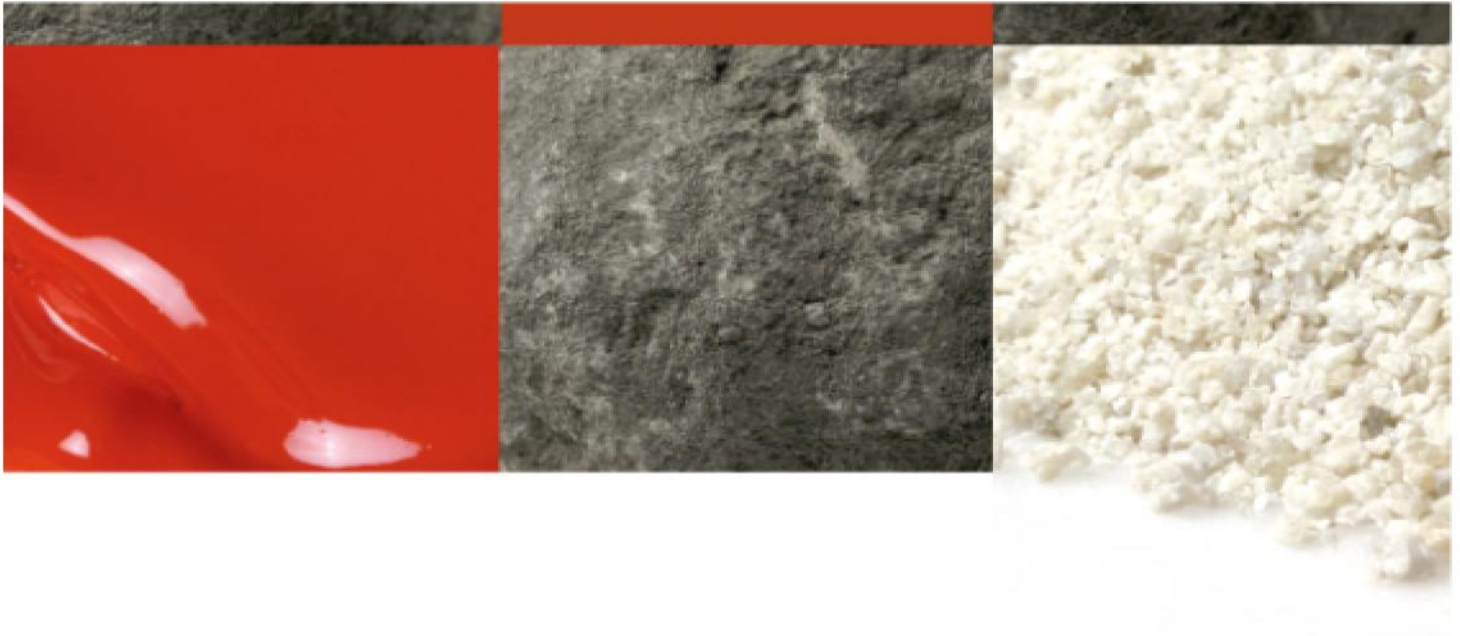
CEMENT INDUSTRY FEDERATION



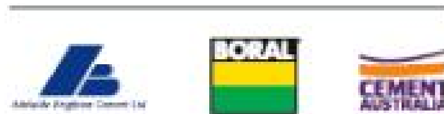
Cement Industry Federation

Submission to the

Competition Policy Review

Issues Paper

10 June 2014



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1. About this Submission

The Cement Industry Federation (CIF) welcomes the commissioning of the independent 'root and branch' review of Australia's competition laws and policy. The CIF is making this submission on behalf of our members who, as energy-intensive trade-exposed manufacturers, will directly benefit from competition and productivity improvements across the economy.

Key issues for the CIF include reducing anti-competitive regulation; the need for greater rigour in the evaluation of new policy initiatives; and the development of an institutional framework that encourages reform.

