



Improving the Quality of Regulations

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Introduction

Better regulation is necessary for economic recovery, to manage risks and to cut unnecessary red tape. How can countries make regulations fit for this challenge? How can they avoid imposing additional regulatory burdens on businesses coping with the effects of the financial crisis? A good system of regulatory management systematically helps to identify the best choice of policy options. It reduces unnecessary burdens on citizens and businesses and promotes transparency in the design of and access to regulations while protecting health, safety, and the environment.

The OECD has conducted surveys on countries' regulatory management systems in 1998, 2005 and 2008. The indicators offer insights into trends in regulatory reform and identify leading regulatory management practices. This *Policy Brief* presents key findings set out in the *Indicators of Regulatory Management Systems 2008* report. It builds on an earlier *Policy Brief*, "Measuring Regulatory Quality", which discussed the conceptual foundation of the indicators and presented some of the key results of the 2005 survey (OECD, 2008).

Overall, the results of the 2008 survey show that while there has been progress in consolidating regulatory management systems across the OECD area over the past decade, countries continue to differ significantly in the focus and scope of their regulatory management systems, and in the implementation of their practices. Regulatory management is now acknowledged as a policy field in its own right. Most countries have core processes that aim to assess the impact of new regulations, consider possible alternatives to regulation, and examine compliance and enforcement issues. A number of jurisdictions reported significant progress in several key areas. Many are committed to broad administrative simplification strategies. The full indicators report also highlights gaps between formal requirements and actual implementation that are analysed, country by country, in the OECD reviews of regulatory reform. ■

How can regulatory performance be improved?

Regulatory quality requires that countries manage both the stock of existing regulations and the flow of new regulations to sustain growth and maximise welfare. Regulations may easily become out of date and create unnecessary burdens on citizens and businesses. Most OECD countries have introduced burden-reduction programmes in an effort to counteract the growing layers of red tape.

Governments operate in a dynamic environment in which economic, environmental and welfare pressures raise the demand for regulation. Regulatory management tools, such as the systematic and evidence-based assessment of the impact of proposed regulations, can help to determine if regulation is the best approach, taking account of policy objectives and social values, including judgements of a society's risk tolerance. They can also help to identify the best regulatory option. In 2008, all OECD countries reported having adopted regulatory impact assessment (RIA) to examine the costs and benefits of regulation, at least in respect to some regulatory instruments, but the extent to which it is applied varies considerably.

Effective systems of regulatory management require high-level political support and mechanisms to promote policy coherence. The indicators reveal that most countries now have a minister who is accountable for promoting government-wide progress on regulatory reform. Regulatory oversight bodies also play an important role in promoting regulatory quality. These bodies are most effective when located within the centre of the government administration and given a broad mandate to check new and existing

Box 1. METHODOLOGY OF REGULATORY MANAGEMENT INDICATORS

The indicators draw upon country responses to the OECD's survey of regulatory management systems conducted in 1998, 2005 and 2008. Survey respondents were government officials in OECD member countries. In addition to the 30 OECD member countries, data are presented for the policies of the European Union. The data for all three periods were scrutinized through a peer review process over six months to June 2009 that involved both experts from all OECD countries and country experts within the secretariat. This data check has enhanced the quality of the data and improved its consistency over time as well as the comparability of data across countries. The 2008 Report is structured around the following four parts:

The first part focuses on regulatory policies and institutional arrangements to promote regulatory quality. This includes questions on regulatory policies and oversight, training in regulatory quality skills, policy coherence, the role of parliament and multilevel co-ordination on regulatory policy. The second part focuses on transparency and open processes. It includes questions on transparency and communication access to regulations, consultation procedures and clarity and due process in decision-making procedures. The third part focuses on tools for improving the quality of new regulations. It includes questions on alternatives, regulatory impact analysis and compliance and enforcement issues. The fourth part focuses on strategies for improving the quality of existing regulations. It includes indicators on administrative simplification strategies and on ex-post regulatory review and evaluation.

