

# 2019-2020 Regulator Self-Assessment – Part X of the Competition and Consumer Act 2010 (Part X)

## 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) has been developed to support Australian Government regulators to measure and improve their performance, particularly in adopting consistent, risk-based approaches to administered regulation. 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 2019-2020 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), and is responsible for assessing applications and registering conference agreements which allow international liner shipping companies to engage in certain anti-competitive behaviour when shipping 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 8 October 2020, the Department sent out a survey to 10 stakeholders identified as having made an application during the 2019-2020 reporting period. The Department received responses from three 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 Section's interactions with stakeholders.

Overall, the Department is performing well against the KPIs. Stakeholder feedback is generally positive and sets a strong benchmark for future years.

The key areas identified for improvement include:

- simplifying and clarifying the rules, policies and process for registering a conference agreement;
- *providing greater detail about how to have a decision reviewed;*
- *providing clearer information on how to provide feedback to the Department; and*
- *providing a searchable database of current and historical agreements made available to the designated shipper bodies.*

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

Measure	Evidence	2019-2020 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"> <li>• 9 applications for provisional registration received in the period; and</li> <li>• 9 applications for final registration received in the period.</li> </ul>	<p><b>Achieved</b></p> <p>In accordance with Sections 10.28 (provisional registration) and 10.33 (final registration) of the <i>Competition and Consumer Act 2010</i> (the CCA), all applications received during the reporting period were registered within a 14-day period. The average processing time was approximately 12 days, as evidenced in the Register of Liner Shipping database. As part of the 2019-2020 stakeholder survey, all three 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><b>Achieved</b></p> <p>Through regular media monitoring, including peak industry body websites and newsletters, and communication with stakeholders, the Department continues to remain up to date on issues affecting the industry. The Registrar of Liner Shipping has had discussions with industry stakeholders during the reporting period. 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> <p>The Department will work to address any identified issues from the responses to the survey.</p>

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

Measure	Evidence	2019-2020 Results
<p>Guidance and information provided that is up to date, clear, accessible and concise through media appropriate to the target audience.</p>	<p>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.</p> <p>Feedback on the effectiveness of the Department’s communication with stakeholders is sought and responded to, including through an annual stakeholder survey.</p> <p>Published information complies with the government’s accessibility standards.</p> <p>Any changes to contact details for the Registrar of Liner Shipping are promptly updated on the Department’s website and the Australian Government directory is notified within 10 working days.</p>	<p><b>Achieved</b></p> <p>The Department’s website is reviewed regularly and updated as required including changes to contact details or appointment of a new Registrar. In the 2019-2020 stakeholder survey one respondent indicated that they could easily find the information they were looking for on the Department’s website while two respondents were neutral.</p> <p>The Department will review the website content with a view to making the content clearer and more accessible.</p> <p>In the 2019-2020 stakeholder survey all three respondents either strongly agreed or agreed that the Department responded to questions quickly and provided the required information. One respondent agreed that the Department clearly explains the reasons for its decisions on applications to register a conference agreement.</p> <p>All material published on the Department’s website complies with the Department’s ‘Web Publishing Roles and Responsibilities’ guidelines; ‘Website Content Guidelines’; and the ‘Word and PDF Accessibility’ guidelines. Operational material on the website is regularly reviewed and updated.</p> <p>The Department’s website is reviewed regularly and updated as required including changes to contact details or appointment of a new Registrar. It is also available on the Australian Government Online Directory last updated 21 September 2020. The Registrar’s contact email address (PartX@infrastructure.gov.au) and phone number have not changed during 2019-2020.</p>

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

Measure	Evidence	2019-2020 Results
		<p>One respondent suggested that a searchable database of current and historical agreements be made available to designated shipper bodies. The Department carries out searches for registered agreements on behalf of shipper bodies as requested. Shipper bodies are able to request copies of registered agreements subject to the \$60 fee set out in the Competition and Consumer Regulations 2010.</p>
	<p>Information on review processes and making a compliment/complaint available for applicants and published on the Department’s website.</p>	<p>The Registrar of Liner Shipping’s contact details are publicly available on the website. There is also a section on ‘Review of Decisions by the Registrar’ on the website. One respondent indicated awareness of how to have a decision reviewed, one disagreed and one was neutral. There were no requests for a review of a decision under Part X during the 2019-2020 reporting period.</p>
<p>Advice is consistent and supports predictable outcomes.</p>	<p>Internal guidance material (guidelines and checklists) is made available to staff to ensure that decisions take into account precedence and are consistent.</p> <p>Feedback from stakeholders, including through the annual stakeholder survey, indicates that the decision process is perceived to be predictable.</p>	<p><b>Achieved</b></p> <p>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.</p> <p>In the 2019-2020 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.</p>

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

Measure	Evidence	2019-2020 Results
		<p>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, two respondents disagreed.</p>
	<p>Application flowcharts and instructions will be updated within 15 days of any major process change.</p>	<p>There have been no changes to rules, policies or processes for registering a conference agreement during the 2019-20 reporting period. As a result the Department had no need to contact stakeholders and this may not have been clearly conveyed to stakeholders. In future, the Department will provide notification on the Part X webpage when there has been no process change to the scheme during the reporting period.</p> <p>The Department will continue to inform stakeholders when process changes are made through email and website notices.</p> <p>The existing Part X webpage provides guidance material that is reviewed regularly.</p>

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

Measure	Evidence	2019-2020 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><b>Achieved</b></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 2019-2020 stakeholder survey, all respondents considered that the amount of paperwork provided with applications for 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>

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**Key Performance Indicator 4 – Compliance and monitoring approaches are streamlined and co-ordinated.**

Measure	Evidence	2019-2020 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><b>Achieved</b></p> <p>Requests for information from the Department are only made as required and in a manner that imposes 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 the survey. The responses help the Department to improve the administration of the programs.</p> <p>Assessment of an application under Part X is undertaken using the assessment guideline document outlined in Key Performance Indicator 3.</p>

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

Measure	Evidence	2019-2020 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>Informal feedback received from applicants via phone, email and face to face meetings is recorded and incorporated into review processes.</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 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 strongly agreed or strongly 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>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.</p> <p>The Department received no complaints during the reporting period. Avenues for compliments/complaints are advertised on the Department’s website and any compliment/complaint is to be made to the Department’s governance section <a href="https://infrastructure.gov.au/utilities/contact.aspx">https://infrastructure.gov.au/utilities/contact.aspx</a>.</p> <p>In the 2019-2020 stakeholder survey, two respondents either strongly agreed or agreed that they felt they could give the Department feedback about the application process, one respondent 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>

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

Measure	Evidence	2019-2020 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. It was suggested that telephone contact should be available if needed. The Registrar of Liner Shipping phone contact is provided in the Part X section on the Department’s Website – 1800 005 221.
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.

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

Measure	Evidence	2019-2020 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>Compliment/complaint process is available to applicants, information on how to contact the Registrar of Liner Shipping is up to date and published. Compliments/complaints are managed effectively.</p>	<p><b>Achieved</b></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.</p> <p>The Registrar of Liner Shipping’s contact details are currently advertised on the website including a 1800 number and email address. Compliments or complaints to the Department can also be made through the Governance section, whose contact details are on the Department’s website at <a href="https://infrastructure.gov.au/utilities/contact.aspx">https://infrastructure.gov.au/utilities/contact.aspx</a>. During 2019-2020, no complaints on the administration of Part X were received.</p>