Key Points

- The Australian cement manufacturing industry is a strong contributor to the Australian economy as part of its manufacturing sector;
- The cement industry is currently operating in an increasingly regulatory environment – across a range of areas that have an impact both directly and indirectly on our productivity and competitiveness;
- The CIF has identified a number of specific areas where anti-competitive regulation is impacting our industry, including: climate change and energy, and coastal shipping;
- The CIF advocates for rigorous evaluation of new policy initiatives both before and after they are implemented.
- This should also apply to proposed changes to policy initiatives that significantly alter the objectives of the policy or how it is to be implemented; and
- Future institutional structures for competition policy must continue the move towards the streamlined application of competition and productivity reforms.

2. Background

The Cement Industry Federation is the national body representing the Australian cement industry. Our membership is made up of the three major Australian cement producers - Adelaide Brighton Ltd, Boral Cement Ltd and Cement Australia Pty Ltd. Together these companies account for 100 per cent of the integrated production of clinker and cement in Australia.

The Australian cement industry plays a key role in contributing to Gross Domestic Product (GDP) growth and employment opportunities in Australia's state economies.

CIF member operations are located in every Australian state and territory, and include seven integrated clinker and cement manufacturing sites, five standalone cement mills, eight limestone mines and a national distribution network to move raw materials, as well as our intermediary and finished products. Sales of cementitious materials were 8.9 million tonnes in 2013, with an annual industry turnover in excess of $2.2 billion.

Australian cement is a fundamental building material for society's infrastructure. The cement industry is a key employer with over 5,000 directly and indirectly employed in Australia. It is also highly trade exposed as virtually all cement produced in Australia is consumed

domestically and its production costs cannot exceed the international cost of production (including shipping costs) to be competitive over time.

Producing cement is also emissions intensive, with Australian cement emissions currently estimated to be approximately 6 million tonnes CO_2-e, around 1 per cent of total Australian emissions. Total global cement emissions are approximately 5 per cent of total global emissions.

3. Anti-Competitive Regulation

The Australian cement manufacturing industry is a strong contributor to the Australian economy as part of its manufacturing sector. The continued future success of our industry is dependent on remaining competitive against key international producers (namely in Asia) and continued strong local demand for cement based products.

The cement industry is currently operating in an increasingly regulatory environment – across a range of areas that have an impact both directly and indirectly on our productivity and competitiveness.

The CIF has identified a number of specific areas where anti-competitive regulation is impacting our industry, including: environmental, energy and coastal shipping regulation.

3.1 Environmental and Energy Regulation

The manufacture of clinker and cement is an energy intensive process that consists of three main stages – raw material preparation, clinker production and cement grinding. All three stages use energy in the form of electricity, whilst the production of clinker requires fuels such as coal and gas to maintain the required kiln temperatures of over 1,400^{o}C.

It is in the Australian cement industry's interest to ensure that it can be as competitive as possible, from both an economic and sustainability perspective. This has been challenging in recent times, not only as a result of macroeconomic conditions, but also as a result of the introduction of new and continuing regulatory costs at both the Federal and State level.

As a large user of energy, the cement manufacturing industry is impacted both directly and indirectly by energy and environmental policies. Specific policies and programs that impact on our industry include the Clean Energy Act (2011) (carbon tax); the Renewable Energy Target (RET), the Energy Efficiency Opportunities (EEO) Program, State-based energy savings schemes; and National Greenhouse and Energy Reporting (NGERs).

3.1.1 Carbon Tax

The CIF supports climate change policy that is trade neutral and global in nature to ensure Australian cement manufacturing is not replaced by production from countries that are not subject to a comparable carbon price.

The CIF also supports climate policy that delivers greenhouse gas abatement at least cost – which is not the experience under the current policy, where the price was set at $23 per tonne of CO2-e and legislated to increase gradually until 2015.

This is much higher than prices under similar international schemes – such as the EU Emissions Trading Scheme, where prices have been under $10 per tonne for a number of years.

In this context the CIF supports the introduction of legislation to repeal the carbon tax and remains committed to working with the Government in the development of alternative policies that will achieve greenhouse gas abatement while at the same time maintaining the competitiveness of Australian industry.

Overall the CIF advocates for a single, national climate change policy to replace non-complementary policies and programs at both the federal and state level.

3.1.2 National Greenhouse and Energy Reporting

The Cement Industry Federation has been reporting its emissions on annual basis since the early 1990s. This reporting has continued with the introduction of National Greenhouse and Energy Reporting scheme (NGERs).

