

# POSITION STATEMENT



## Best Practice Regulation

August 2019

Since the introduction of requirements for regulatory impact analysis and regulatory impact statements in the 1990s there has been continuing evolution of the understanding of the critical importance of these tools in regulatory development. The Australian Government's Deregulation Agenda<sup>1</sup> notes:

- Regulations include any laws or other government-endorsed 'rules' where there is an expectation of compliance.
- Every policy proposal designed to introduce or abolish regulation must be accompanied by a Regulation Impact Statement (RIS).

**Position:** Animal Medicines Australia (AMA) supports The Council of Australian Governments (COAG) Principles of Best Practice Regulation; the Ten Principles for Australian Government Policy Makers; and the Development of a Best Practice Regulatory Culture.

These principles are critical to ensure that regulatory responses are properly targeted and proportionate. They are supported by AMA as an essential framework which can be used to assess the merits of any legislative or regulatory proposal.

### COAG Principles of Best Practice Regulation

The Council of Australian Governments (COAG) has agreed that all governments will ensure that regulatory processes in their jurisdiction are consistent with the following principles<sup>2</sup>:

- a. establishing a case for action before addressing a problem;
- b. a range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed;
- c. adopting the option that generates the greatest net benefit for the community;
- d. in accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:
  - i. the benefits of the restrictions to the community as a whole outweigh the costs, and
  - ii. the objectives of the regulation can only be achieved by restricting competition
- e. providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear;
- f. ensuring that regulation remains relevant and effective over time;
- g. consulting effectively with affected key stakeholders at all stages of the regulatory cycle; and
- h. government action should be effective and proportional to the issue being addressed.

<sup>1</sup> <https://www.jobs.gov.au/deregulation-agenda>

<sup>2</sup> <https://www.pmc.gov.au/resource-centre/regulation/best-practice-regulation-guide-ministerial-councils-and-national-standard-setting-bodies>



## Ten Principles for Australian Government Policy Makers<sup>3</sup>

1. Regulation should not be the default option for policy makers: the policy option offering the greatest net benefit should always be the recommended option.
2. Regulation should be imposed only when it can be shown to offer an overall net benefit.
3. The cost burden of new regulation must be fully offset by reductions in existing regulatory burden.
4. Every substantive regulatory policy change must be the subject of a Regulation Impact Statement.
5. Policy makers should consult in a genuine and timely way with affected businesses, community organisations and individuals.
6. Policy makers must consult with each other to avoid creating cumulative or overlapping regulatory burdens.
7. The information upon which policy makers base their decisions must be published at the earliest opportunity.
8. Regulators must implement regulation with common sense, empathy and respect.
9. All regulation must be periodically reviewed to test its continuing relevance.
10. Policy makers must work closely with their portfolio Deregulation Units throughout the policy making process.

## The development of a best practice regulatory culture towards delivering high quality advice, regulatory oversight, programs and services

AMA sees an important goal is that public service culture embraces and facilitates:

- Fostering innovation;
- Evidence-based decision-making;
- Timeliness;
- Predictability;
- Efficiency and effectiveness;
- Transparency;
- Visible governance; and
- Accountability.

AMA believes that the necessary regulatory policy information and tools exist to facilitate progress. These are supported through COAG and Government policy statements.

Further background information and references is provided at Attachment 1.

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<sup>3</sup>The Australian Government Guide to Regulation, 2014 Canberra

## Background: Australian Government's Deregulation Agenda

(extract from <https://www.jobs.gov.au/deregulation-agenda> at 28 August 2019)

The Government's **Deregulation Agenda** is now administered by the Department of Jobs and Small Business, due to the [Administrative Arrangements Order](#) introduced on December 20, 2017.

Previously the **Deregulation Agenda** (earlier known as the Regulatory Reform Agenda) was administered by the Department of the Prime Minister and Cabinet.

The Office of Best Practice Regulation (OBPR) which administers [Regulatory Impact Analysis requirements](#) remains within the Department of the Prime Minister and Cabinet.

Regulations are essential for the proper functioning of society and the economy. They include any laws or other government-endorsed 'rules' where there is an expectation of compliance. In Australia, regulation is made at the federal level as well as by the states and territories, in the form of legislation and subordinate legislation and at a local government level as regulations and by-laws.

Australia is recognised internationally for its Deregulation Agenda and governance arrangements, particularly its approach to Regulatory Impact Analysis. The Australian Government remains committed to improving the quality of its regulation, including minimising the burden of regulation on businesses, community organisations and individuals. Commonwealth Government portfolios promote regulatory quality through the preparation of Regulation Impact Statements under the Government's Regulatory Impact Analysis system. They also review the Government's regulatory regimes to ensure they remain fit for purpose in the 21st Century.

The Government's Deregulation Agenda frameworks assist in keeping the Australian economy as efficient, flexible and responsive as possible. Key frameworks include:

- [Regulatory Impact Analysis requirements](#): Every policy proposal designed to introduce or abolish regulation must now be accompanied by a Regulation Impact Statement (RIS). The 2014 [Australian Government Guide to Regulation](#) provides high-level principles for policy-makers and outlines the requirements and process for developing a RIS.
- The Commonwealth [Regulatory Burden Measure \(RBM\)](#) is used by policy-makers to assist in calculating the compliance costs of regulatory proposals on businesses, individuals and community organisations.
- The [Regulator Performance Framework \(RPF\)](#) guides Commonwealth regulators in minimising their impact on those they regulate while still delivering the vital role they have been asked to perform.

Underpinning these frameworks is a commitment to [best practice regulation](#) to improve regulatory quality. This includes an ongoing focus on managing the Commonwealth stock of regulations to ensure they remain fit for purpose.

We also engage internationally to promote Australian regulatory policy priorities and achievements while contributing to international regulatory capability development, particularly in the Asia-Pacific region.

The Office of Best Practice Regulation (OBPR) in the Department of the Prime Minister and Cabinet administers the [Regulatory Impact Analysis requirements](#) of the Australian Government and the Council of Australian Governments (COAG). The OBPR also conducts [training](#) and provides guidance to assist agencies in preparing Regulation Impact Statements and fulfils other regulatory review and reform obligations.

The Australian Government reports regularly on [implementation of regulatory reforms](#) and administration of Regulatory Impact Analysis. These reports are publicly available.