

From silos to systems: Some observations from across the ditch

Notes for speech to Regulatory Reform conference, Canberra

26 March 2014

Murray Sherwin CNZM

Chair, New Zealand Productivity Commission

It's a great pleasure to be here today, amongst some of the leading lights in Australian regulatory policy and practice. I'm certainly looking forward to the presentations, discussions and opportunities to learn from your experiences. While all of our regulatory systems have their strengths and weaknesses, we tend to view Australia as being towards the cutting edge of regulatory management. We see this in the weight that organisations such as the OECD place on policy thinking and developments here, and looking west for ideas and inspiration is common practice in New Zealand.

Today, I will be providing some reflections on what we at the New Zealand Productivity Commission have learned about regulatory design and practice in our short history. Although these lessons are drawn from New Zealand circumstances, they are of broader relevance and I suspect they will ring true for many of you here today.

In particular, I am going to talk about the place of a well-functioning regulatory system in contributing to the sort of society and economy we aspire to. At a high level, there are four main messages I'd like to leave you with:

- it's important to think about our collection of regulatory regimes as a system or machine, with a number of connected and inter-dependent components and players;
- paying attention to the nuts and bolts of the regulatory machine is an important way to sustain its performance, and keep costs down more broadly;
- we tend to focus on one part of the machine – the design and construction phase, where the new regime rolls off the factory floor – and don't pay enough attention to what happens when it's got a few miles on the clock; and
- all the parts of the machine need to work together. If one piston is off, the engine doesn't run smoothly and you end up using more fuel than you have to.

But before turning to the substance, I should briefly outline what the New Zealand Productivity Commission is, and what we do.

The Productivity Commission

The Commission is still relatively new – in fact, we are due to celebrate our third birthday next week! As the name suggests, we are modelled on the Australian Productivity Commission and play a similar role. One of our key tasks is to undertake inquiries at the request of the government. We carry out two inquiries a year, and follow the well-established APC practice of engaging with the community at multiple points throughout the process, through issues papers, draft reports, submissions and face-to-face meetings with stakeholders. Our other main roles are to carry out or facilitate research into the drivers of New Zealand's productivity performance, and promote public understanding of productivity issues.

We do differ from the Australian Commission in a couple of fundamental ways. The first is size – as you'd expect, we are much smaller than our sister organisation, with around 20 staff and 3 part-time Commissioners. The second major difference is our starting point. New Zealand faces a number of pressing problems, but we don't have the benefit of the 30 years of analysis and wisdom on a wide range of topics that the Australian Commission and its predecessors have built up. Perhaps as a consequence of that, or perhaps just as a preference of ministers, to date we have been given inquiries that are quite broad in scope and scale, compared to many APC inquiries.

Inquiry topics to date

In progress

- Services sector
- Regulatory institutions & practices

Completed

- Local government regulatory performance
- Strengthening trans-Tasman economic relations (joint with Australian PC)
- International freight transport costs
- Housing affordability

As you can see from the inquiries we've carried out to date, regulation is a major focus of our work. We have explored regulation as an input to other issues that matter for the well-being of New Zealanders – housing affordability, closer economic relations with Australia, the functioning and competitiveness of our international freight system and our services sector. And we've also looked at regulation as a topic in its own right – both at the level of local government and of New Zealand's national government.

A day in the (regulated) life

Regulation is a strong part of the Commission's work because of its impact on economic performance and because it is a pervasive part of modern life. Regulation is so pervasive, in fact, that we often fail to appreciate how far and deeply it reaches. To illustrate this point, we prepared a "Day in the Regulated Life" as part of our current inquiry on regulatory design and institutions.

...you rise from your recently purchased mattress (which is covered by the Consumer Guarantees Act), make your way to the bathroom and turn on the light.

The light complies with the energy performance standards administered by the Energy Efficiency and Conservation Authority. The price and reliability of the electricity used to power the light comes through a transmission network that is overseen by the Electricity Authority.¹

We bathe in a sea of regulation. That is not unique to New Zealand, or Australia. More, it is a feature of modern life with its complexities and population densities. But because regulation has

