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Why the COAG Reform Agenda has Floundered

Recent Developments in Federalism and Reforms in Australia

Stephen Howes and Sam Engele

INTRODUCTION

Australian inter-governmental relations are shaped by the twin facts that the Commonwealth (central government) relies on the states to implement a significant proportion of its domestic policy objectives and that the states rely on the Commonwealth to provide the financial resources to fund their service delivery obligations. As Ken Henry, formerly Secretary, Australian Treasury put it: ‘The Commonwealth has the power, and it has used it on occasions, to have the States do things or not do things. Principally, the government’s power comes through the States’ reliance on [Commonwealth] government funding’ (Henry 2010). A key challenge for the Commonwealth is to structure inter-governmental governance and funding institutions in a way which creates incentives for the states to undertake microeconomic reforms and improve government service delivery.

Australia’s modern reform era began with the election of the Hawke government in 1983. It was not till 1995, however, that a collaborative reforms effort emerged between the central and state governments. This was the National Competition Policy (NCP), which ran from 1995 to 2005. Since then we have been in what might be called the post-NCP reforms era, a period which covers both the National Reform Agenda (NRA) and the subsequent Council of Australian Governments (COAG) reform agenda.

There are several differences between these two periods of federal reforms. NCP came first, lasted a decade, had a simpler reform agenda—focusing on competition policy—and has been extensively evaluated.

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The post-NCP era came later, has not been round for long, is more complex (covering competition policy, regulatory streamlining, reform of inter-governmental finance, and the social sectors), and has not yet been rigorously evaluated.

The companion piece in this research project (by Paul Gretton) covers NCP. This chapter examines the post-NCP era. As Gretton shows, and as has been widely acknowledged, NCP was a successful reforms programme. It is not possible to make a definitive verdict on the post-NCP era at this stage. However, as we show and try to explain, the signs are a lot less encouraging.

There is little literature on the post-NCP period. One of its complexities is that it encompasses two sub-periods or reform agendas: the National Reform Agenda which was initiated under the conservative Howard Commonwealth government in 2006, and the COAG Reform Agenda which began in 2008, under the leadership of the Labor Rudd Commonwealth government, and which the Labor government, though now under the leadership of Gillard, continues to prosecute. NRA was incomplete when replaced by the COAG Reform Agenda, and has been little evaluated. The COAG Reform Agenda by definition is very new, and has also been little evaluated.

The next section provides some background on the nature of federalism in Australia. The next two sections give an overview of NRA and COAG Reform Agenda. We then proceed to analyse three aspects of the COAG Reform Agenda: regulatory reforms, with a particular focus on occupational health and safety reforms; health reforms; and reforms of inter-governmental financing. While this is not a comprehensive analysis of the COAG Reform Agenda (a task which is well beyond the scope of a single chapter), the three aspects studied provide a reasonable representation of the broader reform programme. The concluding section draws some tentative conclusions and attempts to explain why the National Competition Policy seems to have been more successful than the COAG Reform Agenda is shaping up to be.

FEDERALISM IN AUSTRALIA

Federalism as practiced in Australia is characterized by three important features. First, there is a large and growing vertical fiscal imbalance. Second, there is a large and growing overlap in the assignment of

expenditure and policy responsibilities between the centre and states. Third, there is a strong centralizing tendency. These characteristics both help explain and shape the reform programmes we are analysing in this chapter and are briefly explained in this background section.

According to Twomey and Withers (2007: 38), 'Australia has the greatest amount of vertical fiscal imbalance ... of the major comparable federal nations.' In 2008, own-source revenues represented only around 55 per cent of the total state expenditure (Commonwealth of Australia 2008).

Vertical fiscal imbalance has long been a characteristic of the Australian Federation, but it is one which has intensified over time. In fact, as Paul Gretton notes in his chapter, around the time of the federation (1901), revenues from the states exceeded those from the Commonwealth. However, the tax base of the latter has expanded while that of the former has shrunk. During the Second World War, the Commonwealth started levying an income tax, and it has continued with that till today. The state governments stopped levying an income tax at the same time, and Australia is today one of very few OECD federations where state governments do not impose an income tax.

Until the 1990s, state governments imposed taxes on petrol, cigarettes, and alcohol, but no longer do (following a court ruling that these taxes were in the nature of excises, and so could only be levied by the Commonwealth). In 1999, when Australia introduced a general sales tax or VAT, it was agreed between the states and the Commonwealth, in return for the allocation of all VAT proceeds to the states, that some further state taxes (notably on financial transactions) would be abolished and that others would be reviewed in the future. Today, the Commonwealth collects about 82 per cent of all the taxes (Twomey and Withers 2007). The remaining state taxes (on land, payroll, minerals, and gambling) tend to be less responsive to economic growth and are therefore slower-growing than Commonwealth revenue bases.

A second key feature of the Australian Federation is the high degree of overlap between the central and state governments. Despite the fact that section 51 of the constitution places a relatively limited number of matters within its domain, the Commonwealth has been able to extend its powers in two ways.

First, section 51 of the constitution, after amendment by referendum in 1946, gives the Commonwealth the right to legislate in the area of medical benefits. The Commonwealth has used this to provide

subsidized medical care, even without managing health institutions itself (hospitals are largely run by states, and most clinics are private), by subsidizing the costs charged to non-hospital patients.¹

Second, section 96 of the constitution gives the Commonwealth the right to 'grant financial assistance to any State on such terms and conditions as the Parliament thinks fit'. The Commonwealth has used this clause to extend its powers considerably. For example, most schools in Australia are run either by a state government or by a church. In the 1970s, the Commonwealth started supplementing the income of non-government schools through section 96 grants nominally provided to the state governments, but in effect as direct payments to schools.

As a result, a substantial portion of the funding from the Commonwealth to the states is earmarked. Just over half of the funding the states get is the devolution of GST, which is distributed through an independent body, the Commonwealth Grants Commission, with the objective of horizontal equalization. GST funds are not earmarked, but the other (slightly less than) half of the funding provided to states is distributed as earmarked funds. Like vertical imbalance, so too reliance on earmarked (relative to untied) funding is on the increase. The share of earmarked to total transfers to the states was at about one-third at the end of the Second World War, but is at almost one half today.

The combination of vertical fiscal imbalance and overlapping responsibilities gives rise to what in Australia is called the 'blame game', under which debates about how to improve service delivery often descend into an argument about a lack of Commonwealth funding on the one hand, and poor policy implementation by the states on the other.

A third important feature is expressed by Hollander (2006: 44), who writes, 'The Australian Federation's first hundred years has been distinguished by increasing centralisation.' The facts already discussed—the increasing share of the Commonwealth in total revenue, and the

¹ Section 51 (xxiii) of the Australian constitution now gives the Commonwealth government authority over 'The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorise any form of civil conscription), benefits to students and family allowances.' Prior to the amendment, the Commonwealth government only had the right to provide old-age and invalid pensions.

broadening scope of central government expenditure—are themselves indicators of this centralizing tendency. But the trend goes beyond that to include a broadening policy role for the centre.

This centralizing trend in Australia has itself been supported by four factors. First, the Commonwealth government has been able to use powers provided to it under the constitution in some areas to extend its power into other areas. Thus, its power under external affairs has been used to extend the Commonwealth's influence into environmental issues through the treaties that it has signed. And its power to regulate corporations has been used to extend its influence over industrial relations. In both cases, states have seen their autonomy greatly reduced.

Second, in general the judiciary has been sympathetic to the Commonwealth whenever some centralizing policy has been challenged in the courts. As Twomey and Withers (2007: 31) write:²

One of the main sources of centralism in the Australian Federation has been the High Court of Australia. The Court's judgments have ended the notion of State reserved powers and State immunity from Commonwealth action, increased Commonwealth financial dominance in the areas of income tax and excise, and expanded Commonwealth legislative power through a broad interpretation of the external affairs power and the corporations power.

Third, public opinion is probably on the side of the Commonwealth. Again to quote Twomey and Withers (2007: 7): '[T]he public debate about federalism focuses on the perceived disadvantages of the system without taking into account the far more significant benefits Australians have derived from our federal system.'

Many Australians think their country is over-governed and are unsure of the need for state governments.

Fourth, the move over time toward a common market has led towards less variation among states in such areas as competition policy and regulation, as each has moved to subscribe to common standards agreed to by all. This is a case of centralization through cooperation rather than through a stronger central government.

These three characteristics—high and growing vertical fiscal imbalance, increasingly overlapping expenditure responsibilities, and a centralizing tendency—are mutually reinforcing. For example, because

² See also, for a spirited if one-sided account, Andrews (2010).

states' revenue options are limited, and they face high expenditure growth especially in relation to health spending, their budgetary position tends to deteriorate over time and requires periodic renegotiation. This places the Commonwealth in an advantageous bargaining position. Increased demands by citizens, combined with the potential to gain political capital, has led the Commonwealth to exploit this relative financial strength to delve into what have traditionally been state areas of expenditure responsibility to achieve its own policy objectives.

At the same time, it is important not to underestimate the ongoing importance of the states. The Commonwealth can work alongside them, attempt to influence them, and sometimes overrule them, but it can rarely remove them from areas of policy and expenditure. Apart from constitutional restraints, central governments in Australia are wary of taking on the actual responsibility for service delivery.

