BIAs. Quantifying the extent of the problems regulation seeks to address and estimating the costs and benefits of proposals in RISs improves the capacity for effective public scrutiny. The indicators below are used to assess changes in the quality of analysis over time. The Commission continues to help agencies to identify more relevant and robust data sources, and to improve the transparency and rigour of estimates of costs and benefits.

Quantifying the extent of the problem

In 2011-12, 85 per cent of RISs on which the Commission provided final advice had some quantification of the extent of the problem requiring regulatory action, a twelve percentage point increase compared with 2010-11 (figure 4.1).
Quantifying the costs and benefits of all policy options

Twelve of the thirteen RISs the Commission provided final advice on in 2011-12 had been published at the time this report was finalised. These RISs estimated the present value of costs of the proposed regulation over ten-years would be about $345 million for new regulations, less than $5 million for amending regulations and $230 million for sunsetting regulations — a total of $580 million. These RISs estimated the present value of benefits of the proposed regulations over ten years, where they could be quantified, would be about $425 million for new regulations, less than $5 million for amending regulations and nearly $215 million for sunsetting regulations — a total of just over $640 million (appendix H).

The extent of cost quantification of regulatory proposals continues to remain strong. Ninety-two per cent of RISs on which the Commission provided final advice in 2011-12 quantified some of the predicted costs of the proposal (figure 4.2), an increase of 11 percentage points from 2010-11. The feasibility of quantification and the availability of data vary across proposals, which can contribute to the variation between the years.
It can be far more difficult to quantify the benefits of regulatory proposals. Nevertheless, in 2011-12, 77 per cent of RISs on which the Commission provided final advice quantified some of the predicted benefits of the regulatory proposal, down by five percentage points from 2010-11 (figure 4.3).
4.3.4 Timeliness of the Commission’s processes

The Commission provided advice on all of the 21 first drafts of RISs, 3 first drafts of BIAs and 5 first drafts of RCMs within 10 working days of receipt, exceeding its target of 90 per cent (table 4.5). The number of first drafts reviewed by the Commission in 2011-12 exceeds the number of completed RISs, BIAs and RCMs as some of these documents were not completed by the end of the year or the regulatory proposal was withdrawn. It is not uncommon for the Commission to provide advice on a regulatory proposal that does not proceed or where a RIS or BIA is not completed. For example, the Commission also provided advice in 2011-12 on applying the threshold test for around 30 regulatory proposals that did not meet the requirements for a RIS or BIA.
### Table 4.5  Proportion of advice on initial drafts provided within 10 working days (per cent)

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Target</th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory Impact Statements</td>
<td>90</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Business Impact Assessments</td>
<td>90</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Regulatory Change Measurements</td>
<td>90</td>
<td>-a</td>
<td>100</td>
</tr>
</tbody>
</table>

Notes:  
- The Commission was not asked to advise on the first draft of an RCM in 2010-11.

Source: Commission data.

One hundred per cent of respondents rated the timeliness of the Commission’s advice on completed RISs, BIAs and RCMs either ‘good’ or ‘very good’ (table 4.6), an increase of 20 percentage points compared to 2010-11.

### Table 4.6  Regulatory agency staff rating of the Commission’s response time for drafts (per cent)

<table>
<thead>
<tr>
<th></th>
<th>Very poor</th>
<th>Poor</th>
<th>Average</th>
<th>Good</th>
<th>Very good</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>0</td>
<td>20</td>
<td>0</td>
<td>65</td>
<td>15</td>
</tr>
<tr>
<td>2011-12</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>44</td>
<td>56</td>
</tr>
</tbody>
</table>

Source: Commission feedback surveys.

### 4.3.5  Quality of the Commission’s processes

The Commission’s performance in providing advice on RISs, BIAs and RCMs and training can be measured, in part, by the level of satisfaction with the Commission’s support. The Commission surveys policy officers responsible for completed RISs, BIAs and RCMs, and training workshop attendees.

Eighteen RIS, BIA and RCM surveys were sent to the policy officers responsible for RISs, BIAs and RCMs completed in 2011-12 and 16 responses were received (a nearly 90 per cent response rate).

All 157 participants attending training workshops were surveyed; 142 responses were received (90 per cent response rate)

### Satisfaction with advice

Secretariat staff provide advice to agencies on the analysis required for specific proposals. In 2011-12, 100 per cent of survey respondents rated the Commission’s response to queries as ‘good’ or ‘very good’. In addition, 100 per cent rated the Commission’s overall performance as ‘good’ or ‘very good’, up from 80 per cent in 2010-11, and the proportion rating the Commission’s performance as ‘very good’ increased from 50 to 63 per cent (table 4.7).
Table 4.7  Regulatory agency staff rating of the Commission’s overall performance (per cent)

<table>
<thead>
<tr>
<th></th>
<th>Very poor</th>
<th>Poor</th>
<th>Average</th>
<th>Good</th>
<th>Very good</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>0</td>
<td>0</td>
<td>20</td>
<td>30</td>
<td>50</td>
</tr>
<tr>
<td>2011-12</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>37</td>
<td>63</td>
</tr>
</tbody>
</table>

Source: Commission feedback surveys.

Training seminars and workshops

The Commission’s training workshops continue to be rated very highly by participants: 99 per cent of RIS/BIA training participants and 86 per cent of CBA workshop participants in 2011-12 rated these sessions as ‘good’ or ‘very good’ (table 4.8). The ratings for the CBA workshops are a distinct improvement on 2011-12 when only 75 per cent of respondents rated the sessions as ‘good’ or ‘very good’.

Table 4.8  Rating of the Commission’s training workshops (per cent)*

<table>
<thead>
<tr>
<th></th>
<th>Poor</th>
<th>Satisfactory</th>
<th>Good</th>
<th>Very good</th>
</tr>
</thead>
<tbody>
<tr>
<td>RIS/BIA</td>
<td>2010-11</td>
<td>0</td>
<td>33</td>
<td>67</td>
</tr>
<tr>
<td></td>
<td>2011-12</td>
<td>0</td>
<td>1</td>
<td>43</td>
</tr>
<tr>
<td>CBA</td>
<td>2010-11</td>
<td>0</td>
<td>25</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td>2011-12</td>
<td>2</td>
<td>12</td>
<td>34</td>
</tr>
</tbody>
</table>

Notes:  
*The Commission provided SCM training workshops from 2006-07 to 2009-10. Data on these years, including SCM training workshops, are available in previous Annual Reports.

Source: Commission analysis.

According to the Commission’s RIS feedback survey, more than 60 per cent of respondents responsible for preparing RISs, BIAs or RCMs in 2011-12 had attended one of the Commission’s RIS/BIA training workshops. Around 30 per cent of respondents were preparing a RIS, BIA or RCM for the first time, and therefore were likely to get more value from training opportunities.

In 2011-12, 75 per cent of respondents indicated that they prepared the RIS, BIA or RCM with the assistance of external specialists, compared with 80 per cent in 2010-11. If agency staff are not preparing RISs themselves, the skills that they acquire in the training workshops can be used to develop the proposal (using the principles of good policy development), and to support and analyse external specialists’ work.

4.3.6  Progress against 2011-12 improvement actions

The provision of assistance and advice by the Commission, including its feedback on BIAs and RISs, combined with the Commission’s training initiatives, are contributing to a strengthening of BIA and RIS preparation and support skills within departments and regulatory agencies. The Government expects this to lead to improvements in the rigour and quality of BIAs and RISs over time, along with the standard expected by the Commission in its advice (Government of Victoria 2011a, p. 33).
The Annual Report 2010-11 indicated that the Commission would focus on:

- supporting the development and implementation of a revised Victorian Guide to Regulation
- providing better targeted information about the RIS/BIA process through the Commission’s website and other channels
- continuing to provide high quality training that meets the needs of policy officers preparing RISs/BIAs.

**Support the development and implementation of a revised Victorian Guide to Regulation**

When choosing activities to focus on at the start of 2011-12, the Commission expected the Department of Treasury and Finance (DTF) to undertake a major revision of the Victorian Guide to Regulation. Work on this update has been limited, restricting the Commission’s ability to assist DTF or to promote improvements to the Guide based on the Commission’s experience.

The Government’s response to the Commission’s regulatory framework inquiry highlighted the need to revise the Guide, so the Commission expects this work to proceed in the future and is developing a project plan to position the Commission to assist DTF in implementing these changes.