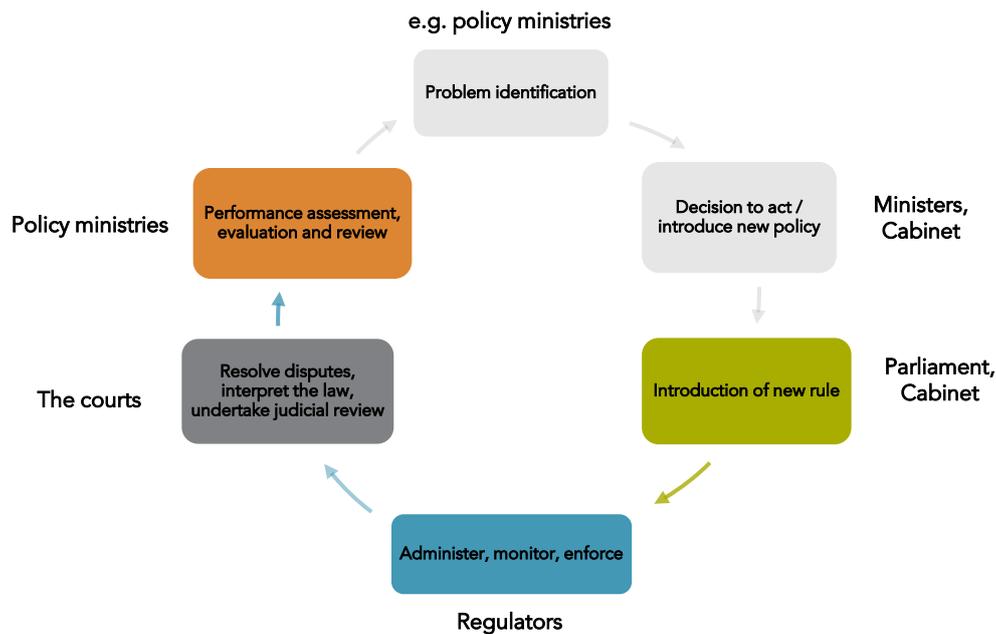
¹ New Zealand Productivity Commission. (2013). "A day in the life..." strikes a chord. Available from www.productivity.govt.nz/blog/%E2%80%9Ca-day-in-the-life%E2%80%A6%E2%80%9D-strikes-a-chord

such a broad and intimate reach, it's important that it is designed well, is focused on its intended impacts and that the costs imposed on individuals, business and the wider community are kept to the minimum necessary to do that intended job.

The regulatory system

If we are going to regulate a lot, we had better regulate well. To do that, we need to understand our regulatory processes at the system level.

What do I mean by a regulatory system? Most of you will have seen a version of this cycle – it's a standard part of many OECD, Regulatory Impact Assessment or best practice guides.



The basic theme is that regulation is a multi-stage, cyclical process which involves many players, including ministers, policy ministries, Parliament, arm's length regulatory bodies, local authorities in some cases, the courts and, of course, the people and firms subject to regulation. It is a large and resource-intensive undertaking – our estimate is that well over 10,000 people are employed in New Zealand maintaining and enforcing around 200 different regulatory regimes.

Regulation and regulatory management is often thought of in terms of individual silos or regimes – for example, health and safety law, or competition law. Initiatives to improve regulation tend to involve encouraging departments to take care of and, where necessary, fix “their” regimes. That, of course, matters. But, by itself, it is not sufficient. So we have regulatory “stewardship” obligations running down through the regulatory silos for which individual agencies are responsible. But much less attention is paid to the horizontal, or cross-regime, aspect. This horizontal dimension matters, for a couple of reasons.

The first is that most firms face a number of regulatory regimes, with cumulative costs. Conflicts between regimes are common. Only 10% of businesses surveyed by the Commission for 1 of our current inquiries thought regulatory requirements were rarely or never incompatible. Thinking only about individual regimes misses opportunities to recognise and deal with these conflicts.

In addition, individual regimes rely on common institutions – such as Cabinet, Parliament, and the courts – and may have a number of common characteristics and inputs. These commonalities

create opportunities for greater efficiency and effectiveness, through better design and learning from each other.

While the concept of a regulatory system is simple, moving from the concept to the policy and process reality is less so. One reason this has proved difficult is that not enough attention is being paid to the system as a whole.

As I noted earlier, considerable attention is paid at the front end, where proposals for new regulation are made and assessed. Ministers often seem to face a compelling need to be seen to be responding to some current public issue. And often a regulatory initiative will be the response most readily available to them. So the front end of the system sees plenty of energy and effort. Most OECD countries have now introduced processes for testing whether these proposals are sound, such as Regulatory Impact Assessments.