Thus, although centralization is waxing, federalism is not waning. This is recognized by both the Commonwealth and state governments, as the 2008 Inter-governmental Agreement on Federal Financial Arrangements recognizes:

The primacy of State and Territory responsibility in the delivery of services in these sectors is implicit in the Constitution of the Commonwealth of Australia and it is not the intention of the Parties to alter the Constitutional responsibility or accountability of the Commonwealth, States and Territories (COAG 2008a).³

If responsibilities overlap, and cannot be reassigned, then there is no alternative but to cooperate. Cooperative federalism has a long history in Australia, and is now embodied in a range of institutions. As Wanna et al. (2009: 3) write: 'Australia has a rich tradition of pragmatic arrangements enabling governments to work together horizontally and vertically. These arrangements, sometimes called the "gossamer strands", that tie the federation together, have broadened and deepened over the years.'

One of the oldest of these institutions of cooperative federalism is the Loans Council which was created in the 1920s to coordinate Commonwealth and state borrowings. While the role of the Loans Council has changed (it no longer places caps on state borrowing

³ 'These' here refers to a range of sectors including health, education, skills and workforce development, disability services, and housing.

levels), it continues as a statutory body, now focusing on reporting and transparency.⁴

There have been annual meetings of the premiers with the Prime Minister since the time of the federation, often revolving around negotiations over the budget. In 1992 the Commonwealth and the states agreed to create the Council of Australian Governments, chaired by the Prime Minister, and with state premiers (and two territory chief ministers) as members.⁵ COAG (2011a) describes its role as: '... to initiate, develop and monitor the implementation of policy reforms that are of national significance and which require cooperative action by Australian governments (for example, health, education and training, Indigenous reform, early childhood development, housing, microeconomic reform, climate change and energy, water reform and natural disaster arrangements)'.^N

Generally COAG meets once or twice a year, sometimes more.

There are also a range of cooperative institutions with responsibility in specific areas such as the Murray-Darling Basin Authority and the Electricity National Market Operator, all of which are the outcomes of and which themselves further push forward cross-government cooperative processes.

THE NATIONAL REFORM AGENDA

As mentioned in the introduction, the National Competition Policy was the main vehicle for cooperation between Australia's governments in the area of economic reforms from 1995, when it was agreed on, to its conclusion in 2005. Another important cooperative reform effort in this period was the introduction of a GST (VAT) by the Commonwealth government. ~~GST replaced existing federal~~ *Also as noted, another*

⁴ See Webb (2002) for a good historical review of the Loans Council.

⁵ COAG is to be distinguished from the Council for the Australian Federation which was established in October 2006 to 'support and enhance Australia's federal system by providing an Intergovernmental Forum for State and Territory leaders in Australia' (Wanna et al. 2009:6) It has the same membership as COAG except, importantly, it excludes the federal government (and the Australian Local Government Association, which is also a COAG member).

~~indirect taxes but also involved the states as it affected tax devolution arrangements, and as part of that bargain, required the states to give up various taxes of their own.~~ Other non-economic cooperative reform efforts in this period included moves to strengthen gun laws and laws against terrorism.

Starting in 2005, the Victorian government in particular became active in calling for a new National Reform Agenda (Brumby 2005), which would continue with the market oriented and deregulation reforms of the NCP, but which would also extend the reform agenda to include human capital reforms. These were referred to as the third wave of reforms, after the first wave of liberalizing reforms of the 1980s and 1990s and the second wave of national reforms under the NCP (Silver 2005).⁶ Embracing human capital reforms was particularly important, it was argued, given the ageing of the Australian population, the rapidly growing health bill, and competition from India and China which would increase the premium on skills.

This argument fell on fertile ground. Even though by then the central government was from a different party to that governing Victoria (and in fact all other states), this was a reform agenda which appealed to both sides of politics.

For its part, the Commonwealth had established a Taskforce on Reducing Regulatory Burdens on Business in 2005, which released its *Rethinking Regulation* report in January 2006. This found that there was 'too much regulation' which in many cases 'imposes excessive and unnecessary costs on business' (Regulation Taskforce 2006: 1). It recommended that both the Australian government and GOAG needed to establish processes to carry forward the regulatory reforms that it recommended.

There was also a sense that NCP had been a success, and that this was something that should be built on. In its 2005 review of the NCP, the Productivity Commission (2005: xli) called for a 'broadly-based successor to NCP'. Accordingly, the National Reform Agenda was adopted on 10 February 2006 by COAG. It had three streams (Productivity Commission 2006):

⁶ Note that sometimes the National Reform Agenda and the COAG Reform Agenda which followed it are themselves in their entirety referred to as the third wave. See Banks (2008).

- The competition stream, involving reforms in the areas of energy, transport, infrastructure and planning, and climate change.
- The regulatory reform stream, promoting best-practice regulation making and review, and reducing the regulatory burden.
- The human capital stream, covering health, education and training, and workforce participation.

NCP had focused on competition reforms, with some marginal coverage of regulatory reforms, and none at all of human capital. Interestingly, the Productivity Commission in its 2005 NCP review had recommended that human capital reforms, while important, should not be packaged with economic reforms 'within a direct successor to NCP' (Productivity Commission 2005: xli). While these reforms were certainly important, they 'should be pursued and monitored on a separate, stand-alone basis. Including them in a 'broadly-based program could render it unwieldy and undermine effective monitoring of reform progress and outcomes for all of the constituent elements' (Productivity Commission 2005: xlii). Whether it was a mistake to ignore this advice from the Productivity Commission is something we return to later in the chapter.

In announcing NRA, COAG also announced the creation of a new body, the COAG Reform Council (CRC): 'to report to COAG annually on progress in implementing the National Reform Agenda. It is envisaged that the CRC will be an independent body that will replace the National Competition Council (NCC) which has played a pivotal role in the achievement of the NCP reforms since 1996' (COAG 2006).

The COAG Reform Council was established in April 2007. It delivered its first report on progress under NRA in March 2008, but by that time, as discussed below, NRA had been replaced by the COAG Reform Agenda, and the CRC's role similarly changed.

There was no role for incentive payments in NRA. The Productivity Commission had found that 'financial incentives could similarly help in progressing a new nationally coordinated reform agenda' (Productivity Commission 2005: xlii), and the state governments pushed for incentive payments to be made part of NRA, as they had been of NCP. But whether because of opposition from the Commonwealth, or simply because of a lack of time, financial incentives were never embedded within NRA.

NRA never had the opportunity to prove itself. As Silver (2005: 65), one of the prime movers behind the NRA, notes, it was 'a complex,

interrelated and long term agenda' which required 'a decade-long focus on reform'.^{AA} Towards the end of 2007, however, national elections were held, and after those elections and the change of government which followed, NRA was replaced by the COAG Reform Agenda (CRA). N

NRA's lack of longevity should not be taken to imply a lack of influence. On the contrary, all three of NRA's streams were picked up by CRA. A prospective evaluation by the Productivity Commission in 2006 of the potential benefits of NRA provides a number of insights into likely benefits from NRA and CRA.

The Productivity Commission begins its prospective evaluation by noting the difficulties involved in trying to quantify NRA benefits. These include a 'lack of specificity about the nature and extent' (Productivity Commission 2006: key points) of the reforms that would be taken up, as well as the impact of these reforms. Nevertheless, the report attempts to estimate the 'potential maximum (outer-envelope) gains' (Productivity Commission 2006: key points) which could flow from NRA reforms. Separate estimates are provided for competition and regulatory reforms, on the one hand, and human capital reforms on the other.

The Productivity Commission estimated that 'competition and regulatory reform streams could provide resource savings of around \$10 billion.' '[A]fter a period of adjustment, GDP could be increased by nearly 2 per cent' (Productivity Commission 2006: key points).

Interestingly, this is similar to the *ex post* estimate of gains made by the Productivity Commission of NCP reforms. In its 2005 report, the Commission estimated that NCP had 'increased Australia's GDP by 2.5 per cent, or \$20 billion (Productivity Commission 2005: overview, XVII).⁷

However, a more relevant comparison might be with the commission's *ex ante* 'outer envelope' comparison of NCP benefits, which projected a much larger 5.5 per cent of GDP benefits (Productivity Commission 2005: Box 2).

There are some other indicators that the size of reform benefits would be smaller this time round. From the early 1990s to 2005, average real

⁷ Though actually this is the gain from all productivity gains in the sectors where NCP promoted reforms, so how much of the 2.5 per cent is actually due to NCP reforms is unknown. There may have been productivity gains in these sectors that were not due to NCP reforms.

As the commission itself noted, the approach was a 'mechanistic' one. It was assumed that: 'NRA-consistent reforms could bridge one-fifth of the assumed productivity gap in the hospitals subsector (that is, a 4 per cent gain) and one-tenth of the assumed productivity gap in the other subsectors (a 2 per cent gain)' (Productivity Commission 2006: 176).

Gains could be also had from the beneficial impact of health, education, and training reforms on workforce participation and productivity. The Productivity Commission (2006: 301) estimated that: 'By 2030, average labour productivity could potentially increase by 1.3 per cent as a result of the human capital stream of the NRA.'

As it noted: 'Although not insignificant, this potential improvement should be considered in context — over 25 years, labour productivity is assumed to rise by 54 per cent in the absence of the NRA' (Productivity Commission 2006: 301).

In addition, health and education reforms could increase the participation rate by about 1.3 percentage points by 2030 (Productivity Commission 2006: 293–94), 'primarily from preventing or improving the treatment of mental health and type 2 diabetes' and by improving 'literacy and numeracy and transition from school programs'. The commission was also not in a position to cost the initiatives that would be required to bring about these gains. It also found that a much bigger increase in participation (4 percentage points) would come from changing work incentives, a matter under Commonwealth government control.

In summary, gains were potentially larger for human capital reforms (as they were from regulatory reforms) than from competitive reforms, but difficult to measure, and would require a wide range of reforms, from better management of hospitals to better treatment of chronic diseases.

