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*Better business
regulation*
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Preface

Consumer Affairs Victoria (CAV) is a significant market place regulator. It administers both economy-wide and industry-specific legislation covering thousands of providers of goods and services. The agency combines both policy and regulation making functions with regulation implementation functions. CAV has been committed to achieving best practice in performing its regulatory roles.

There has been much discussion of the need to improve the processes of making regulation in recent years, but much less focus on improving the practices of regulators in implementing regulation. Experience suggests to me that often the more significant gains can be achieved by improving what regulators do rather than tinkering with what is on the statute books.

This view prompted CAV to initiate a Better Business Regulation project, the simple aim of which was to improve CAV's regulatory practices. Subsequently, the Victorian Government established a Regulation Burden Reduction initiative, which further emphasised the need to improve regulatory quality. CAV is a portfolio unit of the Department of Justice in Victoria and the Department embraced both the Better Business Regulation and Regulation Burden Reduction initiatives as key priorities in 2006-2008.

This paper describes the Better Business Regulation framework developed by CAV and the Department of Justice. It is hoped that other regulators will be able to benefit from the work we have done by applying the framework to their own circumstances and ultimately effecting improvements to their regulationppr

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The objective of the Better Business Regulation (BBR) project is to improve the way regulators operate by developing a tool (the BBR Framework) that assists in evaluating performance, identifying opportunities for improvement and developing measures to monitor performance over time.

BBR originated in a search by Consumer Affairs Victoria (CAV)

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“ *Better business regulation* ”

Context

This project is being undertaken in the context of the Victorian government's commitment to improving regulation.

The BBR project was initiated by Consumer Affairs Victoria as a way of improving the quality of its regulatory practice. It now also forms part of the Department of Justice's effort to delivering reductions in regulatory burden and improving the effectiveness of regulation. It has been a DoJ Strategic Priority for the last three years.

DoJ is focusing on regulatory improvement which includes the Government's broader commitment to Reducing the Regulatory Burden, a whole-of-government approach to reducing the administrative burdens of regulation.

The BBR project will encourage better regulatory practice and ultimately lead to better regulatory outcomes. In this regard, the BBR project will support the Reducing the Regulatory Burden initiative and improve the way regulators operate by highlighting areas for regulatory improvement.

Principles of good regulation

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² The discussion in th

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Operate regulation

Even the best regulation will result in inefficiencies and poor outcomes if it is not appropriately administered and enforced.⁶

For most regulators, the majority of their time and resources is dedicated to the operation of regulation. Indeed, for many their role almost exclusively relates to this. While again somewhat simplified for categorisation purposes, the core elements of 'operating regulation' can be distilled into five distinct activities:

- *process development*—devising systems and processes to manage the tasks involved in administering regulation
- *registration/licensing*—receiving, assessing, processing, issuing and maintaining registrations and licences
- *education/protection*—informing regulated parties, other stakeholders and the general public about relevant issues
- *monitoring compliance*—monitoring the compliance of regulated parties, and
- *enforce compliance*—enforcing the compliance of regulated parties with relevant regulations.

These are the basis for the five activities that are required in the operate stage.

Note that not all regulators operate registration or licensing as a function in their regulatory schemes.

However, it has been argued given that ~~Fig 1.17~~ ~~Rijk~~ ~~bl~~ ~~Rijk~~ ~~K'e~~ ~~Sdkh~~ ~~jijgk~~ ~~K'e~~ ~~Sdkh~~ ~~jijgk~~ ~~K'e~~

As noted above, the good practices operationalise the principles of good regulation and provide a set of standards against which current activities can be assessed (gap analysis) and opportunities for improvements identified.

Regulatory performance—or as some call it ‘regulatory quality’—is a complex notion. It links the effects of a regulatory process with the principles of good regulation. As a result it comprises notions of efficiency, effectiveness and good governance. In this way, as Jacobs notes:

... principle of better regulation provides a platform for a set of indicators on efficiency. In fact, the experience of government and international organisations indicate that a set of indicators...

⁷ Centre for European Studies 2004, *Project on indicators of regulatory quality in a report*, Bradford University/Commission for European Communities, <http://www.bradford.ac.uk/irq>, accessed 23 November 2006, p. 4.

⁸ *Ibid*, p. 4.



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The BBR framework can be applied in two modes:

a) A 'one-off' evaluation to assess a regulator's current practice against the standard of the good practices (gap analysis) to identify improvements. There is the option of repeating this periodically at medium to long term intervals, say every three years. Key steps in this type of application are:

- gap analysis
- interpret and understand reasons for gaps
- identify priority areas for improvement
- design and plan an improvement strategy
- implement the improvement strategy
- monitor results and review outcomes.

b) Ongoing monitoring of performance using the generic performance measures in terms of efficiency and effectiveness. Key steps in this type of application are:

- adapt BBR generic performance measures to the specific regulator or scheme
- determine data needs and availability (eg is current data adequate for purposes?)
- collect data
- estimate measures
- interpret measures and trends
- identify particular activities forec'cfe

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