Can regulation be reduced?

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Numerically, Australia now has more regulations than at any time since federation. If we are to pare back government interference in the economy, we need to attack more than just the national income share of government, but also the regulatory web which surrounds the decisions of people and firms. Can this regulation be reduced?

Regulation, like taxing and spending, brings about a redistribution of costs and benefits across the community.

That redistribution can bring net benefits in the case of taxing and spending—most people would see defence and the maintenance of law and order as being public goods that could not be financed except by taxation. There are also, perhaps more controversially, some areas of infrastructure that are best financed in this way.

Such positive attributes of imposing costs to bring about net benefits are less discernible in the case of regulations. Assembling information on their costs is difficult. But it is unlikely that the deadweight cost of regulation—the net negative impost on the nation's income—is less than is the case with taxation.

It is helpful in developing a strategy for the reduction of these costs to define them into different categories. The most meaningful are 'economic' regulations which prevent or impede suppliers from offering goods and services to consumers; and 'social' regulations which forbid or restrain certain activities because they may have harmful spillover effects on those not party to them.

The classic example of economic regulation is tariff protection; pollution is a traditional justification for social regulations. Often, as in the case of occupational regulations, the two rationales are mingled.

There are no economy-wide net benefits from 'economic' regulations. Protecting incumbents from competition has an unambiguously deleterious effect (except, of course, for the producers who are sheltered). Restrictive licensing or reservation of activities for government owned suppliers are hardly less deleterious.

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Many 'economic' regulations have been dismantled (including via privatisation) in the past 25 years. Tariffs have been reduced, banking opened up, domestic airline travel liberalised, shopping hours deregulated and so on.

A multitude of such regulatory restraints remains. This is seen perhaps most seriously in the regulation of land, particularly for housing. It is likely that the rationing of land around Australia in the form of planning regulations raises the price of houses in general by an average of some $100,000. As there are some eight million dwellings, this means a regulatory distortion that overvalues housing wealth by a colossal $800 billion, or a level that approaches the level of annual national income. There are many other regulatory cost impositions on housing. But for this one alone, assuming the net deadweight loss was only 20 per cent of the over valuation, over a 100 year life of the property, the net loss in income would average $1.6 billion per annum.

We also have seen a swag of new regulatory bodies which have replaced the previous prohibitions on entry into specific activities with equally damaging affect. Thus regulatory bodies intervene in decisions involving the building of new 'essential facilities' like rail lines, telecommunications lines, ports, and pipelines. And they do so by determining a fair price for third parties to use the facilities. The net effect is to markedly reduce incentives to build new infrastructure, which can in some cases—such as with telecommunications facilities—lead to the government having to undertake the activity itself.

Finally there is the raft of regulatory measures designed to combat the so-called externalities. These are dominated by environmental measures requiring savings in land use (an element behind the planning laws), water and, above all, carbon dioxide emissions. Also significant in these regulatory measures are those concerning workplace safety, and health and welfare.

Chris Berg's *The Growth of the Regulatory State: Ideology, Accountability and the Mega-Regulators*, published by the Institute of Public Affairs in February 2008, quantifies the growth in Australian state and federal regulation. In line with common international experience the increase has been unrelenting. This is notwithstanding the political rhetoric about reducing regulation and red tape; a brand new batch of which is currently being fermented by Prime Minister Rudd. The fact is that, with few exceptions, regulations derive from political processes—they are there not because of some bureaucratic process divorced from the parliament but because the parliament and cabinet has encouraged them.

Strategies for reducing regulation fall into two camps.

The first, a 'bonfire of the rules', can be conducted in two ways. The route used in Australia and overseas in recent years has been sun-setting regulations and requiring them to be re-enacted after due consideration once a specified number of years has passed. Though this might have had some effect it is minor considering the magnitude of the task.

But a more successful regulation bonfire was the long and systematic culling of regulations that took place in England in the 200 years to the 1870s. It resulted in repealing four-fifths of the acts of parliament passed from the thirteenth century.

Arguably, this was a progenitor and perpetuator of the industrial and commercial revolutions that have created the current living standards of the world today. But it required an enduring political will based on a general faith in market processes and scepticism about political processes.

The second strategy involves the creation of road blocks to further regulatory excess. In the Commonwealth and in Victoria, well resourced and expert bodies have been created to act as an obstacle to ill-thought through regulatory proposals or proposals that are not underpinned by government decisions. Refinements such as one-regulation-in, one-regulation-out are under consideration.

These require regulation impact statements and reports to demonstrate the efficiency of the proposals. Though they involve some additional resources and may well delay the imposition of new regulations, the outcome has not caused a slowdown in regulatory pace.

Regulations increase or decrease in response to their political acceptance. In Australia there may well be strong support for eliminating 'economic' regulations covering price controls, selective subsidies and barriers to competition. This area has been where the great gains have been made in Australia in recent years but, even so, there has been some backsliding with recent pro-regulatory terms of reference given to reviews of motor vehicles and clothing and some pressure to re-regulate the labour market.

There seems to be little disposition to reduce the 'social' regulations that have seen the most rapid growth in recent years. Growth in environmental, Worksafe and consumer regulation has been explosive over the past three decades and a vast new panoply of these regulations is foreshadowed in the carbon dioxide emission controls.

Reducing Australia's regulatory burden will take political will, but, despite the Rudd government's deregulatory rhetoric, this will seems absent.

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What next?