

Multiple challenges: different defaults

**Regulators and the regulatees:
being friendly without being cozy?**

Francisco Gaetani – Brazil

Deputy Vice Minister of Planning, Budgeting and Management

Regulatory Policy at the Crossroads

Towards a New Policy Agenda

OECD – Paris October 2010

National State Building ... yet But Different Regulatory Ages

- Line Ministries: work in progress
- Regulatory agencies
- Judiciary establishment: hesitant
- Economic team: suspicious
- Political environment: ambiguous
- Regulatory agencies: distinct generations
- Regulatees: a variety of competition regimes
- Citizens: infant power

Recent and current moves

- Commitment of the Chief of Staff Ministry with the regulatory policy agenda
- IADB capacity development program
- Professionalization of regulatory agencies
- Organization of careers and processes
- Replacement of provisional functionaries
- Organization of the agencies in a forum
- Executive project to be voted by the Congress

Where do the risks of capture of the regulatory agenda come from?

- Private companies
- Bureaucracies
- Politicians & political appointees
- Economic team
- Consumers in general

What are the main difficulties faced by the government?

- Absence of a coordination locus
- Institutional building (line ministries)
- Intergovernmental coordination (e.g. water)
- Capacity development (agencies and ministries)
- “Producing” expertise in the short run
- Handling competition (different markets are organized in distinct ways)
- Arbitrage of autonomy (fuzzy borders)
- Coalition building constraints (politics matters)

Contested Issues

- Funding mechanisms
- Performance agreements
- Profile of directors
- Industrial organization
- Dealing with State Owned Enterprises
- Interacting with Watchdogs
- The role of the Judiciary
- Global and technological trends
- Systemic matters (environment, social movements, indigenous people)

What blocks the governmental moves?

- Political ambiguity
- Doubts about the role of S.O.E.s
- Lack of specialized expertise
- Situation of parental ministries
- Executive coordination (inter ministerial and inter governmental)
- Difficulties in monitoring and anticipating technological changes (speed & directions)
- Coordination problems (especially in inter-related markets such as oil/gas/power, telecoms/TV/cable and others)

The search for governmental efficiency

Conceptual confusions

- Efficiency as law abiding
- Efficiency as fundraising power
- Efficiency as expenditure potential
- Efficiency as capacity to deliver
- Efficiency as political responsiveness
- Therefore ... Efficiency is not embedded in governmental institutional arrangements

If efficiency is not at the centre of calculus and procedures ...

- Government tends to be reactive and/or erratic
- Pricing becomes a confusing game
- The investments' policy gets affected
- Governmental intervention tends to distort market mechanisms
- Other variables tend to become dominant (e.g. social objectives, implicit subsidies, vested interests, competition barriers ...)

The role of the watchdogs

- Dealing with information opaqueness
- Mitigating capacity asymmetries
- Facing increasing politicization
- Distortion of risk management behaviors
(bureaucratic aversion x political propensity)
- Developing technical dialogue
- Providing public parameters
- Building regulatory regimes

What are the next steps?

- Tackling the coordination challenge (What course of action the new government will take?)
- Supporting the development of institutional capacities within a policy community perspective (e.g. sharing understanding and promoting dialogue)
- Strengthening specialized approaches in the context of multiple sectoral discussions
- Handling the cognitive tension (e.g. economists, lawyers, engineers, managers etc) and making the best of it
- Focusing on improving real competition in markets (taking into account the international moves and trends)
- Intensifying international policy dialogue

Envisaging an atrophied agenda

- How to deal with environmental challenges?
- Are our instruments designed to promote financial regulation suitable to the current status of global finance?
- What sort of risk management approaches should we consider adopting and where?
- How are we supposed to handle technological obsolescence in institutional institutional terms?
- How to manage regulatory policies in a federalist context in which governance mechanisms are not properly settled yet?

The Event Agenda

- How can governments strengthen the public-private interface in regulatory matters, limiting the risk of regulatory capture and addressing broader challenges of regulatory governance?
- How can client-friendly regulatory processes and compliance mechanisms improve efficiency while preserving the integrity and efficiency of the regulatory framework?
- How can commitments to changing the regulatory culture translate into actual results, fostering client-centered approaches?