A final finding of interest from the Productivity Commission's report are the consequences of reforms on state revenue. The commission found that competition and regulatory reforms would increase central and state revenue by \$5 billion: 'Of this amount Commonwealth Government net revenue is projected to increase by around \$3 billion while the revenues of State, Territory and local governments collectively are projected to rise by around \$2 billion' (Productivity Commission 2006: xxxviii)

This finding that state governments will benefit fiscally from reforms casts doubt on the argument of state governments that they need financial payments to compensate them for the costs of reforms, though,

electricity prices fell by 19 per cent. (Productivity Commission 2005: xix) Much of this was attributed to NCP. But NRA was projected by the commission to reduce electricity prices only by another 2 per cent.

Significant gains were also anticipated from regulatory reforms. The commission estimated that 'full implementation' of NRA regulatory reforms might lead to a '20 per cent reduction in Australian compliance costs' and that this 'could result in a direct saving to activities and industries of as much as \$8 billion (in 2005–06 dollars)' (Productivity Commission 2006: 26) compared to just \$2 billion from remaining infrastructure reforms.

However, estimating gains from regulatory reforms is far from straightforward. The commission in this exercise estimated that regulatory compliance costs in Australia were 4 per cent of GDP,⁸ and that the regulatory reforms would reduce these costs by 20 per cent, or about \$8 billion. It is no criticism of the commission to say that this \$8 billion is more in the nature of a guess than an estimate. The commission's method of estimation also raises the question of how much can be attributed to the cooperative reforms agenda. It notes that Victoria and South Australia, for example, already have programmes to reduce regulatory costs by 25 per cent. If states were in any case cutting red tape, the only benefits of a cooperative reform agenda would be those which make it easier for businesses to work across state boundaries. In other words, one should only count the benefits of harmonization, rather than all deregulation benefits.

Gains from human capital reforms were much larger, though even harder to estimate (the commission termed its work in this area as 'exploratory'). The commission estimated that health reforms could improve productivity by 5 per cent, leading to resource savings of \$3 billion.

⁸ The studies examined in this chapter suggest that regulatory compliance costs on *business* tends to be around 2 to 3 per cent of GDP with some studies suggesting that business compliance costs could be approaching 4 per cent of GDP. The particular results, however, depend on methodology used and coverage of the studies. As these studies are generally dated, it is considered that they do not capture the additional and cumulative costs to business of the recent growth in regulation' (Productivity Commission 2006: 152–53). Hence the commission went for the upper end of the range. The 20 per cent figure was largely based on existing state and other country commitments.

unchanged. Essentially, a key COAG financial reform was to replace a large number of special purpose payments (about 90) by a small number of national specific purpose payments (5) and a large number of national partnership payments.

The aim behind replacing a large number of special purpose payments (SPPs) by a small number of national SPPs (NSPPs) was to give states greater flexibility in how they use their earmarked funds, and to shift the focus of attention from inputs to outcomes. The five NSPPs are for healthcare; education; skills and workforce development; disability services; and housing. For each NSPP there is also a national agreement, which clarifies the roles and responsibilities of both the Commonwealth and the states in each area of service delivery. The national agreements are negotiated by portfolio ministers and are solely policy agreements containing specifics on agreed outputs and outcomes as well as key performance indicators. The NSPPs are negotiated by treasurers after consideration of the policy objectives agreed in the relevant national agreement. Each NSPP is ongoing (that is, it does not have a terminal date) and is indexed by an agreed growth factor. Funding is shared equally across states on a per capita basis, except for education which is on a per student basis.⁹

There are a much larger number of NPPs, the terms for which are set out in national partnerships (NPs). They are time-limited, with any ongoing funding rolled into the NSPPs at the completion of the initial agreement period. NPs (and associated NPPs) can take two forms: project or facilitation and reward. Project NPs are simple contract and supply type arrangements for areas where the Commonwealth uses the states to deliver a project. Facilitation and reward NPs are used to reward state reforms and involve an upfront (facilitation) payment and post-implementation (reward) payments.

In 2009–10, NPPs and NSPPs were about the same size in value, \$29 billion and \$24 billion respectively (GST devolutions were another \$45 billion). However, the large value of the NPPs reflected large stimulus payments—financed by the Commonwealth, implemented by the states—and the figures for 2011–12 are \$18 billion and \$28 billion for NPPs and NSPPs respectively (Commonwealth of Australia 2011). By 2014–15, as stimulus payments are further withdrawn, NSPPs will

⁹ From 2013–14 funding for hospital services will be on an activity basis.

(NPPs).

as we discuss later, there might be other useful roles which reform-based payments can play, such as a signaling role and an incentive one.

THE COAG REFORM AGENDA

In November 2007, the Rudd Labor government was elected to power. This meant that all governments—state and central—were now under the control of the same party, an unusual occurrence in Australia. Taking advantage of this, Rudd promised to end the ‘blame game’ between the Commonwealth and the states. As early as December 2007, COAG met and declared ‘that there was a unique opportunity for Commonwealth-State cooperation, to end the blame game and buck passing, and to take major steps forward for the Australian community’ (COAG 2007). In March 2008, COAG endorsed the COAG Reform Agenda, and in December 2008 the financial arrangements which would underpin it. In the paragraphs that follow, we provide a brief description of the COAG Reform Agenda in terms of reform coverage, financial arrangements, institutions, and broader perceptions. Essentially, there was a high degree of continuity with respect to NRA in relation to coverage, but a greater degree of change in relation to the latter three.

The areas of the COAG Reform Agenda included those of NRA, which were competition, regulatory, and human capital reforms. Environmental reforms, which were absent from NRA, were also included in CRA, with a focus on water and climate change: water reforms were already a focus for COAG, but there had been little emphasis till then on climate change with the central government under Howard favouring, until very late in its term, a policy of inaction.

With regard to financial arrangements, there was a return in the COAG Reform Agenda to the use of incentive payments. More fundamentally, however, a key new feature of CRA was its reform in the way the Commonwealth provides earmarked funds to state governments.

The financial reforms which COAG agreed to were contained in the December 2008 Inter-governmental Agreement on Federal Financial Relations (IGA; COAG 2008a), which now provides the overarching architecture for the Commonwealth’s financial relations with the states.

COAG reforms address only the earmarked funds which went from the centre to the states. The unearmarked devolution of GST continues

Table 3.1 Reward Payments under the COAG Reform Agenda

Agreement	Reward payments
National Partnership Agreement on Literacy and Numeracy	\$350 million (over 2010-11 and 2011-12)
National Partnership Agreement on Improving Teacher Quality	\$350 million (over 2011-12 and 2012-13)
National Partnership Agreement on Preventive Health	\$308 million (over 2013-14 and 2014-15)
National Partnership Agreement on the Elective Surgery Waiting List Reduction Plan	\$252 million (over 2009-10 and 2010-11)
National Partnership Agreement on Essential Vaccines	\$24 million (over 2009-10 to 2011-12)
National Partnership Agreement on Improving Public Hospital Services	\$400 million (over 2012-13 to 2016-17)
National Partnership Agreement on Deliver a Seamless National Economy	\$450 million (over 2011-12 and 2012-13)
National Partnership Agreement on Youth Attainment and Transitions	\$100 million (in 2011-12 and 2013-14)

Source: COAG Reform Council (2011a).

make up almost 90 per cent of the earmarked transfers to the states (Commonwealth of Australia 2011: Chart 2.1).

As mentioned earlier, some of the NPPs are used to reward states for reforms. These are used in the areas of education, health, regulatory reforms, and training. As shown in Table 3.1, as at 30 June 2011, COAG had incorporated reward payments into eight ~~NPPs~~ for a total value of \$2.2 billion.¹⁰

In terms of institutions, the COAG Reform Agenda elevated the role of COAG itself. Under earlier governments, the role of COAG had been limited to facilitating the negotiation of high-level reforms such as the introduction of GST~~s~~ and the National Reform Agenda. It only met once or twice a year. A majority of the policy work was undertaken by Portfolio Ministerial Council meetings, some of whom met more

¹⁰ This total will change over time, as old ~~NPPs~~ expire and are replaced by new ones. For example, the new agreement on elective surgery includes facilitation and reward funding of \$650 million between 2010-11 and 2014-15.

frequently. Rudd elevated the role of COAG to be the key decision-making forum for all inter-governmental reform initiatives. The number of COAG meetings was to increase from one to four per year. COAG would monitor the implementation of reforms through COAG working groups, attended by state bureaucrats and chaired by a Commonwealth minister. The working groups are ultimately responsible for reform completion and will periodically report back to COAG. This shift to greater progress reporting within COAG placed pressure on state premiers to be accountable to their past agreements and was intended to drive state action. In addition, responsibility for funding agreements, which had previously been the purview of portfolio ministers, was transferred to the treasurers.

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The COAG Reform Agenda also gave the COAG Reform Council an expanded role. Not only was it to monitor general progress under CRA (its earlier role in relation to NRA), it was now also to assume NCC's role in relation to NCP of advising the central government on the progress by states against milestones in relation to which incentive payments were to be made.¹¹ And it was to report on performance in relation to areas governed by the new system of NSPPs.

Finally, but perhaps most importantly, in presentational terms, a new feature of the COAG Reform Agenda was its promise to put an end to the blame game, and to open a new era in Australian federalism. CRA represented a 'grand bargain' between the Commonwealth and the states. On the one hand, the states would get greater budget flexibility. They would also get additional funding through incentive payments and various negotiated increases in funding (especially in relation to health). In return, the states would implement the large reform programme of the incoming Rudd government, primarily around reforming business regulation and improving the effectiveness of service delivery.

