E OECD reviews

Keeping watch over developments in regulatory review overseas can provide useful insights into how Australia can continue to improve its regulatory practices. The OECD has recently completed its first round of country reviews, which are an important aspect of the OECD Regulatory Reform Program. The reviews highlight many issues and challenges facing reformers and regulators.

E.1 The OECD country review process

The OECD Regulatory Reform Program involves the review of member country progress in regulatory reform and aims to help member countries improve regulatory quality. Established under a mandate from OECD Ministers, the program draws on the analysis and recommendations of good regulatory practices in the OECD (1997) report to Ministers, *Report on Regulatory Reform*.

Under the program, self-assessment and peer evaluation of regulatory review progress is carried out by review teams, made up of experts from various OECD committees and members of the International Energy Agency. The reviews take a multidisciplined, in-depth approach to examining a country's regulatory reform processes. They are focused on targeted areas of reform within the country under review, rather than seeking to be comprehensive.

The OECD commenced its first round of country reviews in March 1998. Japan, the United States, the Netherlands and Mexico were the first countries to come under review with the reports being finalised in mid-1999. The second round of reviews involving Denmark, Spain, Hungary and Korea has begun.

The OECD country reviews:

- focus on the reform of regulations that raise unnecessary obstacles to competition, innovation and growth and on ensuring regulations meet their social objectives;
- aim to help governments improve regulatory quality by highlighting future regulatory challenges facing the country;

- involve consultation with government officials (including some elected officials), business and union representatives, consumer groups and academics from broad-ranging regulatory disciplines; and
- attempt to contribute to the steady improvement of regulatory practices by strengthening self-assessment methods already in place, improving transparency and helping to sustain momentum for beneficial reform in member countries.

E.2 Identified strengths and weaknesses

This section reports the main findings of the first round of country reviews, including the review teams' interpretation of developments in regulatory reform.

United States

According to the US review team, regulatory reform in the United States helped launch the global reform movement and domestically has yielded many benefits. Deregulation and improvements in the quality of social regulation have contributed to 'one of the most innovative, flexible and open economies in the OECD, while maintaining health, safety and environmental standards at relatively high levels' (OECD 1999, p. 31).

The review team observed that the United States is not less regulated when compared to many member countries, but differently regulated even where the underlying policy objectives are similar. Two distinct regulatory approaches govern the US regulatory domain:

- a strong pro-competition stance, supported by well developed institutions — this stance means regulators favour competition neutral policy instruments; and
- openness and contestability of regulatory processes — this approach lowers the chances of the formation of information monopolies and encourages entrepreneurialism, market entry, boosts consumer confidence and the search for better regulatory processes.

The US Review team found that the dynamic effects of regulatory reform were larger than expected. Greater flexibility of labour and capital markets, competition throughout all sectors of the economy and a macroeconomic environment geared to growth all help to make regulatory reform most effective. A favourable entrepreneurial environment that gives business the ability to adjust to regulatory change increases the benefits and the speed at which the benefits filter through the economy. The review found that regulatory flexibility and adaptability are as important as cost-effectiveness in assessing regulation.

It also found that 'in the electricity sector, the United States is relying more on markets to obtain economic and social policy objectives' (OECD 1999, p. 33) and the new institutions and policies are still in transition. There is trading in sulphur dioxide emissions permits and there are market mechanisms in place to promote the supply of 'green' electricity through choices in technology, generator and price. In the US telecommunications sector, the long distance market has been opened to competition and the number of households with telephones has grown over the reform period, achieving the US policy goal of 'universal service' in telecommunications.

In spite of many advances, significant challenges still remain for the United States. The review team identified factors that are likely to have eroded the benefits of pro-competitive reforms and regulatory transparency including:

- badly designed or applied regulations in many areas with lengthy procedures and excessively adversarial approaches;
- complex, highly detailed and rigid social and government formalities; and
- overlap of the federal and state systems.

According to the review report, the United States needs to make greater use of flexible and market oriented policy instruments, especially in social policy areas. Typically the states act as 'innovators and testing grounds for new ideas … a national asset that can speed up change and regulatory responsiveness' (OECD 1999, p. 35). It added that the way forward for the United States in continuing regulatory reform should involve the streamlining of cumbersome processes and the systematic review of regulations to ensure they continue to meet their objectives in an efficient and effective way.

The US review team recommended closer coordination of federal-state regulatory relations and that 'assessments of the effects of proposed rules on inward trade and investment should be carried out as part of regulatory impact analysis' (OECD 1999, p. 36). It also suggested that the United States should continue to promote the integration of regulatory policies internationally, through initiatives such as mutual recognition, conformity assessment procedures and the increased use of industry developed standards (instead of national measures) to produce benefits in the United States and in other countries.

Japan

Japan was seen as making slow but steady moves toward more transparent and less discretionary regulatory practices, led by the market and driven by recognition of the gap between international and traditional Japanese practices. The OECD review team recommended urgent action to speed up and deepen regulatory reform while at the same time managing the economic and social effects.

The Japanese economy has stagnated since 1992. While cyclical factors are present, the outmoded institutional framework has been identified as a contributing factor. Reforming restrictive government arrangements to improve administrative transparency, accountability, adaptability, and competition policy and enforcement were seen as priorities.

The review team noted that Japan was one of the first OECD countries to liberalise the telecommunications sector and that significant progress has been made. However, a lack of competitive safeguards initially dampened consumer benefits. According to the OECD, individual reform plans are needed to open the way for more competition in airlines, other transport modes, electricity, telecommunications and land use.

