

Chapter 1

Strategy and policies for Better Regulation

Regulatory policy may be defined broadly as an explicit, dynamic, and consistent “whole of government” policy to pursue high quality regulation. A key part of the OECD’s 2005 Guiding Principles for Regulatory Quality and Performance is that countries adopt broad programmes of regulatory reform that establish principles of “good regulation”, as well as a framework for implementation. Experience across the OECD suggests that an effective regulatory policy should be adopted at the highest political levels, contain explicit and measurable regulatory quality standards, and provide for continued regulatory management capacity.

Effective communication to stakeholders is of growing importance to secure ongoing support for regulatory quality work. A key issue relates to stakeholders’ perceptions of regulatory achievements (business, for example, may continue to complain about regulatory issues that are better managed than previously).

Governments are accountable for the often significant resources as well as political capital invested in regulatory management systems. There is a growing interest in the systematic evaluation of regulatory management performance – “measuring the gap” between regulatory policies as set out in principle and their efficiency and effectiveness in practice. How do specific institutions, tools and processes perform? What contributes to their effective design? The systematic application of *ex post* evaluation and measurement techniques can provide part of the answer and help to strengthen the framework.

E-Government is an important support tool for Better Regulation. It permeates virtually all aspects of regulatory policy from consultation and communication to stakeholders, to the effective development of strategies addressing administrative burdens, and not least as a means of disseminating Better Regulation policies, best practices, and guidance across government, including local levels. Whilst a full evaluation of this aspect is beyond the scope of this exercise and would be inappropriate, the report makes a few comments that may prove helpful for a more in-depth analysis.

Assessment and recommendations

Development of Better Regulation strategy and policies

Ireland has made considerable progress since the 2001 OECD report. In relation to nearly all of the issues raised in that report, there has been movement, often significant. A milestone was the 2004 White Paper “Regulating Better” which set out six key-principles

of Better Regulation and an agenda of 50 actions grouped around five headings. This remains the blueprint for further work. A progress report by the Department of the *Taoiseach* in 2007 demonstrates a breadth and persistence of efforts across a broad front which compares well with many other EU countries over the same period. The issues which have been, and continue to be, tackled include: regulatory impact assessment; simplification and accessibility of the law; administrative simplification; public consultation; a framework for the effective functioning of regulatory agencies; and a stronger framework for the management of EU regulations. There are also initiatives to address enforcement and compliance. This agenda remains a work in progress, and is subject to regular reviews.

A set of principles is now in place to guide developments, on which Ireland is developing its policy for Better Regulation, driven from the centre of government. The principles – necessity, transparency, consistency, accountability, effectiveness, and proportionality – cannot be faulted. They represent a clear statement of intent, which is still lacking in some other EU countries.

An important achievement has been to raise general awareness of Better Regulation, both within and outside the administration, but active support remains fragile. General awareness is high as a result of the initiatives of the Better Regulation Unit within the Department of *Taoiseach*, the High-level Group on Business Regulation (which gathers external stakeholders and the administration), and the large number of reports issued on Better Regulation policies. It is not complete, however. The detailed picture across departments and beyond reveals that it is patchy and that “buy in” (the next step beyond awareness) is far from complete. Some parts of the administration do not yet fully support the objective and downplay the importance of Better Regulation. However interviews, more positively, also suggested that the business community is anxious for more effective regulatory management and has a good grasp of its importance as well as the detail of what is needed.

The challenge at this stage is to mainstream Better Regulation more fully into the fabric of policy and rule making, and to encourage political support, post crisis. Better Regulation remains a poor relation of other priorities such as public service modernisation and fiscal consolidation. However regulatory policy has considerable links with the effective achievement of those policies. This needs to be drawn out and communicated. There is also a need for political sponsorship. In the meantime, a relative failure to reflect on the connections limits capacities to deliver (it is difficult to engage departments, and to secure necessary resources). Raising support beyond the inner-circle of Better Regulation champions is essential. This will require a (re) articulation of the link between Better Regulation and a stronger economy and society, to prevent senior officials and politicians from staying in the perspective that “the real issues lie elsewhere”.

Recommendation 1.1. Review the way in which the Better Regulation is presented within the administration, drawing out more clearly the potential links with the agenda for post crisis recovery (not just business competitiveness, but also structural and sectoral reforms, including the financial sector, the transformation of the public service, and stronger citizen engagement in policy and rule making.

The gap between principles and practices often remains wide. Ireland is confronted with the classic difficulty (common to most countries) of converting principles and strategy into reality. Thus *ex ante* impact assessment is now supported by well designed tools and processes, but actual results fall short of expectations. The longstanding issue of simplifying the complex stock of legislation is universally understood, but despite progress

over the last decade, much remains to be done, and the work is (relatively) under-resourced which slows progress. The administrative burden reduction programme was, at least until quite recently, moving forward quite slowly.

The Better Regulation agenda may require some rebalancing and a linked effort to structure it around priorities over time. The Better Regulation agenda in Ireland has a broad scope by EU standards. Whilst Ireland has broadened its perspective from a relatively narrow focus on red tape, relatively little attention is given to the broader needs of citizens, society and public service improvement, and to issues of sustainability. Local authorities are largely out of the loop at this stage, although there are some valuable initiatives. At the same time, limited resources imply the need for prioritisation of activities over time.

