

# Business Regulation Forum

## Background Issues

### Introduction

The Government wants to reduce the burden of regulation on business. To this end, the Business Regulation Forum is interested in receiving practical proposals for regulatory simplification from businesses and other stakeholders.

Regulation is often necessary to help achieve the country's social, environmental and economic objectives. However it also imposes costs on business, consumers, government and the wider community. It may be that the way certain regulations have evolved has led to a situation where they are now unnecessarily complex and costly to comply with, and that the same benefit could be achieved more simply and cheaply.

The administrative burden of regulation can be significant, especially for small business. As well as imposing the cost of dealing with 'red tape', regulation may cause businesses to adjust their production processes in ways that add to costs. Inappropriately designed regulation can also have an adverse effect on innovation and entrepreneurship, and can reduce productivity and competition.

### Context

The BRF was set up by the Minister for Enterprise, Trade and Employment, and is tasked with examining specific existing regulations, or areas of regulation, applying to business. The Forum will report to the Minister on any changes necessary to ensure that these regulations meet the six criteria for better regulation set out in the White Paper "Regulating Better". The six criteria are necessity, effectiveness, proportionality, transparency, accountability and consistency. The full text of the White Paper can be accessed here: <http://www.betterregulation.ie/>

Outcomes could include the repeal or amendment of such regulations, amalgamations of overlapping regulations, or simplification and clarification of procedures. The goal is to reduce the business cost of complying with regulations while preserving the benefits that the regulations were put in place to achieve.

### Forum membership

Dr. Donal De Buitléir, Chairman; Diarmuid Bradley, Former Deputy CEO, Permanent TSB Bank; Andy Cullen, Department of Transport; Marie Daly, IBEC; Pat Delaney, IBEC; Gearóid Doyle, Kinsale Capital; Pat Farrell, Irish Bankers' Federation; Mark Fielding, ISME; Maurice Healy, Healy Group; Eoin Gahan, Forfás; Trevor Holmes, Intel Ireland Ltd.; Dermot Jewell, Consumers' Association of Ireland; Philip Kelly, Department of the Taoiseach; Ronald Long, Department of Enterprise, Trade and Employment; Professor Irene Lynch Fannon, UCC; Andrew McDowell, Forfás; Eamonn Molloy, Department of Communications, Marine and Natural Resources; Pat Nolan, Department of Enterprise, Trade and Employment; Senator Feargal Quinn, Seanad Éireann; Imelda Reynolds, Beauchamps

Solicitors; Miriam Ryan, Dublin Airport Authority; Dr. John Thompson, Department of Finance.

## What do we mean by Regulation?

In this context we generally use “regulation” to mean primary legislation enacted by the Oireachtas and secondary legislation enacted by ministers empowered under primary legislation. Depending on the context, it can also mean “to regulate” in the economic and social sense of the word.

A wider definition of “regulation” would also include, in addition to Acts of the Oireachtas and Statutory Instruments, Bunreacht na hEireann and the Treaties, rules and regulations of the European Union. Such a definition might also extend to subsidiary rules and regulations, such as those made by Local and Regional Authorities, and self-regulating bodies with regulatory powers.

For the present purpose, regulation can include any laws or other government rules which influence or control the way people and businesses behave. A regulation may be either directly aimed at business or impose a compliance burden on business.

## The Costs of Regulation

In general, it is accepted that there will usually be some cost associated with regulation. The key point is that such costs should be proportional to the benefits that the regulation brings.

There are three types of cost of regulation that impact immediately on businesses:

- Administrative or compliance costs, such as filling in forms or other government information requirements;
- Capital Costs when businesses need to make capital investments to comply with regulations; and
- Indirect Costs (or efficiency costs) which arise when regulations reduce the productivity and innovativeness of enterprises by, for example, hampering business management or distorting resource allocation.<sup>1</sup>

Beyond this, we must also include the economic cost of ineffective regulation of markets. The OECD’s Economic Survey of Ireland, published in March 2006, has the following to say.

Exposing the sheltered sectors of the economy to more vigorous competition is an important part of the challenge to boost productivity. It would also help reduce inflationary pressures, ensuring that exports remain competitive. Ireland has a legacy of policies that favour the interests of producers over consumers. But it has a golden opportunity to push ahead with regulatory reform while the transition costs are low. Unlike many other countries, the labour market is flexible and jobs are easy to find. Adjustment costs from regulatory reform should therefore be manageable.

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<sup>1</sup> From Businesses’ Views on Red Tape, OECD 2001

## What do we mean by Compliance Burden?

The key goal of the Forum is to reduce the regulatory compliance burden on business, rather than to reduce regulation *per se*. Clearly redundant regulation should be abolished and overly complex or burdensome regulation should be simplified or reformed. On the other hand, in many cases regulation is necessary to allow society to achieve its objectives, whether it be to protect the environment, workers' rights or competition, for example.

For this reason, merely identifying where a compliance burden is present may not be enough. Rather, the desired result is the identification of unnecessary or avoidable burdens.

## What do we want?

The Forum is interested in identifying regulations that are redundant, out of date, unnecessarily burdensome or complex, difficult to understand, overlapping with other regulations, or which don't appear to achieve their goals in the most efficient manner possible. Also of interest are regulations which may restrict competition or market entry.

The administrative cost of complying with regulations is of particular interest to the Forum. We would like to hear about the amount of form filling and possible duplication of information that may be involved. What avoidable costs do regulations impose on business in Ireland?

It would also be useful to hear about any possible inefficiencies in the administration of regulations. Perceived inconsistencies in enforcement are also relevant.

## What are our information requirements?

We would like to know about you and your organisation and those you represent. We also need to understand the problems you are facing in this area and the costs these are placing on your organisation and others.

The more specific your submission the better. If you can provide data to back up your points, this will make it much easier to evaluate the costs associated with the regulation(s) you have identified. It will be necessary to be clear about the actual costs of complying with the regulations as the vast majority of regulations convey substantial benefits that must be weighed against these costs. The Forum will base its recommendations on the evidence available to it. You may be asked if you are willing or able to gather evidence in support of your submission.

Where possible you should propose improvements or solutions to the problems you have identified. You may be best placed to suggest how the problem could be solved. Are there any non-regulatory options?

## What we don't want

Submissions that are very general in nature and contain little or no specific evidence will be less likely to form the basis for useful improvements. Therefore, the minimum we will need is either a good description of the problem including an estimate of the business cost or, if possible, a solution.

## Further suggestions

The following questions may help to broaden your thinking on this topic. In regard to the problem, consider whether regulations:

- are cost effective;
- operate efficiently;
- lead to a balanced outcome;
- take account of changes in technology;
- are administered effectively;
- may be done better in other countries;
- are enforced effectively;
- etc ...

In regard to cost, consider:

- how frequently the regulation impacts on (your) business;
- how much time is spent complying with it;
- what kinds of changes the regulation requires to the way business is done;
- how the regulation may slow business progress;
- how the regulation may inhibit innovation or creativity;
- etc ...

In regard to a solution, consider whether regulations could be:

- completely abolished with no apparent loss to society;
- amalgamated with other regulations or consolidated across sectors;
- reduced in complexity;
- worded more clearly;
- explained better;
- executed less obtrusively;
- enforced more fairly;
- etc ...