The full results are available in the *Report on Indicators of Regulatory Management Systems 2008* (OECD, 2009).

regulations while advocating for regulatory quality. Regulatory oversight bodies help regulators to improve the quality of regulations, undertake quality control in areas such as RIA and administrative simplification, and report on overall performance in achieving regulatory policy objectives. While almost all OECD countries have a regulatory oversight body, the function and competences of these bodies vary across countries. ■

How can the indicators of regulatory management be used?

The indicators of regulatory management systems provide information on regulatory management practices, that is, on how countries prepare new rules and how they reform existing rules. These practices influence to a great extent the quality of a country’s regulations. However, the indicators do not attempt to measure regulatory quality directly. Measuring and comparing the actual quality of a country’s’ stock of regulations would be a more difficult exercise calling for information on the impact of existing regulations, which is not readily available.

The indicators presented are a starting point for comparing the focus and scope of regulatory management systems across countries and to identify trends over time, but the indicators should not be understood as league tables. As with any indicator, they only tell part of the story. The data refers to institutional practices as reflected in administrative arrangements and procedures. Specific country assessments would need to be complemented with in-depth country reviews that take account of the specific context of the country concerned to analyse how these procedures are implemented and whether they are effective. These elements are assessed in the country reviews carried out within the OECD’s regulatory reform program (www.oecd.org/regreform). ■

What strategies can improve new regulations?

The results of the indicators show that in 2008, OECD countries were increasingly using tools to enhance the quality of new regulations. This includes regulatory impact assessments, risk management, enhanced consultation processes and incorporating compliance and enforcement issues

Figure 1.
CONSOLIDATION
IN REGULATORY
MANAGEMENT SYSTEMS



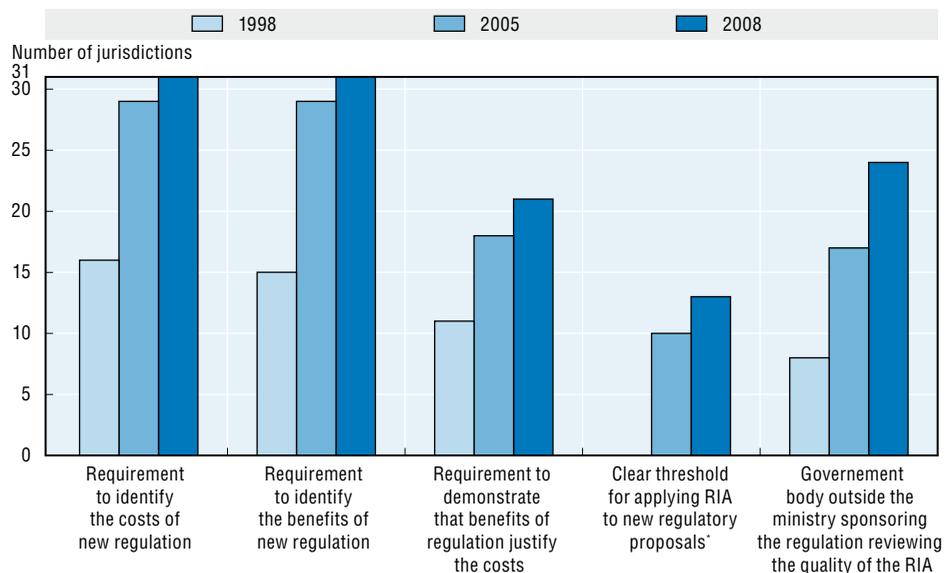
Notes: Data for 1998 are not available for the European Union, Luxembourg, and the Slovak Republic. This means that this figure is based on data for 27 countries in 1998 and for 30 countries and the EU in 2005/2008.

in regulatory responses. At the same time, the results also suggest that many countries have difficulties in closing the gap between the aspirations for reported practices and their implementation.

