

## **A BUSINESS-BASED PERSPECTIVE FOR REGULATION AND COMPLIANCE**

This brief submission focuses on a central issue not directly addressed in the debate on the impact and costs of regulation. The Forum is no doubt aware of the range of literature and reports on the impact and cost of regulation on large and small businesses, nationally and internationally, which will not be repeated here. From these accounts, the evidence points to regulation having become increasingly complex, voluminous, burdensome and costly.

Business regulation is addressed here from the productivity/competitiveness perspective where competitiveness is defined as per the Global Competitiveness Report's<sup>1</sup> definition i.e. a collection of factors, policies, and institutions, which determine the level of productivity of a country and that, therefore, determine the level of prosperity that can be attained by an economy. The impact and costs of regulation are to be seen in their productivity-impacting context.

This submission contends that in considering business regulation and how the regulatory burden on business might best be reduced, the Forum should consider both sides of the regulatory boundary – production and consumption. Specifically, the extent to which this interface can be more efficiently managed to the benefit of the goals of regulatory authorities will be mirrored in bottom-line benefits for business.

To date, separate interests have focussed exclusively on either regulation production (i.e. the regulatory authorities) or regulation implementation (i.e. business, large, medium and small enterprises) ignoring the potential efficiencies to be gained from a more holistic perspective. Advances in technology make such a holistic approach increasingly more possible.

What this implies is that regulation production can and should be more efficiently conducted to save resources (in terms of time and money) by aligning it more closely with business requirements for executing such regulations in a timely and appropriate manner. Accordingly, regulations should be developed with an explicit focus on how and where they will impact business activities. Regulations should be written and published (or be published in parallel) with the business consumers' requirements

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<sup>1</sup> Global Competitiveness Report 2005-2006, World Economic Forum (2005: 3). Available from <http://www.weforum.org/site/homepublic.nsf/Content/Global+Competitiveness+Programme%5CGlobal+Competitiveness+Report>

centrally addressed. This would mitigate business claims that regulations are overly abundant and difficult to understand, taking into account the manner in which businesses operationalise their compliance information management. The (widely cited) relatively higher regulatory burden on small businesses<sup>2</sup> stands to benefit particularly from such a development.

The underlying logic of this approach rests on the view that compliance occurs depending on organisations' compliance capacity.<sup>3</sup> This, in turn, depends on their knowledge of the 'rules' and financial and technological wherewithal as well as their commitment, which includes norms, regulators' perceptions and incentives for compliance.<sup>4</sup> This view is the result of reviewing national and international research on regulatory impacts, the compliance activities of small and large firms operating nationally and internationally, and activities of Irish-based European Information Centres, as part of research projects undertaken in the Department of Economics, UCC.

### **Implications**

Regulation production should involve participation of business practitioners who possess the regulation users' or consumers' perspective. The main activities impacted by new regulations, or changes in existing regulations, can be identified and outlined by practitioners. Thus, they contribute to simplifying and clarifying regulations thereby increasing the speed of compliance and lowering costs of implementation. The relevant level of practitioner input is at European or national levels, depending on the level at which regulations are set.

To enhance capabilities required to treat regulatory compliance holistically, a mix of expertise from the areas of EU regulatory affairs, compliance knowledge management and competitiveness/business strategy is required. Expertise currently is too functionally separated to support the holistic approach mentioned here.

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<sup>2</sup> as outlined, for example, in The Report of the Small Business Forum available from [http://www.forfas.ie/sbf/webopt/sbf060516\\_full\\_report\\_webopt.pdf](http://www.forfas.ie/sbf/webopt/sbf060516_full_report_webopt.pdf)

<sup>3</sup> This is in the realm of normative theories of compliance as discussed in Malloy, T.F. (2003) Regulation, Compliance and the Firm, *Temple Law Review*, 451, pp. 454-455.

<sup>4</sup> For more see Cohen, M. A., (2000) Empirical Research on the Deterrent Effect of Environmental Monitoring and Enforcement. 30 *Environmental Law Reporter* 10245-52 and Rechtschaffen, C. and Markell D.L. (2003) Reinventing Environmental Enforcement and the State/Federal Relationship, Environmental Law Institute.

### **Link To Market and Policy Imperatives for Competitiveness**

Enterprise and industrial development policy nationally and at European level highlight the competitiveness imperative. The Lisbon agenda sets specific targets in this context and policy requirements not only in terms of improving the business climate, but also in terms of goals for environmental sustainability, enhancing development of the internal market and of the ‘knowledge society’ are relevant in the discussion of regulation and compliance.<sup>5</sup>

Initiatives to further open and develop markets are facilitated by businesses having greater resources to direct to such activities, as opposed to compliance-related requirements. Some such operational activities, however necessary and important, can be replaced by more strategic activities.

Access to regulatory information in the format recommended here would also facilitate strategic activities of businesses, for example, business expansion into new markets, since regulation requirements on a product-by-product basis vary across markets.

**Dr. Eleanor Doyle**  
**Department of Economics**  
**University College Cork.**

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<sup>5</sup> These are outlined in the report *Facing the Challenge: the Lisbon Strategy for Growth and Employment* (2004) available from [http://ec.europa.eu/growthandjobs/pdf/kok\\_report\\_en.pdf](http://ec.europa.eu/growthandjobs/pdf/kok_report_en.pdf) and also relate to the Sapir Report (2004) available from <http://aei.pitt.edu/1944/01/PB45.pdf>.