There was a sense, under the new Labor government, that a new era was at hand, which would bring an end to this blame game and would usher in a new phase of cooperative federalism. Writing in 2009, Wanna and his co-authors commented:

¹¹ As Gretton notes in his chapter, there was one difference. In relation to NCP, NCC actually recommended whether incentive payments should be made. In relation to CRA, CRC only advised on whether relevant milestones had been achieved.

A new era of cooperative federalism has begun in Australia. This era offers an ideal and rare opportunity to make lasting improvements in the functioning of our federal system in a way that delivers greater efficiencies and better services. Australian governments should seize the moment and take advantage of this mood for change, uniting in the common cause of building a modern cooperative federation that can deliver effective national responses to national challenges and generate substantial benefits for all Australians (Wanna et al. 2009: executive summary)

Writing today, in early 2012, where already four states have slipped from under Labor control, including the two most populous, it looks, politically, like back to business as usual. But are there any signs that a new era has begun, one which transcends political differences and has put an end to the blame game? As noted right at the outset of this chapter, it is too early to make a definitive assessment, but the signs are not encouraging. In the next three sections, we attempt a preliminary answer with a focus on three parts of CRA: regulatory reforms, health reforms, and reforms to earmarked payments. While not a comprehensive analysis, these three aspects do capture the three main planks of CRA: microeconomic reforms, human capital reforms, and changes in the fiscal federalism architecture.

REGULATORY REFORMS IN THE COAG REFORM AGENDA

The microeconomic reform programme of the COAG Reform Agenda is encapsulated in the *National Partnership to Deliver a Seamless National Economy* (COAG 2008b). The agreement bundled a series of new reforms with a number which were already underway. The reforms cover 27 priority areas of regulatory reforms, eight competition reforms, and reforms to the regulation making and review process.

The distinction between the Seamless Economy COAG reforms and NCP reforms is that the latter were principally aimed at introducing competitive neutrality and the promotion of competition into private markets whereas the former, while continuing with competition reforms, mainly aim to deliver more consistent regulation across jurisdictions.

NCP reforms were narrower in comparison to the Seamless National Economy reforms, which have a broad scope and a large number of

stakeholders and veto players. Furthermore, in many cases current barriers are not extensive and hence the pay-offs from reforms are limited. The Productivity Commission recently released a review of the COAG regulatory reform agenda (Productivity Commission 2012a). It estimated that the reforms could reduce business costs by \$3.6 billion. This is less than half the earlier estimate (\$8 billion) of benefits to business from essentially the same reforms when they were part of NRA (Productivity Commission 2006), and it is less than one-third of the benefits from NCP reforms.

The Business Regulation and Competition Working Group (BRCWG)—a COAG working group made up of treasury officials and chaired by the minister for finance and deregulation—has oversight of the COAG regulatory reforms. Actual implementation is undertaken by line agencies reporting back to COAG through BRCWG. The use of BRCWG as a coordination mechanism has proven to be a useful tool at gaining support for the reforms from state central agencies, even where state line agencies remained reluctant to undertake the reforms wholeheartedly.

The Seamless National Economy facilitation and reward funding structure builds on the success of NCP payments. As part of the negotiations, the Commonwealth provided for \$100 million in up front 'facilitation payments', and a further \$450 million in 'reward payments' upon successful completion of reforms. These payments are divided between the states on a per capita basis.

The negotiation of NP itself took place within a broader series of negotiations over changes to inter-governmental agreements and the creation of less restrictive national agreements and NSPPs adding pressure on the states to agree to NP terms. A facilitation payment of \$100 million was made up front to partially cover the costs of state implementation and to provide a bargaining incentive to gain initial state support for the agreement.

Reward payments (\$450 million) are scheduled to be paid in two annual tranches in 2011–12 and 2012–13 (of \$200 and \$250 million respectively). States are eligible for 'full or partial reward payments' depending on 'an assessment by the Commonwealth of the overall level of progress by each individual jurisdiction against all of the key milestones in respect of the 27 deregulation priorities set out in Part 1 of the Implementation Plan, based on the advice of the CRC (COAG 2008b). However, it is also specified that full payment

cannot be made unless 13 'core' reform areas are completed (there are no reward payments in relation to competition reforms). A concession was provided that each jurisdiction would be able to withdraw from one non-core reform without jeopardizing their eligibility for full reward payments.

The COAG Reform Council assesses progress against the Seamless Economy targets annually. Its latest report is for 2009–10. In that, it assessed that milestones for four regulatory reforms had been fully completed; for three they had been largely completed; for nine there had been substantial progress; and for another nine there were implementation issues or risks (COAG Reform Council 2010).¹² In its more recent, but more general 2011 report (on the entire COAG Reform Agenda), the council noted that 'most of the regulatory reforms due to be completed by 30 June 2011 have been completed' (COAG Reform Council 2011a: 56). In relation to competition reforms, the COAG Reform Council 2011 report concluded that: 'Overall, while noting the matters identified as at risk and the somewhat limited scope of competition reforms, there has been good progress on competition reform commitments' (COAG Reform Council 2011a: 57).

The Productivity Commission (2012a) review of the COAG regulatory reforms likewise concluded that the reforms undertaken would already deliver some \$3 billion in benefits of the potential \$3.6 billion to be gained from this reform agenda, with only another \$0.6 billion of benefits still to come from reforms yet to be implemented. Again, this suggests significant progress. However, the Productivity Commission also stresses a number of uncertainties which suggest a more troubling picture. These are illustrated by our case study.

It is also worth noting a survey of CEOs undertaken in 2011 that found that 'despite all the efforts on regulatory reform by governments in recent years, the compliance burden associated with business regulation is rising, not falling' (AIG and Deloitte 2011: foreword). Almost 70 per cent of the respondents experienced a rise in compliance costs in the last three years. This does not in itself mean that the reforms have failed. It may be that the gains associated with the Seamless Economy reforms will come in the future, or that the

¹² Although there are 27 reform areas, four of them are clubbed together under one heading by the council (consumer credit). Hence the total is 24 not 27.

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compliance burden would have risen even more without the COAG reforms. However, it does sound a note of caution.

As part of the same survey, more CEOs (30 per cent) nominated occupational health and safety (OHS) as the major cause for rising compliance costs than any other area, by a long way (AIG and Deloitte 2011). As we discuss below, OHS harmonization is one of the key COAG reforms.

According to Access Economics (2009), of the 27 regulatory reforms, 'OHS ranks as the highest concern among businesses.' The 2011 AIG-Deloitte survey of CEOs also found that more CEOs (15 per cent) found that OHS was the most time-consuming compliance area as compared to other areas of business regulation.

Traditionally in Australia, each state has had control over its own occupational health and safety regime.¹³ Although there has been a goal of harmonization and various harmonization processes have been underway since the early 1980s, significant differences remain. Each Australian state and the Commonwealth government has its own OHS act and regulator. The Productivity Commission in its 2010 review of OHS noted that there are also a total of '70 additional Acts relating to OHS Australia wide' (Productivity Commission 2010a: xiv). The commission found that firms operating Australia-wide, that is, in every state, had 'to be aware of 3,392 pages of regulation—1068 from primary legislation and 2,324 from formal regulations—and face 282 codes of practice at the state and territory level' (Productivity Commission 2010a: xv).

By comparison, Commonwealth employees are covered by Comcare. Some large private companies are eligible and in the past have opted to be covered by Comcare, which provides national coverage. Firms operating under Comcare have a lower regulatory burden. They need only 'to be aware of 621 pages of regulation—147 from the primary legislation and 474 from formal regulations—and 21 codes' (Productivity Commission 2010a: xv). The commission noted: 'The volume and complexity of the OHS regulatory regimes has been a critical motivation for those companies which have joined the national Comcare scheme.'

Comcare can be described as a centralizing (or parallel) solution to the problem of non-harmonized OHS regimes in Australia. One strategy that the Commonwealth could have followed would have been to allow,

¹³ See O'Neill (2011) for a good review of developments in this area.

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or even encourage, more and more firms to register with Comcare, thus marginalizing the states' OHS systems, and harmonizing via centralization. However, Comcare was also opposed by the unions who perceived it as being biased towards employers. In late 2007, soon after coming to office, and in fulfillment of an election promise, the Rudd government declared a moratorium on new firms joining Comcare.

Rather than promoting a centralized solution, the Rudd government pursued the cooperative route which had already been chosen under the Howard government by including OHS in NRA. NRA and CRA approaches were similar. Whereas NRA required 'the Workplace Relations Ministerial Council to identify priority areas in principal OHS Acts in each State and Territory that should be harmonised,' the COAG agenda charged Safe Work Australia (formerly the Australian Safety Compensation Council) with the task of developing a model OH&S Bill, to be enacted by all jurisdictions by December 2011. The model bill has been created, but so far has been adopted in full only by Queensland, the Commonwealth, and ACT.

The NSW Labor government resisted passing the model legislation. In response, the Commonwealth threatened to withhold NSW reward payments, which generated significant media attention and public criticism of NSW's position. Following the election of a conservative government in 2011, NSW removed the first provision, but not the second.¹⁴

Opposition to the model bill has come from both the left and the right. NSW's earlier OHS regime had two pro-employee provisions which violated the model act. One was that it placed the onus on employers to prove they had complied with OHS requirements. (Productivity Commission 2010a: 11).¹⁵ The other was it conferred 'authorised union representatives with the power to prosecute for breaches of OHS regulations' (Ibid., 11).