However, the level of detail required under the current system creates a disproportionate and unnecessary burden on reporters. An example of this is the requirement for our members to determine and report emissions from each and every cement truck, despite the fact that the total emissions are dwarfed by emissions from clinker production.

Therefore it is our view that there remains significant scope to improve the application of this regulation to reduce the reporting burden - without comprising the quality of the data.

3.1.3 Renewable Energy Target

The Renewable Energy Target was established in 2000, originally with a target of 9,500 GWh by 2010 and then significantly expanded to 45,000 GWh by 2020 before being split into the Large-scale renewable Energy Target (LRET) and Small-scale Renewable Energy Scheme (SRET).

As a government intervention, the RET is a policy that taxes electricity users in order to provide subsidies to renewable producers – predominantly wind and solar. The justifications put forward for the Renewable Energy Target range from reducing greenhouse emissions

(albeit at a high cost) through to providing production subsidies to encourage the uptake of renewable technology.

The RET, in its current form, has been an underlying factor in energy price rises across Australia. Therefore the CIF supports the cessation of RET both due to the distortionary costs of the scheme to businesses and consumers as well as the relatively high cost of abatement from an emissions perspective.

Recent estimates (2011)[1] of the overall RET cost of abatement ($/t CO2) are:

- **Productivity Commission $42-129 per tonne of CO_2**
- **Access Economics $87-115 per tonne of CO_2**
- **Australian Energy Market Commission $185-290 per tonne of CO_2**
- **Grattan Institute $30-70 per tonne of CO_2.**

This is not an efficient regulatory scheme for the Australian cement industry to reduce its emissions. The administrative burden placed on cement manufacturers as a result of the RET is also highly inefficient.

3.1.4 Energy Efficiency Opportunities Program

The Energy Efficiency Opportunities (EEO) Program is an Australian Government initiative to encourage large energy-using businesses to increase their energy efficiency by improving the identification, evaluation and implementation of cost-effective energy saving opportunities. The program is mandatory for organisations that use over 0.5 petajoules (PJ) of energy annually and therefore includes cement manufacturers.

The administrative and implementation costs associated with the EEO program have placed a significant burden on CIF member companies since its inception, both in terms of the human and financial resources required for compliance.

With energy representing such a large portion - around 25 per cent - of Australian cement manufacturing production costs, cement producers are strongly motivated towards actively managing their energy efficiency on a day-to-day basis.

Decisions on whether to implement identified energy efficiency measures are made within the constraints of the normal business environment and take into account the combined cost of all inputs – not just energy efficiency.

The requirement for mandatory reporting under EEO does nothing other than burden industry with yet another reporting requirement.

The Coalition Government has recognised that EEO represents a burden on industry and, on 15 May 2014, the *Energy Efficiency Opportunities (Repeal Bill) 2014* was introduced into the Australian Parliament. The Bill was subsequently referred to the Senate Economics Legislation Committee – due to report by 14 July 2014.

This timing means the EEO cannot be terminated until the 2014-15 financial year if it is passed by the Senate. Of course this also means that industry will still be subjected to the administrative and implementation costs associated with the EEO program if the Bill does not pass the Senate.

3.1.5 State-Based Energy Savings Schemes

New South Wales, Victoria and South Australia each have an energy efficiency scheme. While each scheme differs slightly in approach, there are some common elements. Principally the schemes operate by the setting of energy efficiency or greenhouse gas targets that are applied to the energy retailer (normally only electricity and gas).

The retailer must either invest in energy efficiency projects that create certificates (or recognition), or alternatively purchase those certificates. If the certificates are not purchased or created, the retailer must pay a penalty price for having failed to meet the target.