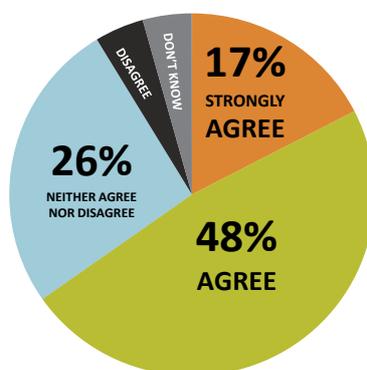
In some countries – although less obviously in New Zealand – considerable effort is also put in at the other end of the cycle, reviewing regulatory systems to ensure they are still fit-for-purpose and evaluating their efficacy. Sunset clauses and reviews of the regulatory stock are examples of strategies employed.

However, it is the middle of the cycle, after the decision to introduce a new regulation has been taken and where regulations are being implemented, that is neglected territory. And that part of the cycle matters. It's the point where many of the significant compliance, administration and economic costs can arise. Our inquiries into local and central government regulation have pointed to four areas in particular that don't receive the attention that is needed. These are:

- designing regulatory systems with an eye to the future;
- ensuring that all parties within the regulatory system understand each other's roles and interact properly;
- being clear about what constitutes success for the regulation, and having a means by which to track performance; and
- the capability and skills of regulators.

A design for life?

Almost 2/3 of public sector CEOs believe "agencies often have to work with legislation that is out-of-date or not fit-for-purpose"²



² New Zealand Productivity Commission. (2014). *Productivity Commission survey: Regulator chief executives' perceptions of regulatory regimes*. Available from www.productivity.govt.nz/sites/default/files/chief-executive-survey-report-regulatory-inquiry_0.pdf

Legislation plays a core role in many regulatory regimes, outlining the goals of the regime, signalling obligations and expectations to regulated firms, establishing new regulatory agencies in some cases, and providing authority and enforcement powers to those agencies. Getting the legislation right is clearly important. This is particularly the case in New Zealand, where we seem to put more prescriptive detail into legislation than other countries and appear to be shy about delegating rule-making powers to regulators.

The problem with relying so heavily on legislation is that you quickly run up against one of the major constraints in the system – Parliamentary time. To give you a sense of how scarce this resource is, according to the 2013 House sitting programme, the New Zealand Parliament planned to sit for 90 days last year. And a sizeable chunk of that is given over to formal “set piece” exchanges such as the budget address and reply debate.

Only a small proportion of proposed changes to legislation make it on to the Order Paper, and in any given electoral cycle Parliament will progress only a part of the Government’s policy agenda. Understandably, flagship government policies tend to gain priority ahead of the repair and maintenance work.

Another barrier to getting legislative repairs and maintenance onto the agenda is the relatively weak review and evaluation culture in New Zealand. Former Chief Parliamentary Counsel, George Tanner’s comment typifies the problem: “We paint our houses and service our cars, but we don’t look after our laws in the same way”.

My sense from our current inquiry is that Australia has made a much better fist of regime review than New Zealand, and I’d be keen to get your perspectives on what has worked here.

Even if you can identify where fixes are needed, the sheer volume of legislation already in place makes the task of maintaining regulatory regimes very challenging. At last count, we had something like 2,800 public Acts in force in New Zealand with an additional 2,500 orders and regulations. Annual increases to the regulatory stock almost always exceed reductions – sometimes by a very wide margin.

You won’t be surprised to hear then that almost two-thirds of the public sector chief executives we surveyed agreed that dealing with laws that are obsolete or are not fit-for-purpose is a common occupational hazard for New Zealand regulators.

When legislation goes stale

Legislation that is not fit-for-purpose creates a couple of problems. A common one is that regulators find that they lack the powers needed to respond to emerging risks, even though elected representatives and the community think they should. The quote from Maritime New Zealand exemplifies the unenviable position that regulators can find themselves in:

...regulators are often left to perform their functions within old, outdated regimes with seemingly increasing public and political expectations they will ‘adjust’ to the changes within those outdated regimes. For entities that are creatures of statute, this presents particular challenges because they are limited to perform the functions given to them by law.

Alternatively, out-of-date legislation can hamper the ability of regulators to respond to risks and issues. The reluctance in New Zealand to delegate rule-making powers means that for some

regimes, regulators must go back to Cabinet to gain approval for new rules needed to deal with new or unexpected circumstances.

We could view this as an important democratic check on the exercise of regulator power. But there are questions about how real this check is. Rules can be highly technical in nature, and it may be difficult for generalist governors, such as ministers, to assess the merits of the proposed new rules before them. This is particularly the case where those ministers are also dealing with a small mountain of other important papers at each Monday's Cabinet meeting.

Requiring regulators to gain Cabinet approval for each new rule also has efficiency costs. Preparing papers for Cabinet is a time-consuming process, and papers on very technical rules may crowd out consideration of other, more important issues.