Objections from the right came from the Western Australian (WA) government. Contrary to the situation in NSW, the model bill is more pro-employee than the existing legislation in WA, and that state's government declared its opposition to provisions of the model bill which

¹⁴ See Australian Institute of Company Directors (2011). The NSW government wanted to make both changes, but could not get the second one through the upper house.

¹⁵ Queensland had the same requirement.

would, among other things, increase penalties and expand union entry rights (Thomsons Lawyers 2011). Other states have also expressed reservations, particularly around the expanded duty of care which the new bill may give rise to. According to media reports, Victoria, Tasmania, and South Australia have all deferred passage of the new model bill (Phillips 2011). And the opposition in Queensland, which has now come to power, indicated when it was in opposition that it would amend Queensland's new model law if elected. Although major industry groups have endorsed the legislation, some industry groups are opposed to it, and claim that it will lead to abuse and confusion (Phillips 2011).

Why has the model bill proved to be so controversial? Access Economics (2009) in its regulatory impact assessment for Safe Work Australia undertook a largely qualitative analysis. It concluded that there will be few changes for firms which operate in a single state, and benefits from harmonization to states which operate across borders.

The Productivity Commission does attempt quantification. It assesses that firms which operate in single states will be worse off (as the model bill will increase compliance costs), but that firms which operate across states will be better off, and that their benefits will exceed the increased compliance costs of single-state firms (Productivity Commission 2012b). Overall, the Productivity Commission estimates that the harmonization exercise will reduce business costs by \$480 million.

Price water house Coopers
Price water house Coopers Australia (2012) recently undertook a regulatory impact statement for the Victorian government. It found that adoption of the model act in Victoria would increase costs to the state economy. In addition to transition costs, there will be ongoing compliance costs of \$590 million a year, an estimate in excess of the benefits to multi-state firms estimated by the Productivity Commission (\$480 million).¹⁶

As the Productivity Commission (2012b:172) itself notes, the evidence base for quantifying costs and benefits from OHS changes is weak. Predicting changes to compliance costs for business is difficult enough; assessing likely changes to workers' safety is next to impossible. Where the evidence base is weak and where different governments are likely to form their views on the basis of their ideology and supporting

¹⁶ One of the arguments of the Victorian impact assessment is that firms which operate across borders can in any case adopt the model law, reducing the benefits to Victorian firms as a whole from Victoria itself adopting the model law.

interest groups (unions or business) it is not surprising to find a range of views.

Clearly, the OHS reforms are in flux, and it is too early to reach any firm conclusions about their prospects. The January 2012 deadline for a new harmonized regime has been missed, but delays with complex reforms are common. The Commonwealth is urging states to sign up, reminding them of the incentive payments that are at stake (Evans 2011). But the situation seems to be deadlocked, and there are no signs that Victoria and NSW will come on board. The chair of the COAG Reform Council recently commented that failure to achieve legislative harmonization may result in the attempted reform doing 'more harm than good' (McClintock 2012: 4).

Even if the harmonized legislation is widely adopted, it remains to be seen if states will also harmonize their regulations and codes of practice. Given the experience to date, this seems unlikely. As Access Economics (2009) notes, this will actually have a greater impact on compliance costs.

There are several lessons one can draw from this episode.

First, in a situation where the benefits are relatively small, the incentive payments associated with the COAG regulatory reforms may not be large enough to drive results. There is no doubt that incentive payments are useful in securing ongoing compliance from states in implementing the reform programme, particularly in the final stages of implementation where reform impetus can be difficult to maintain. Furthermore, the reward payments play a unique role in the media where headlines of potential multi-million dollar losses to revenues place pressure on states to comply. However, as we discuss later in the chapter, incentive payments for the COAG regulatory reforms are much less than those associated with NCP. Even if the substantive policy issues are not large, it is clear that OHS reforms involve significant symbolic 'union versus management' issues, which can be difficult to overcome. Given that harmonization efforts have been underway since the early 1980s with limited success, it may be that more money needs to be placed on the table to get the states to agree.

Second, the risk with harmonization is that there is no guarantee that the new, harmonized regime is better than the old, unharmonized regime. Firms that operate inter-state benefit in any case simply from reduced compliance costs, but harmonization per se is not welfare improving.

Third, harmonization may not be the main reform game. On its own harmonization may only marginally reduce the regulatory burden

associated with OHS but it has involved significant political and bureaucratic effort, some of which could have otherwise been expended on efforts to reduce the overall regulatory burden within each state. The survey of business cited earlier found that the OHS regulatory burden has increased in the last three years (AIG and Deloitte 2011); this suggests that it is the increasing complexity of OHS systems rather than the lack of harmonization that is driving business concerns, as the latter would not have changed in the last three years.

Fourth, given the difficulties of harmonization, alternatives to harmonization need to be sought. Expanded access to Comcare would have given inter-state firms the harmonization they want without having to go through this tortuous and uncertain harmonization process. Instead, the Commonwealth government, which in 2007 put in place a moratorium on allowing new companies to join Comcare announced in 2011 that all existing companies would be transferred from Comcare to state and territory jurisdictions by the end of 2012 (Productivity Commission 2012b: 184). As the Productivity Commission notes, even with a model law, if states and territories regulate differently, compliance costs for ex-Comcare firms will go up and not down as a result.

These lessons are likely to apply to cases other than OHS. For example, though not part of the COAG Reform Agenda, the Commonwealth and states have for some years now been engaged in developing a national curriculum via harmonization of state curricula. This is of benefit to students who move inter-state, but such students make up a small minority. Whether the national curriculum will be better than the state one it replaces is a matter for debate. And whether we will actually end up with a national curriculum, or whether state curricula will continue 'based on' the national curricula, also seems an open question.

HEALTH IN THE COAG REFORM AGENDA

In 2009–10, \$122 billion was spent on health in Australia, representing around 9.4 per cent of GDP, up from 7.4 per cent of GDP in 1999–2000. On average, real health expenditures have grown at 5.3 per cent per year over the last decade, greatly outpacing the growth of GDP (3.1 per cent).

Almost 70 per cent of this total health expenditure is funded by government (AIHW 2011). Health responsibilities in Australia are shared between the three levels of government but predominantly between the Commonwealth and the states. The Commonwealth funds a large portion of the health system (44 per cent). This funding contributes to almost all government funded health services whether run by private health practitioners, public hospitals, or community health services. The Commonwealth has sole responsibility over the government funding of general practitioners (such as it is) and contributes around 40 per cent of funding to public hospitals. Between 1999–2000 and 2009–10 this share declined as the annual increase in hospital operating costs was greater than the increase in Commonwealth contributions. The states are responsible for the management of their respective health systems, primarily public hospitals. In 2009–10 they funded 51 per cent of hospital spending. The remaining, about 10 per cent, was funded through hospital revenue sources.

There is a widespread consensus that the Australian health system is in dire need of reforms. In its 2005 review of NCP, the Productivity Commission recommended a 'nationally coordinated review and reform program for health' as one of four priority areas for the next phase of reforms, noting that health was an area 'plagued' by 'large scale coordination problems' (Productivity Commission 2005: xxxviii) ~~where~~ 'where the complexity and diversity of service provision and the current delineation of financing and delivery responsibilities between the Australian and State and Territory Governments put a premium on effective coordination, but where it is widely accepted that coordination efforts to date have been found wanting' (Productivity Commission 2005: xl).

Traditionally, Australian Health Care Agreements (AHCAs) and bilateral agreements between the Commonwealth and each state have been the mechanism for the Commonwealth's contribution to the funding of state health systems. AHCAs stipulated conditions in exchange for Commonwealth monies, the key of which was that the states provide free hospital care to Australians. A majority of the funding was provided as a 'block grant' earmarked for the hospital system. Matching fund requirements were attached both to AHCAs and other associated specific purpose payments. The escalation in funding was governed by a negotiated indexation rate which included varying measures for increases in demand, wages, medical supplies, etc.

Two sets of AHCA's in this form were agreed covering the periods 1998–2003 and then 2003–08. The typical approach to the negotiations was for states to agree to reforms in exchange for additional base funding. The 2003–08 AHCA provided a strong financial incentive for the states to sign. The funding mechanism included a base grant and an escalation factor based on weighted population increases, indexation for wage movements, and a further 1.7 per cent increase for increased utilization (such as new procedures). Funding was included for specific programmes of care around palliative, mental health, and safety and quality initiatives (Griffiths 2006).

However, negotiations between the states and Commonwealth were hard fought and typically focused on achieving concessions from either party, either in the form of commitments to reform operations (Commonwealth) or in increased base funding and escalation (states).¹⁷ Overall, this was not conducive to taking a partnership approach to the delivery of health care. This can be seen in the information asymmetry which developed between the states and the Commonwealth. Withholding data (either intentionally or by simply not measuring it) creates a powerful impediment to external intervention, and tellingly the 2003–08 AHCA included a conditional amount of 4 per cent of the total grant being paid on, *inter alia*, compliance with reporting schedules.

Cost containment within the health sector has been a challenging exercise world-wide. Changing population dynamics, increased community expectations, new technology, strong public-sector unions, and large bureaucracies have all contributed to strong expenditure growth. The states, as managers of the public hospital system, have had the dual responsibility of delivering health outcomes and attempting to control costs. The funding mechanisms within the AHCA's allocated the downside risk of above trend expenditure growth largely with the states, as demonstrated by the fall in the Commonwealth's share of hospital funding over the past 10 years.

