



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications

2020–2021 Regulator Self- Assessment—Part X of the Competition and Consumer Act 2010 (Part X)

December 2021



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Introduction

About this self-assessment

The Australian Government has committed to reducing the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations. The Regulator Performance Framework (the Framework) supports Australian Government regulators to measure and improve their performance, particularly in adopting consistent, risk-based approaches to administered regulation. 2021 will be the final year of the Regulator Performance Framework. Measuring regulatory performance will be included in regulators business plans going forward. The Framework consists of six outcomes-based key performance indicators (KPIs) aimed at reducing regulatory burden, communications, risk-based and proportionate approaches, efficient and coordinated monitoring, transparency, and continuous improvement.

The Part X regulator has developed a set of tailored KPIs as part of the Framework. Following consultation with key stakeholders these KPIs were published on the Department's website at [Deregulation](#).

The Framework requires regulators to publish an annual self-assessment of their performance against the agreed KPIs and to have these self-assessments validated by external stakeholders. This document has been produced to meet these requirements for the 2020–2021 reporting period.

About the Regulator

The Department of Infrastructure, Transport, Regional Development and Communications (the Department) regulates Part X of the Competition and Consumer Act 2010 (CCA). The Department is responsible for assessing applications and registering conference agreements which allow international liner shipping companies to engage in certain anti competitive behaviour when shipping non-bulk or container cargo either to or from Australia.

The Department's role is limited to ensuring:

- applicants comply with legislative requirements for submitting information to register a conference agreement;
- applicants follow the legislated registration process; and
- decisions to register conference agreements are made in accordance with the CCA.

On 1 July 2021, the Department sent out a survey to 17 stakeholders identified as having made an application, registered an agent or required information on Part X during the 2020–2021 reporting period. The Department received responses from two stakeholders. The responses to the survey have assisted the Department in identifying areas for future improvement.

In performing this self-assessment, evidence used includes information made available on the Department's website. The Department also used information provided as a result of the Tasmanian and Shipping Programs Section's interactions with stakeholders.

Overall, the Department is performing well against the KPIs with positive stakeholder feedback.

The key areas identified for improvement were simplifying the process of registering a conference agreement and creating an online process for applying for the registration of a conference agreement.

Key Performance Indicators

Key Performance Indicator 1 – Regulator does not unnecessarily impede the efficient operation of regulated entities.

Measure	Evidence	2020–2021 Results
<p>Applications for provisional and final registration of conference agreements and registration of agents are considered in a timely manner and in accordance with the statutory requirements.</p>	<p>Percentage of applications for conference agreements processed within statutory timeframe.</p> <p>The following data is extracted from the Register of Liner shipping:</p> <ul style="list-style-type: none"> • 12 applications for provisional registration received in the period; and • 12 applications for final registration received in the period. 	<p>Achieved</p> <p>In accordance with Sections 10.28 (provisional registration) and 10.33 (final registration) of the Competition and Consumer Act 2010 (the CCA), all applications received during the reporting period were registered within a 14-day period. The average processing time was approximately 11 days, as evidenced in the Register of Liner Shipping database. As part of the 2020 2021 stakeholder survey, both respondents indicated their applications to register conference agreements were processed within the statutory timeframe of 14 days.</p>
<p>Maintain an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.</p>	<p>Informal feedback from applicants via phone, email and face to face meetings.</p> <p>Annual stakeholder survey undertaken and any key issues identified and changes reported back to stakeholders.</p>	<p>Achieved</p> <p>Through regular media monitoring, including peak industry body websites, newsletters and communication with stakeholders, the Department continues to remain up to date on issues affecting the industry. Regular communication between authorised officers of the Department and stakeholders is undertaken to address any issues as they arise.</p> <p>The respondents to the survey indicated they contact the Department either monthly or quarterly. All survey respondents indicated the Department responds quickly and provides the information needed by applicants.</p>

Key Performance Indicator 2 – Communication with regulated entities is clear, targeted and effective.