We think there is scope to improve the responsiveness of regulators in New Zealand by taking a principled and consistent approach to delegating rule-making powers. This would also help iron out strange and inexplicable inconsistencies. As an example, in my old stomping ground of the Primary Industries Ministry, regulatory decisions for biosecurity and animal welfare were made by the chief executive or (more often) by a chief technical officer within the department. But comparable rules for the fisheries sector had to go to Cabinet for approval. I can guess at some of the reasons for elevating the fisheries decisions, but none of them have anything to do with regulatory effectiveness and efficiency.

Making sure the cogs fit together

As noted earlier, the implementation of regulation relies on several different parties all playing their role. One part of government – generally ministers in our case – agrees to introduce new rules and processes. Another part approves those rules, a third party enforces them, and a fourth party makes sure that the third party is doing what it is supposed to do.

If this process is to work well, each party needs to understand the roles, capabilities, strengths and weaknesses of the other. You might think this is obvious. But our inquiry into local government regulation found it was not. There seemed to be a mutual misunderstanding between central and local governments about their respective roles and accountabilities.

To give you some background, local authorities play a significant role in implementing regulation in New Zealand. They have functions and duties under 30 or so Acts of Parliament, from registering dogs to enforcing food safety rules in restaurants and cafes, controlling access to alcohol, responding to biosecurity threats, approving proposals to build or modify houses, and setting rules around the use of natural and physical resources. Some of these regimes are quite complex, requiring sophisticated analysis and judgement by regulatory staff.

At the same time, local authorities face highly diverse circumstances, which can constrain their ability to deliver on their regulatory duties. Population is one manifestation of this. The largest local body, the Council of Auckland City, covers around 1.5 million people. At the other end of the spectrum, the Chatham Islands local body looks after just 600 or so people. And there are a large number of rural authorities with populations in the low thousands. There are issues of scale economy in the delivery of regulatory services. Unsurprisingly, a number of these smaller rural authorities told us that they struggle to attract and retain the qualified people needed to carry out some of their regulatory functions.

This diversity in circumstance and capability clearly raises questions about where decision rights should be allocated, and how realistic it is to give complex duties to small organisations with a range of other obligations.

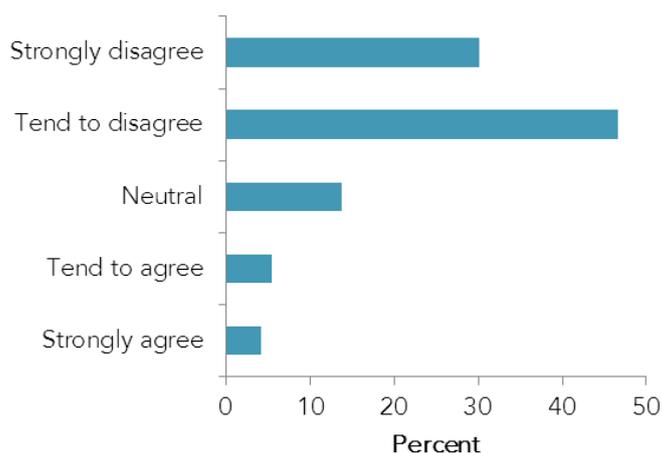
Local authorities play a critical role in delivering central government policy objectives. The types of duties given to local authorities, and the size of their regulatory workload, are decided by central government. Central government ministries that have a clear knowledge of how well-placed local bodies are to manage regulatory tasks, and adjust the assignment of responsibilities accordingly, are therefore more likely to have their policy objectives successfully achieved.

An uneasy relationship

But when the Commission began to look at how central government agencies took these issues into account, we found there was little understanding of these capacity and capability constraints, and little in the way of substantive engagement with local bodies when new regulation was being considered or introduced. Local government views on the relationship with central government were very critical. Highlights include:

- 68% of local governments surveyed by the Commission “tended to disagree” or “strongly disagreed” with the statement that “local government feedback during the engagement process was taken into account when drafting new regulations”;
- only 21% of councils “agreed” or “strongly agreed” that central government engagement was “positive and constructive”; and
- 63% of councils “tended to disagree” or “strongly disagreed” with the statement that engagement with central government was “seen by my council as genuine and engendering a sense of trust”.

“Engagement with central government about regulatory issues is based on a good understanding of local government”³



A number of other sources confirmed that central government’s engagement with councils could be improved, including several central government officials, submitters to the Commission, and an external audit of one of the major central government ministries.

