

SMART REGULATION: a global challenge for policy makers

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<http://smartregulation.net>

Smart regulation is currently the most advanced set of principles and tools to help policy makers ensure that they make the most effective and transparent use of regulation in pursuit of their policy objectives. This short article gives an overview of its development over the last 10 years, closing with a panorama of best practices from around the world.

From regulation to smart regulation

Regulation is a principle, rule or condition that governs the behaviour of citizens or enterprises. It is used by public authorities, in combination with other instruments such as public services, taxation, program delivery, incentive schemes to achieve public policy objectives such as health, safety and socio-economic well-being of citizens and protection of the natural environment. It can be used to ensure a fair and efficient marketplace for industry and consumers and create a climate conducive to trade and investment.

Regulatory policy creates the conditions for policy-making and legislative drafting. It requires a statement of intent, resources, administrative arrangements, design and implementation processes, publication procedures. It is judged by its relevance, efficiency and effectiveness, also termed “quality” and “performance.”

Better Regulation (BR) and Smart Regulation (SR) are designations among others for specific regulatory policies seeking quality and performance of regulation from design to implementation, consistent with other public policies

Context for the [rise of regulatory policies](#)

More efficient regulation is part of a wider movement for more efficient government. It originates both from the determination to improve the quality of public services and a need for reducing the “footprint” of government.

The first policies often sought to reduce the number of texts (deregulation), with quantitative targets to “free the economy” (examples: the US, Australia and NZ in the 1980’s). Part of this trend remains in some countries, like the UK and others (“Reducing Regulation” policy.)

But this approach seemed to give too little recognition to the benefits of regulation, and a more balanced approach, using regulatory reforms, was developed in the late 1990’s to emphasize quality and performance of the rules, rather than reducing their number. Several countries adopted the label “Better Regulation” (BR), followed by the European Union (2001) for this type of policy, with many variations in content (see table 2 below).

Definitions of Smart Regulation

Smart regulation (SR) can be viewed as a further improvement on BR. There are only two clear cases where this term has been officially used:

1/ [Canada](#), in 2003-2004, sought “more effective, responsive, cost-efficient, transparent and accountable” regulation.

2/ the [European Union](#): building on its BR policy in force since 2002 and the criticism that it has been too geared towards reducing administrative obligations on business,

the Barroso Commission proposed, for its second term a revised policy, applicable also in the 27 Member States, characterized by:

- a “life-cycle” approach covering design to ex post evaluation, and
- the parallel pursuit of economic objectives (competitiveness, growth) and the preservation of quality of life or the social model.

What makes regulation “smart”? Two things: the emphasis on outcomes (effective delivery), and real involvement of people concerned.

For the rest of this article, the term Smart Regulation refers to this most advanced and comprehensive type of regulatory policy.

Benefits of Smart Regulation

The need for quality regulation arises from the recognition that well crafted regulations can:

- improve competitiveness;
- facilitate market openness;
- improve living standards;
- protect the environment;
- Improve transparency and
- support the rule of law.

How to move to smart regulation

Adopt your own definition

Once a degree of political backing for regulatory reform is present, the first stage is to define an attractive policy suited to national circumstances. Discussion can profitably start by defining principles that fit the national strategic objectives while respecting domestic regulatory traditions. To start the discussion, foreign examples (see table 1) can be examined, with some background concerning their use and implementation.

Table 1: A selection of regulatory principles

UK (1998)	EU (2001) (Mandelkern report)	Canada (2004)	OECD (2012)
<ul style="list-style-type: none">• Proportionality• Accountability• Consistency• Transparency• Targeting	<ul style="list-style-type: none">• Necessity• Proportionality• Subsidiarity• Transparency• Accountability• Accessibility• Simplicity	<ul style="list-style-type: none">• Effectiveness• Cost-efficiency• Timeliness• Transparency• Accountability	Recommendation on Regulatory Policy and Governance (2012) Contains 12 principles

Introduce the tools of smart regulation

Despite the variety of SR policy contents, there is general agreement on the tools of SR:

- regulatory impact analysis;
- measurement and reduction of administrative burdens;
- simplification of existing legislation and regulation, including consolidation, codification;
- consultation of stakeholders ;
- ex post evaluation ;
- access to legislation.

Promote the new approach

The policy must be an inspiration to regulators throughout government, and beyond, in independent regulatory authorities. An appropriate label such as smart regulation, cutting red tape, adapted to major national concerns and culture (see a sample of names from around the world in table 2) can be helpful.

A training program must also be devised to disseminate among officials knowledge and practice of SR concepts and tools and bring about a gradual change of culture, to move from a process-oriented to a product-oriented workflow, with the concern for quality and performance.

Challenges entailed

All government policies meet some resistance, but SR specially targets deep-rooted customs and expertise within administrations; it can question the way governments function, their excessive reliance on regulation as an instrument for delivering policy, the over- production of new norms when the current ones are not well implemented,. But the worse challenge is often the erroneous identification of SR with specific agendas: because rules often seem to protect values or interests, their disappearance is often opposed, and the search for competitiveness viewed a goal serving only special interests. Information efforts should stress that SR is technically, not ideologically driven, that it only seeks efficiency in delivery of public policies and that more consultation of stakeholders and the general public increases the transparency of public decisions and accountability of officials.

Table 2: examples of better/ smart regulation policies around the world
(Asterisk indicates best practice reference)

Country	Designation	Most original objective or content	Notable Institutions or tools
US	Regulatory Reform	*Regulatory review, CBA, *challenge function	OIRA Executive Order
UK	Better Regulation (1998), Reducing Regulation (2010)	* Principles ; Policy statement , *RIA, * one-in one-out *local delivery; consultation	BRE BRDO
Canada	Smart Regulation (2003)	*Multi-level coordination, international dialogue	Treasury Board
France	Qualité du droit	* Quality legal drafting ; curbing overproduction of norms, SME policy;	Conseil d'Etat Legifrance
Germany	Reducing bureaucracy	Reduction of * regulatory costs	Normenkontrollrat
Netherlands	Regulatory reform	* Reduction of administrative burdens , e-company	ACTAL
Belgium	Human Rules	*Small scale solutions to practical problems	
Italy	Normative simplification	Legal simplification	* “taglia leggi” procedure
Egypt	Regulatory Reform	e-registry	ERRADA
Australia	Best practice regulation	* Deregulation Policy	Productivity Commission
Russian Federation	Regulatory Reform	RIA	BR Council (tbc)
Mexico	Regulatory Reform	Red Tape, sub-national BR	COFEMER
Taiwan, China	Regulatory Reform	National competitiveness, *Doing Business ranking	
EU	Better Regulation (2002) Smart Regulation (2010)	*RIA, Streamlining <i>acquis communautaire</i> , cutting red tape , * consultation , *ex post evaluation (2010)	IAB , Stoiber Group
OECD	Regulatory Governance	Reviews of national capacities	Recommendation for regulatory policy
World Bank	Regulatory Reform	Improving business and investment climate	Doing Business report

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