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## F Regulation review and reform: international perspectives

In previous editions of Regulation and its Review, this appendix has reviewed selected international developments in areas of regulatory impact analysis and other measures for ensuring that new regulation is efficient and effective. In line with the activities of the Australian Regulation Taskforce, this year's report focuses on international programs that are aimed at combating the causes of over-regulation. Throughout 2005-06, the United Kingdom, Canada, New Zealand, the European Union and the Organisation for Economic Cooperation and Development have all undertaken reviews to find ways of improving regulatory processes and for measuring compliance costs. Several governments have also committed to regulatory process reforms as a result of these reviews.

### *United Kingdom*

On 22 March 2006, the United Kingdom Better Regulation Executive published a draft Regulator's Compliance Code. The Compliance Code is intended to ensure that all government regulators act only in accordance with established best practices when enacting rules, making standards or dealing with businesses. The code will apply to all government regulators at the policy development process (to minimise over-regulation) and at the point where regulators interact with business (such as when collecting statistics). The code is based on a number of key principles identified in the 2005 Hampton review on regulatory inspections and enforcement, including:

- that regulation be based on open and accountable measures of risk, and that businesses have the opportunity to scrutinise the methodology of regulators;
- that businesses be subject only to purposeful inspection by government regulators;
- that businesses supply required information to government only once;
- that regulators provide quick, clear and accessible advice and guidance on regulations;

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- that regulators support economic progress by not creating unnecessary administrative burdens, reducing incentives to innovate, discriminating between small and large businesses or creating artificial barriers to competition; and
  - that the process of regulating be open and accountable, through published reports and public consultation.

Following consultation, it is intended that the code be introduced into the Parliament as a statutory Code of Conduct, thus establishing the minimum standards acceptable of regulators. The Better Regulation Executive will be responsible for monitoring compliance.

The United Kingdom Government has also continued to participate in a number of EU and OECD initiatives aimed at developing internationally comparable measurements of administrative burdens, particularly through the Standard Cost Model Network. In September 2005, the Government commenced a ‘baseline’ measurement of the compliance cost of regulation on businesses, charities and voluntary organisations. The result of this measurement will be published in 2006. This measurement will allow the Government to better understand the magnitude of compliance costs on business, and target reform initiatives to achieve greater reductions in the regulatory burden.

### *Canada*

In March 2005, the Canadian Government launched *Smart Regulation*, its regulatory reform program. Federal, state and territory and municipal governments committed to undertake a comprehensive review of Canadian regulatory processes and put in place new procedural mechanisms to improve coordination and effectiveness across the jurisdictions. The review targeted the increasing burden of compliance costs on small and medium enterprises, and regulatory conflicts between jurisdictions. The Government has indicated a commitment to report every 6 months on the *Smart Regulation* program.

The second report on *Smart Regulation* was released by the Government in October 2005 and outlined progress on 40 initiatives to reduce the regulatory burden. One key outcome of the review was the establishment of the Paperwork Burden Reduction Initiative. The initiative has three main components: an advisory committee on reducing the regulatory burden, annual reporting of the progress of reducing compliance costs, and a tri-annual survey of regulatory compliance costs. 30 000 Canadian businesses will be surveyed every three years to enable the stock of regulation to be measured, as well as the compliance burden this places on business. In an initial pilot survey by the Canadian Federation of Independent

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Business, regulation was estimated to cost Canadian businesses \$33b (in Canadian dollars) annually (CFIB 2005).

Another key initiative of the *Smart Regulation* program is an increased focus on national regulatory co-operation. Drawing on OECD research into best practice regulation, the Canadian Government has been developing two key policies that will shape the development of future regulation. The *Government Directive on Regulating*, published by the Privy Council Office, will establish the Government's expectations of regulators. The Directive will outline the requirements of instrument choice, public consultation, risk analysis, regulatory co-operation, compliance cost measurement and regulatory review. The *Regulatory Submissions Framework* will ensure that regulatory proposals are subject to the preparation of a Regulatory Impact Analysis Statement. Based on the proportionality principle, the framework will aim to maximise government resources by only requiring a level of analysis commensurate with expected impacts.