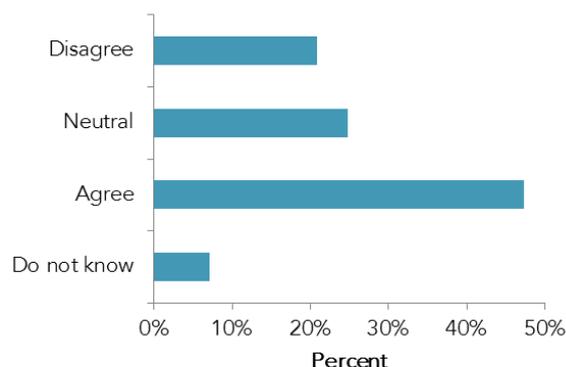
³ New Zealand Productivity Commission. (2012). *Towards better local regulation: Data Compendium*. Available from www.productivity.govt.nz/sites/default/files/towards-better-local-regulation-data-compendium_0.pdf

Impacts on business & individuals

One result of capability constraints and poor engagement from central government was considerable dissatisfaction from business with local government's regulatory performance.

About three-quarters of the firms we surveyed had some contact with local government through a regulatory process. Of those, 39% reported that local government regulation placed a significant financial burden on their business.

"The time and effort it took to comply with council regulations was too large"⁴



Nearly half thought the time and effort involved in complying with local authority regulations was too large. 70% of the businesses we surveyed were unhappy with the fees they were charged.

Inconsistent approaches were another bugbear. Only 36% of firms considered that their council provided consistent and reliable advice. 44% of firms dealing with multiple councils reported inconsistent regulatory approaches.

These inconsistencies cost firms and customers money. They also raise perceptions of risk in decision making – especially investment decisions. Just under half of firms believed that inconsistent approaches created unnecessary costs. A home insulation firm that made a submission to our inquiry said that variances in council processes could add 50% to their costs per house.

Being aware of the capabilities of the players within the regulatory system, and allocating duties appropriately can go a long way to stripping out unwanted costs and lifting the success rate for regulatory initiatives.

An unwatched pot?

The next part of the regulatory system that deserves greater focus is performance monitoring. This occurs at two levels – monitoring by regulatory agencies of compliance by firms and individuals with their regimes, and monitoring by the government of regulatory agencies.

A central concept underpinning successful regulatory enforcement and compliance strategies is the "feedback loop". Regulators need to monitor compliance patterns to assess how well their strategies are working and make adjustments where there are gaps. They also need to regularly

⁴ New Zealand Productivity Commission. (2012). *Towards better local regulation: Data Compendium*. Available from www.productivity.govt.nz/sites/default/files/towards-better-local-regulation-data-compendium_0.pdf

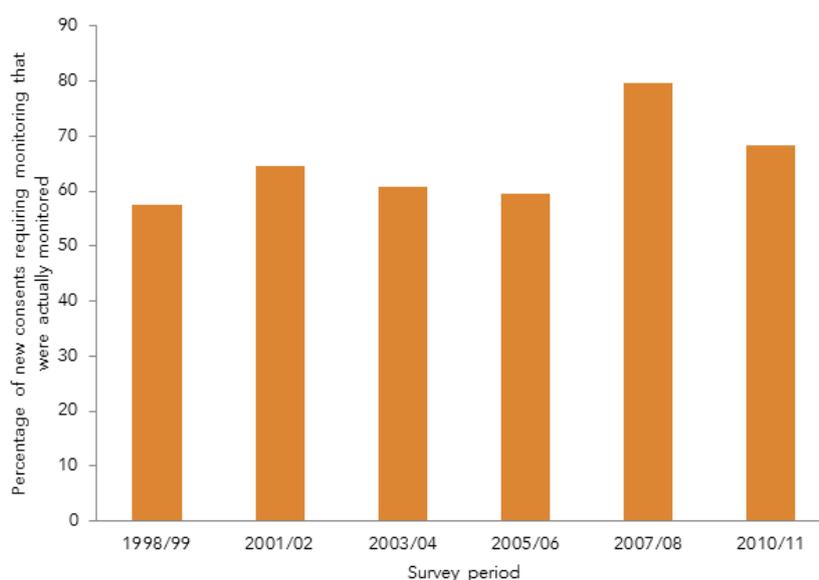
scan the environment for new and emerging risks, to avoid being blindsided. At a macro level, ministers need to have confidence that their regulators have visibility of the key risks, and are effectively targeting the significant potential sources of harm.