**Provide better targeted information about the RIS/BIA process through the Commission’s website and other channels**

In 2011-12, the Commission sought to improve its provision of information about the RIS, BIA and RCM processes by providing better targeted and more accessible information and improving the structure and content of the Commission’s website to make it an effective resource for staff and external advisors preparing a RIS, BIA or RCM.

Following a stocktake of the regulation review section of the Commission’s website in the second half of 2011, a redesign of these sections was implemented in June 2012. The simplified ‘Regulation review’ home page, removal of redundant information and highlighting of key content has improved ease of navigation to allow visitors to easily identify and find the information they are seeking.

The Commission has used social media to promote RIS/BIA training and inform stakeholders about the release of new publications, such as the Commission’s ‘Regulatory Matters’ newsletter. The Commission has also expanded its used of social media to alert stakeholders about the release of RISs and RCMs.

**Continue to provide high quality training that meets the needs of policy officers preparing RISs/BIAs**

The Commission provides relevant and practical training that can be applied to improve the use and quality of impact assessments. In 2011-12, the Commission committed to improve its training relating to RCMs, the application of the Cost Recovery Guidelines and interpreting the threshold tests for RISs and BIAS.

The Commission has focussed on providing advice on RCMs directly to policy officers through the verification process rather than provide stand-alone training. Should the volume of RCMs and demand from departmental staff increase, the Commission may offer these training sessions. Additional material on using the RIS process to assess cost recovery proposals and interpreting the threshold tests has been incorporated into the
Commission’s existing RIS/BIA training workshops. Work has also commenced on developing guidance and a training module for policy officers who need to apply DTF’s Cost Recovery Guidelines. As noted above, a presentation on the Commission’s role was provided as part of the Department of Primary Industries RIS Assist series. Staff from the Commission secretariat also participated as discussants at other seminars in the series.

4.4 Making a difference in the future: actions for 2012-13

Two priority areas for improvement will be addressed in 2012-13:

- supporting the implementation of the Government’s response to the Commission’s inquiry into Victoria’s regulatory framework
- improving the quality and accessibility of the advice the Commission provides to Departments on the analysis of regulatory proposals.

4.4.1 Support the implementation of the Government’s response to the Commission’s inquiry into Victoria’s regulatory framework

The Commission will support DTF as it implements the Government’s response to the Commission’s inquiry into Victoria’s regulatory framework (Government of Victoria 2012b), including by:

- reviewing and updating quality measures to enable performance trends in impact analysis to be reported in the Commission’s annual reports (recommendation 3.4)
- contributing to the revision of Victorian Guide to Regulation (recommendation 2.1)
- advising on the adequacy of analysis in evaluations of high impact regulations (recommendation 6.2).

The Access Economics review of the effectiveness of the RIS process commissioned for the Commission’s regulatory framework inquiry is only the second independent review of the process since 1985. Given the review provided a useful analysis of the effectiveness of the current RIS process and suggested worthwhile improvements, the Commission recommended that further reviews be commissioned in the future, supported by annual reviews by the Commission and DTF to support continuous improvement. The Government supports continuous improvement of the impact assessment process through regular review, including annual desktop reviews of the impact assessment process, and agreed that DTF and the Commission would review and update quality measures to enable performance trends in impact analysis assessment to be reported in the Commission’s annual reports. This work will refer to the Productivity Commission’s benchmarking study into regulatory impact analysis (RIA) processes and the OECD’s work on assessing the impact of regulatory management systems. Any new or updated performance measures developed through this project will be incorporated in the Commission’s 2012-13 Annual Report.

As noted above, the Government’s response highlighted the need to revise the Victorian Guide to Regulation to provide consistent guidance for the operation of Victoria’s overall regulatory management system across the regulatory life cycle. The Commission is developing a project plan to allow it to assist DTF to implement these changes.
The Commission’s regulatory framework inquiry found that the general approach toward evaluating existing regulation in Victoria is patchy. This means that opportunities to enhance regulatory performance in Victoria, by removing unnecessary burdens and improving the effectiveness of regulation, may not be identified or implemented. Evaluations are more likely to be effective if data collection, monitoring and evaluation strategies are implemented when regulations are introduced or remade. The Government supported the Commission’s recommendation to improve evaluation of sunsetting regulations and require targeted reviews of new or amended legislation that introduce new regulatory burdens. The revised Victorian Guide to Regulation will include guidance setting out key requirements for ex-post evaluation and set out the Commission’s role advising on the adequacy of analysis contained in these evaluations. Although the Commission is unlikely to advise on the adequacy of analysis contained in evaluations in 2012-13, it will alert departments developing major regulations of this forthcoming requirement and advise them on the design of evaluation strategies to include in their RISs.

4.4.2 Improve the quality and accessibility of the Commission’s advice

Through advising on the adequacy of analysis in RISs and BIAs, the Commission encourages those developing regulations or legislation to follow good practice, as defined in the Victorian Guide to Regulation. Good practice includes clearly specifying the problem to be addressed, then identifying and, where possible, quantifying the costs and benefits of different options for addressing identified problems. The ability of the Commission to encourage good practice is enhanced by early engagement between departments and the Commission and by the Commission improving the quality of its advice by increasing its own capabilities and knowledge.

The benefits of the RIS/BA process have been most evident when departments or agencies have engaged early with the Commission, and used the RIS or BIA as a means of determining, or refining, the preferred option. The Commission has improved engagement in previous years by providing guidance to policy officers working on sunsetting regulation and working with departments to deliver targeted seminars and training.

In 2012-13, the Commission will build on this early work and its ongoing efforts to engage effectively through targeted promotion of the Commission’s expertise and experience as an advisor on how to undertake or improve regulatory impact analysis, to increase the proportion of policy officers seeking the Commission’s advice early in the policy development process when it can add the most value.

The Commission will also implement a number of capacity enhancing initiatives in 2012-13:

- a series of internal seminars commencing in July 2012 are designed to develop the Secretariat’s understanding of risk and market-based regulatory options to facilitate the consideration of these options in RISs and BIAs
- continuing to improve the Secretariat’s social policy expertise to be able to provide broader advice in response to stakeholder concerns that the Commission places too much emphasis on economic costs and too little on social benefits (Access Economics 2010, p. 34).
Competitive neutrality

2011-12 highlights

- The Commission assisted 24 government businesses and departments with competitive neutrality issues, and advised 21 private businesses and other parties with an interest in Victoria’s Competitive Neutrality Policy.
- Based on queries received by the Commission, Victorian Government businesses generally remain aware of the need to comply with the Competitive Neutrality Policy.
- The Commission finalised two competitive neutrality investigations in 2011-12. The investigation into Watermove Pty Ltd recommended improvements to its application of competitive neutrality. The Commission concluded that the Ambulance Victoria activity subject to complaint was outside the scope of the Competitive Neutrality Policy.
- The Commission received four new competitive neutrality complaints in 2011-12. The complaints were assessed and each determined to be outside the scope of the Competitive Neutrality Policy.
- The Commission prepared a new guidance note, Identifying significant business activities for competitive neutrality, which has been published on its website. The note will help government agencies and local government determine the significant business status of their activities.
- The Commission undertook an inter-jurisdictional study comparing the competitive neutrality processes of Australian governments.

Focus in 2012-13

In the coming year the Commission will focus on:
- refining its use of existing information sources — complaint and queries data — to enhance its competitive neutrality awareness-raising program
- identifying opportunities to deliver seminars, presentations or workshops as they arise to raise awareness of the benefits of competitive neutrality
- report on investigation timelines and improving processes to meet those timelines
- identifying situations where non-investigation-based complaint resolution methods may be applied instead of investigation-based resolution.

5.1 Introduction

Under the Competition Principles Agreement, Victoria is obliged to apply competitive neutrality policy and principles to all significant state and local government business activities that compete with private businesses (NCC 1995). The objective of competitive neutrality, which is set out in clause 3(1) of the Competition Principles Agreement, is:

... the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. These principles only apply to the
business activities of publicly owned entities, not to the non-business, non-profit activities of these entities. (NCC 1998, p. 17)

The policy and guidance documents used by Victorian government agencies and local government to apply competitive neutrality principles include: Competitive Neutrality Policy, Competitive Neutrality Guide to Implementation, and National Competition Policy and Local Government. These documents are available on the Commission’s website.

