

Achievements and Emerging Challenges

Ex post evaluation:
closing the policy cycle

Building a competitive and business-friendly environment

Ex post evaluation: closing the policy cycle

The assessment of *ex ante* regulatory impacts improves policy design but it only constitutes one part of regulatory management. Institutionalising accountability and results in regulation may need to be adjusted to practical outcomes after policy implementation. Closing the loop is essential if regulatory policy is to be performance-driven and politically accountable. This requires ensuring that *ex ante* impact assessment foresees the need of future *ex post* consideration of regulatory impacts. A fully integrated approach to regulatory policy therefore needs to include considerations for *ex post* evaluation at an early stage, with a full approach of regulations "from cradle to grave". This is essential as sun-setting clauses can only be effective if accompanied by a requirement for *ex post* evaluation. These should be associated with a cycle of periodic reviews of the stock of existing regulations to ensure that the instruments are still achieving their intended objectives and to identify needed adjustments.

While significant efforts have been made to foster the adoption of RIA and other tools, the investment in *ex post* evaluation has been more modest. The issue was only sporadically addressed as part of OECD work, with the latest attempt through an expert meeting held in 2002. This session will offer an opportunity to take stock of recent efforts and approaches to consolidate *ex post* evaluation. Some countries have played a precursory role in fostering *ex post* evaluation, often with the active involvement of supreme audit institutions. Participants will also have the opportunity to discuss strategies to ensure that regulatory policy can be subject to performance requirements similar to those applying to other policies.

- How can governments implement evidence-based, outcome-oriented approaches in regulatory policy? What role should performance indicators play in this context?
- What are the institutional conditions for proper *ex post* evaluation and performance assessment of regulatory initiatives? How can it link to clauses for sun-setting?
- How can the need for *ex post* evaluation be integrated in the policy process from the start?

Chair: **Mr. Jean Maïa**, Chef du service de la législation et de la qualité du droit, Secrétariat général du Gouvernement, France

Speakers:
» **Ms. Susan Page**, Deputy Secretary, Ministry of Finance and Deregulation, Australia
» **Mr. Chris Shapcott**, Director, Regulatory Reform, National Audit Office, United Kingdom
» **Ms. Sara Hector**, Acting Head of the Evaluation Unit, Secretariat General, European Commission

Session A1. Ex-Post Evaluation: Closing the Policy Cycle

Key points from the session

1. While no country has yet a comprehensive functioning ex-post evaluation system of regulations and regulatory policies and processes, ambitions are high to “close the policy cycle”.
2. *Ex post* evaluation does not mean that it comes last in the policy cycle. Before new laws are developed, existing regulations in the area should be evaluated. And ex-post evaluation of individual regulations should be planned already when regulations are under development. None of this is common practice.
3. Policy makers face many challenges in making ex-post evaluation work. This includes:
 - *Political support* to get started (politicians regulate to deal with a problem, not much interest in getting back to it)
 - *Methodological challenges* such as the identification and availability of data, the quantification of benefits (e.g. How to monetize benefits of access to buildings for the disabled) or comparisons to a hypothetical alternative
 - *Sufficient resources* for evaluation in particular in times of budget cuts (high quality evaluation calls for highly-skilled evaluators)
 - *Transparency* (making evaluation documents and databases available)
 - *Timing* (when is the right time for evaluation, given that some impacts may only materialise after a longer period of time).

Quotes

“*Ex post* evaluation is the first thing that should be done, rather than the last thing” (Chris Shapcott, with respect to the policy cycle - ROAMEF cycle)

“Important is that evaluation feeds into the policy cycle, so that it can actually be used in the policy cycle”

« Ce n'est pas le chemin qui est difficile, c'est le difficile qui est le chemin » (Søren Kierkegaard)

« It is never the ideal time to do evaluation »

“It is easier to get evidence of regulatory failure than of overregulation”

Key policy questions that the OECD could address in the future

It became clear throughout the session that ex-post evaluation of regulation is a key concern to countries - and that most are just at the beginning of building a comprehensive ex-post evaluation system.

The OECD could play an important role in tackling the following policy questions, through fostering the sharing of lessons learned, identifying good practices, and identifying ambitious policy principles:

- How to institutionalise *ex post* evaluation?
- How to integrate ex-post evaluation into the policy-cycle?
- How to overcome political resistance to ex-post evaluation?
- What data should be collected for evaluation? When should it be collected? How should it be used?
- How to choose what area to evaluate?
- What is the right timing for evaluation?
- How to be transparent in ex-post evaluation?
- What is the role of business and citizens in ex-post evaluation?

Main implications for possible revision of the principles

The 2005 principles say that countries should do ex-post evaluation, but do not go into much detail on the key factors that ensure ex-post evaluation works.

Speakers and participants raised the following points that might be part of the revision of the principles:

- *Ex post* evaluation should be undertaken systematically
- Before new laws are developed, existing regulations in the area should be evaluated
- *Ex post* evaluation of individual regulations should be planned already when regulations are under development. This may include planning data collection and indicators for evaluation.
- There should be an integrated approach to evaluating major regulatory policies and processes
- Data collected for evaluation should be made available to the public and in particular to academics, so that they can use it for analysis and evaluation.



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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



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Context

- 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

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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

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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“

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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

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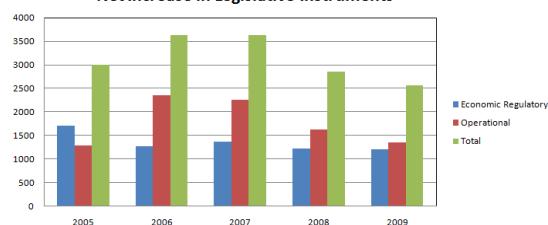


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Growth in Regulation - 2005 - 2010



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

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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

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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

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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

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Department of Finance and Deregulation

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Energy Efficiency Opportunities Regulations 2006

Regulation ID: 3 Find

Description: The regulation provides detailed requirements and an assessment framework to enable effective compliance with, and administration of, the Energy Efficiency Opportunities Act 2006.

Subordinate - 1 of 2

Title: Energy Efficiency Opportunities Amendment Regulations 2006 (No. 1)

URL: <http://www.oenvw.gov.au/Content/Legislation/LegislativeInstrumentList/07/SA/1/CEBE27/1FB84CA2571D902D98E4OpenDocument>

Date made: 22/06/2006

Date registered: 26/06/2006

Classification: Regulations

Admin Dept: DRET

Why was the regulation introduced?

[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 delivery 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 Government's Energy White Paper of 2004 states the following:

What is the regulation's ongoing relevance?

[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 such that the policy is no longer required or appropriate? 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

When was the regulation last reviewed?

[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 CPS will provide a strong incentive to reduction in emissions 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.

Who does the regulation impact?

[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 to consumers).

The regulation applies to all Australian shareholders of all constitutional corporations (and all subsidiaries etc) whose energy use exceeds 0.5% 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.

Please provide a functional description of the regulation.

[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

Officer details:

Name: Andrew Lewis - Manager, Energy Efficiency Cor	Phone number: 02 6213 7148	Business Area: Department of Resources, Energy and Tourism, Energy and Environment Division	Update
			Exit



Australian Government
Department of Finance and Deregulation

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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

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The screenshot shows a web browser displaying the 'Best Practice Regulation Updates' section of the Australian Government website. The page features a blue header with the title 'Best Practice Regulation Updates'. Below the header, there are two news items listed:

- 15 October 2010** Non-compliance with best practice regulation requirements - Australian Communications and Media Authority (ACMA)
- 14 October 2010** Mitigating against the effects of Saline Soils on Buildings - COAG Consultation Regulation Impact Statement - ABCB

Each news item includes a brief summary, a link to the full document, and a 'Category' link.



