



Australian Government

Department of Finance and Deregulation

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# Evaluation – How it informs policy development

Australia's experience in regulatory reform

Susan Page, Deputy Secretary  
Deregulation Group  
Department of Finance and Deregulation



## Context

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- The Deregulation Group was created following the election of the Rudd Government in 2007
  - Reflected a move away from regulatory management that was episodic to continual regulatory reform
- Australia had some solid building blocks
  - At least 20 years of experience in regulatory impact analysis
  - The Productivity Commission which provides independent advice on potential regulatory targets
  - Good regulatory reform experience, particularly in relation to competition and market-openness



## Context

- Challenge was to create a credible, useful regulatory management agenda which delivers real savings to business and the not-for-profit sector
- Election commitments
  - Commonwealth and State and Territory partnerships
  - Rigorous regulation impact assessment
  - “One in, one out” principle and common start dates
  - Systematically reduce the level of over-regulation



## The numbers approach

- Implemented a “one in, one out” rule via a requirement to offer a regulatory offset with a proposed new regulations
- Measured and reported to Government on changes in the numbers of Commonwealth regulation
- Experimented with regulatory budgeting
- Attempted to measure changes in ‘regulatory burden’

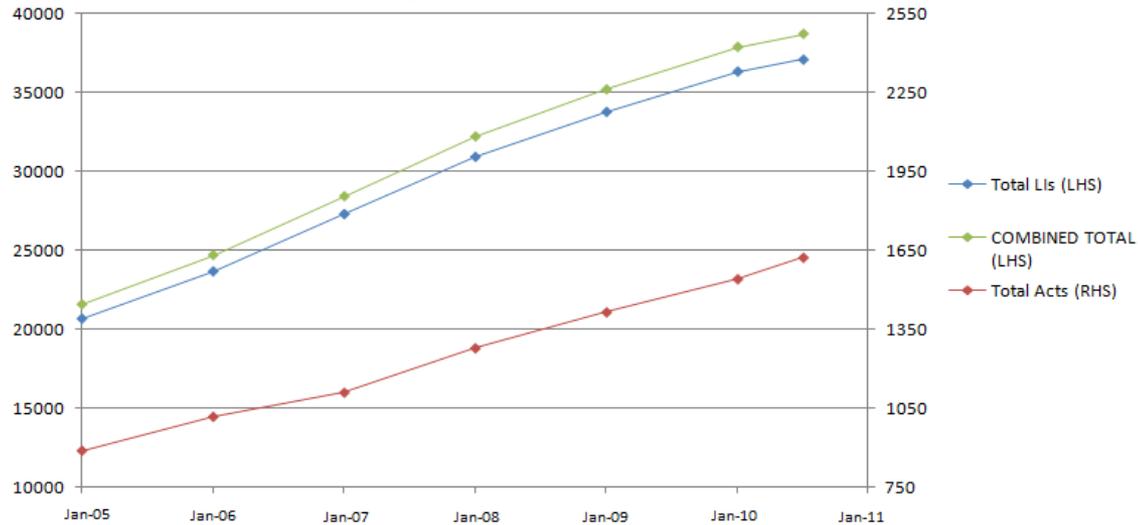


## Limitation of a numbers approach in isolation

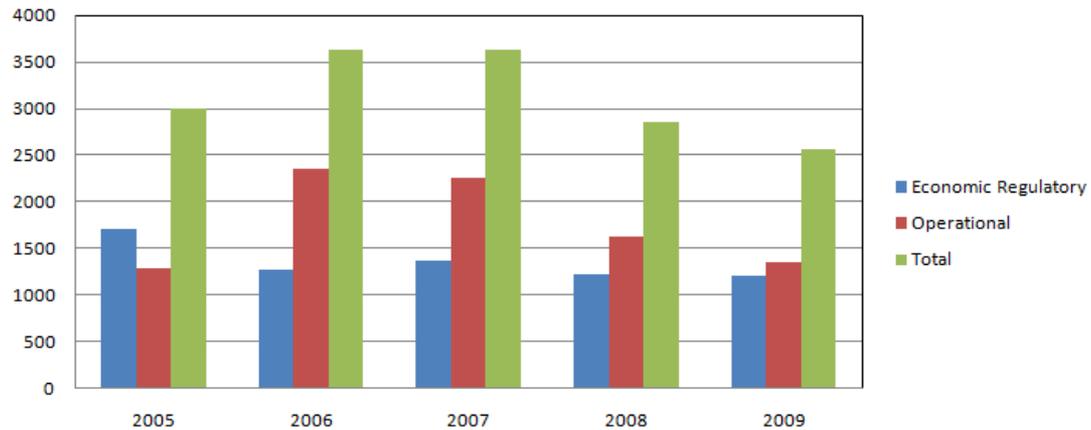
- Identifying regulation is not easy or reliable
- The long term trend in regulation inevitably increases with the complexity of government
- Regulations are not homogeneous