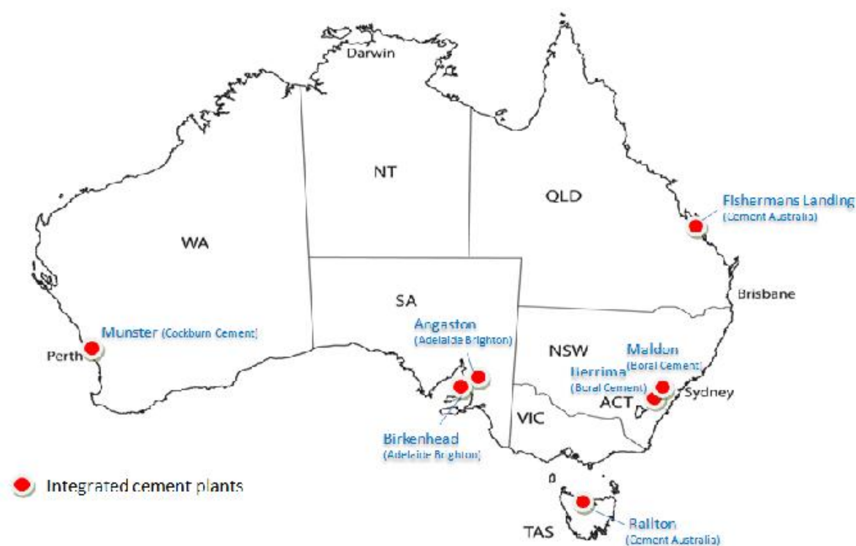
Any costs of the scheme faced by the energy retailers are being recovered from electricity users through a general increase in electricity prices. This means that the cost of funding these schemes is not on the government's balance sheet but on the balance sheet of electricity consumers. Transparency would be better served through a direct subsidy.

The key issue with these schemes is that any cost pass-through will disproportionally burden large electricity users. The CIF questions any need to continue with these schemes in light of the proposed introduction of climate policies such as Direct Action and the Emissions Reduction Fund.

3.2 Coastal Shipping

The Australian cement industry has a long supply chain and distribution network as clinker plants are located near to limestone mines while the largest cement markets are based in the capital cities – see **Figure 1.**

Figure 1: Location of Australian Integrated Cement Plants



Source: Cement Industry Federation 2014

Australian coastal shipping represents a significant proportion of Australian cement production costs. The supply chain can be easily truncated using imports of either clinker or cement meaning that productive and competitive transport services to the cement industry are critical.

Cement is manufactured by heating a precise mixture of finely ground limestone, clay and sand in a rotating kiln to temperatures reaching 1450°C. This results in the production of **clinker**, an intermediate product in the manufacture of cement. Clinker is then ground with other materials such as gypsum to produce **cement**.

At the current time, clinker imported from Asia can be supplied to stand alone milling operations located at a port near to market. The coastal location of Australia's capital cities means that coastal shipping must remain competitive with respect to international shipping costs if cement manufactured in Australia is to remain internationally competitive.

There is currently no shipping cost advantage to move clinker from one Australian port to another over importing clinker cement from Asia to Australia.

While cement manufacturing must compete internationally, coastal shipping in Australia is protected by a cabotage regime which limits competition and flexibility and has led to the development of a workforce and industry that is far less competitive than that available to our international competitors.

3.2.1 Coastal Trading Legislation

The CIF is concerned that the *Coastal Trading (Revitalising Australian Shipping) Act 2012* promotes anti-competitive behaviour as it promotes protectionism of Australian shipping without concern for the impact it will have on the Australian manufacturing sector. It does not consider the national interest or competition principles as stated in the Regulation Impact Statement preceding the Coastal Trading Legislation (Department of Infrastructure and Transport 2011).

The current object of the *Coastal Trading Act 2012* is to provide a regulatory framework for coastal trading in Australia that:

(a) Promotes a viable shipping industry that contributes to the broader Australian economy;
(b) Facilitates the long term growth of the Australian shipping industry;
(c) Enhances the efficiency and reliability of Australian shipping as part of the national transport system;
(d) Maximises the use of vessels registered in the Australian General Shipping Register in coastal trading;
(e) Promotes competition in coastal trading; and
(f) Ensures efficient movement of passengers and cargo between Australian ports.

A fundamental issue with the current object of the Coastal Trading Act 2012 is that it confuses competitive and protectionist goals.

Protecting Australian coastal shipping from overseas competition comes at the expense of its customers (Australian manufacturers and industry) and ultimately the wider community. The experience in New Zealand suggests that removing restrictions on coastal shipping has reduced freight rates and removed anti-competitive behaviour to the benefit of New Zealand manufacturing, industry and its economy.

