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PGPA Act Review
Review Secretariat
Department of Finance
One Canberra Avenue
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By email: PGPAActReview@finance.gov.au

Dear Review Secretariat

PGPA Independent Review Draft Report

Thank you for the opportunity to provide feedback on the Consultation Draft of the independent review of the *Public Governance, Performance and Accountability Act 2013* and Rule.

Our submission, which we are happy to for you to make public, is enclosed.

Please do not hesitate to contact Matthew Clay, Senior Advisor, Risk and Internal Audit if you would like to discuss any aspect of our submission or if we can provide further information.

Yours sincerely

Rayne de Gruchy
Chief Operating Officer

ACCC and AER submission on the Consultation Draft of the independent review of the *Public Governance, Performance and Accountability Act 2013* and Rule

Performance framework

We support Recommendation 5 in principle, but note that care needs to be taken not to overburden committee chairs. Any further training or education should only be implemented where the expected benefit warrants the additional investment of a chair's limited time, and the benefit should be regularly assessed to ensure it continues to outweigh the burden.

Managing and engaging with risk

In relation to Recommendation 12, we agree that a Chief Risk Officer (CRO) will not be needed for every entity, and we continue to appreciate the flexible approach being taken. However, we ask that care be taken to ensure that adding a specific reference to appointing a CRO does not, over time, become a default expectation for all entities.

We also question whether appointing a senior executive as a Chief Risk Officer, working in a 'top down' fashion, will always be the best way to develop a strong risk culture and to change behaviours across an entity. In our view, it would be better to remain silent on the level of the CRO and leave this to each entity to decide based on their needs.

Audit Committees

We do not support Recommendation 15. We understand the importance of audit committees being independent from management, however we do not agree that independence should be defined to exclude officials or employees of a Commonwealth entity. We also do not agree that all committee members should be independent (under either the current or the proposed definition of independence).

Our strong view is that members from other Commonwealth entities are more than capable of acting with sufficient independence, and that such arrangements bring benefits in relation to knowledge, sharing better practice, and reduced operating costs. Our position is also confirmed by the experience of our Audit Committee as we currently have cross-appointed audit committee members between the ACCC and ASIC.

We are also strongly of the view that it is unnecessary, and can be counter-productive, to require that all committee members be independent of the entity. Independence is important, but so is having a strong understanding of the operations of the entity and the Commonwealth sector more generally. This understanding can be difficult to find in the private sector. We would prefer to be able to draw audit committee members from a variety of backgrounds, making sure the committee has the right mix of skills, experience and diversity and that the appropriate level of independence is achieved for the particular entity. In an agency the size of the ACCC and AER, with a three member audit committee, it is sufficient to have one independent member from outside the APS, one independent member from another APS entity and one internal member.

Further, requiring all members to be independent necessarily requires the chair to be independent. The chair of the ACCC and AER Audit Committee is not an external member, but acts with sufficient independence. Aside from the benefits brought by members drawn from within the APS as outlined above, having an internal chair has allowed for particularly effective engagement between the chair, audit committee and accountable authority.

In relation to Recommendation 21, we echo our comments about Recommendation 5 that care should be taken not to overburden audit committee chairs.

Clarifying reporting requirements and reducing the reporting burden

We support Recommendation 24 in principle, but note that the objective of the Regulator Performance Framework is to minimise regulatory burden and is therefore largely focussed on regulatory processes, rather than focussed on outcomes related to the purposes of an entity. As such, integration of reporting may compromise whether annual performance statements are able to tell a compelling story about performance by remaining short, sharp and focused on outcomes directly related to an entity's purpose.

We support Recommendation 25 as long as the standardised corporate plan and other templates have enough flexibility. It is important that they can be customised or adapted to suit the needs of different entities.

Reporting of executive remuneration

We question the resource implications of Recommendations 34 and 35, but otherwise make no comment.

Reporting of contracts and consultancies

We question the resource implications of Recommendation 37, but otherwise make no comment.