Reviewing the Regulatory ‘Stock’: reflections from Australia

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Dean, The Australia and New Zealand School of Government
5th Expert workshop on Measuring Regulatory Performance, OECD
Stockholm, 3 June 2013
## Multiple costs of regulation

<table>
<thead>
<tr>
<th>Compliance costs</th>
<th>'Distortion' costs</th>
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<tbody>
<tr>
<td>Costs to government</td>
<td>Costs to business</td>
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<td>Costs to community</td>
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**Benefits foregone if regulation is ineffective**
- other perverse effects
- other ‘non-market’ distortions

**Economic distortions**
- dead weight losses
- lower investment
- lower innovation

**Substantive compliance costs**
- investments in systems training
- higher cost of investment

**Administrative costs to business**
- paper work time
- reporting time

**Administration cost to regulators**

**Fees and charges**
Three broad approaches to reforming the stock

<table>
<thead>
<tr>
<th>Programmed reviews</th>
<th>Ad hoc reviews</th>
<th>Ongoing ‘management’</th>
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</thead>
<tbody>
<tr>
<td>• Sunsetting</td>
<td>• Public stocktakes</td>
<td>• Regulator strategies</td>
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<tr>
<td>• Embedded in statute</td>
<td>– economy-wide</td>
<td>– Stock-flow linkages</td>
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<tr>
<td>• Post implementation reviews</td>
<td>– sectoral</td>
<td>– Budgets</td>
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<tr>
<td>– process failure</td>
<td>•‘Principles-based’ reviews</td>
<td>– ‘In-Out’ / ‘Offsets’</td>
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<tr>
<td>– catch-all</td>
<td>• Benchmarking</td>
<td>– RIA based consideration</td>
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<td>• ‘In-depth’ reviews</td>
<td>• Red tape reduction targets</td>
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### Effort versus impact: which tools?

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<tr>
<th></th>
<th>Potentially low return</th>
<th>Potentially high return</th>
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<tr>
<td><strong>High effort</strong></td>
<td>- Broad redtape cost estimation</td>
<td>- In-depth reviews</td>
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<tr>
<td></td>
<td>- Regulatory budgets and one-in one-out</td>
<td>- Embedded statutory reviews</td>
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<td></td>
<td>- Frequent stocktakes</td>
<td>- Benchmarking</td>
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<td></td>
<td></td>
<td>- Packaged sunset reviews</td>
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<td><strong>Low effort</strong></td>
<td>- Sunsetting</td>
<td>- Known high cost areas and known solutions from past reviews</td>
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<tr>
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<td>- Regulator stock management</td>
<td>- Regulator management strategies where weak in the past</td>
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<td></td>
<td>- Red tape targets</td>
<td>- Periodic stocktakes</td>
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<td>- RIS stock-flow link</td>
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*Notes:

- a: one-in one-out
- b: known red tape targets
Actions across the regulatory cycle

Stage I – Decision
- RIS triage
  - Identify need for embedded reviews
  - Set sunset flags
  - Stock-flow linkage rules

Stage II – Establishment
- Design to include embedded reviews
- Development of regulator management strategies

Stage III – Administration
- Regulator management strategies
- Monitoring review requirements

Stage IV – Review
- Programmed reviews
  - Sunsetting
  - Embedded
  - PIRS
- Ad hoc reviews
  - In-depth
  - Specific benchmarking
  - Public stocktakes

Lessons from regulators on what works
Lessons from ex post evaluation
The Australian Government’s regulatory system

Central Agencies: Oversight

Department of Finance and Deregulation
- Deregulation Policy Division
- OBPR

Attorney-General’s Department
- Legislative Instruments Act
- Legislation

Australian National Audit Office

Stock Management Activities

- Ministerial partnerships
- In-depth reviews
- Benchmarking
- Regulation impact statements
- 5-yearly reviews
- Embedded statutory reviews
- Sunsetting
- Performance audits

Line Agencies Management

Policy agencies
- RIS at entry
- Monitor and conduct
  - Embedded statutory reviews
  - Sunsetting
- Annual Regulatory Plans
- Oversee regulators

Regulators
- Fine tuning of administration
- Advice to policy agencies
- RIS for delegated decisions
Some lessons

- Good governance is fundamental
- Transparency matters
  - Especially effective consultation mechanisms
- Skilled people are needed
  - Competing demands for them
- Prioritisation and ‘filtering’ are important
Break out group 4:

**Ex post Regulatory Evaluation**

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specialist director,
Norwegian Ministry of Government Administration,
Reform and Church Affairs

Oslo 04.06.2013
1. What are the challenges?

• There is a number of problems when regulation is put in place, such as:

  1. The regulation can have unintended consequences, the benefits could be overestimated and the costs underestimated, or we can have a case of regulatory failure

  2. Policymakers are solving today’s problems – not what was regulated some time ago

  3. Some countries look at burdens and compliance costs, but few (or none) countries look systematically at how regulation works (after it is put in place)

  4. How can we move from successful projects to a systematic approach?
2. What are we talking about

- We are not necessarily talking exclusively about regulation (focusing on programs)
- Difficult to define what systematic is. Systematic could for example mean systemwide or frequently.
  - Government wide approach – no sector or type of regulation is excepted
  - Not a project or a one of activity, but embedded in a system over time
### 3 broad approaches to reform regulation

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<td>• Post Implementation reviews (for example when legislation is passed without proper RIA, or without proper consultation)</td>
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<td>• Principle based reviews (for example on competition principles)</td>
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4. What are good practices?

- Some possible good practices of ex-post evaluation:
  
  1. Stakeholder, users and end user involvement in reviews
     - for example through consultation with full transparency on how the input is used
  
  2. Regular (annual/biannual) surveys among stakeholders
  
  3. In depth reviews for important policy areas, for example decided by government on a yearly basis (like spending reviews) (with a few reviews started each year)
5. Obstacles and overcoming them

Some obstacles:

1. Political resistance and lack of political leadership
2. Bureaucratic resistance (afraid of results)
3. Cost of evaluation (cost effectiveness)
4. Lack of data: Problems of quantifying benefits and costs (but easier than for exante-assessments)
5. Very often leads to increases efforts of regulation (seldom regulation gets abolished – but there are examples of anticompetitive regulation)

Some proposals on how to overcome them:

1. Examples of bad regulation out in the open – more transparency to get more political acceptance by stakeholder involvement
2. Choosing low-hanging fruits
3. Prioritizing – sequensing, evaluating the most important areas first (proportionality)
4. Focusing on cost of regulation?
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