The Commission has also published Commission Conventions for the Competitive Neutrality Function (the Conventions Paper), setting out the scope of the Commission’s competitive neutrality role, the complaints process, actions taken to achieve awareness of competitive neutrality, and reporting requirements (VCEC 2011i). The Commission has also published a number of guidance notes.

5.2 The Commission’s competitive neutrality role

The Order in Council establishing the Commission states that one of its three core functions is to ‘achieve awareness of and compliance with the competitive neutrality policy of the Victorian Government currently in force’ (s. 3(3)(d)). To perform this function, the Commission:

(1) advises government businesses and departments on how to comply with the policy by raising awareness of their competitive neutrality responsibilities and developments in competitive neutrality

(2) investigates competitive neutrality complaints, including assisting private businesses and their advisers to determine whether a concern is related to competitive neutrality.

Accordingly, the Commission engages in awareness-raising activities with state government agencies and local governments about their competitive neutrality obligations, and the economic and community benefits that result from its correct application. The Commission also investigates competitive neutrality complaints against state government agencies and local governments.

5.3 Performance reporting

Given the available evidence (the number and nature of queries from government businesses and the results of its investigations), the Commission considers overall compliance with Victoria’s Competitive Neutrality Policy is acceptable.

The following sections outline the Commission’s competitive neutrality activities for 2011-12. Chapter 2 reports the estimated expenditure on this function; unit cost measures are not reported here for individual activities, given that this function is comparatively small.

The Commission’s performance reporting uses activity and proxy outcome measures to indicate performance, including the number of complaints (and the outcomes of those complaints).

5.3.1 Informing businesses and investigating complaints

The Commission received 21 queries from private businesses, their representatives or other interested parties during 2011-12 (table 5.1) which is consistent with the number of queries received in the previous year.
When it receives a query, the Commission identifies the nature of the concern and explains what competitive neutrality is and the Commission’s role. If the concern is outside the scope of the Competitive Neutrality Policy, the caller is advised why and the Commission suggests an alternative contact in government (such as the Office of the Victorian Small Business Commissioner or the Office of the Ombudsman Victoria) that may be able to help resolve the issue.

Table 5.1  Assistance to private businesses and their representatives

<table>
<thead>
<tr>
<th>Source of queries</th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private businesses</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td>Lawyers advising private businesses</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Consultants</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Private individuals</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Parliamentarians on behalf of constituents</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Community groups</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Industry bodies</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>19</strong></td>
<td><strong>21</strong></td>
</tr>
</tbody>
</table>

Note: The data exclude multiple queries about the same issue from one party.
Source: Commission data.

If the concern is within the scope of the Competitive Neutrality Policy, the caller is advised of possible options to resolve the issue. The Commission suggests that the caller raise their concern with the relevant government agency if they have not already done so. However, it is not mandatory to contact a government agency before lodging a complaint. This year, concerns raised with the Commission included the pricing of services offered by government agencies and the bundling of commercial and non-commercial products in a way that private sector providers are not able to do.

Table 5.2 tracks the number of complaints considered by the Commission in 2011-12, and how they were handled. At the end of 2011-12, no complaints were under investigation.

The Commission completed two investigations in 2011-12, both of which commenced in 2010-11. Final investigation reports, including conclusions and recommendations, are available on the Commission’s website. The Commission received four other competitive neutrality complaints in 2011-12 but all were assessed to be outside the scope of the Competitive Neutrality Policy and did not lead to an investigation. The Commission wrote to advise these complainants of the reason/s their complaints were not accepted.
Table 5.2  Competitive neutrality complaints

<table>
<thead>
<tr>
<th></th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigations carried over from last year</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Number of new complaints received</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Number of complaints not accepted</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Number of complaints finalised through non-investigative approaches</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Number of complaints finalised through investigation</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Investigations carried over to next year</td>
<td>2</td>
<td>0</td>
</tr>
</tbody>
</table>

Sources: Complaint investigation reports (various years); Commission analysis.

Information about the number of investigations completed before 2010-11 has been published in previous annual reports, which are available on the Commission’s website.

Investigations completed in 2011-12

Watermove—operation of a water trading platform

As reported in the 2010-11 Annual Report, a complaint directed at Watermove Pty Ltd (Watermove), a fully-owned subsidiary of Goulburn-Murray Water, alleged the pricing of its water trading services was not fully cost-reflective, and raised concerns about Watermove’s access to information from Goulburn-Murray Water arising from its governance and staffing arrangements.

On 23 August 2011, the Commission issued a final investigation report and concluded that Watermove had not fully met the requirements of the Competitive Neutrality Policy. The Commission recommended that:

(1) Watermove and Goulburn-Murray Water revise the protocols and procedures governing their exchange of information, and finalise protocols and procedures governing the relationship between the Watermove Chair and Goulburn-Murray Water

(2) Watermove review its cost base and associated pricing model to ensure all costs attributable to its water trading business were correctly identified and calculated.

After being provided with relevant financial information and a summary of actions Watermove had taken to implement the Commission’s recommendations, the Commission concluded that Watermove had complied with the Competitive Neutrality Policy. The Commission advised the complainant and Watermove of the outcome of this follow-up on 30 March 2012.

Ambulance Victoria—non-emergency patient transport services

As reported in the 2010-11 Annual Report, the Commission received a complaint about Ambulance Victoria’s rural non-emergency patient transport service that raised concerns about the allocation of patient transports to private providers. The complaint also alleged that the pricing of Ambulance Victoria’s rural non-emergency patient transport services did not reflect the true cost of those services, and possibly reflected cross-subsidisation from Ambulance Victoria’s emergency services.
On 21 February 2012, the Commission issued a final investigation report and concluded that Ambulance Victoria’s non-emergency patient transport activity was not a significant business — given the regulatory, policy and funding environment for these services — and, therefore, the complaint was outside the scope of the Competitive Neutrality Policy. This outcome means that concerns about Ambulance Victoria’s pricing of non-emergency patient transport and its potential use of emergency resources for non-emergency patient transport could not be addressed through the competitive neutrality investigation process.

Follow-up of previous report recommendations in 2011-12

South West Healthcare—South West Healthcare Supplies store

As reported in the 2010-11 Annual Report, the Commission finalised an investigation into the sale and pricing of healthcare equipment supplies by South West Healthcare to the general public from its South West Healthcare Supplies (SWHS) store at the Warrnambool Hospital on 6 May 2011. The investigation recommended that SWHS revise its competitive neutrality costing exercise and, subject to the outcome of this exercise, review the pricing of its commercial activities.

SWHS revised its costings in November 2011 and provided this to the Commission to review. After responding to further issues raised by the Commission, SWHS provided a fully revised costing exercise in March 2012. The Commission was satisfied, based on the information supplied in the revised costings, that SWHS was operating on a fully cost-reflective basis consistent with the Competitive Neutrality Policy. The Commission advised the complainant and South West Healthcare of the outcome of this follow-up on 3 April 2012.

Complaints not accepted for investigation in 2011-12

In 2011-12, the Commission received four complaints which it considered for investigation but did not accept. This section sets out the reasons the complaints were not accepted but complaint details are not discussed because investigations were not activated. Each complaint was assessed to be out of scope for different reasons:

- the activity was not government owned
- the issues raised related to the nature, scope and enforcement of regulations rather than business activities
- the activity did not meet the ‘significant business’ test required for the Competitive Neutrality Policy to apply
- the concern was about government funding of a particular activity and policy decisions, not competitive neutrality.

To help make these determinations the Commission conducted thorough assessments that included desktop research, obtaining information from the agencies identified in the application and seeking legal advice. Further, the Commission met with one of the complainants and the agency identified in the complaint application. The Commission wrote to each complainant setting out the reason/s their complaint was not accepted.

5.3.2 Assisting with compliance

The Commission provided formal and informal advice to government agencies on 24 issues related to competitive neutrality compliance during 2011-12. This increased from 17 in 2010-11 (table 5.3). Councils raised queries about: the application of the
Competitive Neutrality Policy to council owned and operated childcare centres; policy requirements in undertaking a public interest test; and the use of council websites to promote council-owned sporting facilities. State government agencies raised general queries about the application of the Competitive Neutrality Policy, including the identification of activities that might be in scope of the policy.