### Growth in Regulation - 2005 - 2010



### Net Increase in Legislative Instruments





## The Commonwealth-State agenda

In 2007 COAG agreed to reform to harmonise 27 areas of regulation where differences across jurisdictions were imposing unnecessary costs on business

- Part of a renewed Commonwealth Government commitment to inter-jurisdictional reform through COAG and creating a Seamless National Economy
- Within 2 years around half will have been completed
  - A combination of a national commitment, \$550 million in reward payments and good governance arrangements
- Another success factor: good analysis
  - Productivity Commission reviews identified targets and estimated benefits, which provided business and other stakeholders ammunition to force governments to act



## The Commonwealth agenda

Targets within the Commonwealth were harder to find

- Regulatory and administrative targets were not pursued
  - Meaningful change not guaranteed
- Business not able to supply sufficient information on regulations that impose unnecessary costs
- Consulting with business has its limits, for example, Productivity Commission experience in establishing a methodology for benchmarking



## The Commonwealth agenda

We took a qualitative and practical approach

- Ministers were asked to identify areas of regulation in their agencies which were burdensome or subject to complaints
- A series of Better Regulation Ministerial Partnerships were established
  - The Partnerships involved joint projects between the Deregulation Minister and Ministerial colleagues
- A number of successes already
- The future challenge is to expand this agenda and evaluate the benefits of this approach



## Systematic review

A complete review of all Commonwealth subordinate legislative instruments before 2008

- The aim was to identify areas which had a particular impact on business and areas for future reform
- 11,444 instruments were assessed
- 499 instruments were identified as redundant and a further 3705 instruments which are potentially redundant
- At least 8 possible areas of regulatory reform were identified



Energy Efficiency Opportunities Regulations 2006		
<b>Regulation ID</b> <input type="text" value="3"/> <input type="button" value="Find"/>	<b>Energy Efficiency Opportunities Regulations 2006</b>	
<b>Description</b> These Regulations provide detailed requirements and an assessment framework to enable effective compliance with, and administration of, the Energy Efficiency Opportunities Act 2006.	<b>URL</b> <a href="http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/0/6A71C88E271F8847CA257192002D68EA?OpenDocument">http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/0/6A71C88E271F8847CA257192002D68EA?OpenDocument</a>	<b>Date made</b> <input type="text" value="22/06/2006"/>
<b>Subordinate - 1 of 2</b> <b>Title</b> Energy Efficiency Opportunities Amendment Regulations 2006 (No. 1)	<b>URL</b> <a href="http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/0/AD7B3A683D4E7AC2CA2571B00005E06E?OpenDocument">http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/0/AD7B3A683D4E7AC2CA2571B00005E06E?OpenDocument</a>	<b>Date registered</b> <input type="text" value="26/06/2006"/>
		<b>Classification</b> Regulations
		<b>Admin Dept</b> DRET
<b>Why was the regulation introduced?</b> [Please complete this section] This question seeks to understand the original intent of the regulatory policy (i.e. what public policy question did the policy seek to address)? The object of the Energy Efficiency Opportunities Act 2006 (the Act) is to improve the identification and evaluation of energy efficiency opportunities by large energy using businesses and , as a result, to encourage implementation of cost effective energy efficiency opportunities. The Australian Governments Energy White Paper of 2004 states the following:		
<b>What Is the regulation's ongoing relevance?</b> [Please complete this section] This question not only seeks information about whether the regulatory policy is still required, but also to what extent has the policy been successful in addressing the original public policy question? (i.e. What were the assumptions regarding the intended effects and have they been met? If not, why not?) Have the circumstances from when the policy was first introduced altered relative to now? The Australian Government established the Strategic Review of Australian Government Climate Change Programs (the Wilkins Review) in February 2008 to determine whether existing climate change		
<b>When was the regulation last reviewed</b> [Please complete this section] For this question, not only is a date or time desired, but also particular details of the last review including: - What were the objectives of the last review? - To determine the complementarity of the EEO legislation in the context of the proposed Carbon Pollution Reduction Scheme. It is assumed that the CPRS will provide economic drivers to Australian business to reduce carbon emissions including through improved energy efficiency. Also the Department of Resources, Energy and Tourism recently reviewed the exemption of the stationary energy supply sector from obligations under the EEO legislation.		
<b>Who does the regulation impact</b> [Please complete this section] This question is seeking information regarding which sectors or industries of the economy are affected by the regulatory policy either, directly or indirectly (e.g. are additional costs on business resulting from complying with particular regulatory policies being shifted on to consumers). The Energy Efficiency Opportunities legislation affects all constitutional controlling corporations (and all subsidiaries etc) whose energy use exceeds 0.5 PJ of energy in any financial year beginning in 2005/2006. However, businesses whose main activity is in the generation of electricity, or the transmission or distribution of electricity or natural gas are exempt from obligations under the Act.		
<b>Please provide a functional description of the regulation</b> [Please complete this section] This question seeks information on how the regulation is being implemented. We are seeking to understand the responsibilities of both business and government in relation to the implementation and operation of the regulation. Corporations meeting the requirements specified in the legislation are required to register with the Department of Resources, Energy and Tourism to participate in the EEO Program. The EEO program		
<b>Officer details</b>		
<b>Name</b> <input type="text" value="Andrew Lewis - Manager, Energy Efficiency Cor"/>	<b>Phone number</b> <input type="text" value="02 6213 7148"/>	<b>Business Area</b> <input type="text" value="Department of Resources, Energy and Tourism, Energy and Environment Divisor"/>
		<input type="button" value="Update"/> <input type="button" value="Exit"/>