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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

Ex-Post Evaluation: Closing the Policy Cycle

**Chris Shapcott
Director, Regulation
United Kingdom National Audit Office**

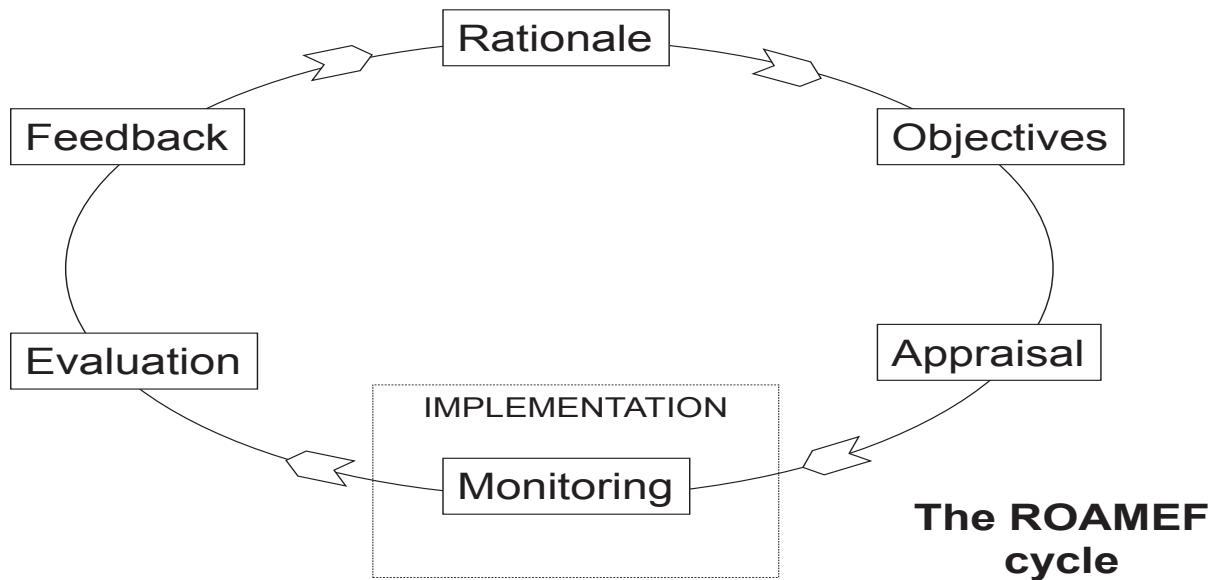
Why does *ex-post* evaluation matter?

- Regulation consumes resources to achieve objectives
- Ex-ante assessment cannot anticipate all eventualities
- So we must:
 - Monitor implementation
 - Evaluate achievement of outcomes
 - Adapt to an ever-changing world

Ex-post Evaluation in the UK

- Departments
- Parliament
- National Audit Office
- Civil Society

 National Audit Office



 National Audit Office

Departments

- Better Regulation Executive & Treasury guidance
 - Planning for post implementation review
 - Follow through
 - Enforcement: comply or explain
 - Further change in prospect to support sunsetting

Parliament

- Select Committees
 - Departmental
 - Cross-cutting – eg, Regulatory Reform, Merits of Statutory Instruments
- Post Implementation Review
- Post Legislative Scrutiny

National Audit Office

- Generic work on Impact Assessments
- Reviews of specific topics



Skills and Capabilities

- Similar to good appraisal
- Assessment should establish success criteria
- Information key: requires planning from the start
- Essential to get perspective of people affected by the regulations – businesses, public services etc.



Ex-post evaluation: closing the policy cycle

Sara Hector
Acting Head of Unit
Secretariat-General

Paris, 28 October 2010

Evaluation – a political priority

We need to match the huge investment in ex ante assessment with an equivalent effort in ex post evaluation.

The President's political guidelines

All significant proposals for a revision or new measure should be based on an evaluation of the policy framework already in place.

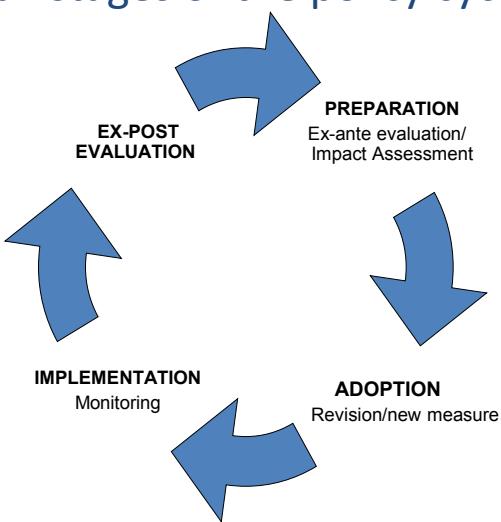
The working methods of the Commission

Evaluation to support strategic decision-making

We have to

- ensure that our proposals really deliver what they promise
- revise and correct them where they fail to work as expected

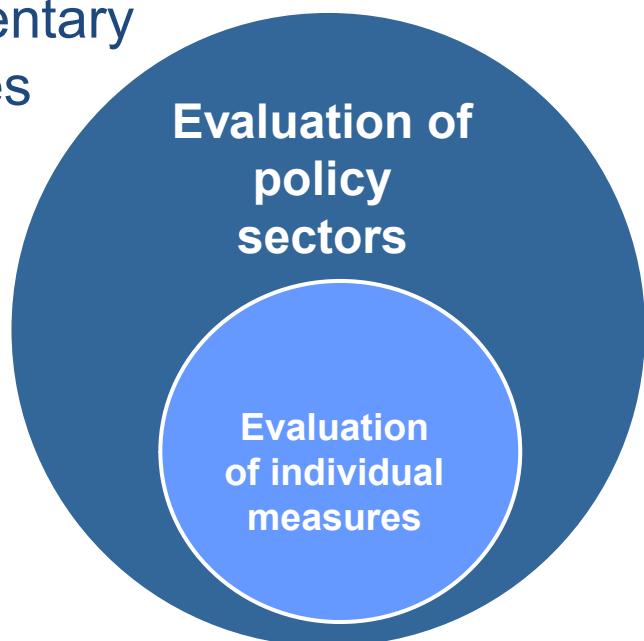
Smart regulation – improving legislation at all stages of the policy cycle



Evaluation – key element of Smart Regulation

Commission is stepping up its efforts on evaluation of regulatory measures

Complementary approaches



Fitness checks

Four projects starting in 2010

- Employment and social affairs
- Transport
- Environment
- Industrial policy



For further information

Evaluation:

http://ec.europa.eu/dgs/secretariat_general/evaluation/index_en.htm

Smart Regulation:

http://ec.europa.eu/governance/better_regulation/index_en.htm

Impact Assessment:

http://ec.europa.eu/governance/impact/index_en.htm

Building a competitive and business-friendly environment

Simplification programmes to reduce the time and resources that businesses have to spend complying with regulation are widely recognised as a strategy for creating a business friendly economic environment and for achieving faster rates of productivity growth. Over the last decade, many OECD countries, particularly in Europe, have focused on reducing the time businesses spend satisfying information obligations, or administrative costs as defined in the Standard Cost Model. Perceptions of improvement through regulatory reform programmes need to be proportionate to the investment in simplification efforts. The perception exists among businesses that the efforts to reduce administrative burdens have not had as much impact as had been hoped. The imperative is to ensure that these programmes, and the underlying reduction of administrative costs, are actually helping to increase productivity.