Given these queries, the Commission prepared and published a guidance note, Identifying significant business activities for competitive neutrality, on its website in 2011-12. The guidance note details how the Commission, and government agencies and councils, apply a significant business test to help determine whether an activity is in the scope of the Competitive Neutrality Policy. Improving understanding about what is a significant business enhances compliance with, and understanding of, the Policy.

The Commission also received four inquiries from agencies responsible for the competitive neutrality function in other jurisdictions, wishing to discuss general policy issues and a specific issue about applying competitive neutrality to recreation centres.

### Table 5.3  Assisting compliance

<table>
<thead>
<tr>
<th>Source of queries</th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councils</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>State government departments</td>
<td>11</td>
<td>15</td>
</tr>
<tr>
<td>Commonwealth government</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Advisers to government businesses</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Interstate jurisdictions</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>17</td>
<td>28</td>
</tr>
</tbody>
</table>

Source: Commission data.

The Commission may conduct competitive neutrality workshops for interested state government agencies and councils to help enhance their understanding of how to apply competitive neutrality. The Commission did not conduct any workshops in 2011-12 but, at the time of compiling its annual report, was preparing a presentation to the Chief Financial Officers of metropolitan public hospitals.

### 5.3.3  Awareness about the Commission’s competitive neutrality role

In the Commission’s view, raising awareness of the types of complaints investigated, recommendations made and competitive neutrality processes increases the understanding of competitive neutrality and, over time, improves compliance.

The Commission has continued to improve its communication of competitive neutrality investigation outcomes to government entities that conduct similar activities to those subject to a recent complaint or inquiry. In 2011-12, the Commission wrote to chief executive officers of Victoria’s public hospitals to alert them to developments in competitive neutrality relevant to their sector, and to another government agency in response to issues raised during the Commission’s inquiry into the tourism industry.

The Commission also provided an information flyer to the Victorian office of Fitness Australia. The flyer was designed to inform business operators about how councils apply the Competitive Neutrality Policy to recreation centres, and detailed who interested parties may contact to resolve concerns.
5.4 Current and future developments in competitive neutrality

The level of complaint activity and queries received from the business community in 2011-12 demonstrates an awareness of competitive neutrality and a willingness to test government agencies and councils that private businesses suspect may not be adhering correctly to competitive neutrality principles. In this environment, it is important for government agencies and councils to remain vigilant in their application of the Competitive Neutrality Policy.

To this end, in 2011-12, the Commission promoted awareness of competitive neutrality and published information to assist government agencies, councils and the business community to better understand where competitive neutrality might apply. In addition to publishing the Conventions Paper and the guidance note, Identifying significant business activities for competitive neutrality, the Commission started writing to complainants to advise them of the status of the government business’s response to the recommendations in the Commission’s investigation reports. The Commission also reports on its follow-up with government businesses in its Annual Report.

In 2011-12, the Commission developed a paper on how competitive neutrality is managed across Australia, to help the Commission to benchmark its approach and identify alternative approaches (refer to box 5.1 for key findings). The Commission considers that its current approach compares favourably with the jurisdictions surveyed, including the complaints investigation process and public reporting of competitive neutrality activities. A summary paper will be published on the Commission’s website in 2012-13.

The key issues for improvement in 2012-13 are outlined below.

5.4.1 Awareness raising

In the 2010-11 Annual Report, the Commission undertook to ask callers with a competitive neutrality query about how they became aware of competitive neutrality and the Commission’s role. These data help the Commission to identify areas within government where it might better focus its awareness-raising activities.

The data collated suggest that government agencies and councils are aware of the Competitive Neutrality Policy and the Commission’s role in promoting its implementation. Officers, when asked, cited internal agency or council knowledge about competitive neutrality and the Commission’s role as the reason they had called the Commission. One caller from a council was referred to the Commission from Local Government Victoria.
Box 5.1  Inter-jurisdictional comparison

The Commission compared how competitive neutrality is applied across Australia based on desktop research and consultation with each jurisdiction. Although information gaps remain, the Commission has been able to make the following general observations.

- Governance — Governance models vary according to whether responsibility for competitive neutrality rests with (i) an independent agency or a government department, and/or (ii) a single or multiple agencies. For example, Victoria and the Commonwealth are the only jurisdictions with a single, independent agency responsible for competitive neutrality.

- Policy framework — The differences between Victoria’s competitive neutrality framework and approaches in other jurisdictions, include that some other jurisdictions:
  - use monetary thresholds to determine the significant business status of an activity rather than applying significant business criteria on a case-by-case basis
  - accredit, ex ante, the government business’s compliance with competitive neutrality, which exempts them from investigation when a complaint is made (the Commission cannot accredit government business in Victoria, but does advise how government businesses can comply with the Competitive Neutrality Policy)
  - resolve complaints via mediation as opposed to investigations (although mediation is not formally used in Victoria, the Commission’s non-investigation approach shares some similarities with a mediation-based approach).

- Public reporting — Both Victoria and the Commonwealth report on the number of competitive neutrality complaints and investigation outcomes but only Victoria systematically reports on the number of inquiries and other performance measures.

The study also revealed that there have been more investigations in Victoria than in other jurisdictions. However, investigation activity has reduced over time (figure 5.1). The high number of complaints investigated in Victoria in the 1990s may reflect the implementation of policy reforms at that time, including compulsory competitive tendering. The number of investigations has declined since the implementation of the revised Competitive Neutrality Policy in 2000 and as government agencies have become more familiar with their competitive neutrality obligations.

![Figure 5.1](image-url)

**Figure 5.1 Comparison of investigations completed**

Source: Commission analysis based on Commonwealth, State and Territory data.
By contrast, the data suggest awareness among the business community is not as high. Private business operators advised that they learned about the Commission’s role by: their own research; referral from another government agency (Ombudsman Victoria, the Productivity Commission); their member of parliament; participation in a Commission inquiry; and third-party contacts.

In 2012-13, the Commission will continue to analyse the competitive neutrality queries and complaints data that it has collated and assess whether there are areas in which it can better focus its awareness-raising activities.

5.4.2 Non-investigation-based approach to complaints

In its 2010-11 Annual Report, the Commission committed to develop criteria and procedures for applying a non-investigation approach to handling complaints. A broad procedure has been set out and included in the Conventions Paper. As outlined in that paper, a non-investigation-based approach to resolving complaints may be considered where:

- a complaint is in scope of the Competitive Neutrality Policy but the Commission considers it may be possible to resolve the issue without the time and expense of a formal complaint investigation
- insufficient evidence exists to establish a departure from the Competitive Neutrality Policy but there appears to be a potential for issues to arise in future and these issues could be avoided if the government entity is made aware of the concerns (VCEC 2011i).

In 2011-12, no occasion arose to apply a non-investigation based approach to complaint resolution but the Commission will consider appropriate opportunities to apply this approach in 2012-13.

5.4.3 Complaint investigation timelines

In the 2010-11 Annual Report, the Commission undertook to develop indicative timelines for investigating competitive neutrality complaints. The Commission believes it is important to publish investigation process timelines so private businesses and government agencies can review and measure progress toward the completion of an investigation.

Competitive neutrality investigations can be resource-intensive and require time to ensure they are fair and rigorous and abide by principles of procedural fairness. Investigations also need to be timely to avoid the damage to private businesses that may occur if the Competitive Neutrality Policy is not complied with.

There are three key stages in an investigation.

(1) The Commission determines whether the complaint is in scope of the Policy and whether an investigation is justified given the available evidence. Where the complaint is accepted, the Commission advises the complainant and the government business, and requests relevant documentation in response to the complaint.

(2) A draft investigation report is prepared based on information provided by stakeholders, the Commission’s research, and other relevant sources. The Commissioners review the report before a confidential draft is circulated to the complainant, government business and responsible department for their comment.
A final investigation report is prepared after the Commission considers stakeholder comments and any further information. The final report is provided to the complainant, government business, the responsible department and the Treasurer (as the Minister responsible for National Competition Policy).

The Commission’s indicative timelines for the three stages of the complaint investigation process are set out in table 5.4. The Commission’s ability to meet the timelines depends on a range of factors. To help it prepare an investigation report, the Commission needs information from stakeholders. The timeline includes time for stakeholders to respond to the Commission’s request for information (three weeks), and to comment on the draft report (a further three weeks).