The negotiations around the 2008 COAG Reform Agenda were contingent on a successful agreement on the future escalation of health funding. To a degree, the 'grand bargain' of reforms for increased funding was struck in health funding: health was both the largest area of

¹⁷ Both sides in the negotiations used the media to gain popular support. See The Age (2003a, 2003b, and 2003c)

inter-governmental transfers from the Commonwealth to the states and also the fastest growing. Once an agreement on health funding was made, the remainder of the negotiations was a *fait accompli*. The result was a commitment by the Commonwealth to increase health funding to the states by around \$60 billion over 5 years.

In contrast to past agreements, the immediate requirements for state reforms were limited to specific initiatives, for example, on health workforce registration issues and a national harmonization exercise. There were, however, commitments to increase transparency and, importantly, to implement reforms to be identified by the National Health and Hospitals Reform Commission (NHHRC), which the Commonwealth government had established for this purpose. The underlying idea was one that had earlier been promoted by the Productivity Commission: 'An "overarching" policy review of the entire health system should be the first step in developing a nationally coordinated reform program to address problems that are inflating costs, reducing service quality and limiting access to services' (Productivity Commission 2005: xii).

In June 2009 NHHRC released its report which included a series of recommendations around changes to the governance of state health systems such as the devolution of governance to independent boards, smaller groupings of health services through the creation of local health districts (LHDs), and the introduction of activity based funding (ABF), a mechanism that directly funds hospitals at national prices which are set by an independent national pricing authority.

Perhaps the most important and radical reform proposed by NHHRC was that over time the Commonwealth should move to being fully responsible for public hospital funding. In the short term (that is, as the immediate reform) NHHRC recommended that the Commonwealth would cover 100 per cent of hospital outpatient services and 40 per cent of other hospital costs (NHHRC 2009: executive summary). Over time, however, the Commonwealth would increase its 40 per cent share of non-outpatient hospital services to 100 per cent, at which time:

the Commonwealth Government would have close to total responsibility for government funding of all public health care services across the care continuum—both inside and outside hospitals. This would give the Commonwealth Government a comprehensive understanding of health care delivery across all services and a powerful incentive—as well as the capacity—to

reshape funding and influence service delivery so that the balance of care for patients was effective and efficient (NHHRC 2009: executive summary).

There was no immediate response from the Commonwealth to the NHHRC report. The Labor Rudd government was preoccupied by its attempts (ultimately unsuccessful) to introduce an emissions trading scheme, and to respond to the global financial crisis.

However, in March 2010, the Rudd government decided to go on the front foot on health reforms, perhaps to regain the political initiative after its defeat on emissions trading. It wholeheartedly embraced the suggestion from the NHHRC that the Commonwealth should take over funding of the hospital system. In his 3 March speech to the National Press Club, Rudd announced that: 'For the first time in history the Australian Government will take on the dominant funding role for the entire public hospital system' (Rudd 2010).

Rudd announced that the eight state-and-territory-run systems would become part of a single national network. The Commonwealth would provide 60 per cent of hospital funding. This move would end the blame game and cost shifting. With the same government responsible for both hospital and non-hospital health services, there will finally be 'better integrated, better coordinated healthcare'.

Rudd also embraced the NHHRC proposal that funding be on the basis of activity-based funding or 'efficient prices', determined by an independent body. Local hospital networks would be established and funded directly by the Commonwealth (and the states). There was not a lot for the states in Rudd's announcement. They seemed to have no role in the new 'National Health and Hospital Network, that is funded nationally and run locally' (Rudd 2010). The extra revenue needed would be obtained by earmarking GST revenue, which to date ~~was~~ devolved to states in an unearmarked form. Rudd threatened that if the states opposed this reform, he would take it to the Australian people through a referendum.

had been

At first it seemed that the states—attracted by the prospect of extra funding and still mainly aligned politically with the Commonwealth—would sign the new plan. In April 2010, COAG, with the exception of Western Australia (then the only non-Labor state), signed a plan which was very similar to that contained in Rudd's March speech.

But the next month, May 2010, Rudd moved on to another controversial proposal, super-profits or rent tax for miners. This aroused

immense opposition, and amidst falling opinion polls, one month later, Rudd was deposed as Prime Minister by his party. In August, after national elections, his party scraped back to power as a minority government under the leadership of Rudd's former deputy, Julia Gillard. Meanwhile in November 2010 and March 2011, Australia's two most populous states, Victoria and NSW, went to the polls and both ousted their incumbent Labor governments.

The next COAG meeting was in February 2011.¹⁸ Unlike the April 2010 meeting, this resulted in a unanimous agreement on health, but on the basis of a much-watered-down version of Rudd's proposals. The Commonwealth, it would seem, had had enough of radical reforms, or was no longer in a position to dictate terms, or both. Essentially, the Commonwealth abandoned its earlier plan to take over the hospital system, and exclude the states. Para 2 of the new agreement confirmed 'the States' role as system managers for public hospital services'. The Commonwealth also backed down on its earlier funding offers. GST revenues were no longer threatened to be earmarked, but no longer would the Commonwealth offer to pay 60 per cent of public hospital costs and (over time) 100 per cent of outpatient services. Now, ~~but~~ the promise was only to fund 'efficient growth funding for hospitals to 45 per cent from 1 July 2014, increasing to 50 per cent from 1 July 2017' (COAG 2011b: 62). This was still a good deal for the states since, over the last 10 years, under AHCA's, the Commonwealth's share of hospital funding had been falling continually.¹⁹ However, it was very different from what was originally on the table. ~~Under this proposal, far from the Commonwealth actually becoming the dominant funding partner, its funding share would actually decline from 2014 to 2017, and then stabilize.~~

What lasted from the earlier Rudd proposals, indeed all that lasted, was the commitment to move to activity-based funding (ABF) or efficient pricing.

¹⁸ The agreements in February were finalized in August 2011. See COAG (2011b).

¹⁹ Though note the ABF also leaves states with a greater share of risks, as is appropriate given their management role. Both the Commonwealth and the states share risks associated with rising efficient prices and volume, but states retain the risk around actual prices deviating from the efficient

decreased levels

How important is the ABF reform? The basis of ABF is that the national prices set by the independent authority represent some sort of an efficient price. The theory is that hospitals will be rewarded for undertaking those procedures for which they have a comparative advantage, thereby increasing specialization of particular high cost procedures, and incentivizing hospitals or hospital networks to reconfigure their health services in ways that maximize efficiency.

In Australia, ABF is something which has emerged, bottom-up, in the state of Victoria.²⁰ Victoria is regarded as providing Australia's best health services, and its analysis in the NHHRC report shows that it has the lowest average costs of services. The NHHRC proxies the efficiency gains from moving to ABF by assuming that above-average-cost states are brought down either to the average or to the level of the best state, that is, Victoria (see Appendix H of NHHRC 2009). This would give rise to a saving of \$400–\$900 million annually for inpatient services and \$170–\$430 million for non-admitted public patient services. Whether these funds would actually be realized remains to be seen. Victoria's experience is a positive one, but there is little by way of international evidence to support ABF.

On the positive side, one of the aims of ABF is to improve transparency and subsequently improve accountability within the state health systems (~~Government of Western Australia 2011~~). Changes to transparency are likely to lead to a change in incentives for hospital administrators. Comparisons of performance within the health sector have previously been difficult to measure due to claims of divergent patient needs and 'special cases'.

On the negative side, funding of activities may provide incentives to over-service, particularly in those procedures where a local health district has a comparative advantage. Determining some form of national pricing also creates political risks, including pressure for redistribution of health funding amongst states. While greater transparency in the usage of funds by hospitals is likely under ABF, under the version of the reforms actually agreed upon each state will translate national prices into their own state prices. This will add significant complexity, and will make cross-state comparisons more difficult. Finally, while the hope is that states will respond to any inefficiencies identified, there is no guarantee that they will.

²⁰ Western Australia moved to ABF in July 2011.

Overall then, ABF reforms have considerable uncertainty attached to their impact, and will at best deliver modest gains. NHHRC does not attempt to quantify the gains which would accrue from the reforms originally proposed of moving to a system dominated by a single funder. However, its analysis does suggest that those gains, now forgone, would be of a different order of magnitude altogether (NHHRC 2009: 151):

Moving to a single government funding system for health services would transform the way health services operate in Australia. Importantly, it would drive efficiency and help contain the budgetary cost of health care. [T]he Commonwealth Government would have powerful incentives as well as the capacity to influence and re-organise services so that the balance was as effective and efficient as possible. The shift to a single national public funder, therefore, could substantially improve both allocative and operational (technical) efficiency in the Australian health system.

FISCAL FEDERALISM REFORMS IN THE COAG REFORM AGENDA

The reforms to the way in which the Commonwealth gives earmarked funding to the states, embodied in the December 2008 Inter-governmental Agreement on Federal Financial Relations (IGA, COAG 2008a), and summarized earlier in this chapter, were aimed at changing the focus of inter-governmental financial relations from one of input controls and maintenance of financial effort to an output and outcomes focus. It was posited that the change would increase the states' ability to target priority areas and drive customization and innovation in their service delivery models, ideally resulting in better outcomes at a lower cost.

In COAG's own words (2008c), IGA:

...represents the most significant reform of Australia's federal financial relations in decades. It is aimed at improving the quality and effectiveness of government services by reducing Commonwealth prescriptions on service delivery by the States, providing them with increased flexibility in the way they deliver services to the Australian people. In addition, it provides a clearer specification of roles and responsibilities of each level of government and an improved focus on accountability for better outcomes and better service delivery.