Administrative simplification policies require a broad focus, beyond information obligations, to ensure that regulatory costs and irritants of concern to business are fully addressed. This may call for a fresh look at future strategies for simplifying regulation. Delivering real change for business requires a focus on aspects of regulation and compliance which are most burdensome. This session will offer an opportunity to discuss these aspects and as well as possible options for widening the focus of efforts to reduce regulatory costs to business burdens.

- What are business' views of results achieved by government in the area of regulatory simplification, and what are the priorities in terms of further efforts to cut red tape?
- How can simplification make a real difference for competitiveness and productivity growth?
- How can a broad approach be adopted to address the most burdensome compliance costs?

Chair: **Mr. Jens Hedström**, President, Board of Swedish Industry and Commerce for Better Regulation (NNR)

Speakers:

- » **Mr. Stephan Naundorf**, Advisor to the Minister of State, German Federal Chancellery, Germany
- » **Mr. Felipe Duarte**, Vice-Minister for Competitiveness, Mexico
- » **Ms. Geneviève Pons-Deladrière**, Head of Unit, Secretariat-General of the European Commission
- » **Mr. Alexander Ehmann**, Head of Regulation and Enterprise Policy, Institute of Directors (IoD), United Kingdom

Session A2. Building a Competitive and Business-Friendly Environment

Key Points

1.- *Businesses may not be satisfied with the simplification efforts made by governments if burdens are not really reduced:*

Simplification efforts should concentrate not only on administrative costs, but also on those stemming from compliance and other irritants. Sometimes, the policies proposed are not implemented, thus, there are no burden reductions. In Germany, the federal programme beyond 2010 includes two lines of actions to address this concern of the business community: expanding the ex ante process to include compliance costs and ex post examination of compliance costs. In Mexico, the Ministry of Economy adopted a “business process” approach, which means that the citizen is at the centre of regulation and the idea is to simplify the whole process, not only isolated formalities.

2.- *Concerning burdens reduction, “perception data is a critical indicator of success”¹:*

The Board of Swedish Industry and Commerce found that the most burdensome regulations identified by measurements using the SCM did not necessarily match those perceived as the most irritating by the business community. In Mexico, when asking public servants and businesses how complicated specific formalities were, the answers from each group differed radically. In consequence, it is not enough for governments to measure burdens, but they should also rely on the participation of the business community and assess its perceptions concerning costs and complexity of complying with regulations. It is a good idea to focus on the top concerns (i.e., employment and health and safety regulation in the UK). It is also critical to communicate positive change. In accordance with the previous ideas, in Germany, goals (measurable indicators) and partners (stakeholder involvement and trustful cooperation) are considered necessary conditions to keep the better regulation process running.

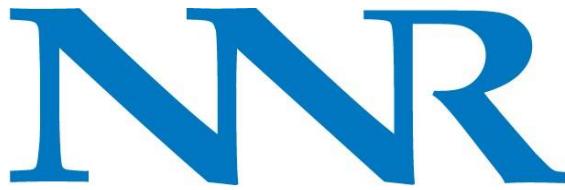
3.- *The challenge ahead is to unleash the “virtuous cycle innovation-productivity-growth”²:*

“The crisis has shown that regulation has a positive and necessary role to play”.³ However, a common language must be built to engage society in regulatory policy and this language must include productivity, risks, and transaction costs. In Mexico, priorities for simplification were defined by looking at the sectors with high transaction costs, underinvestment, and productivity below international benchmarks. The basic objective is to release potential economic value by eliminating transaction costs.

-
1. Alexander Ehmann, Head of Regulation and Enterprise Policy, Institute of Directors, UK.
 2. Felipe Duarte, Vice-minister for Competitiveness, Mexico.
 3. Geneviève Pons-Deladrière, Head of Unit, European Commission.

Implications for the Revision of the Principles and Future Work

- Even though “aggregate burdens” are marginally mentioned in principle #2, we do not provide greater detail about the nature of these burdens. As discussed during the session, irritating factors for businesses go beyond administrative burdens.
- More work is needed to clearly define and explain the value of perceptions. Mexico, Sweden, and the UK have found that sometimes efforts have not been matched by improved perceptions but, why are they important anyway? One reason is that they are a signal that the simplification efforts may be failing to decrease burdens and correct problems.
- There is room to strengthen the theoretical grounding to link regulatory policy with productivity and growth.



BOARD OF SWEDISH
INDUSTRY AND COMMERCE
FOR BETTER REGULATION

Jens Hedström, President, Board of Swedish industry
and Commer for German Federal Chancellery

Building a competitive and Business friendly
environment

Paris, 28-29 October 2010

– CUTTING RED TAPE FOR BUSINESS –



About NNR

- Founded in 1982 as an independent, non-party political business organisation entirely funded by its members.
- Members: **15 business organisations** representing all active companies with one or more employees in Sweden; of all sectors and sizes.
- Focus on regulatory **process** and creating and maintaining a **business-friendly regulatory environment** - Sweden and EU

– CUTTING RED TAPE FOR BUSINESS –



Most Costly Areas According to SCM Measurements	Most Burdensome Areas According to Swedish Business
1. Company Law	1. Environmental Law
2. Accountancy	2. Health and Safety Legislation
3. Food Safety	3. Labour Law
4. Planning law	4. Statutory Audits
5. Tax regulations	5. Tax regulations
6. Labour law	6. VAT
7. Consumer and Product Safety	7. Statutory action plans for equality
8. Environmental Law	8. Statistics and providing information to government

– CUTTING RED TAPE FOR BUSINESS –



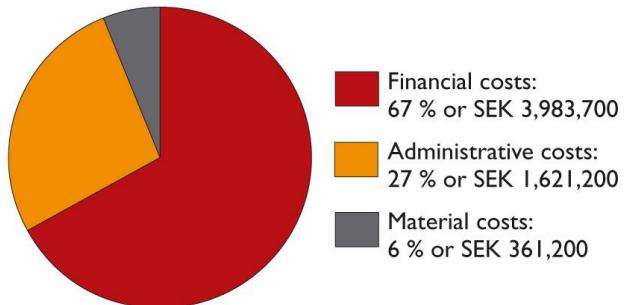
Kemibolaget i Bromma
Turnover 5 million EUR/number of employees 20/
total regulatory costs 630 000 EUR,
costs per employee per year 32 000 EUR

– CUTTING RED TAPE FOR BUSINESS –



The Total Costs of Regulations to Business, one company "Kemibolaget"

Regulatory costs per requirement type, 2005



- CUTTING RED TAPE FOR BUSINESS -

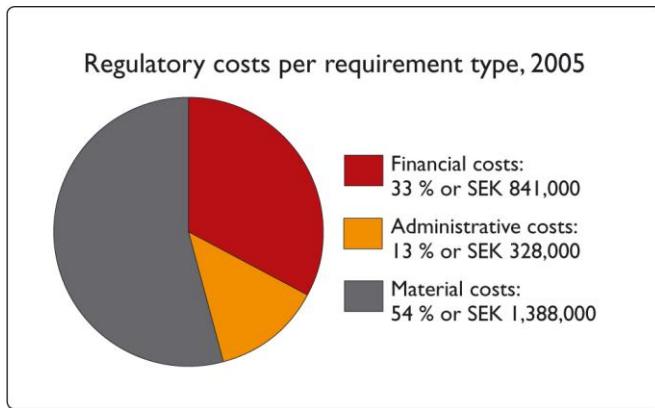


Stjärnholms Farm
Turnover 1,7 million EUR/number of employees 7/
total regulatory costs 275 000 EUR,
costs per employee per year 39 000 EUR

- CUTTING RED TAPE FOR BUSINESS -



The Total Costs of Regulations to Business, one company "Stjernsund's Farm"



- CUTTING RED TAPE FOR BUSINESS -



Better regulation is a shared responsibility...