### Table 5.4 Investigation timelines

<table>
<thead>
<tr>
<th>Key stages in the complaint investigation process</th>
<th>Elapsed time from receipt of complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint assessment for acceptance</td>
<td>4 weeks</td>
</tr>
<tr>
<td>Preparation and distribution of the draft report</td>
<td>14 weeks</td>
</tr>
<tr>
<td>Preparation and distribution of the final report</td>
<td>20 weeks</td>
</tr>
</tbody>
</table>

Source: Commission analysis.

Following the distribution of the final investigation report to stakeholders, the investigation is reported as completed. The final report is confidential for 30 days after its distribution, at which time it is published on the Commission’s website.

After the investigation, the Commission follows up with the government business to assess if it has implemented the investigation report’s recommendations. The Commission usually follows up three months after the final investigation report is issued but may recommend a longer time in specific circumstances.

In 2012-13, the Commission will review the investigation process against the investigation timelines, and identify and test opportunities to improve processes to meet or reduce timelines. The Commission will also, in future, report its performance against the timelines together with the reasons these may not be met.
Appendix A: Financial statements

This appendix details the costs of the Commission’s operations during 2011-12. The Commission is supported by a Secretariat located in the Department of Treasury and Finance (DTF). In supporting the Commission, the Secretariat operates independently from the rest of DTF, although it shares administrative resources (human resources, information technology, legal services, etc.) and is subject to DTF policies. A formal agreement between the Commission’s Chair and the Secretary of DTF (available on the Commission’s website) was put in place in August 2005 to ensure that the Commission is able to provide independent, high-quality analysis and advice to the Government in the most cost efficient manner.

Consistent with these arrangements, the Minister for Finance exempted the Commission from preparing separate financial statements under section 53 of the Financial Management Act 1994. The financial activities of the Commission have been consolidated and audited within the financial statements of DTF.

Table A.1 Cost of operations

<table>
<thead>
<tr>
<th>Expenses from operating activities</th>
<th>2010-11 ($)</th>
<th>2011-12 ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee benefits (note 1)</td>
<td>3 380 850</td>
<td>3 244 382</td>
</tr>
<tr>
<td>Supplies and services</td>
<td>878 091</td>
<td>1 015 343</td>
</tr>
<tr>
<td>Depreciation and amortisation</td>
<td>57 128</td>
<td>51 677</td>
</tr>
<tr>
<td>Capital assets charge</td>
<td>20 592</td>
<td>18 996</td>
</tr>
<tr>
<td>Other expenses</td>
<td>2 938</td>
<td>4 887</td>
</tr>
<tr>
<td></td>
<td><strong>4 339 599</strong></td>
<td><strong>4 335 285</strong></td>
</tr>
</tbody>
</table>

Notes:  

- In addition to the direct expenditures of the Commission and its Secretariat recorded above, the Commission receives a range of support services, such as information technology, finance, procurement, and human resources support from DTF, consistent with the arrangements for other similar agencies in the portfolio.

Source: Commission data.

Note 1: Commission and Secretariat employee costs

<table>
<thead>
<tr>
<th>Employee benefits a</th>
<th>2010-11 ($)</th>
<th>2011-12 ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and wages</td>
<td>2 657 579</td>
<td>2 533 284</td>
</tr>
<tr>
<td>Superannuation</td>
<td>251 107</td>
<td>246 982</td>
</tr>
<tr>
<td>Annual and long service leave expense</td>
<td>299 970</td>
<td>291 195</td>
</tr>
<tr>
<td>Other on-costs</td>
<td>172 194</td>
<td>172 921</td>
</tr>
<tr>
<td><strong>Total employee costs</strong></td>
<td><strong>3 380 850</strong></td>
<td><strong>3 244 382</strong></td>
</tr>
</tbody>
</table>

Notes:  

- Includes the remuneration of the Commissioners (who are appointed by Governor-in-Council) and the Secretariat staff who are employees of DTF (but whose work is governed by a formal agreement between the Commission’s Chair and the Secretary of DTF).

Source: Commission data.
## Appendix B: Victorian Competition and Efficiency Commission workforce data

### Table B.1 Commission’s Secretariat employees, 30 June 2012

<table>
<thead>
<tr>
<th>Total Secretariat employees — Victorian Public Service (VPS) and executive officers</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-time</td>
<td>16</td>
</tr>
<tr>
<td>Part-time</td>
<td>3</td>
</tr>
<tr>
<td>Total number</td>
<td>19</td>
</tr>
<tr>
<td><strong>Total full-time equivalent</strong></td>
<td>17.8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Breakdown by gender</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>Full-time</td>
<td>12</td>
</tr>
<tr>
<td>Part-time</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>12</td>
</tr>
</tbody>
</table>

Notes: The Commission also funds a part-time (0.6 full-time equivalent) legal adviser who is employed and supervised by the Department of Treasury and Finance’s Legal Unit. This legal adviser is outposted on a dedicated basis to the VCEC Secretariat. Two research assistants are also employed on a casual basis.

Source: Commission data.

### Table B.2 Commissioners, 30 June 2012

<table>
<thead>
<tr>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-time</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Part-time</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total number</strong></td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total full-time equivalent</strong></td>
<td>1.5</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: Commission data.
### Table B.3  Profile of Victorian Public Service (VPS) employees of Commission’s Secretariat, 30 June 2012

<table>
<thead>
<tr>
<th>Class</th>
<th>Full-time</th>
<th>Part-time</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>Grade 6</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Grade 5</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Grade 4</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Grade 3</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Grade 2</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Grade 1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>8</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: Commission data.

### Table B.4  Profile of executive officers of Commission’s Secretariat, 30 June 2012

<table>
<thead>
<tr>
<th>Class</th>
<th>Ongoing</th>
<th>Special projects</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>EO-1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>EO-2</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>EO-3</td>
<td>3(^a)</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>-</td>
</tr>
</tbody>
</table>

Notes: \(^a\) This includes one person acting in a EO-3 role.

Source: Commission data.

### Merit and equity

Merit and equity principles are applied to all human resources policies and practices in relation to the Secretariat and the Commission.
Appendix C:  Statement of consultancies

Consultancies over $10 000

The Commission did not engage any consultancies during the 2011-12 financial year, where the total fees payable to the consultant exceeded $10 000.

Consultancies under $10 000

The Commission engaged one consultancy during the 2011-12 financial year, where the total fees payable to the consultant were less than $10 000.\(^2\)

All consultancies were engaged by the Commission’s Secretariat. Procurement processes are undertaken in accordance with Victorian Government Purchasing Board (VGPB) procurement policies.

\(^1\) This does not include contractors, the majority of which were commissioned for the public inquiries. See table 3.5 in chapter 3.

\(^2\) The expenditure on the consultancy was $8 864 (exclusive of GST).
Appendix D: Freedom of Information statement

The Commission is a prescribed authority under the Freedom of Information Act 1982 (Vic) and as such its documents, other than an exempt document, are accessible by the public, under the Act. The Commission received no requests under the Act during 2011-12.

Reports, publications and information requests

Details of reports and publications produced by the Commission can generally be obtained from the Commission’s website www.vcec.vic.gov.au. In addition, submissions to Commission inquiries, Regulatory Impact Statements and, where released by Departments, Regulatory Change Measurement reports assessed by the Commission, are posted on the website.

Otherwise, requests may be directed to:

Victorian Competition and Efficiency Commission
GPO Box 4379
MELBOURNE VIC 3001
Telephone: 61 3 9092 5800

The Commission will make information and documents available without requiring a formal request under the Freedom of Information Act, as far as reasonably practical, having regard to:

• personal sensitivities and commercial confidentiality
• time and cost considerations.

To that end, it encourages individuals seeking information or documents to consult the Commission and make their needs known in an informal manner so the Commission may respond in a manner that best suits the individual.

Formal requests for information

Formal requests for documents held by the Commission under the Freedom of Information Act must be made in writing to the Chair. Requests should be addressed as follows:

Dr Matthew Butlin
Chair
Victorian Competition and Efficiency Commission
GPO Box 4379
MELBOURNE VIC 3001

Charges

An application fee of $25.00 must accompany a request. The fee may be waived if the payment is likely to cause hardship to the applicant.