For example, RIA is a vital tool for ensuring the quality of new regulations through an assessment of the case for regulatory action. A well-functioning RIA system makes transparent the trade-offs inherent in regulatory proposals and identifies the likely impact of new regulation. RIA also promotes policy coherence by helping to identify how risk reduction in one area may create risks that require attention from another area of government policy. Over the last decade, countries have significantly expanded the scope of RIA processes. Requirements to identify the costs and benefits of at least some new regulations exist now in all countries. However, in many cases this analysis is only qualitative; less than half of OECD countries always require a quantification of the costs and benefits. If the requirements for RIA are not sufficiently specific, the process may not be effective in evaluating the merits of potential regulatory and non-regulatory options; it may, in fact, simply become a justification for a predetermined decision. At the same time, it makes sense to prioritise and apply a full RIA only to regulatory instruments that impose significant costs above some threshold where the costs of the RIA exercise are proportionate and justifiable.

The quality of individual RIAs vary widely within and across countries. Most countries are only at the beginning of building systematic impact assessment into the policy decision-making process. However, a majority of countries reported having a government body outside of the ministry sponsoring the regulation that oversees the quality of the RIA that agencies prepare.

Figure 2.
REQUIREMENTS FOR RIA:
COSTS AND BENEFITS



Notes: Data for 1998 are not available for the European Union, Luxembourg, Poland and the Slovak Republic. This means that this figure is based on data for 27 countries in 1998 and for 30 countries and the EU in 2005/2008. (*) No data are available for 1998.

The easier it is for businesses and citizens to comply with regulations, the higher the probability that a regulation will achieve its objective. OECD countries are increasingly making efforts to identify successful compliance and enforcement strategies within their RIA. Consultation with businesses and citizens on regulatory proposals can also reveal important information about the possible effects of a regulation and compliance issues. More than two-thirds of OECD countries reported having formal consultation processes in place. ■

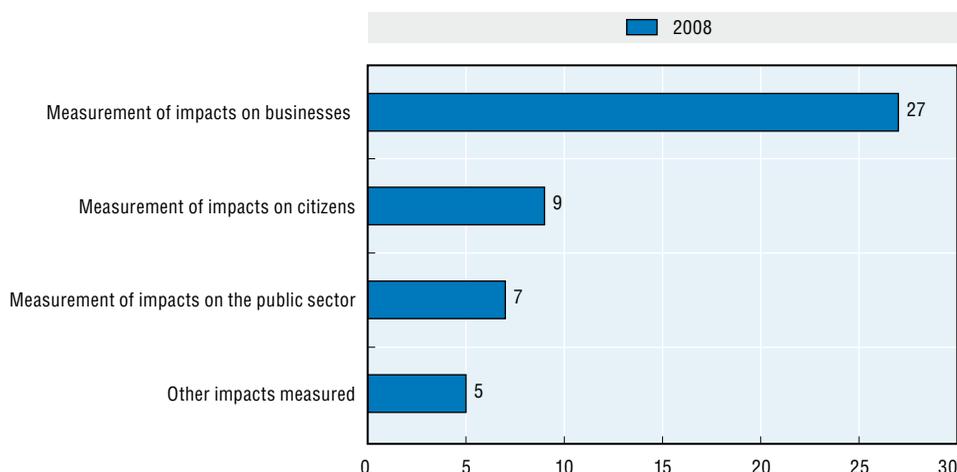
How can regulatory quality contribute to a business-friendly regulatory environment?

For many OECD member countries, reducing the burden of government regulations on business and citizens is a large part of their strategy to improve economic performance and productivity. In particular, small companies may spend disproportionately high resources to understand government regulations and to transmit required information to governments. The European Commission estimates that GDP would increase by 1.4% in the European Union, if member countries reduced administrative burdens by a quarter. European Union members launched an action programme in 2007 to achieve this goal by 2012 (see www.ec.europa.eu).