...Co-operation between government and business

Identify the problem:

- Above all, business wants **clarity** in the regulatory environment.
- Perceived burdens of regulation and '**irritation factors'**.
- Concern about the **cumulative, and total, cost** of complying with regulation.

- CUTTING RED TAPE FOR BUSINESS -



Future strategies for simplifying regulation

- New targets for actions besides reducing administrative costs; - Reduce all types of compliance costs?
- Systematically Evaluate Changes in Business Perceptions?
- Business participation?
- Prepare national RIAs on international proposals?

– CUTTING RED TAPE FOR BUSINESS –



Simplification of Existing Regulation

- Focus on areas that are perceived as burdensome by business?
- Focus on type of changes that business wants?
- Evaluation of results of simplification measures?

– CUTTING RED TAPE FOR BUSINESS –



Efficient New Regulation

- Regulation without an Impact Assessment (IA)?
- Independent Scrutiny of IA?
- Ex-post evaluation of actual outcomes?

– CUTTING RED TAPE FOR BUSINESS –



Thank you!

Jens Hedström, President

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<http://www.nnr.se>

– CUTTING RED TAPE FOR BUSINESS –



Building a competitive and business-friendly environment

The Federal Programme for Reduction of Bureaucracy and Better Regulation in Germany

Stephan Naundorf

Federal Chancellery, Better Regulation Unit

buerokratieabbau@bk.bund.de

Results of the Federal Programme 2006 - 2010

- Companies in Germany face **12.576 information obligations** (IO); citizens at least 2.407 IO (registration not yet completed); administration 7.401 IO (federal law only, incl. transposition of EU directives, but no EU regulations)
- Companies in Germany carry **47,6 bn Euro p.a. administrative burdens**, more than half of it results from the transposition of international law
- Over **400 simplification measures** will **cut off about 10,5 bn Euro p.a.** by the end of 2011 (30 percent off „national law“; 14 percent off „international law“) ⇒ up to now: **22 percent of administrative burdens are cut**
- Cooperation projects with regional and municipal governments and other self-administrating bodies (e.g. all types of social insurances) are established
- **Ex ante-evaluation** of all federal ministries' impact assessments by independent **National Regulatory Control Council** is well established and perceived

Are companies in Germany happy, now?

Governance of Better Regulation in Germany: Lessons Learned 2006 – 2010

- Administrative burdens, compliance costs and all other types of regulatory impacts never result from one source:
It is always a combination of regulation, administration and real life conditions
- Working together in federalism means to respect competences and to provide facts and figures rather than reasons for decisions or political talk
- There is no lack of information for decision makers,
but they need a clear picture of what a specific piece of legislation will change in real live

Example: e-balance sheet

- ... sounds like a good idea ☺
- Legal proposal indicates low costs of implementation (one time 0,5 mio. Euro and 3,2 mio. Euro p.a. total admin burdens for about 1,3 mio. companies), but implementation has to be organized by the joint financial administration of federal and regional governments
- Parliament passed proposal by the end of 2008;
requiring first e-balance bookings by 2011
- Feed back during the consultation of the administration's proposal for implementation in October 2010: companies expect compliance costs of more than 5 bn Euro p.a. and need more time to change booking systems
- Situation right now: implementation will most likely be shifted for one year to streamline the e-balance sheet-procedures

Core Elements of the Federal Programme beyond 2010

1. Expansion of the ex ante process to include compliance costs
2. **Broader mandate** of the National Regulatory Control Council (NRCC) in the legislative process
3. ex post-examination of compliance costs in eight priority areas as multi-level- and multi-field-of-law-projects: reduction measures until 2011, by 25 per cent on average
4. Attainment of the 25 per cent reduction target until 2011 based on a binding implementation plan (reference: baseline measurement of 2006)
5. Coordinator briefs the Cabinet regularly on the programme's progress
6. Advancing smart regulation at the EU level (ex post and ex ante)

Will companies be happy, then?



A broader mandate for the NRCC

- Good experiences with an independent body monitoring at least the government's legislative proposals:
 - Thorough consideration of compliance costs (incl. administrative burdens) helps to find more efficient solutions in legislation
 - Quality of the drafted laws increased
 - Initiatives of the parliament to be included
- Assessment of the plausibility of compliance costs of new legislation on companies, citizens and public administration
- Review of time limits and evaluation of legal acts
- According to the Joint Rules of ministries NRCC stays treated like a line ministry in the interministerial coordination
- NRCC statement stays attached to the cabinet draft and is passed to parliament and the Federal Council (second chamber of parliament); there the NRCC-statement becomes public

Conclusion

Necessary conditions to keep the better regulation process running

- **Power:** independent advice, representative within the „dominant coalition“, transparency, legal basis, binding methodology
- **Goals:** measurable indicators
- **Partners:** stakeholder-involvement, trustful cooperation, facts and figures

And then?

Either we stay with Signor Rossi (Bruno Bozzetto's cartoon character):
He keeps looking for happiness – but he always misses a piece of it

... or we follow Jean-Paul Sartre, who invites us to consider, that
Sisyphos might be a happy man.

- Merci beaucoup -

Further information:

www.bundesregierung.de/buerokratieabbau

www.destatis.de/webskm

www.nkr.bund.de

www.oecd.org/regreform

www.administrative-burdens.com



Regulatory policy at the Crossroads, Towards a new Policy Agenda

Felipe Duarte Olvera
**Undersecretary of Competitiveness and
Standards**

October 2010



Contents:

- ➡ I. Regulation as key element of nations' competitiveness.
- II. Mexico's strategy and working plan.
- III. Results achieved.
- IV. Challenges ahead.

Build a common language to obtain society's engagement.

- Markets' efficiency is given by transactions among consumers, product or service providers and governments.

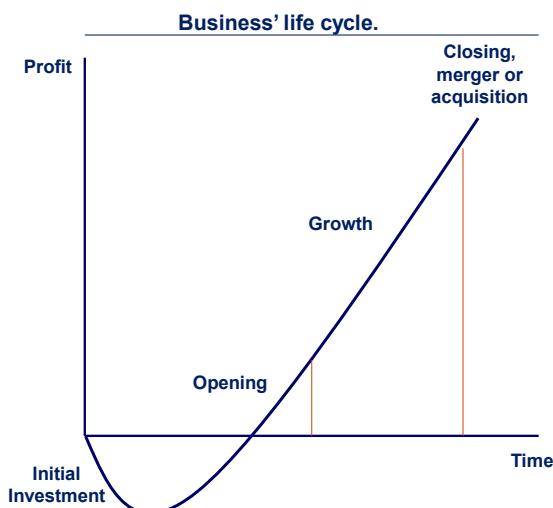
Regulatory Reform key concepts:

- i. Productivity
- ii. Risks
- iii. Transaction costs

Society's engagement and roles

- Citizens or Consumers, as beneficiaries of innovation and productivity.
- Businessman or entrepreneurs. Generate and obtain value through productive activities.
- Government. Risk assessment and enforcement.