This is the meat and potatoes of regulatory practice, and there is a lively debate amongst regulatory policy experts about the relative merits of risk-based, responsive or “really responsive” approaches – to use Julia Black’s term. When we looked across the regulatory landscape, we found variable performance. A number of central government regulators had clearly given the matter a great deal of thought and had very sophisticated risk measures they watched. But many also noted that the analysis and use of business intelligence was not as strong as they would like, in part because of capability constraints.

Things were not quite so rosy at the level of local government. For example, many local authorities didn’t appear to have clear or sufficient strategies for monitoring compliance with liquor licensing laws. Both the Commission and the Auditor-General reviewed local government performance in this area, and we both found room for improvement. The Auditor-General commented:

The DLAs [District Licensing Agencies] we visited were unable to provide us with a clear rationale, based on a target level of assurance about compliance with the Act, for their monitoring strategies. DLAs were aware of high-risk premises from their contacts with the Police and public health services. However, better co-ordination and analysis of intelligence, an emphasis on active, risk-based monitoring for all licence types, and the use of monitoring results to report on trends in compliance would improve the focus and efficiency of compliance monitoring.

Percentage of new consents requiring monitoring that were actually monitored⁵



In other cases, local authorities failed to follow up on some regulatory processes. Under our planning law, councils have the power to issue resource consents and in some cases monitoring

⁵ Source: 2010/11 RMA survey data and published survey reports for the periods indicated.

compliance with the terms of the consent will be a condition of issue. Yet often this monitoring does not occur. In a good year, monitoring rates might hit 80%; in a bad year, it could fall to below 60%.

When it came to monitoring of the regulators themselves, we found that oversight of arm's length regulatory bodies by central government departments lacked rigour and depth, and was often an exercise in ticking the box. Nor did the central agencies with responsibility for the performance of the state sector – our Treasury and State Services Commission – have robust business intelligence processes to monitor the effectiveness or efficiency of the regulatory system overall.

These weaknesses in monitoring processes raise questions about whether agencies are enforcing their regimes and controlling harms to the public appropriately, and whether ministers are being properly informed about the performance of regulatory regimes they fund and are accountable for.

Skills, capability and complexity

The last element of the regulatory system which doesn't get nearly enough attention is the skills and capability of the people and organisations carrying out regulation.

One notable feature of regulation over the past quarter-century or so is its increasing complexity. Legislation is longer, there are more objectives within those laws, and reporting and compliance obligations are larger. Andrew Haldane of the Bank of England described this evolution in financial regulation:

In the UK, regulatory reporting was introduced in 1974. Returns could have around 150 entries. In the Bank of England archives is a memo to George Blunden, who was to become Deputy Governor, on these proposed regulatory returns. Blunden's handwritten comment reads: "I confess that I fear we are in danger of becoming excessively complicated and that if so we may miss the wood from the trees".

Today, UK banks are required to fill in more than 7,500 separate cells of data – a fifty-fold rise. Forthcoming European legislation will cause a further multiplication. Banks across Europe could in future be required to fill in 30-50,000 data cells spread across 60 different regulatory forms. There will be less risk of regulators missing the wood from the trees, but only because most will have needed to be chopped down.

There is a belief in some quarters that growing regulatory complexity is necessary and inevitable, and simply reflects societies that are becoming more diverse and dynamic. We were not convinced that this is correct. But more importantly, we're certainly not convinced that more regulatory complexity improves the chances of achieving desired outcomes.

Complexity is a choice, and it may not always be the most effective policy option. Haldane argues that the increasing complexity of financial regulation has actually made it harder, not easier, to predict and manage risk.

There are also real constraints on the ability of countries like New Zealand to sustain complex regulatory regimes. Countries with small labour markets, and operating at a smaller scale, provide fewer opportunities to specialise. For these reasons, they may struggle to develop and retain the particular skills needed to run complex regimes.

Even where we do manage to grow and hold the necessary skills, there is a wider question of whether this is the most efficient use of limited resources. A well-functioning regulatory system would ensure that policymakers design new regimes with these sorts of resource constraints clearly in mind.

In the meantime, however, complexity appears to be a common element of most regulatory systems. This places considerable demands on the people and organisations responsible for administering regulations. In earlier times, regulators might have needed technical expertise in their field and knowledge of the prescriptive rules they were enforcing.

Now, regulators often have to make difficult and nuanced judgements, based on high-level principles that are open to interpretation. They are also likely to require a blend of competencies, including interpersonal skills, technical knowledge and a good understanding of legal and compliance requirements.

This combination of competencies may emerge of its own accord. But more likely it will require structured training, development, clear career steps and mentoring to nurture the supply of skills, the required breadth of experience and the all-important understanding of context.