The recently retired Productivity Commission Chair, Mr Gary Banks AO called for a new round of policy reviews in December 2012 and coastal shipping protection in Australia was identified as one of the top key priorities. This was further supported by Mr Glenn Stevens, Governor the Reserve Bank of Australia, to improve Australian productivity growth.

According to Mr Banks Australian cabotage restrictions, which limit competition from foreign flagged vessels, were listed on the Productivity Commission legislative review program, but a review of that kind did not take place. Instead, a 2008 House of Representatives inquiry examined the restrictions from the rather different perspective of 'rebuilding Australia's coastal shipping' industry. This has not only led to the introduction of taxation subsidies to encourage investment in Australian shipping, but also the replacement of previous temporary permits for international vessels with a much more stringent licensing system.

The *Coastal Trading (Revitalising Australian Shipping) Act 2012* was passed by the Australian Parliament in May 2012 and Australian manufacturers and industry were reassured by the former Minister for Infrastructure and Transport that their costs would not increase as foreign vessels would still be available and that the legislation would grow the total domestic maritime market. This statement must be seriously questioned when Australian coastal shipping is dependent on the economic competitiveness of Australian manufacturing – a key sector of the Australian economy that is not in position to carry costly regulatory imposts imposed by the *Coastal Trading Act 2012*.

Further, The Department of Infrastructure and Transport states in its August 2011 Regulation Impact Statement (RIS) of the *Coastal Trading Act* that a 'Productivity Compact' between the Maritime Union of Australia and industry is required to deliver productivity and efficiency reforms to better align practices in the Australian shipping industry with international best practice. The Compact has not reduced Australian shipping costs and is not being monitored as stated by the Department of Infrastructure and Transport (Senate Estimates, May 20 2013, Question 115):

> "The compact is an industry rather than a government responsibility, however, the Department wrote to each party to the compact seeking advice on the matters raised by the Committee. The Department has been advised that the compact does not contain any formal monitoring and/or reporting processes. Rather, it provides the platform and basis on which discussions between affected parties can be undertaken. We are advised that the parties to the compact communicate regularly and are seeking to implement its provisions in enterprise bargaining negotiations as agreements come up for renegotiation".

According to the Productivity Commission (2014) the *Coastal Trading Act 2012* is not delivering a net economic benefit to Australia. The Commission states "there is little evidence to date that the productivity compact has delivered benefits. For example, manning levels were expected to fall significantly from an average of 18-20, but this has not

eventuated”. In fact engineers, who are employed on Australian general licensed vessels, are not signatories to the compact, which emasculates the much hyped compact.

It is important to have a coastal shipping sector that is internationally competitive, contributes to increasing Australia’s economic competitiveness, boosts productivity and jobs and grows national wealth. The Productivity Commission (2014) concludes that the *Coastal Trading Act 2012* is not delivering a net economic benefit to Australia.

3.2.2 Fair Work Regulations

One of the key costs of Australian coastal shipping relates to the Fair Work Regulations 2009 that have been amended and coupled to the Coastal Trading Act 2012. The CIF advocates that the relevant parts of this regulation be rescinded to enable ‘persons insufficiently connected with Australia’ to be excluded from the Act.

A detailed overview of the introduction and amendments to the Fair Work Regulations can be found in the *Australian Industry Group’s Response to the Productivity Commission’s Draft Report on Tasmanian Shipping and Freight* dated February 2014.

Examples of the cost structure of the Seagoing Industry Award 2010 are well documented in the *National Bulk Commodities Group submission to the Productivity Commission review regarding strengthening economic relations between Australia and New Zealand* dated October 2012.

It can be seen that developments since 2009 have led to an overly restrictive, costly and anti-competitive cabotage regime being imposed.

4. Evaluation of New Policy Initiatives

The CIF supports the Government’s regulatory reform agenda, which has a key objective to reduce the ‘...red and green tape cost burden imposed on the Australian economy by $1 billion per year.’[1]

To achieve this outcome the Australian Government has committed to:

1) Reducing the volume of regulation;
2) Eliminating duplication and regulatory overlap;
3) Improving the level of consultation;
4) Ensuring that there are rigorous and mandatory post implementation reviews; and
5) Ensuring regulators are being transparent, accountable and efficient in administering regulations.