A comprehensive approach should consider that regulation impacts businesses through their life cycle.



- The aim is to have efficient regulation during the different stages of business activities.

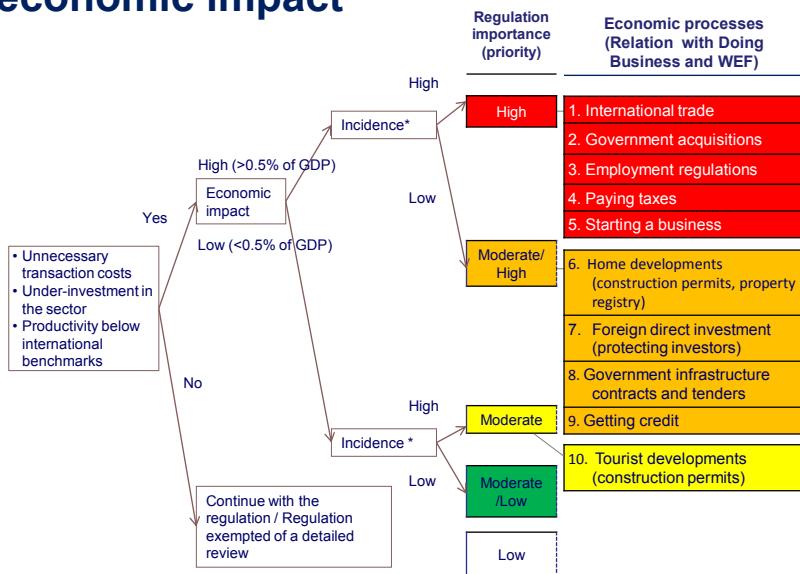
Contents:

- I. Regulation as key element of nations' competitiveness.
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Regulatory Reform strategy

<u>Objective and working premises</u>	<u>Action lines</u>
<ul style="list-style-type: none">• Build a regulatory framework centered in the citizen, to increase competitiveness and promote development.<ul style="list-style-type: none">i. Liberate potential economic value in the economy eliminating unnecessary transaction costs.ii. Use an approach of economic and business processes.iii. Facilitate interactions between the citizen and state's services by improving certainty, quality and transparency.	<ul style="list-style-type: none">1. Revision of regulations with major economic impact.2. Reduction and simplification of internal regulations in the Public Administration.3. Regulatory improvement at State level.

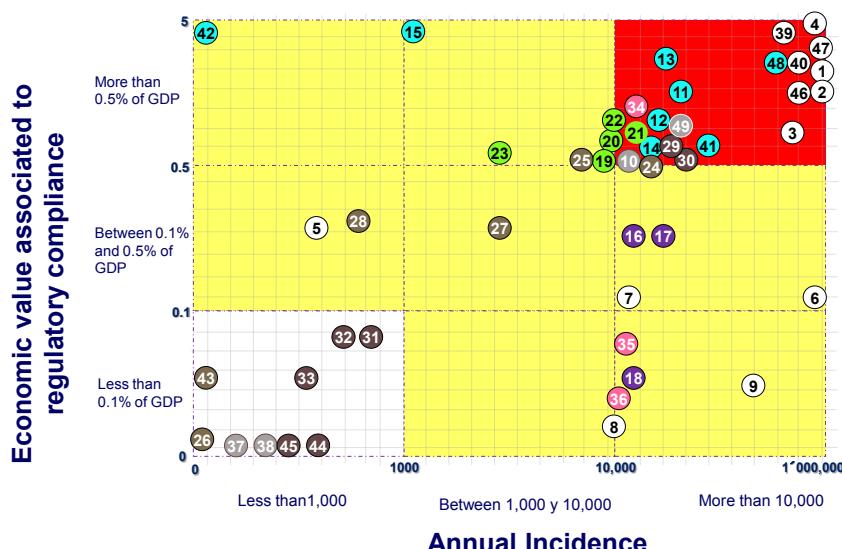
Revision of regulations with higher economic impact



* Incidence: The product of frequency and coverage.

Regulatory Reform working plan

Procedures and regulations where classified by annual incidence and economic impact.



Note: Numbers in the matrix represent action items in the working agenda.

Contents:

- I. Regulation as key element of nations' competitiveness.
- II. Mexico's strategy and working plan.
- III. Results achieved.
 - a. One stop-shop for business start-ups.
 - b. Simplification of regulation in different economic sectors.
 - c. Promotion of an effective competition policy.
- IV. Challenges ahead.

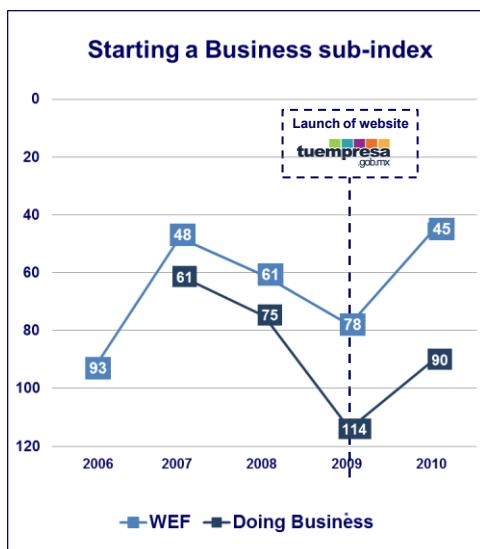
Before the one stop shop, opening business process.



New opening business process.



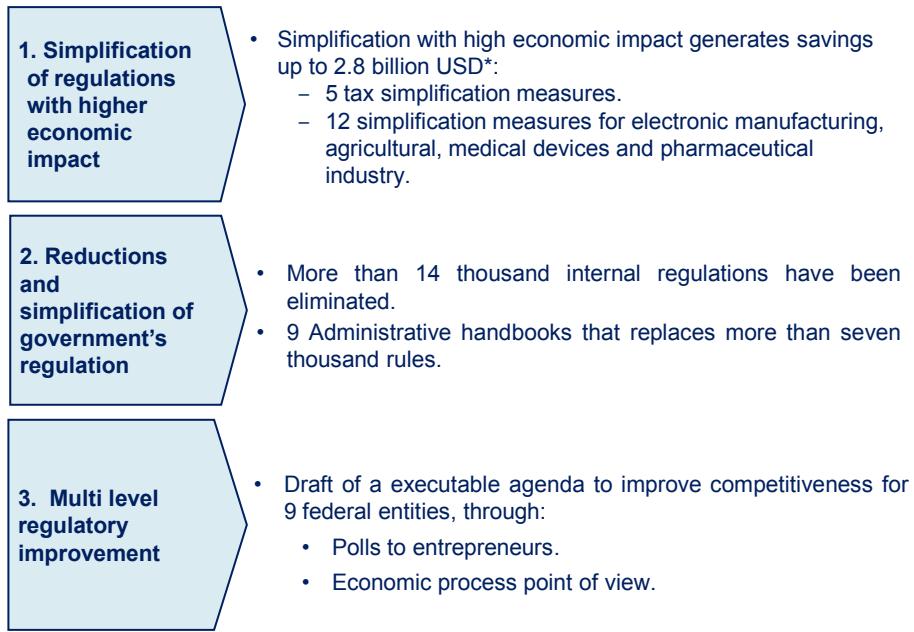
a. One-stop-shop for business start-ups



Benefits

- According to the *Standard Cost Model* (OECD) the webpage has diminished the necessary resources to open a company in 65%:
 - Predictability.
 - Reductions of entry barriers.

b. Regulatory Reform results



*OECD, Standard Cost Model methodology.

b. Improved Regulatory Impact Assessment (RIA)



Concept:	Before	Now
Resources assigned	Same type of analysis for every regulation	Focus on regulation with high economic impact
Revision of new regulation	First in, first out	Strategic approach

c. Elements for an effective competition policy

1. Pro-competition culture promoted by consumers, businesses and institutions.

- i. Promote a consumer-oriented culture.
- ii. Offer mechanisms for self-diagnosis in legal topics.