There are also some common skills and practice sets across regulatory regimes– for example, how to conduct an inspection, what is required to collect evidence that meets the requirements of the courts, and so on.

These common skill and practice sets suggest that there are efficiencies to be gained from initiatives such as centres of excellence in regulatory skills for the public service, and common qualifications and training programmes.

Our recent inquiry into central government regulatory design found a number of weaknesses and omissions in the development of skills and competencies.

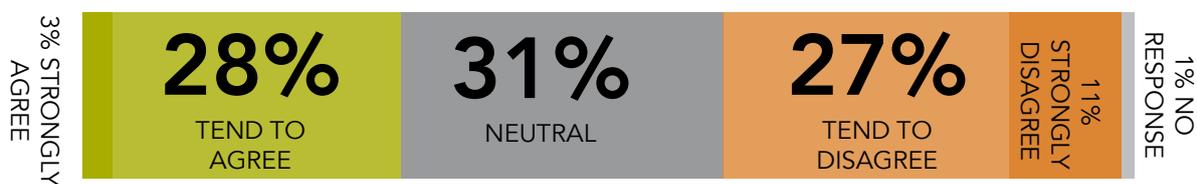
Some progress had been made in defining common skills sets and qualifications, but this was driven mainly by a small group of senior regulators with a strong sense of professional duty.

Even though regulation is one of the government's most significant policy tools, we could not find a strategy for developing and maintaining the skills required to run this system effectively.

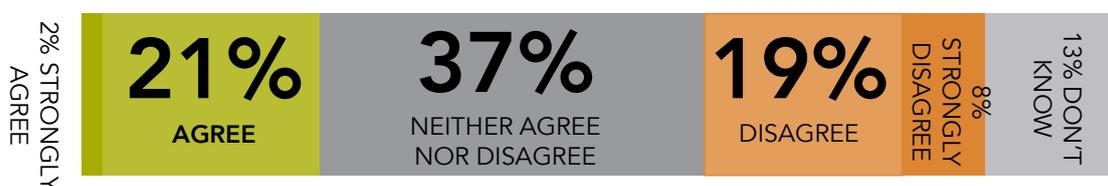
Expectations on public service chief executives to ensure their agencies have the right people in place have increased lately. But it is unclear how chief executives' performance on that front will be monitored and what sanctions exist for failing to meet these expectations.

Different levels of confidence in skill

Regulatory workers: "I receive ongoing training which helps me do my job better"⁶



Businesses: "Regulatory staff are skilled and knowledgeable"⁷



The net result of all this is low business confidence in the capability of regulatory staff. Only 23% of firms agreed with the statement that "regulatory staff are skilled and knowledgeable", and 25% agreed that regulators understood the issues facing their business.

Is that just a case of "They would say that, wouldn't they"? The restrictive nature of regulation means that some businesses will always express displeasure with regulators. But the business responses we found are striking, and do not bode well for a well-functioning regulatory system.

Equally striking were the different views within regulatory agencies about skill and training levels. The Commission directly surveyed chief executives of regulators. We were also able to tap into a very detailed survey run for the public sector union by Victoria University. The latter survey covered central and local government workers, and spanned a range of professions, including policy staff and enforcement and inspection officers.

What quickly became apparent was a significant degree of dissatisfaction amongst central government regulatory workers, especially compared to their local government counterparts and non-regulatory central government workers.

Central government regulatory workers reported they were given fewer real opportunities to improve their skills through training, and had lower opinions of the quality of training and development available.

Public sector chief executives, however, tended not to see issues with the availability of skills – with only around 1 in 5 believing there were significant skill or capability gaps.

⁶ Victoria University of Wellington Industrial Relations Centre & Public Service Association. (2014). *Analysis of regulatory workers: Survey conducted for the Productivity Commission*. Available from www.productivity.govt.nz/sites/default/files/vuwirc-psa-regulatory-workers-survey.pdf

⁷ Colmar Brunton. (2013). *Research findings from a national survey of New Zealand businesses: An exploration of business experiences with government regulations*. Survey carried out for the Productivity Commission. Available from www.productivity.govt.nz/sites/default/files/colmar-brunton-business-survey-regulatory-inquiry.pdf

Public sector chief executives: "There are significant 'capability of skill' gaps among regulatory staff"⁸



These divergent views raise questions about how well-equipped regulators are, and how seriously they are paying attention to skills and capability. Skills gaps have implications for the level of cost regulations impose on the community. You are unlikely to be able to run a low-cost and high-performing regulatory regime without the right people.

