

IMPROVING GOVERNMENT REGULATION

Regulation in its many forms – from parliamentary law to ministerial orders to municipal by-law – plays a vital role in serving and balancing the diverse interests and values of complex democratic societies and market economies. As an instrument of governance, regulations will continue to be used to meet a wide variety of legitimate social and economic needs. Yet there is growing evidence that reform of regulation, properly designed and carried out, can improve economic performance, and that potential effects of reform on other policy objectives, including public service delivery, can be better managed.

However, in many countries, the expansion of regulatory systems has given rise to concerns about:

- the growing quantity and costs of regulation;
- the quality of individual regulations; and
- the legitimacy and openness of regulatory decision processes.

QUANTITY AND COST

The number and complexity of regulations from all levels of government has continued to increase, threatening to overwhelm the capacity of both government administrations and private sectors. The cost of regulation is also rising, raising concern in many countries at a time of budget constraints. Further, the compliance costs borne directly by citizens and businesses are even greater. One solution used by some countries is the development of a new management framework to discipline and control regulation. Some countries have developed alternative and complementary policy instruments that can be more effective, less costly and more flexible.

- In New Zealand, deregulation is a key feature of the general programme of economic liberalisation which has eliminated most forms of restriction on entry to markets, removed price controls that formerly applied to a long list of items, and abolished regulatory monopolies and licensing that applied to many professions and trades. Deregulation can be seen as consistent with other reforms such as privatisation, simplified tax systems, and public sector finance reform.

THE NEED FOR BALANCE

Although the emphasis in recent decades has been on deregulation, concerns have grown over achieving the balance between minimal government intervention on the one hand whilst ensuring that sufficient regulation exists to protect the potential 'losers' in public sector downsizing. It is evident that not all areas of public service delivery can be left to the mercy of market forces. Prudent regulation of service delivery is essential if government is not to lose sight of its obligations to respect the rights of all citizens.

- The Government of Trinidad & Tobago has deemed regulation of public utilities to be necessary because of market failure. Regulation must, then, act as a substitute for competition, helping to achieve such results as would be evident in a free market setting. The Government recognises that regulation is essential to ensure the provision, by the public utilities, of adequate and safe services to all customers on equal terms at reasonable prices.

Regulation also assumes a renewed importance within the new paradigm of public service delivery. Managing a portfolio of different service providers, including those from the private sector, necessarily requires a certain amount of regulation from central government if both obligations to the public as a whole and government policy objectives are to be fulfilled.

- An example of the need to regulate services which have been contracted out comes from UK pension schemes. Many employees opt for an employer-based pension scheme over the state's supplementary pension provision, but although employer-based schemes must be approved by the tax authorities to ensure that such schemes are not just tax avoidance devices, there is very little government control over how these schemes operate. Thus, there have been a number examples of employer-based pension schemes which have been misused by the employer, or where the scheme had collapsed financially. The most famous of these was the Mirror Newspaper Group superannuation scheme whose funds were being diverted into the commercial activities of the Group.

So, whilst governments in recent years have rightly been concerned with reducing impediments to both efficient service provision and economic competitiveness, deregulation cannot be considered a panacea or guiding principle. The emphasis must be, above all, on quality regulation.

QUALITY

Quality regulation is crucial for government effectiveness and many countries have increased their attention to the quality of regulatory mechanisms. More broadly, they have also focused on the functioning of the administrative process through which regulations are developed, implemented, reviewed and revised.

Countries are also focusing on regulatory quality because the governing environment is changing. Economic conditions are becoming more difficult, and are highlighting direct and indirect costs of government actions. Businesses facing tougher competition are asking their governments to reduce regulatory burdens to the greatest extent possible. The quality of national regulatory systems is more important than ever to international competitiveness. New global markets and technologies have rendered some older forms of government regulation counter-productive. Internationalisation of regulation is also forcing governments to question long-standing regulatory traditions and to seek innovative forms of regulatory co-operation.

- Britain's Secretary of State for Employment declared, in 1986, that "we may not end with far fewer regulations but they will be better regulations." In Canada, the motto has been "regulating smarter".

Although experience from many countries suggests that good regulatory practices and techniques may significantly reduce burdens and improve effectiveness, it is not clear if the quality of regulations has improved over the past decade. Regulators' compliance with quality standards has been problematic in many cases, since it has proved difficult to establish incentives within bureaucracies for regulators to change their behaviour. Few countries have established any system for measuring regulatory improvement.

REGULATORY REFORM

The core objective of regulatory reform is better economic performance: increasing productivity, job creation and 'competitiveness', while retaining the public benefits of regulatory programmes. Countries seeking more dynamic and flexible economies are using reforms of both economic and social regulation to address a range of rigidities, disincentives, barriers to competition, and market distortions that reduce efficiencies at firm and sector levels. Efforts in some countries to reform regulations also address other economic objectives in particular to:

- Respond to *consumer needs, including those of user industries, and desires for lower prices, more choices, and increased convenience.* This is an

important shift from regulatory regimes which have tended to protect producer groups at the expense of consumers and other users.