2. Legal and institutional efficiency and effectiveness .

- i. Discourage infringement of the law, through penalties linked to potential damages caused to consumers.
- ii. Implement alternative dispute resolution mechanisms.
- iii. Introduce mechanisms to facilitate compliance with the law.
- iv. Enable specialized courts in economic and antitrust matters.
- v. Increase transparency within competition institutions.

Contents:

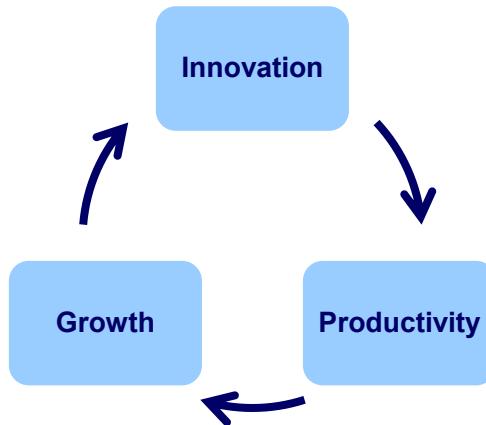
I. Regulation as key element of nations' competitiveness.

II. Mexico's strategy and working plan.

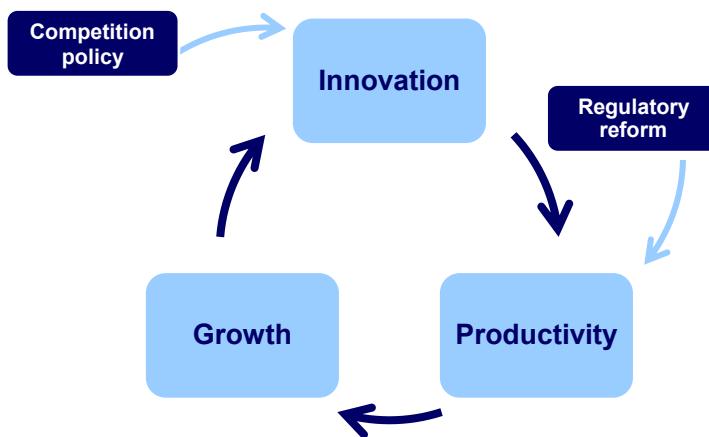
III. Results achieved.

➔ IV. Challenges ahead.

Interaction of economic agents, should build a regulatory system that enables innovation and productivity.



Interaction of economic agents, should build a regulatory system that enables innovation and productivity.



Building a competitive and business-friendly environment

OECD Paris

28 October 2010

Genevieve Pons-Deladrière
Head of the Simplification Unit
Secretariat General of the European Commission

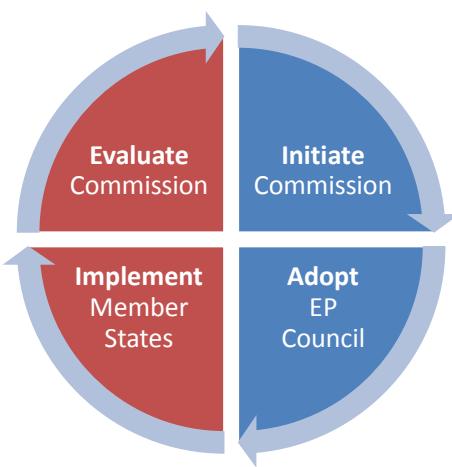
Role of regulation

- The crisis has shown that regulation has a positive and necessary role to play
- Regulation serves the interests of citizens and businesses
- Regulation must allow businesses to work and compete

Achievements

- Culture change within the Commission:
 - Stakeholder consultations and impact assessments: integral part of the policy process
 - Administrative burdens in track to be reduced more than targeted (- 31% proposed by the Commission; -21% adopted by EP and Council; MS start to implement and share good practices)
- Confirmed by the Court of Auditors:
 - the Commission's impact assessment system is of real value to decision-makers and effective in raising the quality of proposals

Smart regulation Communication Addressing the whole policy cycle



- Continuing simplification and administrative burden reduction
- Improving implementation
- Strengthening ex post evaluation and its links to ex ante one

Drawing lessons from better regulation agenda

- ABR not limited to quantified burdens but extended to irritants; business perceptions taken into account;
- ABR and simplification put together: possibility to consider all types of costs and benefits;
- Fitness checks: look at effectiveness and efficiency of a policy area

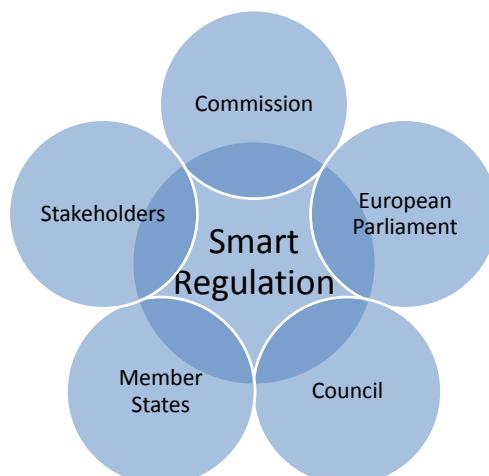
Sharing responsibility

European Parliament/Council:

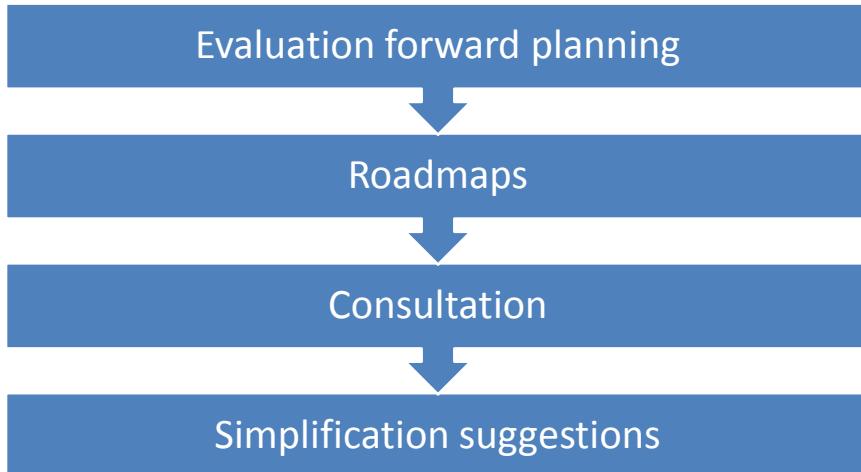
- Carrying out systematic impact assessments on substantive amendments
- Using impact assessment in the discussions of the Parliamentary committees and Council WP

Member States/Regional and local authorities:

- Share good practices
- Avoid gold/diamond plating



Listening to those affected



Resources

- **Evaluation forward planning**
http://ec.europa.eu/dgs/secretariat_general/evaluation/evaluation_planning_en.htm
- **Roadmaps**
http://ec.europa.eu/governance/impact/planned_ia/roadmaps_2010_en.htm
- **Impact Assessment Board opinions**
http://ec.europa.eu/governance/impact/ia_carried_out/cia_2010_en.htm
- **Simplification proposals**
SG-C3-simplification-and-administrative-burden-reduction@ec.europa.eu



Better Regulation UK: What do Directors Really Think?