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There is no doubt about the importance of this agenda. Many analysts have viewed the excessive use of earmarking and conditions by the Commonwealth as a major source of inefficiency. For example, Twomey and Withers (2007: 37) write: 'Most complaints about the operation of the federal system concerning duplication, buck-passing, excessive administrative burdens, lack of accountability and lack of coordination can be traced back to the use of specific purpose payments (SPPs) by the Commonwealth Government.'²¹

The issue is not then whether the COAG fiscal reforms are important, but whether they have worked. The headline figure that 90 input-based SPPs were replaced by five outcome-based NSPPs is impressive, but hides the complexity of the changes, and exaggerates their significance.

The first point to note is that the five NSPPs are far from equal in size. The biggest is for healthcare, at \$11.2 billion in 2009–10 or about 45 per cent of the NSPP \$24.4 total.²² As discussed earlier, a separate healthcare agreement governing the expenditure of these funds took another two-and-a-half years to agree on (after the 2008 IGA). It now provides Commonwealth government funding to states to help them run their hospitals on the basis of ABE, which, as discussed earlier, essentially works out how much it should cost states to run their hospitals if they operated efficiently. It is focused on outputs (the cost of surgery) rather than outcomes (such as waiting lists or health status). It is highly prescriptive. It does not just say that the Commonwealth will provide its funding to states on the basis of an efficient costing approach, but that state governments will fund hospitals in this way as well.²³ There is thus no suggestion at all that, for these funds, the states will as IGA promised, 'have full budget flexibility to allocate funds within that sector as they

²¹ This quote is used in Bennett and Webb (2008) which provides an excellent overview.

²² These numbers are from the Productivity Commission (2010b), Table 2.2

²³ See para 7A, and para A59 and the following paragraphs of the 2011 health reform agreement (COAG 2011b) for guidelines on how states are to provide funding to hospitals. Innovative funding approaches are allowed but only their 'exploration and trial'. They must be 'limited' and reported to the Commonwealth in advance (para A62). There are also maintenance of effort requirements (para. A80).

see fit to achieve any mutually agreed objectives for that sector' (COAG 2008a: schedule D).

The second biggest NSPP at \$9.7 is for education. Here the bulk of Commonwealth funding is provided to support non-government schools according to a formula long prescribed by the Commonwealth. Only \$3.3 billion is to be retained by the state governments to be used in an untied manner (COAG 2008a: schedule D).

Thus it is only for the three smaller NSPPs (for skills and workforce development; disability services; and housing), which together make up just \$3.4 billion and then for \$3.3 billion on education spending, or in total just about one-quarter of the NSPPs th at any claim can be made of simplification, flexibility, or a focus on outcomes.

Next, we need to compare the situation with that prevailing before these fiscal reforms. While there were a large number of SPPs, there was also a small number of large SPPs which could be flexibly used, that is, they were not that different from the new NSPPs. Thus, for example, the bulk of funding for state government schools went to a SPP 'through per capita general recurrent grants which can be applied to staff salaries, teacher professional development, curriculum development and maintenance and general operational provisions' (Commonwealth of Australia 2006).

Finally, in relation to NSPPs, note that there is no link between funding and results. Performance targets are agreed to, and have to be reported against, but there is no penalty for non-achievement and there is no guarantee that the funds provided, even if effectively used, will be sufficient to achieve the targets. In some cases, data on the required output and outcome measures (in what is called the National Minimum Data Set) is unavailable.

What about the NPPs? There has been a proliferation of new NPs which have created difficulties of coordination and added to administrative burden. According to the COAG Reform Council (2011a: 29): 'As at 30 June 2011, 58 National Partnerships had been signed and a further five pre-IGA funding arrangements were deemed to be National Partnerships and brought under the Federal Financial Relations framework.'²⁴

According to the Productivity Commission (2010b: 26), 'the 2010–11 Budget Papers list over 100 different NPP payments in 2009–10'.

²⁴ Note that one NP might have several NPPs attached to it.

From the website of the Ministerial Council for Federal Financial Relations, there are 70 NPPs in relation to health and 18 in education alone. Some of them are highly specific, providing funding for specific hospitals and regional cancer centres on a line item basis (with separate agreements for the Darwin Hospital, the North Coast Cancer Institute, the Acute Medical and Surgical Unit of the Launceston General Hospital, and so on).²⁵

In summary, the idea that financial relations between the centre and states have been simplified is misleading. As the COAG Reform Council in its most recent report (~~2011~~ xii) notes:

The commitment to move away from financial or other input controls or prescriptions on service delivery remains an unresolved issue between the two levels of government in the case of certain National Partnerships.

Four issues which have been raised by States include: unnecessarily detailed reporting requirements, unnecessarily frequent reporting requirements, ad hoc requests and inconsistent application of the principle of reduced reporting burden when negotiating implementation plans (COAG Reform Council 2011a: 29).

The COAG Reform Council also provides some examples of the problems that various states have identified in terms of onerous reporting burdens (Table 3.2) and input and matching fund requirements (Table 3.3).

One of the weaknesses of the previous system of SPPs was that both their policy objectives and their funding arrangements were traditionally negotiated between Commonwealth and state portfolio ministers. A common condition placed on SPPs was the requirement of the states to contribute matching funding to an initiative (termed input controls). This system of negotiation created perverse incentives whereby state portfolio ministers had the opportunity to maximize their agency budgets by negotiating for high state contributions effectively forcing budget allocations in their favour. This would lead to reduced state budget flexibility and potentially a sub-optimal allocation of resources. The removal of matching funding requirements would be a good thing, but again it is not clear if

²⁵ All these agreements are at the website of the Ministerial Council for Federal Financial Relations (<http://www.federalfinancialrelations.gov.au/Default.aspx>). Accessed on 6 June 2012.

Table 3.2 Examples of Onerous Reporting Burdens for National Partnerships

Nature of reporting burden	Examples
Detailed reporting requirements	<ul style="list-style-type: none"> Detailed output reporting for new house construction to the level of: foundations, frame complete, lock-up complete, practical completion, allocated, tenanted, and post-occupancy under the National Partnership Agreement on Remote Indigenous Housing
Frequent reporting requirements	<ul style="list-style-type: none"> Monthly reporting on the National Partnership Agreement on Remote Indigenous Housing Quarterly reporting of elective surgery performance in the National Partnership Agreement on Improving public hospital services Quarterly reporting for small scale health infrastructure projects (with spend less than \$8m) Quarterly reporting on the Aged Care Assessment Programme implementation plan to trigger release of 5 per cent of funding each quarter Quarterly reporting for the National Partnership Agreement on social housing
Ad hoc requests for reports	<ul style="list-style-type: none"> Several states have found that ad hoc requests by the Commonwealth can be difficult to accommodate, especially where information sought is detailed, not otherwise collated in the requested manner and/or is sought at short notice
Inconsistent application of the principle of reduced reporting burden when negotiating implementation plans	<ul style="list-style-type: none"> While agreed implementation plans may have more modest reporting burdens, several jurisdictions are concerned that the negotiation process can be time-consuming because some Commonwealth departments continue to seek onerous reporting at the outset of negotiations in draft implementation plans

Source: Reproduced from COAG Reform Council (2011a: Table 2.4).

there has been a reduction in this practice. The COAG Reform Council notes that many NPPs have matching funding or maintenance of effort agreements, as well as input controls. The examples they provide are given in Table 3.3.

All this is not to say that COAG’s fiscal reforms had no impact at all. The actual method by which payments were transacted was rationalized. The reforms also usefully prompted central agencies to turn their focus

Table 3.3 Financial or Other Input Controls or Prescriptions on Service Delivery in National Partnerships: Examples Provided by States

Financial or other input controls or prescriptions on service delivery	National Partnerships
Reward funding tied to specific sector	<ul style="list-style-type: none"> • Smarter Schools National Partnerships • National Partnership Agreement on Youth Attainment and Transitions
Reward funding tied to specific sector	<ul style="list-style-type: none"> • Smarter Schools National Partnerships • National Partnership Agreement on Youth Attainment and Transitions
Requirement to match funds	<ul style="list-style-type: none"> • National Partnership Agreement on Low Socio-economic Status School Communities
Maintenance of effort requirement	<ul style="list-style-type: none"> • National Partnership Agreement on Improving Public Hospitals Services • National Partnership Agreement on Productivity Places Programme
Prescriptions on how funds are to be spent	<ul style="list-style-type: none"> • National Partnership Agreement on Productivity Places Programme

Source: Advice from the governments of Queensland, Western Australia, and Tasmania, Reproduced from COAG Reform Council (2011a: Table 2.X).

from financial monitoring of input controls (under previous arrangements) to strategy and coordination (under new arrangements). For example, the Commonwealth Prime Minister's department undertook a full structural realignment to increase the linkages between business units involved in domestic policy, and similarly many states created a National Reform Unit to coordinate, advise, and direct reform initiatives.

Nevertheless, overall it is hard to view the fiscal reforms of the COAG Reform Agenda as a significant reform achievement. They did result in a shake-up, but not one that fundamentally changed the way in which the central and state governments of Australia interacted in key areas of service delivery. To the contrary, the COAG fiscal reforms appear rather to be a specific instance of the disappointing record of performance management reforms in general (Thomas 2006).

Finally, what has been the role of incentive payments under the COAG Reform Agenda? CRC (2011: 33) delivers a positive verdict: 'The council has observed that National Partnerships with reward funding have attracted the attention of jurisdictions and appear to have provided an incentive to implement reform.'

Certainly, this would be consistent with the NCP experience. However, a closer look is required.