Measure	Evidence	2020–2021 Results
Guidance and information provided that is up to date, clear, accessible and concise through media appropriate to the target audience.	Information on the registration process under Part X of the Competition and Consumer Act 2010 is clear and easy to find on the Department's website.	Achieved The Department's website is reviewed regularly and updated as required including changes to contact details or the appointment of a new Registrar. In the 2020–2021 stakeholder survey, both respondents indicated they could easily find the information they were looking for on the Department's website.
	Feedback on the effectiveness of the Department's communication with stakeholders is sought and responded to, including through an annual stakeholder survey.	In the 2020–2021 stakeholder survey, both respondents agreed that the Department responded to questions quickly and provided the required information. Both respondent also agreed that the Department clearly explains the reasons for its decisions on their applications to register conference agreements.
	Published information complies with the government's accessibility standards.	The Department's website is reviewed regularly and updated as required including changes to contact details or the appointment of a new Registrar. It is also available on the Australian Government Online Directory last updated on 21 September 2020. The Registrars' contact email address (PartX@infrastructure.gov.au) and phone number have not changed during 2020–2021.
	Information on review processes and making a compliment/complaint available for applicants and published on the Department's website.	The Registrar of Liner Shipping's contact details are publicly available on the website. There is also the 'Review of Decisions by the Registrar' section on the website. One respondent indicated awareness of how to have a decision reviewed and one was neutral. There were no requests to review decisions under Part X during the 2020–2021 reporting period.

Measure	Evidence	2020–2021 Results
Advice is consistent and supports predictable outcomes.	Internal guidance material (guidelines and checklists) is made available to staff to ensure that decisions take into account precedence and are consistent.	Achieved Internal guidance material and a peer review process is used to achieve consistency in assessing applications. The administrators of Part X undertake a review of the guidance material annually with a view to refining and updating the information. The guidance material was last reviewed in November 2020.
	Feedback from stakeholders, including through the annual stakeholder survey, indicates that the decision process is perceived to be predictable.	In the 2020–2021 stakeholder survey, all respondents indicated that when they submit an application to register a conference agreement, they usually get the outcome they are expecting or if not an explanation is provided by the Department. One respondent agreed they are contacted by the Department about changes that are made to the rules, policies or process for registering a conference agreement. The other applicant indicated that the question was not applicable to them.
	Application flowcharts and instructions will be updated within 15 days of any major process change.	There have been no changes to rules, policies or processes for registering a conference agreement during the 2020-21 reporting period. The Department will continue to inform stakeholders when process changes are made through email and website updates.

Key Performance Indicator 3 – Actions undertaken by the regulator are proportionate to the regulatory risk being managed.

Measure	Evidence	2020–2021 Results
<p>Application of a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.</p>	<p>Compliance policy reflects risk-based, proportionate and voluntary compliance principles.</p>	<p>Achieved</p> <p>All applications are assessed carefully to ensure compliance with the legislation. Any non-compliance is brought to the applicant’s attention immediately, for example, the statutory declaration requirement under Australian law. To achieve consistency in assessing applications an assessment guideline document is used to assess and determine an application’s compliance with the legislation. The assessment guideline document is reviewed regularly to ensure currency and accuracy. The last review of the guidance material was in November 2020.</p> <p>As part of the 2020–2021 stakeholder survey, one respondent agreed, and one disagreed, that the amount of paperwork required to apply for the registration of conference agreements was appropriate. The Part X application forms have been developed to reduce the administrative burden on applicants. It should be noted that many of the requirements of the application forms and the supporting documentation are legislative requirements.</p>

Key Performance Indicator 4 – Compliance and monitoring approaches are streamlined and coordinated.

Measure	Evidence	2020–2021 Results
<p>Information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impacts on stakeholder.</p> <p>Monitoring and inspection approaches based on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.</p>	<p>Stakeholders are consulted regularly on ways that the burden of information requests could be reduced.</p> <p>Compliance strategy reflects risk-based, proportionate and voluntary compliance principles.</p>	<p>Achieved</p> <p>Requests for information from the Department are only made as required and in a manner that imposes the minimum burden on the applicant.</p> <p>Stakeholders are consulted on ways to reduce the burden of regulation by being requested to respond to initiatives such as this survey. Their responses help the Department to improve the administration of the program.</p> <p>The assessment of an application under Part X is undertaken using the assessment guideline document outlined in Key Performance Indicator 3.</p>

Key Performance Indicator 5 – Regulator is open and transparent in its dealings with regulated entities.