The CIF supports all of the above points and the steps the Government has already taken towards reducing the regulatory burden – for example with the publication of *The Australian*

[1] http://www.liberal.org.au/boosting-productivity-and-reducing-regulation

Government Guide to Regulation[2] which sets out ten principles for Australian Government policy makers.

Specifically, the CIF advocates for rigorous evaluation of new policy initiatives both before and after they are implemented. This should also apply to proposed changes to policy initiatives that significantly alter the objectives of the policy or how it is to be implemented.

Such an approach would help to ensure a better understanding of the possible impacts of the policy, as well as help to minimise unintended consequences.

As part of this the CIF also supports the removal of the exemption from the regulatory impact assessment process for cabinet submissions proposing legislative changes with a significant regulatory impact.

Case in Point

The Renewable Energy Target legislation is a case in point. When this policy was first legislated the target for renewable generation by 2020 was to be 20 per cent of forecast demand in that year. Based on long-term energy demand forecasts the legislated target was determined to be 45,000GWh.

As we are getting closer to 2020 it is becoming apparent that energy demand, for a number of reasons, will not be approaching the levels originally forecast. This means that the 45,000GWh target will now be something closer to 25 per cent or even higher – and at significant cost to the economy.

Even more adverse impacts were created when this policy was altered in 2010 to split the 45,000GWh target into a Large Renewable Energy Scheme (LRET) and Small-Scale Renewable Energy Scheme (SRES).

When taken in conjunction with State government deeming arrangements for Solar PV, the components of the SRES (deeming arrangements, multipliers and uncapped certificate generation) had the effect of significantly increasing costs for liable entities.

"In 2010, when the RET scheme was separated, the SRES was 'assigned' around 4,000 GWh of the then-total 45,000 GWh 2020 target. Based on recent installation data obtained from the Clean Energy Regulator, it is likely the SRES will generate more than 4,000 GWh by 2020. Due to the uncapped nature of the scheme, the greater than expected uptake has led to greater liability for liable entities." (CCA Issues Paper 2012, pp 34)[3]

A rigorous evaluation of this policy, both before and after it was implemented, would have significantly increased the chances that such unintended consequences would have been discovered and solutions found.

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[2] http://www.cuttingredtape.gov.au/handbook/australian-government-guide-regulation

[3] http://climatechangeauthority.gov.au/sites/climatechangeauthority.gov.au/files/RET-Review-20120820.pdf

5. Frameworks to Encourage Reform

The CIF agrees that the future institutional structure for competition policy '...will be as important as the policy itself in creating a self-sustaining process of continual reform and reassessment.' – recognising that this is complicated by Australia's federal constitutional structure.

The process of competition and productivity reform in Australia has developed over a number of decades. The reform process since the 1980s saw the introduction of a wide range of fundamental reforms which helped reverse the decline in Australia's economic standing.

The Hilmer review in the 1990s led to the implementation of a National Competition Policy (NCP) - underpinned by three intergovernmental agreements: the Conduct Code Agreement, the Competition Principles Agreement and the Agreement to Implement the National Competition Policy and Related Reforms.

The National Reform Agenda (NRA), launched in 2006, was also based on agreement amongst governments on selected priority areas for reform. As with the NCP, the NRA also involved a system of payments to reward them for reaching reform milestones.

In 2008, COAG agreed to implement regulation and competition reforms under the National Partnership Agreement to Deliver a Seamless National Economy - where thirty-six separate reforms were covered, comprising 27 deregulation priorities, eight areas of competition reform and a reform to regulation making and review processes.

All of the reforms mentioned above have led to significant competition and productivity improvements across the economy since the 1980s – with the provision of payments to the States and Territories to incentivise them to meet reform milestones a key attribute of the reform process.

However, there remains scope to build upon historical reforms, processes and agreements to ensure that all levels of government remain committed to the same framework of outcomes, measures of progress and policy directions.

Future institutional structures for competition policy must continue the move towards the streamlined application of competition and productivity reforms, building and improving on the current National Partnership Agreement to Deliver a Seamless National Economy, and therefore continuing the decades-long process of reform.

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