A Presentation to the OECD Conference,
Regulatory Policy at the Crossroads:
Towards a New Agenda

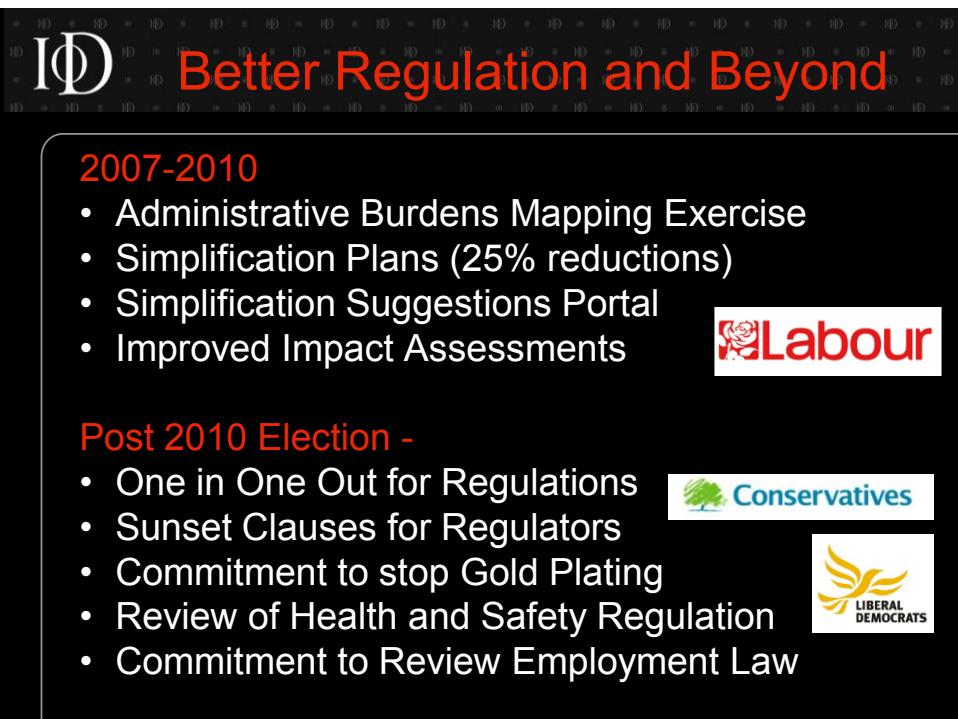
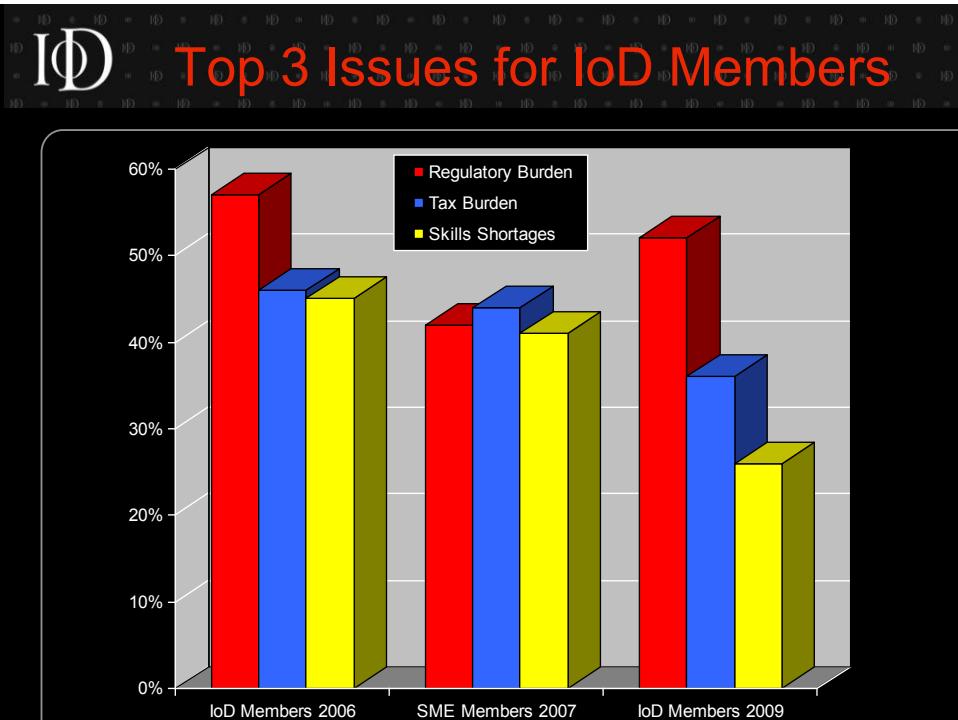
Alexander Ehmann, Head of Parliamentary and
Regulatory Affairs



What is the IoD?

- The Institute of Directors (IoD) is a membership body for directors, owners and senior leaders within business
- The IoD has approximately 45,000 members
- 73% of IoD members are directors of small and medium-sized businesses (SMEs)
- Regulation has always been a top three issue for IoD members







What has the IoD Been Doing?

- Estimated annual cost of admin regulation – £52bn
- Submitted 269 Regulatory Suggestions to Government direct from members
- Resubmitted 101 of these suggestions (on Employment and Health and Safety to the new Government)
- Lobbied on specific issues; such as extension of flexible working, rights to request, Agency Workers Directive, Default Retirement Age



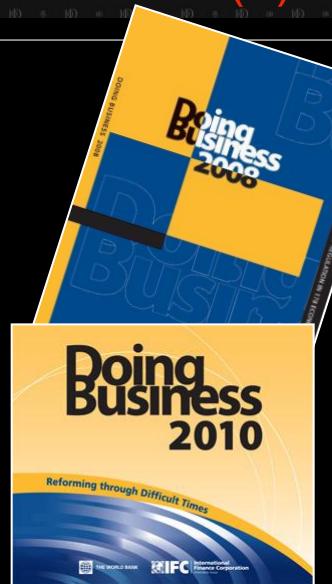
Regulation and the Economy

- 610,000 job losses from the Public Sector by 2016 (OBR)
- Government investment in Private Sector growth reduced heavily (Removal of RDAs, Business Support, No Room for Tax Cuts)
- Private Sector needs to pick up the unemployed from Public Sector, but what levers will help assist this growth...
- Regulation, Regulation, Regulation!