In addition to the application fee, the Freedom of Information Act provides for certain charges for the provision of documents. The Freedom of Information (Access Charges)
Regulations 2004 prescribe a schedule of charges. The main charges relate to search time ($20.00 per hour) and photocopying (20 cents per page).

If charges relating to the request are likely to be more than $50.00, the applicant will be asked if they wish to proceed, and they may be required to pay a deposit.

**Freedom of information decisions**

Decisions on requests for information are made within 45 days of the date on which the Commission receives the valid request.

The Freedom of Information Act sets out situations in which the Commission may refuse access to certain documents. Access may be refused if, for example, the documents are prepared for the purpose of submissions for consideration by Cabinet. The applicant will be advised of their rights of review if they are dissatisfied with a decision under the Act.

**Further information about the Act**

Further information regarding the Freedom of Information Act may be obtained from:

- the Act
- various Regulations made under the Act

The Act and related Regulations are available for purchase from:

Victorian Government Bookshop  
Level 20, 80 Collins Street  
MELBOURNE VIC 3000  
Telephone: 1300 366 356  
Website: http://www.bookshop.vic.gov.au

The Act and related Regulations can be accessed free of charge at www.legislation.vic.gov.au
Appendix E: Compliance with the Whistleblowers Protection Act 2001

The Whistleblowers Protection Act 2001 (Vic) encourages and facilitates disclosures of improper conduct by public bodies or public sector employees, and protects whistleblowers who make those disclosures.

The Commission is committed to the aims and objectives of the Act. It recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal conduct involving corruption, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

The Commission will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure.

The Commission has adopted the procedures of the Department of Treasury and Finance for whistleblower protection.

There were no whistleblower disclosures or other matters requiring disclosure under s. 104 of the Act in 2011-12.
Appendix F: Further requirements under the Financial Management Act 1994

Occupational Health and Safety

The Commission and its Secretariat comply with relevant occupational health and safety requirements.

WorkCover

There were no WorkCover claims during 2011-12.

Private interest declarations

Declarations of private interest were completed by all relevant officers.

Employee relations

No employee time was lost in 2011-12 due to industrial disputes.

National Competition Policy

The Commission promotes and complies with the National Competition Policy.

Shares

No shares are held by a senior officer as nominee or held beneficially in a statutory authority or subsidiary.

Research and development

No major research and development activities were undertaken by the Commission in 2011-12.

Building works

The Commission does not have any buildings under its direct control and did not enter into works that required compliance under the Building Act 1993.

Overseas visits

There were no overseas visits undertaken during the financial year of 2011-12.

Major external reviews

No major external reviews were carried out on the Commission in 2011-12.

Major promotional, public relations and marketing activities

No major promotional, public relations and marketing activities to develop community awareness were undertaken by the Commission in 2011-12.
Sponsorship of major committees

No major committees were sponsored by the Commission in 2011-12.
Appendix G: Sunsetting regulations in 2012-13 and 2013-14

All regulations covered by the Subordinate Legislation Act 1994 (Vic) are revoked or ‘sunset’ after 10 years. This process of regular review has been in place in Victoria since 1985 and has contributed to the removal of unnecessary regulation.

The Victorian Guide to Regulation notes the importance of the 10-yearly review:

In order to replace sunsetting regulations, it is important to provide a strong and clear demonstration that each restriction imposed by regulation is still required. When replacing sunsetting regulation, whether in similar or modified form, particular attention should be given to the following requirements during the preparation of the Regulatory Impact Statement (RIS):

- demonstrating that the nature and extent of the problem still require a regulatory response
- evaluating the actual effectiveness of the existing regulatory regime
- substantiating that the particular regulatory response remains the best solution
- conducting the cost-benefit analysis in terms of a comparison with the base case of an unregulated situation. (Government of Victoria 2011c, p. 52)

The aim of this appendix is to assist stakeholders to identify regulations that will sunset during 2012-13 and 2013-14, particularly those that will require a RIS. All government departments were asked to verify and amend, where necessary, a list of sunsetting regulations based on information provided by the Office of the Chief Parliamentary Counsel. They were also asked to provide other relevant information about the regulations, including whether a RIS might be required. This process also served to identify agencies that might benefit from workshops the Commission offers on preparing RISs and encourage early planning. All information was current at 8 August 2012.