OECD countries have put in place a number of strategies to reduce administrative burdens. Many OECD countries have programmes to modify, streamline or remove existing regulations. Almost two-thirds of OECD members reported that they have reallocated powers and responsibilities among government departments in an effort to reduce regulatory burdens.

Most OECD countries have introduced or are testing some form of quantitative measurement of administrative burdens. Measurement can help identify regulations that impose significant costs, and track progress in reducing burdens over time. In the majority of cases, measurement is used to address the impact of administrative burdens on businesses. Almost two-thirds of OECD countries are members of the standard cost-model

Figure 3.
MEASUREMENT OF ADMINISTRATIVE BURDENS: GROUPS TARGETED



network, a network that spreads the use of the systematic methodology originally developed in the Netherlands. Drawing on this methodology, several countries have undertaken a baseline estimate of the full costs of administrative burdens on businesses. This measurement is used to measure progress towards a reduction target. Denmark, for instance, reported having reduced the costs of administrative burdens imposed on businesses by 15% between 2001 and mid-2008.

Administrative burden-reduction programmes that rely on a baseline measurement can be costly. It is important therefore, that countries undertake a cost-benefit analysis of their burden reduction programmes to ensure that they maximise efficiency. ■

Does better regulation concern only businesses?

While the better regulation agenda had its origins in reducing costs to businesses, the 2008 results clearly show the growing importance of the interests of citizens in supporting regulatory reform. Some 25 OECD countries indicate that citizens and national opinion are major drivers of regulatory reform, compared to 18 in 2005. The majority of OECD countries reported in 2008 including an assessment of the impact of regulations on specific social groups, the not-for-profit sector, gender equality and poverty in at least some of their regulatory impact analyses. For example, as illustrated in the 2008 Indicators of Regulatory Management, Canada requires their regulators to demonstrate the impact of all new regulatory proposals on the quality of the environment, health, safety, security, and social and economic well-being.

OECD countries are increasingly targeting citizens in their efforts to reduce administrative burdens. Citizens have frequent contact with government administration, such as when renewing their passports, submitting their income tax returns or applying for day-care subsidies. Citizens therefore spend considerable time on administrative procedures, in identifying the responsible agency, taking time off from work to visit the government offices, and spending time filling in forms, often repeatedly submitting the same information. OECD countries have developed a variety of qualitative and quantitative methods to identify administrative burdens for citizens. Nine countries reported having a quantitative measurement. The Netherlands, for instance, uses an adapted version of the standard cost model to measure the costs of administrative burdens to citizens, and aims to simplify the 50 most used and most irritating forms before the end of 2009.

In 2008, OECD member countries reported having improved systems for consultation with citizens. The recourse to more open forms of consultation, such as public notice and comment, public meetings and the use of the Internet, has increased over recent years. Overall, the focus on citizens has moved up the regulatory reform agenda, with further efforts underway, but considerable room for progress remains in this area. ■

Where do we go from here?

The indicators of regulatory management systems show that OECD countries have significantly consolidated their regulatory management systems over the last decade. At the same time, countries differ considerably in the focus

and scope of their systems. Two major reasons may explain this diversity. First, coming from different administrative backgrounds and starting points, OECD countries may deliberately choose one reform strategy over another. Second, some countries are at a relatively early stage of integrating better regulation policies into their systems, while others have a longer history and experience of the performance of regulatory management systems.

The challenge for the years to come will be to improve the implementation of better regulation policies and tools, and to continue to introduce innovations in regulatory reform to respond to emerging challenges. Given the large potential benefit from improvements to the quality of regulations, and the far-reaching consequences of badly designed regulations, these investments are worthwhile. While some regulatory management practices may be more difficult to implement in a time of crisis, such practices are nonetheless important as they can help identify the most efficient solutions and help to better manage risks ■

For further information

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For further reading

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