### *New Zealand*

In 2006, the New Zealand Government established a Ministerial Review of Regulatory Framework. Similar to the Canadian review, the New Zealand Ministerial Review Council is analysing the causes of over-regulation, with particular focus on small and medium businesses. The aim is to improve the interaction between business and government, reduce overlapping regulations, and identify reform targets in regulatory 'hot spots' such as in the food and beverage, wine, retailing and hospitality, gaming and transport industries. The New Zealand Law Commission will work with the Ministerial Review Council to design regulatory tools to address these target areas.

The Ministerial Review Council will also look at the efficacy of the Regulatory Impact Analysis regime in achieving the government's goal of creating effective regulation. It will examine whether to upgrade the minimum adequacy requirements of Regulatory Impact Analysis statements (RIAs). The review will look at strengthened gatekeeper mechanisms for the Regulatory Impact Analysis Unit (RIAU), including requirements that public consultation be mandatory prior to regulatory decisions being made, and allowing the RIAU to assess RIAs as inadequate if they do not address the current problem, or have not undertaken sufficient cost-benefit analysis commensurate with the impacts of the proposals.

The New Zealand Ministry for Economic Development is also trialling the Business Cost Calculator (BCC) to measure the cost of regulation. The BCC will be used to measure the total compliance cost burden imposed by the Schedules to the *Securities Regulations 1983*. The trial will enable the Government to systematically

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measure the total administrative burden on businesses complying with the *Securities Regulations 1983* and identify aspects of the BCC that may not be relevant to the New Zealand economy or its regulatory processes. This is in line with the endeavours of the European Union, which is undertaking systematic attempts at measuring the compliance costs of regulation using the Standard Cost Model developed by the Netherlands.

### *The Organisation for Economic Cooperation and Development (OECD)*

In 2005, the OECD established the Standard Cost Model Network, an initiative by a number of countries to test the usefulness of the Standard Cost Model (SCM) in measuring the compliance costs of regulation on business. The Network is a result of the OECD's 'Red Tape Scoreboard' project, and aims to use the Dutch SCM in measuring cross-country and cross-policy regulatory costs.

A number of countries in the SCM Network are employing the model to measure the total baseline compliance cost of regulations in their economies. Following the 2005 report that the Netherlands' total cost was €16.4b, the Danish Government used the SCM in 2006 to estimate the total administrative burden on Danish businesses at €4.33b. The UK Government has also used the model to estimate the burden of complying with tax regulations, estimating the total compliance cost at £5b, or approximately 0.41 per cent of GDP.

In 2005, Poland and the Netherlands reported on the use of the SCM in measuring the administrative burden on businesses in the transport sector. This report looked at the applicability of the SCM for making comparable cross-country estimates of compliance costs on businesses. Based on this early work, the OECD Working Party on Regulatory Reform commenced a study of cross-country administrative burdens in the road freight sector, using the SCM methodology. Currently 13 OECD member countries are using the SCM to estimate the regulatory burden on road freight businesses. This report is due to be published towards the end of 2006.

In addition to the SCM Network, the OECD was invited by the Chinese Government in 2005 to undertake a review of the Chinese regulatory environment with a view to recommending best practice regulatory reforms. This is only the second time the OECD has done a review of the processes of a non-member country (following a report on Russia published in 2005). The report will examine:

- the capacities of the Chinese Government and institutions for regulatory reform;
- the level of Chinese market openness, including how consumers can benefit from regulatory reform;

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- potential improvements to competition policy and competitive neutrality with government services; and
  - regulation of specific ‘hotspots’, including electricity, health care, public utilities and transportation.

### *The European Union*

While many European countries are involved in the SCM Network, the European Union itself is continuing to improve its legislative and regulatory processes. In 2005 it passed the *Communication on Better Regulation for Growth and Jobs in the European Union*, its plan for minimising the administrative costs faced by business as a result of EU legislation.

From April 2005, EU legislation has been subject to impact assessment, measuring the economic, social and environmental impacts of regulation. Public consultation is now a standard component of the policy development process, with the EU Parliament giving advanced warning of future regulatory proposals. The EU also intends to provide incentives to member states to improve their national regulatory processes. Countries involved in the SCM Network will advise the EU on the adoption of a common measurement strategy to allow for comparisons of regulatory costs across the economies of the EU.