Bringing the system lens to policy

So if thinking about our regulatory framework through a system lens is important, what can you do to bring this focus into policy? The answer will depend on the circumstances of each state or country. In New Zealand, we concluded that greater central leadership and coordination is needed. Four recommendations from our recent inquiries are worth touching on here.

First, the Commission felt that there needed to be one central point of accountability and responsibility in government for the regulatory system. Responsibility for designing and implementing regimes in New Zealand is scattered across a number of ministers, ministries, and other bodies. The amount of energy and effort put into regulatory maintenance can depend on the individual minister's interest, and the other pressures that he or she is facing.

New Zealand doesn't yet have a strategic approach to regulatory management, whereby higher-risk regimes are identified and prioritised for reform, capability levels across regulators are measured and programmes put in place to fill important gaps, or areas of unnecessary burdens or inefficiency are targeted for improvement.

The Commission recommended that a senior Cabinet minister be given responsibility for regulatory management as a whole. This would include setting strategies and priorities to improve the operation of the regulatory system and ensuring those strategies were carried out.

Second, in our local government inquiry, the Commission recommended that there should be stronger rules and transparency governing the decision to give local authorities more regulatory powers and obligations. The absence of meaningful dialogue between central and local government meant that local bodies were sometimes lumped with tasks they were ill-prepared to carry out, or which were not designed in a way that reflected the diversity of local communities.

The Commission proposed that central and local government should agree a protocol, clearly spelling out their respective roles and responsibilities, principles to guide how they would interact, and shared objectives.

⁸ New Zealand Productivity Commission. (2014). *Productivity Commission survey: Regulator chief executives' perceptions of regulatory regimes*. Available from www.productivity.govt.nz/sites/default/files/chief-executive-survey-report-regulatory-inquiry_0.pdf

We also recommended that central government should develop and publish a change programme that signalled areas of local government regulation that might come under review over the next 1-2 years. These two processes would reduce misunderstanding about roles, and promote more substantive discussion about the merits and feasibility of new regulatory proposals.

Third, we saw scope for greater central coordination around common inputs or issues. New Zealand's public management system is vertically-integrated, with strong accountability relationships and expectations set by ministers at the top. By and large, this system has served New Zealand well, as it can create strong incentives for performance and responsiveness to government priorities. But it can mean that opportunities to improve efficiency and collectively tackle issues of shared interest are not taken up.

Skills are one example of an issue of shared interest. Another is the potential for regulators to learn from each other's experience in enforcing regimes. Some of this sharing of practice does occur, but it tends to rely on individual relationships and good will, rather than institutional incentives. The Commission saw scope to formally support communities of practice and other collective initiatives to raise performance.

Finally, we consider that the central agencies responsible for the performance of the state sector need to take a more active role in overseeing the regulatory system. We recommended a number of improvements to central agency monitoring, including the collection and analysis of standardised performance information on the impacts and effects of regulation. This last proposal was inspired in part by the work that the Victorian Competition and Efficiency Commission has carried out since the mid-2000s, collecting and publishing common data on the performance of their State regulatory agencies.

Summing up

There are many ways to bring down the cost of regulation while lifting its effectiveness. There is potential in new and innovative approaches to regulatory management, which is why I am looking forward to hearing from other presenters today.

But there is also considerable room for gains to be made from regular maintenance of the regulatory system, and paying close attention to the condition of the components. A metaphor may help illustrate this point.

I appreciate that car production is a slightly sensitive topic in Australia at the moment, but cars provide a useful analogy for the regulatory system.

We all want a car that runs smoothly, doesn't use too much petrol, doesn't puff out too much smoke into the environment, and gets us where we want to go.

To have these things, you need to maintain your car regularly, check the oil, replace the spark plugs, and make sure the tyres have enough tread.

Coordination between the different components is critical. If your steering wheel isn't properly connected to the rest of the car, you're in trouble.

You need a driver who has had lessons, can read the road and respond to changes in the environment. You need to have one driver, not ten and it helps to have one owner, who will make sure regular maintenance work is done.

Finally, from time to time, it's worth reviewing whether the car is still meeting your needs.

Without these things, you're likely to run off the road, get lost, run out of petrol in the backblocks, or face some pretty frightening insurance bills.

Thank you.

For further information, please contact:

Catherine Jeffcoat

catherine.jeffcoat@productivity.govt.nz

T: 04 903 5160

M: 029 770 8697

www.productivity.govt.nz

Twitter: [@nzprocom](https://twitter.com/nzprocom)