

Business Environment Conservation

JIM HOGGETT

ONE of the regular 'peripherals' of election campaigns featured again in 2004. The major parties both recognized the need for a strong business sector for the continuing vitality of the Australian economy—particularly small business. But unlike the natural environment, which is subject to endless agonizing scrutiny, the business environment receives scant attention.

Although the economic news is currently good, it is an excellent time to review the broader business environment.

So what is the environment that governments have created for business in Australia? What is the environment they have created for those starting out on the risky path of new business? What lurks behind all the official programmes designed to advise and assist those brave or foolish enough to enter the competitive race?

A hard look at the facts leaves one abiding impression: that governments in Australia are both actively and passively hostile to business.

THE TECHNIQUES OF OPPRESSION

Over recent decades, governments have adopted and adapted a series of techniques to oppress business. Some of the techniques are deliberate and others are the outcome of policies designed for other purposes. The techniques include:

- Overt and hidden taxes;
- Mandated expenditures;
- Mandated activity;
- Resource and property confiscation; and
- Impossibly detailed and/or discriminatory regulation.

The examples are numerous.

More Tax

The GST is the classic new tax that was designed to substitute for other taxes. But apart from a few, it has not done much either at the Commonwealth or the State level.

The superannuation levy is a tax under another name. For companies, it is a compulsory payment (tax) made to private-sector tax 'farmers' (superannuation funds). For most retirees it will do little more than substitute for the public pension. The supreme irony was that, having set up this new levy, the government then introduced new taxes on super. They forced people to save for the future then confiscated a significant part of those savings.

The various workcover schemes fall into the same category, as do compulsory insurances for public and product liability. Do we really need \$20 million of public and product liability insurance to set up a market stall?

More Costs

Mandated expenditures are a cunning way of financing government policies while keeping the cost out of the public budget. An example is the compulsory courses which farmers must attend and pay for to certify them to use agricultural chemicals—something they have been doing for many decades by reading the instructions on the package. The courses are provided by third parties and thus never appear as government impositions. Various supplementary compulsory trades certificates for plumbers, builders, etc., are in the same category.

More Blackmail

Mandated activities usually come in

the form of 'If you want to do A, you must do B'. So, if you want to put up a building, you may have to provide facilities in it that are unrelated to your business. Or, if you want to clear 20 trees, you may have to plant 200. A company exerting this sort of leverage would be accused of third line forcing (blackmail) under s.47 of the *Trade Practices Act*.

More Confiscation

Confiscation of property and resources without appeal or compensation now appears principally as environmental legislation. Green is the new red. Native vegetation and fauna protection laws are designed to lock up private land and resources by forbidding activity over large areas of rural Australia without compensation. The *Queensland Vegetation Management Act* is just one egregious example.

More Obfuscation

The list of over-complex, unadministrable and discriminatory legislation is endless and grows every day. Any business, small or large, could present instant examples.

The environmental legislation mentioned above is a prime example. No-one can comply with it. No-one can administer it. It is in a constant flux. It discriminates against the rural sector even as it absorbs farmers' resources in endless, fruitless 'consultation' processes. Do we really need a native vegetation plan for every property in NSW?

Then there are the absurd and impossible disclosure provisions in the *Financial Services Reform Act* where ASIC becomes the Grand Inquisitor of corporate morals. Then we have safe food regulations—do we really need a

100-page code manual for every small food producer?

Finally, we have the ACT enacting specific, discriminatory industrial manslaughter laws purely for business on top of existing criminal law.

SO WHAT DOES IT FEEL LIKE?

Most businesses will have as little to do with government as possible. It is rarely a rewarding encounter. However, that little turns out to be quite a lot. Even family businesses face the usual paper warfare with which they are privileged to burn the midnight oil. Internet interactions do not ease the overall burden.

Take on a few employees and grow your business and a whole range of new costs and risks appear—unfair dismissal, multiple leave provisions, anti-discrimination programmes, superannuation levies, workcover, etc., etc. And every rule has its own bureaucratic policeman who is anxious to ‘help’ the hapless business person incur the compliance costs. Such ‘help’ is increasingly mandatory and subject to a fee. The point is that all this adds to the costs and extends the risks faced by business.

Various government programmes exist to offset the costs of policies and to provide incentives. Although helpful, these are often merely temporary transfers back to those affected, are limited in their impact and costly to administer.

For small business the difficulty is compounded by lazy governments simplifying their own task through uniform legislation. Thus ‘one size fits all’—which means that small businesses, with few in-house resources, face the same compliance demands as a large business. The fact is that most small businesses cannot even *know* all the law that applies to them—a sad state of affairs in any democracy.

We have had strong, continuing productivity gains from the structural economic reforms of recent decades. New opportunities for structural reform are limited. Future productivity gains and economic growth in Australia will depend more and more on the

environment which governments create for the enterprising, creative people striking out on their own.

To grow and diversify is the essence of a successful economy. The most successful overseas nations have governments actively encouraging enterprise and keeping costs down. Though Australians love the wealth that business generates, we have a national ambivalence towards business success. This fosters governments that actively discourage enterprise and load it with new costs at virtually every parliamentary and local council session.

WHY NO PROTESTS?

The level of noise from the business sector is generally drowned out by the strident protests and demands from

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hundreds of other special interest groups. Business concerns, particularly with the slow growing canker of incremental exactions and regulations, do not make good copy for the tabloids or television.

Business people, by definition, generally have very little spare time to study the dense verbiage of government documents or to travel to the multiple government sources of the anti-business policies. They face death by a thousand cuts, administered by a thousand different executioners.

Moreover, the reach of government into business and personal life is now so deep and extensive that there is always a fear factor for protesters that the official or politician with whom they are dealing has ways to make life uncomfortable. By contrast, the environ-

mental activists sitting in front of a bulldozer will generally not have their livelihood at stake—it may be their livelihood.

For their part, small business operators will often not know of new impositions until they are notified by their accountant or a freelance legal consultant that they are in the firing line again.

HOW CAN WE STOP THE ROT?

Stopping this cancerous growth from further weakening our business sector involves a few, fundamental changes in attitude and behaviour.

All levels of government should just stop:

- feeling they have to respond to every demand from every interest group for government intervention;
- trying to eliminate every risk in society; and
- using the business sector as a vehicle to enact policy—virtually as an arm of government.

All this does not imply more regulatory review agencies to examine new and existing regulation. Experience suggests that these quickly become public service Enemy Number One and they rarely have the support of their sponsoring minister.

Ministers and officials should have direct responsibility for a substantial rolling programme of deregulation. This implies a significant change of attitude and operations. It will leave many politicians feeling lost. After all, what politicians love to do is to find new ways of bossing the community around. They could assuage their loss by reviewing and taking an axe to existing burdens on business. This major task and duty is worthy of the effort and ingenuity of any strongly democratic government.

As a past Chairman of the US Council of Economic Advisers once said, ‘Don’t just stand there, undo something’.

Jim Hoggett is a Senior Fellow at the Institute of Public Affairs and has had extensive experience at senior executive levels in government and business.

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