- Respond to *technological innovation* and more rapid product cycles in such sectors as communications, transport, and energy in order to support economic adaptation. Regulatory structures designed for outdated technologies penalise rather than protect consumers and user industries.
- Improve *government effectiveness*. If governments are to provide the framework to maximise economic wealth or to efficiently pursue important social objectives such as environmental quality and social cohesion, they must be capable of choosing the right policies, designing cost-effective regulatory instruments and approaches, and responding more quickly to change.
- *Improve the compatibility of national regulatory systems with a globalising economy*. As tariffs and quotas fall and the potential for trade expands, economic and social regulations assume greater importance as barriers to the flow of goods, services, investment or technology. International regulatory co-operation can produce economic gains from globalisation, such as fuller utilisation of economies of scale, while helping avoid unnecessary regulatory barriers to trade.

Deregulation and improved service to customers

The Registry of Companies and Businesses in Singapore has attempted to improve its service to clients in rectifying errors. Previously, the Companies Act provided for any particular recorded in a register which is erroneous to be rectified by a court order. To make it more convenient for members of the public to correct minor errors in their records, the Registry initiated a practice which allowed such errors to be dealt with by the straightforward lodging of a statutory declaration, thus bypassing the courts.

In 1990, the Malaysian Government undertook a survey of the system of licences and permits for business and investment. The survey revealed inefficiencies, delays and duplications. As a result initiatives were undertaken to issue composite licences, extend their period of validity, establish one-stop licensing centres, abolish certain licences and create exemptions to certain conditions for the granting of licences.

IMPLEMENTING BETTER REGULATIONS

A 1997 OECD report to government ministers made the following recommendations for achieving better quality regulation:

- Adopt regulatory reform policy at the highest political levels.
- Establish explicit standards for regulatory quality and principles of regulatory decision-making.
- Build capacities for central management and oversight of implementation of regulatory reform policy.
- Adopt processes for regulatory impact analysis.
- Open up the regulatory process to interested groups through a comprehensive policy on public consultation.
- Consider alternatives to regulation in a systematic way.
- Improve regulatory co-ordination so that multiple objectives are integrated.
- Review and evaluate the stock of existing regulations and paperwork.
- Reduce red tape and government formalities.

Improving the management of regulation must become an increasingly important focus for government action. Analysing the impact of regulatory systems as a whole, exploring cost-effective alternatives to regulation (e.g. economic incentives and information disclosure), and developing new arrangements which will guide the service towards its long-term goals, must become routine elements of the central management functions of government.

- In the UK, the Deregulation Initiative, dating back to 1985, but relaunched by the Prime Minister in 1992, has three key targets:
 - *better existing regulation*, to be achieved by cutting unnecessary burdens on business and streamlining existing requirements;
 - *better new regulation*, to be achieved by introducing new requirements only where necessary, minimising costs of compliance and consulting business about changes; and
 - *better enforcement of regulation*, to be achieved by ensuring that local authorities and national inspectorates apply regulations consistently, and provide guidance to make it easier for business to comply.

- In Canada, in 1992, the Treasury Board announced a new regulatory policy designed to address the problems of too many regulations which were making it difficult for Canada to compete in world markets, and the costs of implementation, given the decreasing public resources. The policy requires departments to consider a wide range of alternatives to regulation such as information campaigns, voluntary standards, persuasion, courses, self-regulation, ISO standards for management, market-based incentives and direct government expenditure before proceeding.

PROCEDURAL REFORMS

Deregulating administrative procedures relating to business enterprises needs to be supported and supplemented by improved internal systems and procedures. Awareness needs to be raised among departmental staff of the importance of removing bureaucratic red tape and its impact on their work processes, the organisation, their customers, and the economic development of the country.

Malaysia's Centre for Advisory Services

In Malaysia, deregulation in the public service has specifically focused on reducing red tape in administrative procedures relating to improving business activities. A one-stop centre called the 'Centre for Advisory Services,' part of the Malaysian Industrial Development Authority, provides investors with advice and the necessary approval for manufacturing licensees, tax incentives, and so forth, eliminating the obligation of going to various ministries and departments. Similar centres have also been set up at state level.

LESSONS LEARNED

Political, economic, social and institutional interests have hampered progress to improve regulatory processes and techniques. Moreover, regulatory management and reform have not been made any easier by regulatory inter-dependence. Governments no longer act in isolation; internationalisation and decentralisation have had major impacts on how they use their regulatory powers. However, successes in some countries as indicated above provide some grounds for optimism.