## Strengthened Regulatory Impact Assessment

An effective RIA process in place; however, we continue to refine it to improve its effectiveness

- Several changes were agreed by the Government this year
  - OBPR determines when a RIS is required
  - Departmental secretaries or heads of agencies (or their deputies) must certify that the RIS be passed to the OBPR
  - The most significant change is the publication of the RIS following a regulatory decision on the OBPR website



Best Practice Regulation Updates - Windows Internet Explorer  
 http://ris.finance.gov.au/

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- Communications
- Legal and Financial
- COAG
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**Posts by Month**

- October 2010
- July 2010

15 October 2010

### Non-compliance with best practice regulation requirements - Australian Communications and Media Authority

The first instance of non-compliance on our website relates to the Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No.2). The Determination was announced in the Australian Communications and Media Authority (ACMA) Media Release 98/2010. From 3 November 2010, ACMA will be able to issue a temporary Do Not Bill order to stop suspect content providers from charging customers while it investigates a service. The effect of this proposal is to transfer risk from customers to content service providers. A regulation impact statement was required to be prepared to describe the impact on affected businesses but none was prepared. Accordingly this proposal is assessed as non-compliant against Australian Government best practice regulation requirements. A post-implementation review will be required to be started by ACMA before 3 November 2012.

Category: [Aust Gov, Communications](#) | Tags: [ACMA](#), [PIR required](#) | [Leave a comment](#)

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14 October 2010

### Regulation and Risk

How well do organisations manage risk and what role does risk play in the regulation assessment process? Addressing the first of these questions, the International Risk Governance Council recently released a report titled **Risk Governance Deficits - PDF version** [ PDF 1.55 mb ]. The 22 'risk deficits' identified are broadly split into two clusters: those relating to the failure to identify risk and those relating to the failure to adequately manage risks once identified.

Identification of risk and uncertainty is a key part of a Regulation Impact Statement (RIS) and the OBPR has recently reworked the section of the Best Practice Regulation Handbook dealing with risk and uncertainty to expand on these key themes. You can read this in **Appendix F** of the new Handbook. The OBPR is also starting some further research on risk and its links with regulation policy.

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14 October 2010

### Mitigating against the effects of Saline Soils on Buildings - COAG Consultation Regulation Impact Statement - ABCB

The Australian Building Codes Board (ABCB) is looking at options to reduce the potential for saline soils to weaken building structures. In this consultation Regulation Impact Statement (RIS) the ABCB considers options including requirements to:

- limit the types of materials for use as damp proof courses;
- increase resistance requirements for vapour barriers; and
- strengthen requirements for concrete slab construction.

The ABCB released the RIS for **public consultation** over 3 August 2010 to 10 September 2010. The information provided in the submissions received during consultation will help guide the development of the decision RIS and the Building Code. The ABCB will need to provide the OBPR with the decision RIS for approval before it decides on the proposed changes.

The OBPR has approved the consultation RIS.

- [Mitigating against the effects of Saline Soils on Buildings COAG Consultation RIS - RTF version](#) [ RTF 2.06 mb ]
- [Mitigating against the effects of Saline Soils on Buildings COAG Consultation RIS - PDF version](#) [ PDF 8.77 kb ]

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**Overview.**

**Best Practice Regulation Updates** publishes information about regulatory decisions announced by the Australian Government, and by COAG and Ministerial Councils, including Regulation Impact Statements (RIS), the OBPR's RIS assessments, when a Prime Minister's exemption has been granted and Post-implementation Reviews.

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## Where are we at?

Regulatory reforms supported by good analysis have an easier passage than those that do not

- Stakeholders are more accepting and partners remain focused

The challenge is to apply analytical techniques more broadly to identify future targets and evaluate past reforms

- Particularly challenging in areas of complex regulation
- If we cannot establish effective methodology for sun-setting regulations we risk imposing more and not less costs on the economy