Seventy-six regulations will sunset between 1 July 2012 and 30 June 2014. A RIS will be prepared, is currently underway, completed or is expected to be developed for 30 of these regulations. A RIS will not be prepared or is not expected to be prepared for 34 regulations. Departments identified four regulations that will not be re-made or have been revoked. There are also eight regulations where the need to prepare a RIS is yet to be decided.
<table>
<thead>
<tr>
<th>Regulation</th>
<th>Responsible department/agency</th>
<th>Minister</th>
<th>Sunset or expiry date</th>
<th>RIS required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water (Groundwater) Regulations 2002</td>
<td>DSE</td>
<td>Water</td>
<td>2/07/2012</td>
<td>No&lt;sup&gt;a&lt;/sup&gt;</td>
</tr>
<tr>
<td>Companies Act 1961 Regulations 2002</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>16/07/2012</td>
<td>No, regulations were revoked</td>
</tr>
<tr>
<td>Infringements (General) Regulations 2006</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>17/07/2012</td>
<td>No&lt;sup&gt;b&lt;/sup&gt;</td>
</tr>
<tr>
<td>Electoral Regulations 2002</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>3/09/2012</td>
<td>No</td>
</tr>
<tr>
<td>Health Services (Private Hospitals and Day Procedure Centres) Regulations 2002</td>
<td>DH</td>
<td>Health</td>
<td>10/09/2012</td>
<td>Underway&lt;sup&gt;c&lt;/sup&gt;</td>
</tr>
<tr>
<td>Wildlife (Game) Regulations 2001</td>
<td>DPI (and DSE)</td>
<td>Environment and Climate Change and Agriculture and Food Security&lt;sup&gt;d&lt;/sup&gt;</td>
<td>11/09/2012</td>
<td>Underway</td>
</tr>
<tr>
<td>Catchment and Land Protection Regulations 2002</td>
<td>DSE</td>
<td>Environment and Climate Change</td>
<td>24/09/2012</td>
<td>No&lt;sup&gt;e&lt;/sup&gt;</td>
</tr>
<tr>
<td>Racing (Bookmakers) Regulations 2002</td>
<td>DOJ</td>
<td>Racing</td>
<td>24/09/2012</td>
<td>No</td>
</tr>
<tr>
<td>Co-operatives Regulations 2008</td>
<td>DOJ</td>
<td>Consumer Affairs</td>
<td>28/09/2012</td>
<td>No</td>
</tr>
<tr>
<td>Magistrates’ Court (Fees, Costs and Charges) Interim Regulations 2012</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>30/09/2012</td>
<td>Completed</td>
</tr>
<tr>
<td>Juries (Fees) Interim Regulations 2012</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>30/09/2012</td>
<td>Completed</td>
</tr>
<tr>
<td>Fair Trading (Prescribed Safety Standard for Baby Walkers) Regulations 2002</td>
<td>DOJ</td>
<td>Consumer Affairs</td>
<td>8/10/2012</td>
<td>No, regulations were revoked</td>
</tr>
<tr>
<td>Fair Trading (Safety Standard) (Bunk Beds) Regulations 2002</td>
<td>DOJ</td>
<td>Consumer Affairs</td>
<td>22/10/2012</td>
<td>No, regulations were revoked</td>
</tr>
<tr>
<td>Regulation</td>
<td>Responsible department/agency</td>
<td>Minister</td>
<td>Sunset or expiry date</td>
<td>RIS required?</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>--------------------------------</td>
<td>----------------------------------------</td>
<td>-----------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Mineral Resources Development Regulations 2002</td>
<td>DPI</td>
<td>Energy and Resources</td>
<td>22/10/2012</td>
<td>Expected</td>
</tr>
<tr>
<td>National Parks (Point Hicks Marine National Park) Regulations 2002</td>
<td>DSE</td>
<td>Environment and Climate Change</td>
<td>29/10/2012</td>
<td>No</td>
</tr>
<tr>
<td>Environment Protection (Fees) Regulations 2001</td>
<td>DSE</td>
<td>Environment and Climate Change</td>
<td>29/10/2012</td>
<td>Completed</td>
</tr>
<tr>
<td>Supreme Court Library Fund (Investment) Rules 2002</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>1/11/2012</td>
<td>Not expected</td>
</tr>
<tr>
<td>Dangerous Goods (Storage and Handling) Interim Regulations 2011</td>
<td>DTF/WorkSafe Victoria</td>
<td>Finance (WorkCover and TAC)</td>
<td>1/12/2012</td>
<td>Underway</td>
</tr>
<tr>
<td>Gambling Regulation (Pre-commitment) Interim Regulations 2011</td>
<td>DOJ</td>
<td>Gaming</td>
<td>1/12/2012</td>
<td>Underway</td>
</tr>
<tr>
<td>Adoption (Intercountry Fees) Regulations 2002</td>
<td>DHS</td>
<td>Community Services</td>
<td>17/12/2012</td>
<td>To be decided</td>
</tr>
<tr>
<td>Crimes (DNA Database) Regulations 2002</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>17/12/2012</td>
<td>No</td>
</tr>
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<td>Whistleblowers Protection Regulations 2001</td>
<td>DOJ</td>
<td>Responsible for the establishment of an anti-corruption commission</td>
<td>17/12/2012</td>
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<tr>
<td>Supreme Court (Fees) Regulations 2001</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>17/12/2012</td>
<td>Underway</td>
</tr>
<tr>
<td>County Court (Court Fees) Order 2001</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>17/12/2012</td>
<td>Underway</td>
</tr>
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<td>Victorian Civil and Administrative Tribunal (Fees) Regulations 2001</td>
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<td>Attorney-General</td>
<td>17/12/2012</td>
<td>Underway</td>
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<td>Bail Regulations 2003</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>22/01/2013</td>
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<td>Police Regulations 2003</td>
<td>DOJ</td>
<td>Police and Emergency Services</td>
<td>22/01/2013</td>
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<td>Land Conservation (Vehicle Control) Regulations 2003</td>
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<td>Environment and Climate Change</td>
<td>29/01/2013</td>
<td>Expected</td>
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<tr>
<td>Regulation</td>
<td>Responsible department/ agency</td>
<td>Minister</td>
<td>Sunset or expiry date</td>
<td>RIS required?</td>
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<td>--------------------------------------------------------</td>
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<td>Members of Parliament (Register of Interests) Regulations 2003</td>
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<td>Premier</td>
<td>29/01/2013</td>
<td>Not expected</td>
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<td>Parliamentary Allowances Regulations 2003</td>
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<td>Premier</td>
<td>29/01/2013</td>
<td>Not expected</td>
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<td>Premier</td>
<td>29/01/2013</td>
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<td>Public Authorities (Dividends) Regulations 2003</td>
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<td>Treasurer</td>
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<tr>
<td>Water Industry (Prescribed Persons) Regulations 2003</td>
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<td>24/02/2013</td>
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<td>Private Agents Regulations 2003</td>
<td>DOJ</td>
<td>Consumer Affairs</td>
<td>2/04/2013</td>
<td>No</td>
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<tr>
<td>Planning and Environment (Fees) Interim Regulations 2012</td>
<td>DPCD</td>
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<td>22/04/2013</td>
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<tr>
<td>Subdivision (Fees) Interim Regulations 2012</td>
<td>DPCD</td>
<td>Planning</td>
<td>22/04/2013</td>
<td>Underwayi</td>
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<tr>
<td>Retail Leases Regulations 2003</td>
<td>DBI</td>
<td>Innovation, Services and Small Business</td>
<td>23/04/2013</td>
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<td>Zoological Parks and Gardens Regulations 2003</td>
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<td>Environment and Climate Change</td>
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<td>Water (Lake Eildon Recreational Area) (Houseboats) Regulations 2003</td>
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<td>Conservation, Forests and Lands (Infringement Notice) Regulations 2002</td>
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<td>Environment and Climate Change</td>
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<td>Energy and Resources</td>
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<td>Regulation</td>
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<td>Minister</td>
<td>Sunset or expiry date</td>
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<td>Energy and Resources</td>
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<td>National Parks (Park) Regulations 2003</td>
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<td>Environment and Climate Change</td>
<td>24/06/2013</td>
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<td>Wildlife Regulations 2002</td>
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<td>Environment and Climate Change and Agriculture and Food Security¹</td>
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<td>Cancer (BreastScreen Victoria Registry) Regulations 2003</td>
<td>DH</td>
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<td>Valuation of Land (General and Supplementary Valuation) Regulations 2003</td>
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<td>Environment and Climate Change</td>
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<td>Marine Safety Regulations 2012²</td>
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<td>Ports</td>
<td>21/12/2013</td>
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<td>Charter of Human Rights and Responsibilities (Public Authorities) Regulations 2009</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>27/12/2013</td>
<td>To be decided</td>
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<td>Sunset or expiry date</td>
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<td>Police Regulation (Fees and Charges) Regulations 2004</td>
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<td>Police and Emergency Services</td>
<td>3/02/2014</td>
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<td>Health Services (Prescribed Regions) Regulations 2004</td>
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<td>Health</td>
<td>2/03/2014</td>
<td>No</td>
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<td>Survey Co-ordination Regulations 2004</td>
<td>DSE</td>
<td>Environment and Climate Change</td>
<td>10/03/2014</td>
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<td>Local Government (Finance and Reporting) Regulations 2004</td>
<td>DPCD</td>
<td>Local Government</td>
<td>20/04/2014</td>
<td>Not expected</td>
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<td>Transfer of Land (General) Regulations 2004</td>
<td>DSE</td>
<td>Environment and Climate Change</td>
<td>11/05/2014</td>
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<td>Financial Management Regulations 2004</td>
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<td>Finance</td>
<td>18/05/2014</td>
<td>Not expected</td>
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<td>Architects Regulations 2004</td>
<td>DPCD</td>
<td>Planning</td>
<td>21/05/2014</td>
<td>To be decided</td>
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<tr>
<td>Supreme Court (Administration and Probate) Rules 2004</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>27/05/2014</td>
<td>No</td>
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<td>Child Employment Regulations 2004</td>
<td>DBI</td>
<td>Employment and Industrial Relations</td>
<td>8/06/2014</td>
<td>Expected</td>
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<td>Crimes (Confiscation) Regulations 2004</td>
<td>DOJ</td>
<td>Attorney-General</td>
<td>8/06/2014</td>
<td>No</td>
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<td>Drugs, Poisons and Controlled Substances (Confiscation) Regulations 2004</td>
<td>DOJ in consultation with DH</td>
<td>Mental Health</td>
<td>8/06/2014</td>
<td>No</td>
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<tr>
<td>Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004</td>
<td>DOJ in consultation with DH</td>
<td>Mental Health</td>
<td>22/06/2014</td>
<td>Not Expected</td>
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<tr>
<td>Tertiary Education (Fees) Regulations 2004</td>
<td>VRQA</td>
<td>Higher Education and Skills</td>
<td>22/06/2014</td>
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<td>Forests (Fire Protection) Regulations 2004</td>
<td>DSE</td>
<td>Environment and Climate Change</td>
<td>29/06/2014</td>
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<tr>
<td>Regulation</td>
<td>Responsible department/ agency</td>
<td>Minister</td>
<td>Sunset or expiry date</td>
<td>RIS required?</td>
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<td>Freedom of Information (Access Charges) Regulations 2004</td>
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<td>Responsible for the establishment of anti-corruption commission</td>
<td>29/06/2014</td>
<td>Expected</td>
</tr>
<tr>
<td>Monetary Units Regulations 2004</td>
<td>DTF</td>
<td>Treasurer</td>
<td>29/06/2014</td>
<td>Not expected</td>
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<tr>
<td>Parole Orders (Transfer) Regulations 2004</td>
<td>DOJ</td>
<td>Corrections</td>
<td>29/06/2014</td>
<td>No</td>
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<tr>
<td>Port Management (Local Ports) Regulations 2004</td>
<td>DOT</td>
<td>Ports</td>
<td>29/06/2014</td>
<td>Expected</td>
</tr>
<tr>
<td>Prisoners (Interstate Transfer) Regulations 2004</td>
<td>DOJ</td>
<td>Corrections</td>
<td>29/06/2014</td>
<td>No</td>
</tr>
</tbody>
</table>

Notes:

