Regulatory Reform: What, Why, How and Outcomes.

Gregory Bounds,
Deputy Head, Regulatory Policy Division

ASEAN Regulatory Reform Symposium
Manila 23 July 2012 Gregory.Bounds@oecd.org

Improving the quality of Regulations

For all Governments, improvements to the efficiency and effectiveness of regulation can deliver significant benefits

- Increase social welfare through more effective social and economic policies
- Boost economic development by encouraging market entry and competitiveness
- Control regulatory costs and improve productive efficiency, particularly for small to medium sized enterprises
- Improve the rule of law, transparency and participative democracy

2

Challenges to Delivering High Quality Regulation

All Governments find it difficult to control the quality and quantity of regulation, this can be due to:

- Lack of coordination and planning capacities to promote coherent reform across government
- Vested interests may block reform, particularly where decision processes are not transparent and accountable
- Political incentives favour short term interests over long term social policy goals
- Regulation becomes outdated in changing environments
- Regulation is exercised by many levels of government and may be duplicative or excessive
- Regulators may not be equipped, or have incentives, to assess the cost of regulation and whether regulation is a practical solution

OECD
BETTER POLICIES FOR BETTER LIVES 3

OECD Policy Recommendations on Regulatory Reform have evolved over two decades

1995 *Recommendation of the Council on improving the quality of Government regulation* - Commitment to core regulatory principles.

1997 *Report to Ministers on Regulatory Reform* – incorporates market openness, competition policy, regulatory policy and micro economic reform principles.

2005 *Guiding Principles for Regulatory Quality and Performance* – basis for Regulatory Reform Reviews of 25 OECD countries and Russia, China, Brazil, Indonesia.

2005 *APEC/OECD Integrated Checklist for Regulatory Reform* - Self Assessment of US, Australia

2009 *Recommendation on Competition Assessment*

2009 *Establishment of the Regulatory Policy Committee*

2012 *Recommendation of the Council on Regulatory Policy and Governance* – 12 principles addressing the policy cycle of regulatory design, enforcement, review and evaluation.

OECD
BETTER POLICIES FOR BETTER LIVES 4

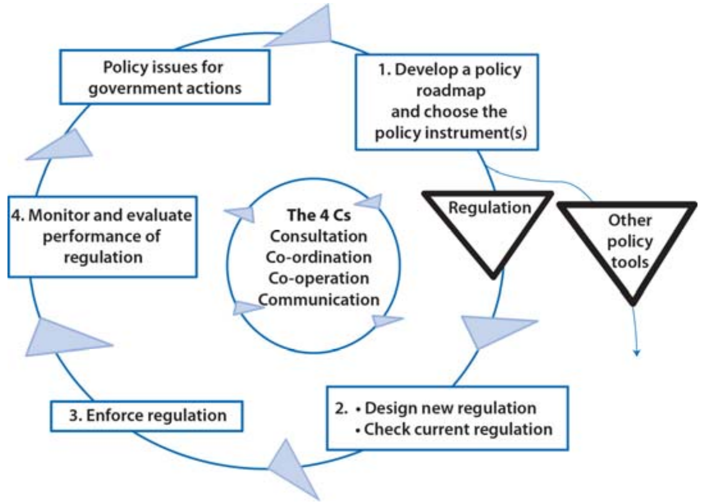
2012

OECD 50
BETTER POLICIES FOR BETTER LIVES

RECOMMENDATION OF THE COUNCIL ON REGULATORY POLICY AND GOVERNANCE

5

Regulatory costs can arise anywhere in the Regulatory Governance Cycle



OECD
BETTER POLICIES FOR BETTER LIVES
6

Recommendation of the Council on Regulatory Policy and Governance.

1. Apply an Explicit Policy for Regulatory Quality
2. Develop Regulations through Communication, Consultation and Engagement
3. Empower Institutions for Regulatory Oversight
4. Integrate Regulatory Impact Assessment
5. Review and Reform the Regulatory Stock
6. Assess Regulatory Reform Programmes
7. Co-ordinate the activities of Regulatory Agencies
8. Establish effective Review Processes
9. Apply Risk Regulation
10. Promote Regulatory Coherence across levels of government
11. Foster regulatory management capacity at sub-national government
12. Pursue International Regulatory Cooperation

OECD
BETTER POLICIES FOR BETTER LIVES 7

The OECD promotes Regulatory Reform as a dynamic and long term process applying across government.

A successful approach to regulatory governance should focus on two dimensions:

1. Systemic Reform

- Recommendation on Regulatory Policy and Governance : eg.
  - Regulatory Policies
  - Regulatory Practices: ex ante, ex post analysis
  - Regulatory Institutions: oversight, independent regulators

2. Strategic Reform

- Review and microeconomic reform of regulated sectors: eg.
  - Structural reform
  - Competition policy reviews
- Targeted programs for reducing regulatory costs: eg.
  - One in one out
  - Burden hunters
  - Guillotine

Govt policy needs to address both!

OECD
BETTER POLICIES FOR BETTER LIVES 8

Regulatory Policies are Necessary for Progress

Effective reform requires organised procedures with sustained political backing and adequate resources

- Policies have two main elements: improving rule making and keeping regulations up to date
- The emphasis varies but the main objectives of regulatory policies tend to be:
  - Increasing social welfare through more effective social and economic policy
  - Controlling regulatory costs for business development
  - Improving public sector efficiency and performance
  - Reducing regulatory discretion and opportunities for corruption, and improving access to regulation
  - Should have a preference for competition, the promotion of trade and innovation through efficient markets.