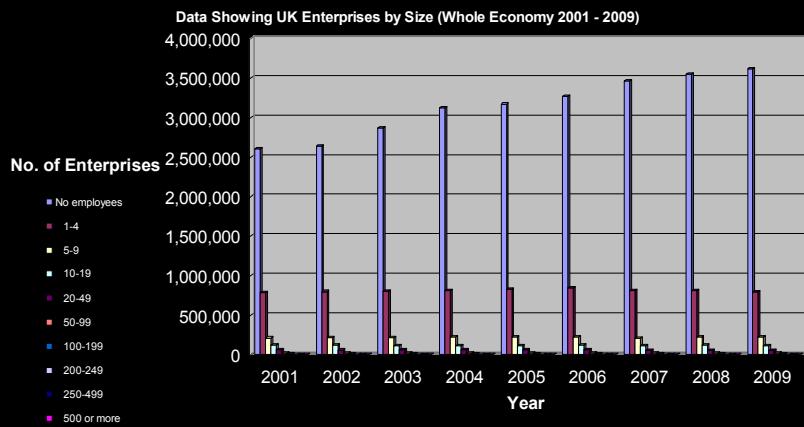
The State of the UK Problem (1)

- World Bank *Doing Business* report showed that employing workers in the UK has become harder every year since 2007
- UK labour market flexibility has slipped down the international league table from 17th in 2007, to 21st in 2008, to 28th in 2009 and now to 35th in 2011
- The UK is now behind European countries like Switzerland, Denmark, Ireland and the Czech Republic, as well as Australia, Canada, the United States on labour market flexibility



The State of the UK Problem (2)

If protecting and developing the UK's flexible labour market is one of the Government's key economic priorities, it must halt the downward trend evidenced in the World Bank reports as well as Enterprise Data



Such a move will increase the movement of people into and out of jobs and take away the perceived risk of being saddled with a poor employee



Methodology of Research

- Via the Policy Voice online panel
- Survey of 1,235 IoD directors
- Conducted in October 2009
- Follow-up on questions from 2007 and 2008
- Results will result in a full report in January 2010

The screenshot shows a survey titled "Dispute Resolution Survey" from the Institute of Directors. It includes sections for "Basic Information" (company turnover and employee count) and "Dispute Resolution Procedures" (describing the new law and steps for resolving disputes).

Basic Information

- Is your company turnover? Less than £5 million £5 - £10 million £10 - £25 million More than £25 million Comments
- How many employees does your company have? Less than 5 5 - 10 10 - 25 More than 25 Comments

Dispute Resolution Procedures

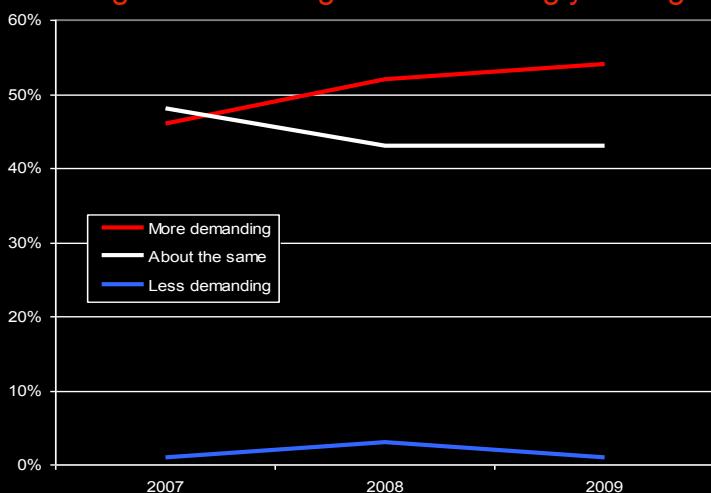
New laws came into effect in October 2004 designed to encourage employers and employees to resolve disputes more easily before referring to tribunals. Employers must allow employees to take a disciplinary action or grievance minimum of 1 month before referring to a tribunal. If they do not, they could face a financial penalty.

Step 1 – Put it in writing
Step 2 – Meet
Step 3 – Complain to the employer and inform the employee of a grievance
Step 4 – Inform the employee and complain to the employee of a grievance
Step 5 – Go to a tribunal



How is Regulation Perceived?

In the last 12 months in relation to the previous year, have you found government regulation affecting your organisation:

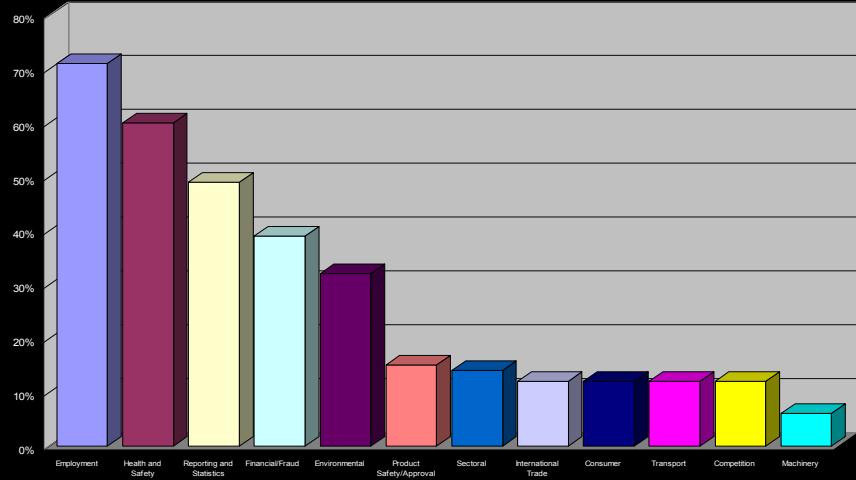




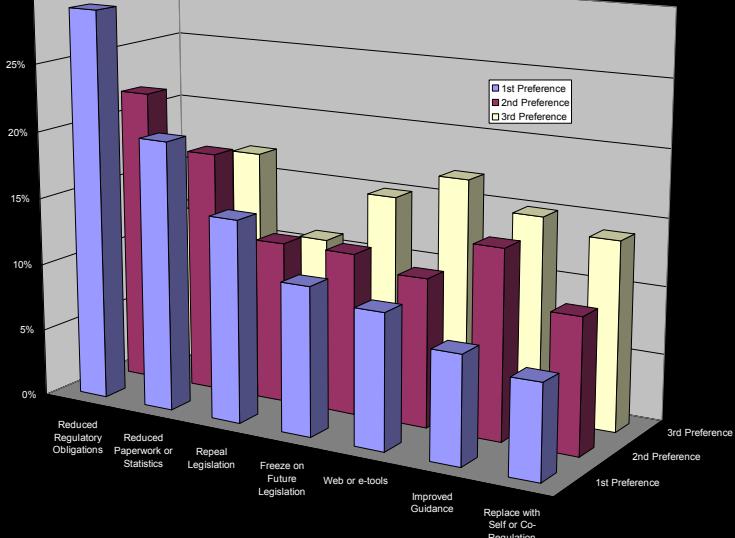


How to fix Perceptions?

Which of the following list of regulatory areas have an adverse effect on your organisation?



Favoured Improvements



Conclusions

- UK Agenda must move back from „Better Regulation“ to „De-Regulation“
- All the evidence shows that only genuine de-regulation change opinions
- There is no hiding the fact that genuine change requires politically courageous decisions
- Focus on top concerns e.g. employment and health and safety legislation
- Move from e-tools and guidance improvement to reduce, repeal and freeze
- Include policy costs alongside administrative costs
- Communicate positive change much better
- Consider perception data “THE KEY” measure of success, not a factor in improvement

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