- These Regulations were revoked on 1 July 2012 by regulation 4 of the Water (Drillers' Licences) Regulations 2012.
- The expiry date of the Infringements (General) Regulations 2006 has been extended to 27 June 2016.
- The Department intends to apply for a 12 month extension to the Regulations to allow any changes from the review of part 4 of the Health Act to be considered in these Regulations.
- The responsibility for game management was transferred to the Department of Primary Industries (DPI). The Regulations are being remade by DPI, in consultation with the Department of Sustainability and Environment.
- Regulations being led by DPI (in consultation with DSE).
- Regulations being led by DPI.
- A 12 month extension is being sought to allow the operation of the regulations to 22 October 2013.
- The National Parks (Point Hicks Marine National Park) Regulations 2002 were consolidated into the National Parks (Park) Regulations 2003 under the National Parks (Park) Amendment Regulations 2011.
- Not required, relevant Parts of the Water Industry Act 1994 have been revoked.
- These interim regulations were approved by Governor in Council on 17 July 2012 and came into operation on 22 July 2012. They were prepared without a RIS under a Premier’s exemption certificate. The Planning and Environment (Fees) Interim Regulations 2011 were revoked by the interim regulations.
- These interim regulations were approved by Governor in Council on 17 July 2012 and came into operation on 22 July 2012. They were prepared without a RIS under a Premier’s exemption certificate. The current Subdivision (Fees) Interim Regulations 2011 were revoked by the interim regulations.
- The contents of these regulations will eventually be subsumed as part of the national energy market reform program. Subject to the progress of the national program, these regulations may be allowed to lapse.
- The regulations are being remade by DSE (in consultation with DPI).
- Only certain parts of the Marine Safety Regulations 2012 are due to expire on 21/12/2013 — Regulations 31, 32, and Part 13. A RIS is expected for Part 13 (fees).

Sources: OCPC 2011; 2012a; 2012b; VCEC 2011h.
## Appendix H: Regulatory Impact Statements assessed in 2011-12

### Table H.1 Regulations by department

<table>
<thead>
<tr>
<th>Department of Human Services</th>
<th>Costs&lt;sup&gt;bc&lt;/sup&gt; ($m)</th>
<th>Benefits&lt;sup&gt;bcd&lt;/sup&gt; ($m)</th>
<th>Consultation (days)</th>
<th>Assessment Letter&lt;sup&gt;e&lt;/sup&gt;</th>
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<tbody>
<tr>
<td>Residential Tenancies</td>
<td>9.2</td>
<td>0.2</td>
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<tr>
<td>(Rooming House Standards)</td>
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<tr>
<td>Regulations 2011</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Department of Health</th>
<th>Costs&lt;sup&gt;bc&lt;/sup&gt; ($m)</th>
<th>Benefits&lt;sup&gt;bcd&lt;/sup&gt; ($m)</th>
<th>Consultation (days)</th>
<th>Assessment Letter&lt;sup&gt;e&lt;/sup&gt;</th>
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</thead>
<tbody>
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<td>Cancer (Reporting)</td>
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<td>Regulations 2012</td>
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<tr>
<td>Health Records Regulations</td>
<td>na&lt;sup&gt;g&lt;/sup&gt;</td>
<td>na</td>
<td>28</td>
<td>✓</td>
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<td>2012&lt;sup&gt;f&lt;/sup&gt;</td>
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<td></td>
<td></td>
<td></td>
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<td>Supported Residential</td>
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<td>Services (Private Proprietors) Regulations 2012&lt;sup&gt;f&lt;/sup&gt;</td>
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<thead>
<tr>
<th>Department of Justice</th>
<th>Costs&lt;sup&gt;bc&lt;/sup&gt; ($m)</th>
<th>Benefits&lt;sup&gt;bcd&lt;/sup&gt; ($m)</th>
<th>Consultation (days)</th>
<th>Assessment Letter&lt;sup&gt;e&lt;/sup&gt;</th>
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<td>Control of Weapons</td>
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<td>Regulations 2011&lt;sup&gt;f&lt;/sup&gt;</td>
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<tr>
<td>Legal Profession (Practising Certificate Fees) Regulations 2012&lt;sup&gt;f&lt;/sup&gt;</td>
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<tr>
<th>Department of Transport</th>
<th>Costs&lt;sup&gt;bc&lt;/sup&gt; ($m)</th>
<th>Benefits&lt;sup&gt;bcd&lt;/sup&gt; ($m)</th>
<th>Consultation (days)</th>
<th>Assessment Letter&lt;sup&gt;e&lt;/sup&gt;</th>
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<td>Marine Safety Regulations</td>
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<tr>
<td>2011&lt;sup&gt;f&lt;/sup&gt;</td>
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<tr>
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<th>Costs&lt;sup&gt;bc&lt;/sup&gt; ($m)</th>
<th>Benefits&lt;sup&gt;bcd&lt;/sup&gt; ($m)</th>
<th>Consultation (days)</th>
<th>Assessment Letter&lt;sup&gt;e&lt;/sup&gt;</th>
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<td>Local Government (Long Service Leave) Regulations</td>
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<tr>
<th>Department of Sustainability and Environment</th>
<th>Costs&lt;sup&gt;bc&lt;/sup&gt; ($m)</th>
<th>Benefits&lt;sup&gt;bcd&lt;/sup&gt; ($m)</th>
<th>Consultation (days)</th>
<th>Assessment Letter&lt;sup&gt;e&lt;/sup&gt;</th>
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<tr>
<td><strong>Costs</strong>&lt;sup&gt;bc&lt;/sup&gt; ($m)</td>
<td><strong>Benefits</strong>&lt;sup&gt;bcd&lt;/sup&gt; ($m)</td>
<td><strong>Consultation</strong>&lt;sup&gt;bd&lt;/sup&gt; (days)</td>
<td><strong>Assessment Letter</strong>&lt;sup&gt;e&lt;/sup&gt;</td>
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<td>Accident Compensation Regulations 2012</td>
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<td>TOTAL</td>
<td>581.4</td>
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<tr>
<td>Average</td>
<td>48.5</td>
<td>53.4</td>
<td>36</td>
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Notes:  

- **a** One additional RIS was assessed during 2011-12 but is not included in this table as it had not been released for public consultation at the time this report was finalised.  
- **b** nq = not quantified.  
- **c** Costs and benefits are calculated in net present value terms at a discount rate of 3.5 per cent over the life of the regulations (10 years unless otherwise stated). Where a range of costs and benefits has been quantified in a RIS, the mid-point value has been provided in this table. This table only details costs and benefits that were quantified in the RIS. Non-quantified costs and benefits may also be outlined in the RIS.  
- **d** Benefits from fees RISs derive from fees collected to fund the administration and sometimes the enforcement of the regulations.  
- **e** ✓ The Commission’s final assessment letter was published with the RIS on the agency’s website. As of March 2012, it is government policy that the letter be published.  
- **f** includes fees revenue.  
- **g** The proposed Regulations have no direct net cost to the community. Allowing fees to be charged enables the costs of the access to be transferred between different segments of the community — in this case from health service providers and other organisations to the individuals requesting access.

Source: Commission RIS database.
Appendix I: Bills introduced into Parliament in 2011-12 that were subject to Business Impact Assessments

<table>
<thead>
<tr>
<th>Bill</th>
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<tbody>
<tr>
<td>Water Amendment (Governance and Other Reforms) Bill 2012</td>
<td>2011-12</td>
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</tbody>
</table>

Notes:  
* A Bill for one Business Impact Assessment (BIA) assessed in 2011-12 has not been included because it was not introduced into Parliament.

Source: Commission data.
Appendix J: Disclosure index

Compliance index disclosure

This index page facilitates the identification of compliance with the Directions of the Minister for Finance by listing references to disclosures in this report.

Table J.1 Report of operation

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Requirement</th>
<th>Page</th>
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<td>FRD 22</td>
<td>Manner of establishment and relevant Minister</td>
<td>17, 19–20</td>
</tr>
<tr>
<td>FRD 22</td>
<td>Objectives, functions, powers and duties</td>
<td>17–28</td>
</tr>
<tr>
<td>FRD 22</td>
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Notes: na = not applicable.
Legislation

Freedom of Information Act 1982
Building Act 1993
Whistleblowers Protection Act 2001
Victorian Industry Participation Policy Act 2003
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