OECD
BETTER POLICIES FOR BETTER LIVES 9

Practices and tools to Improve Regulatory Design

The systematic use of tools is needed to promote regulatory quality, efficiency and effectiveness. These include:

- Regulatory Impact Analysis (RIA) to improve the evidence basis for regulatory decisions
  - Is regulation necessary?
  - Will it be effective?
- Public consultation strategies to promote transparency, accountability and improve regulatory design
- The evaluation of alternatives to regulation to best address the policy problem
- Review and reform of existing regulations
- Red tape reduction programs to reduce administrative and compliance costs

OECD
BETTER POLICIES FOR BETTER LIVES 10

Institutions to drive Regulatory Policies

The right set of institutions are required to ensure implementation of regulatory policy:

- Regulatory oversight bodies with whole of government responsibility
  - Advocate benefits of reform
  - Perform a gatekeeper role on quality of RIA
  - Provide training and clear guidance to regulators
  - Promote regulatory review and reform
- Ministerial accountability for regulatory policy
- Programs to reduce regulatory/administrative burdens
- Careful design of independent regulators

OECD
BETTER POLICIES FOR BETTER LIVES
11

Focussed reform: The role of regulation in promoting infrastructure investment

- Government regulations affect the rate of entry into and operations of the individual network industries
- High sunk costs make investment decisions sensitive to future changes in the regulatory environment
- Where private investment is difficult to generate, governments may be better placed to invest in infrastructure
- Government roles are necessary to:
  - Regulate price and supply of services delivered by operators of natural monopolies
  - Provide (or purchase) infrastructure for which pricing is not possible (eg some roads)
  - Co-ordinate multiple infrastructure to achieve related public policy aims (eg health benefits of efficient sewage disposal)

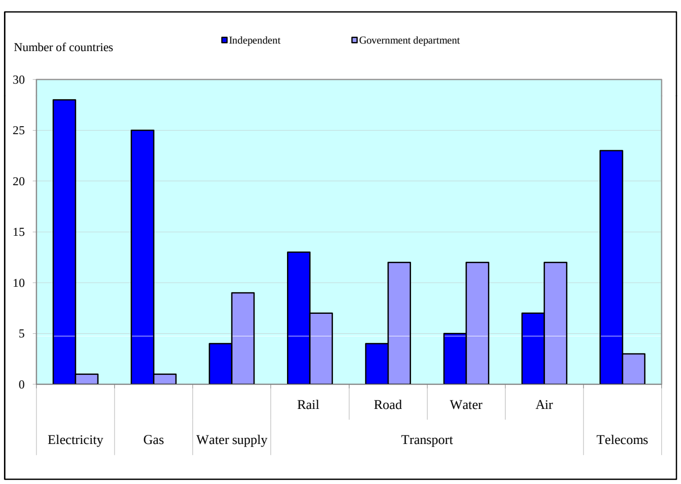
OECD
BETTER POLICIES FOR BETTER LIVES
12

The Importance of Effective Independent Regulators

- Reduced regulatory risk improves investment certainty
- Regulator establishes credibility through policy consistency
- Independence is associated with higher rates of investment
  - Independence from capture by industry or government can improve trust and the availability of pricing information from firms
  - Average degree of independence varies across sectors – reflected in the legal mandate, which ensures that the regulator is separated from government, and defines how appointments are made
  - Independence also reflected in budgetary separation from government
- Accountability to the government, consumers and the legislature
- Appropriate review and appeals procedures

BETTER POLICIES FOR BETTER LIVES 13

Independence of the regulator in OECD countries - late 2007, early 2008



BETTER POLICIES FOR BETTER LIVES 14

Improving investment through competition

- Governments should increase competitive pressures by vertically unbundling the competitive elements from the natural monopoly components of infrastructure
  - OECD (1997) "separate potentially competitive activities from regulated utility networks, and otherwise restructure as needed to reduce the market power of incumbents"
- Allows for private investment decisions in the competitive sector and is associated with higher investment
  - Moving from unregulated to regulated third party access boosts investment by 6% (from 9-13%)
- However, not always straightforward:
  - Need to take balance the costs and benefits, including the effects on competition based on the economic characteristics of the industry in the country under review. - *OECD Recommendation of the Council concerning structural separation in regulated industries 2001.*
  - Tends to work well in electricity, not so well in rail where the economies of scope can lead to inefficient transport services provision and it is difficult to design incentives to improve services.

OECD
BETTER POLICIES FOR BETTER LIVES

15

Conclusions for Developing a Reform Agenda.

- Regulatory Reform must be systemic and strategic
- Focus on policies, tools, and institutions as well as structural and micro economic reform programs.
- The role, structure and expertise of regulators is crucial to the success of structural reforms and effective regulation
- Need to ensure that appropriate competitive pressures are introduced and that regulatory policies are consistent
- Have to tackle the challenges of political economy and opposition to reform
- Important to build a supporting community of practice in ASEAN
- Opportunity to learn from country experiences, (OECD, APEC) about designing and sequencing reform strategies.

OECD
BETTER POLICIES FOR BETTER LIVES

16

Sources of Further Information.

- *Tackling the Infrastructure Challenge in Indonesia,* OECD Economics Working Paper No 809, Mario Pisu (2010)
- Economic Policy Reforms Going for Growth (OECD 2009) *Infrastructure Investment: Links to Growth and the Role of Public Policy.* Chapter 6
- *OECD Recommendation of the Council concerning structural separation in regulated industries 2001.*
- *OECD Guidelines on Corporate Governance of State-Owned Enterprises (OECD 2005)*
- *Public-Private partnerships: In Pursuit of Risk Sharing and value for Money (OECD 2008)*
- *Dedicated Public-Private Partnership Units: A Survey of Institutional and Governance Structures(OECD 2010)*

OECD
BETTER POLICIES FOR BETTER LIVES

17