Sustained political support at the highest levels was seen as being essential for the reform effort. There has been strong support recently, but this will be difficult to sustain as more wide-reaching reforms come through. Improving public comment procedures is important on transparency and accountability grounds. The OECD review report also recommended that the Deregulation Committee in Japan should be given broader authority and its independence from government ministries clarified.

Mexico

Indicative of how far Mexico had to go, the pace and breadth of regulatory reform was found by the review team to have exceeded that of most other OECD countries (and compares to that of the emerging Eastern European countries). International commitments — Mexico’s membership in GATT, APEC and the OECD, its part in NAFTA and other trade agreements with Latin American countries — have underpinned domestic reform efforts.

Regulatory cost-effectiveness has been promoted through the establishment of institutions — such as the Economic Deregulation Unit in the Ministry of Commerce and Industry — and the multi-party political system has challenged the traditional regulatory practices. The review also found that a major benefit of

Mexico’s effort is the increased adaptability of the economy, enabling Mexico to rebound more quickly from major economic crises.

Mexico has reduced costs to industry in the communication and transport sectors contributing to increased productive efficiency and growth in exports. The opening up of the telecommunications sector illustrates Mexico’s progress in reform, however, further efforts are required to ensure the benefits flow to consumers. The number of telephones per capita in Mexico is the lowest of all OECD countries and prices for consumers remain high. According to the OECD, sound competition law and policy were introduced in 1993 and provide ‘an essential framework for economywide regulatory reform’ (OECD 1999, p. 17). Complementary reforms are still necessary in water supply and energy and in legislative areas affecting business.

The review team noted that, the continuing success of regulatory reform depends on political support and the Government’s ability to communicate the benefits of reform to stakeholders and the public. Government administration, despite some progress, still falls short of OECD best practice, particularly in regard to full public consultation.

It found that Mexico is an example of how trade liberalisation, market competition and reform of administrative processes are mutually supportive. For the future, the challenge is to build a wider constituency for reform. The reform program should aim to include visions of social welfare to ensure that business and citizens see substantive benefits.

The OECD review team recommended that the Economic Deregulation Unit presently in the Ministry of Commerce and Industry should be given greater autonomy (or transferred to central government) for ease of nationwide coordination. Also, the practice of regulation impact analysis should be advocated as a necessary tool for all areas of government and the level of analysis increased. Presently, gaps in some sectors undermine the overall effectiveness of reform. A systematic review of all regulation is needed with an emphasis on outdated laws in crucial business areas.

Netherlands

According to the OECD review, the Netherlands is an impressive example of the successful modernisation of a European state and its integration into the developing European single market. Three major strategies have been adopted:

- new competition law;
- increased exposure of the public sector to market forces; and

- a multifaceted program, called Functioning of markets, Deregulation and Legislative Quality, which focuses on improving the cost effectiveness of national and European regulations affecting economic activity.

Regulatory reform has produced major benefits for the Netherlands including, the reduction of export, distribution and transit costs and increased flexibility and innovation in the supply side of the economy. The review noted that flexibility and innovation will be important attributes as competition intensifies under the single European currency.

Reforms in electricity, transport and health sectors have brought wider choice and improved service quality for consumers. Many competitors have entered the telecommunications industry since the market was liberalised, but the challenge now is how best 'to manage the presence of a dominant incumbent' (OECD 1999, p. 26).

The review team found that flexible and efficient market based regulatory practices in the Netherlands mean that high levels of protection of health, safety and the environment have been possible. Policy responsiveness means that the economy can adjust to new conditions and problems readily.

While a single market has been a stimulus for beneficial regulatory and competition reform, the potential conflict for the Netherlands is that some European regulations may not meet Dutch regulatory quality standards.

The OECD review team concluded that new methods might be required to ensure that 'consensus-building traditions' do not detract from policy responsiveness. Greater emphasis should be given to transparency. According to the review team, the institutions and policy linkages governing reform need to be strengthened, with more supervision of delegated and self-regulatory powers.

Given the fast rate of technological change, for example in 'the convergence of telecommunications and broadcasting' (OECD 1999, p. 26), regulatory reform should be given priority to ensure change can be embraced. Also, globalisation, structural change and population ageing present significant challenges for the Netherlands.

Some lessons from the OECD reviews

It is the OECD's view that, importantly, the review process has shown that there are benefits from a sustained and comprehensive regulatory review program. Benefits are evident to consumers in terms of price and choice. For an economy as a whole, advantages lie in greater innovation, investment and the birth of new industries stimulating growth and generating new jobs. This not only reinforces the value in pursuing reforms to the review countries, but also provides incentives to all countries to continue with regulatory reform.

A comprehensive approach, according to the review reports, will yield the greatest benefits. Political leadership and a demonstrated commitment to reform serve to guard against the forces of vested interests and are fundamental to the success of reforms. An open public dialogue on the benefits and costs of the reform process is the way to sustain reform efforts.

The OECD review teams found that the process of regulatory reform and deregulation brought significant adjustment costs and that the use of supportive social policies was appropriate to ease the burden of the changes. They also found that regulatory reform is not simply a process of eliminating inefficient regulation, but in the transition, new regulations and regulatory institutions may well be needed. Such steps help to ensure that anticompetitive behaviour does not come to light in the transition process and work to block the benefits of reform.