The total volume of reward payments under CRA appears to be similar to that under NCP, though comparisons are difficult to make as the CRA partnership agreements turn over. The CRC calculates that 'from 2010–11 to 2014–15, a total of \$2,128 million in reward payments is available' under the COAG Reform Agenda. This works out to an average of about \$420 million a year (CRC 2011: Table 2.11). By comparison, under the NCP, 'Funds totalling about \$5.7 billion were allocated for competition payments over the period 1997–98 to 2005–06' (Productivity Commission 2005: 29) This works out to an average of \$630 million a year.

However, this bottom-line comparison exaggerates the similarity of approach between NCP and CRA. In the latter, the reward payments are spread out over a greater number of areas, not just microeconomic reforms, but also health, education, and skills. As at 30 June 2011, COAG had incorporated reward payments into eight NPs (see Table 3.1).

The amount available for microeconomic reforms in CRA is just \$450 million, less than 10 per cent of the amount for comparable NCP reforms. As we suggested in our discussion of occupational health and

safety reforms, it may well be that this money is inadequate for the reforms that are being asked for.

The great bulk of CRA payments are not for implementing agreed reforms, but for achieving agreed targets, for example in the area of elective surgery. To take this as an example, the first NP to reduce elective surgery waiting lists has been concluded, and most, though not all targets, have been achieved. Does this mean that the scheme worked? We really do not know. Although the CRC has assessed performance (COAG Reform Council 2011b), no analysis has been undertaken on whether the incentive payments enhanced performance in relation to elective surgery management. There has been a huge increase in funding into the hospital system in the last few years so one would certainly expect a reduction in waiting lists. An expert panel set up to recommend on future targets for both elective surgery and emergency treatment noted the risks that targets would lead to *gaming* and risks to safety and quality of services (Expert Panel 2011: 5). Although they still recommended that targets be set and funds attached to them, they concede that: 'Gaming and target fixation are serious problems with potentially significant consequences and are not easily addressed at a national level' (Expert Panel 2011: 16).

More generally, it is well known from the theory of performance management that if a principal has multiple targets but rewards the performance of its agent only in relation to some of them, then the performance of the agent will be skewed towards those which are rewarded. One can well imagine this problem arising in the schemes which the Commonwealth has established, with states shifting funds from, say, maternal health, which is not rewarded, to elective surgery, which is.

CONCLUSION

As noted in the introduction to this chapter, it is too early to reach a definitive conclusion on the success, or likely success of post-NCP reforms, first NRA, and now the COAG Reform Agenda which followed it. That said, the conclusion we draw from our initial analysis is not promising.

Considering first the microeconomic reform stream, competition reforms may have small returns, and returns on regulatory reforms are difficult to measure. The case we studied, rated by some as the most important of the regulatory reforms, which was the harmonization of occupational health and safety rules, showed uncertain progress at best. This case also illustrates the hazards of harmonization.

Nevertheless, overall one would have to judge microeconomic and regulatory reforms as showing the most promise of COAG reforms.

Turning to the human capital stream, and hospital reforms in particular, the reform path embraced seems to be worthwhile, but modest in nature. It attempts to encourage efficiency in the use of hospital inputs. It is at best a first step, but it does not address the serious problems which arise from having different layers of government funding Australia's hospital system.

Finally, the reforms in fiscal federalism, while impressive from a distance, and an important part of the COAG Reform Agenda, seem to deliver less than they promise. The reality of the new system does not match the rhetoric of increased flexibility and accountability for outcomes.

We have not examined environmental reforms in this chapter, but as the chapter by Daniel Connell and *Quentin Grafton* clearly conveys, cooperative federalism has not had much purchase in relation to water reforms. And nor have the governments of the Australian Federation done a good job so far in coordinating policies on climate change.

Overall, therefore, in contrast to the rhetoric surrounding the COAG Reform Agenda—which promised a 'new start' and an end to the 'blame game'—and equally in contrast to the claims of some commentators that the COAG Reform Agenda represents a new era in cooperative federalism, while there is some progress we are sceptical that the COAG Reform Agenda will be the success that the NCP was.

To get a deeper understanding of why this might be the case, it is useful to remind ourselves why NCP was such a success. As Paul Gretton notes in his chapter, there were four factors underlying its success. The first was the wide recognition of the need for national reforms. The second was the presumption in favour of competition as the solution. The third was the agreement to the reform agenda by COAG. And the fourth was effective implementation mechanisms, combining common principles, independent oversight and monitoring, and financial incentives, namely payments to the states.

How does the COAG Reform Agenda look through this lens? We proceed by elimination. The first and third factors are clearly present. There is still clearly wide recognition of the need for national reforms. As we have shown, a number of sources, federal and state, from inside government and out, have highlighted the need not only for further microeconomic reforms but for tackling weaknesses in service delivery, and

for a change in Australia's intrusive system of earmarked funding. And there was also obviously a COAG agreement.

That leaves the fourth and first factors. Has the COAG Reform Agenda had effective implementation mechanisms combining common principles, independent oversight and monitoring, and financial incentives, namely payments to the states? On the surface, yes. The various agreements have outlined the common principles behind the reform programme. The COAG Reform Council provides independent oversight. And the practice of providing financial incentives has been applied across the reform agenda.

Indeed, in some areas implementation seems to be an area of strength for CRA. First, the centralization of policy to COAG forced the states to similarly centralize their own bureaucracies and apply additional resources to central agency functions to ensure greater control of policy and reform activities. This led to an increased central agency focus on coordinating multi-agency reforms. Second, the reporting, assessment, and reward framework administered by the COAG Reform Council has raised the profile of the broader reform process by providing transparency to the progress of reform implementation. This increased transparency has applied pressure on the states to stand by NPP agreements and has limited any scope to hijack the reforms in the implementation phase.

A couple of criticisms can, nevertheless, be made with regard to implementation mechanisms. First, recall the argument from the Productivity Commission in 2005 that health should not have been rolled into a common reform programme with microeconomic reforms but kept separate. This advice was ignored and it is possible that the COAG Reform Agenda has been simply too ambitious and overloaded. Certainly, this complaint has been heard recently from state premiers (Ryan and O'Brien 2010), and it is notable that COAG has not sustained the four-meetings-a-year schedule introduced under Rudd.

Second, we have questioned the use of incentive payments in relation to the achievement of selected outcome targets, such as a reduction in waiting lists for elective surgery, as against confinement of incentive payments to the undertaking of government actions, as was the practice under NCP, and is still the case in relation to the microeconomic reform agenda of the COAG Reform Agenda. The rationale for the latter is strong, not so much in terms of the costs of reforms, but as a signaling and persuasion device. However, our OHS case study suggests that the

amounts on the table have not been large enough. The rationale for the former (reward for achieving outcome targets) is much weaker. Tagging a sub-set of outcome indicators to financial rewards is likely to distort state efforts in the direction of the rewarded activities, and lead to game-playing. There is certainly no guarantee it will lead to systemic improvements.

In summary, the implementation mechanisms underlying the COAG Reform Agenda are a mixed bag. There are some weaknesses, but these are not, in our view, the main problem undermining implementation success. Rather, we would highlight the second reason which Gretton gives for the success of NCP, namely the presumption in favour of competition as the solution. In other words, under NCP it was not only agreed that there needed to be reforms, but there was also agreement on what the reforms should be—in general, if a reform moved a sector towards a more competitive set-up it was to be favoured.

There is a similar consensus underlying the microeconomic stream of the COAG Reform Agenda, which supports reforms which enhance the scope of the market, and which harmonize regulations across jurisdictions. But there is no similar clarity in relation to the other key reform areas. There is an agreement on objectives and outcomes, but not on how to get there. This is a general problem for human capital reforms. Some economists share the belief that, as in other sectors, so in health and education, more competition is the solution, and they accordingly favour reforms such as privatization and the introduction of vouchers. However, other economists disagree, or are agnostic. As the Chairman of the Productivity Commission has noted (Banks 2008):

... in contrast to the more conventional competition-related reform areas, policies directed at enhancing the capabilities and work incentives of Australians often lack a strong conceptual or evidence base. While the potential for substantial benefits from reform is there, the extent to which these can be realised will depend on having a mix of specific measures that can be shown to yield benefits exceeding their costs.

Certainly there is no broader consensus among the political class, or even within some leadership group within the broader class, that competition will solve the problems which hinder the health and education sectors.

Even if we leave pro-competition reforms to one side, there is still no consensus on the way forward in the social sectors. As we saw, there

is widespread agreement, for example, that serious problems arise from sharing the responsibility for health in Australia between the Commonwealth and state governments. But, as is evident from the 2010 debacle over health reforms, there is no consensus on the solution. The big reform ideas of the National Health and Hospital Commission disappeared as quickly as they emerged on the public stage. There cannot be a bigger contrast to the slow-but-steady process in building support for integration into the global economy and liberalization than the one-off flirtation of the Commonwealth government with radical hospital reform.

Likewise, there is no agreement on the reforms on earmarked transfers. Everyone can agree it is a problem, but the central government clearly wants to retain more control than the state governments want it to have.

Nor, it turns out, is there much agreement on how to harmonize occupational health and safety regulations. Everyone agrees they should be harmonized, but in an area where ideological views run strong and the evidence is weak, how to define the responsibilities of firms in this area is a contentious issue.

In summary, reliance on the central government for funding is a starting point for cooperative federal efforts, but it is not sufficient. There are several problems which hinder effective implementation of the COAG Reform Agenda. We have highlighted the dangers of an overloaded agenda, the risks around harmonization, and the need for larger incentive payments. But most importantly of all, for cooperative federal reform efforts to work there has to be a basis for cooperation, namely buy-in to an agreed solution to the identified problem. That basis is missing from much of the COAG Reform Agenda. As long as that remains the case, progress is likely to be slow and tortuous.

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