Measure	Evidence	2020–2021 Results
<p>The Office of the Registrar of Liner Shipping is open and responsive to requests from applicants/peak bodies regarding the operation of the regulatory framework and approaches implemented.</p>	<p>Information on the operation of Part X is available on the website (application flowcharts, forms and text descriptions). Email and phone advice provided is consistent with the published information.</p>	<p>The existing webpages provide guidance material and flow charts to assist stakeholders prepare and submit their applications. Advice to an individual applicant is consistent with publicly available information on the Department’s website.</p> <p>Emails and phone calls from stakeholders requesting further information have been responded to in a timely fashion and queries resolved to the satisfaction of stakeholders. All respondents surveyed agreed with the statement that ‘when I contact the Department with a question, they answer it quickly and provide the information I need’.</p>
	<p>Informal feedback received from applicants via phone, email and face to face meetings is recorded and incorporated into review processes.</p>	<p>The Department has implemented internal controls and provided access to the generic email address box to all authorised staff to monitor email traffic daily. Allowing access to the mail box means that staff can cover for others who are on leave and ensures that stakeholder queries are responded to in a timely manner and that applications are processed within legislated timeframes. Any comments or complaints are reviewed and necessary changes identified.</p>
	<p>Complaints received in relation to registering a conference agreement are actioned as soon as possible or within 10 working days.</p>	<p>The Department received no complaints during the reporting period. Avenues for feedback are advertised on the Department’s website and any feedback is to be made to the Department’s governance section https://infrastructure.gov.au/utilities/contact.aspx.</p> <p>In the 2020–2021 stakeholder survey, one respondent agreed that they felt they could give the Department feedback about the application process and the other neither agreed nor disagreed. The Department values feedback from respondents and will make every effort to encourage more feedback in any review process and by making improvements to the website.</p>

Measure	Evidence	2020–2021 Results
	During/after the registration process information is made available on reporting requirements and other obligations for the applicant registering a conference agreement.	The Department’s website includes steps for the applicant to register and fulfil reporting requirements. Telephone support is also available to applicants. The Registrar of Liner Shipping’s phone details are provided in all email correspondence as well as the Part X section on the Department’s website.
Regulator’s performance measurement results are published in a timely manner to ensure accountability to the public.	Results of stakeholder surveys and self-assessment under the Regulator Performance Framework will be analysed by the Department and consolidated information will be published on the Department’s website.	The Department will review respondent’s comments on the Regulator Performance Framework Self-Assessment and, where appropriate, implement changes to current operations and/or published information to address any issues arising, to improve regulation.

Key Performance Indicator 6 – The regulator actively contributes to the continuous improvement of regulatory frameworks.

Measure	Evidence	2020–2021 Results
<p>Cooperative and collaborative relationships with stakeholders established and maintained to promote trust and improve the efficiency of the regulatory framework. Regulators engage stakeholders in the development of options to reduce compliance costs.</p>	<p>Stakeholders were consulted on the Regulator Performance Framework and the Department’s Self-Assessment. Any key issues were identified and changes were reported back to stakeholders. This is in addition to informal feedback received from applicants via phone, email and face to face meetings being recorded and incorporated into review processes.</p>	<p>Achieved</p> <p>Following stakeholder feedback on the Regulator Performance Framework Self-Assessment, the final document will be published on the Department’s website following its certification by the Department’s Secretary.</p>
	<p>Compliment/complaint process is available to applicants, information on how to contact the Registrar of Liner Shipping is up to date and published.</p> <p>Compliments/complaints are managed effectively.</p>	<p>The Registrar of Liner Shipping’s contact details are currently advertised on the website including a 1800 number and email address. Feedback to the Department can also be made through the Governance section, whose contact details are on the Department’s website at https://infrastructure.gov.au/utilities/contact.aspx. During 2020 2021, no complaints on the administration of Part X were received.</p>