Recommendation 1.2. Review the scope and balance of the current Better Regulation initiatives. Prioritise the work over time, perhaps through an anticipated programme of activities to take the agenda forward over a five year time horizon.

Communication on Better Regulation strategy and policies

The communication strategy has succeeded in the first phase of awareness raising, but needs to be updated and refreshed. The BRU notes that the key initial challenge was the need to increase awareness of Better Regulation among internal and external stakeholders. This can be considered a “mission accomplished”, aided by the prominence of the Department of the *Taoiseach*. A second stage has opened up, partly because the tools and processes are now largely in place, requiring a different kind of communication, but also to fit the post-financial crisis environment and a desire on the part of interested stakeholders for more attention to be paid to the promotion of a fairer society and reduce the “democratic deficit”, alongside the traditional emphasis on economic aspects. There are significant pockets of enthusiasm for Better Regulation both within and outside the administration, whose views on what needs to be communicated could usefully be tapped. Communication at this stage needs to be more pro-active, going beyond reports and websites. It also needs to highlight the progress made. As one stakeholder put it, “the government has not spelt out what it has achieved”. For example, the BRU website focuses on the different reports and documentation on Better Regulation initiatives. This does not do enough justice to significant achievements (for example, the progress on legislative simplification). The BRU website itself needs to be publicised.

Recommendation 1.3. Review and update the communications strategy, if necessary with specialist help. Ensure that post financial crisis, the messages on what Better Regulation can deliver are focused and clear. Make sure that for specific initiatives where there has been significant but perhaps unnoticed progress such as simplification, full and public credit is given to achievements. Consider an annual report for the Better Regulation Unit of the Department of the *Taoiseach*, as a vehicle for this and for publicising priorities and the forward programme, to be published on a regular basis and shared with the Parliament.

Ex post evaluation of Better Regulation strategy and policies

Taking stock of what has been done is well embedded in the administrative culture, follow through is not so strong. Ireland compares favourably with a number of EU countries in its willingness to evaluate the development of Better Regulation processes. The number of high-quality reports produced over the last few years is impressive by

OECD standards. Reports actively seek to identify areas for improvement and to make focused recommendations of practical value. The real challenge in the Irish context is to act on the results of these evaluations. Reports tend to accumulate and to some extent reflect a forward movement that is more about appearance than reality. Performance could be strengthened by using more measurable targets, which is not yet fully embedded in the administrative culture. “Public exposure supports higher standards” as one stakeholder put it.

Recommendation 1.4. Devise a follow-through strategy to evaluations. Set targets for further improvements, publicise these and publicise achievements against targets.

E-Government in support of Better Regulation

E-Government is being used to good effect in some areas, and the broad strategy has been given a renewed impetus. E-Government is a key supporting element of Better Regulation. The OECD peer review team were not able to review this aspect in any detail. It is clear, however, that ICT is being used to good effect to support some key Better Regulation processes such as administrative simplification, the development of a web based Statute Book, and new Internet based forms of public consultation. The link between e-Government and Better Regulation is a significant driver for Better Regulation initiatives in many EU member states and the link could be developed further in Ireland. Since the OECD mission, the Government established a new e-Government strategy and announced the intention to appoint a Chief Information Office (CIO). The renewed impetus with the publication of the e-Government strategy provides the opportunity to make a clear strategic and institutional link to the Better Regulation agenda.

Recommendation 1.5. Continue to give e-Government greater visibility, a firm strategy and strong champions, as well as closer links with the Better Regulation strategy. Strengthen the working links between the Department of Finance, the BRU and the DETI.

Background

Economic context and drivers of Better Regulation

The OECD’s 2010 Economic Survey of Ireland recorded that growth in GDP per capita had been among the highest in the OECD until the current downturn. In the wake of the financial crisis, the economy plunged into a severe recession in 2008. The sharp slowdown in activity contrasts with the rapid expansion from 2002 to 2007. The downturn has revealed a weak underlying fiscal position. The authorities have already taken important steps to restore stability, but more will need to be done and the adjustment will be prolonged. Major economic and policy adjustments are now taking place to address the situation. Better Regulation has an important part to play in this process.

Unwinding macro-economic imbalances and restoring financial stability

This requires, among other measures, restoring international competitiveness, and reforms of financial regulation and supervision. Strengthening and sustaining competitiveness, and promoting greater competition within the domestic economy (these are mutually reinforcing policies) is a persistent theme of OECD reports on Ireland.¹ A stronger domestic economy is not only important in its own right but will help to support

Foreign Direct Investment. Competition in some key sectors such as telecommunications and transport has some way to go. SME growth needs to be encouraged. These policies depend, at least in part, on effective regulatory frameworks. A particularly direct benefit of Better Regulation is to support SME growth by addressing business competitiveness issues for SMEs, through the removal of unnecessary regulatory burdens, the prevention of new ones, and easier access to clear legislation.

The financial and banking crisis has revealed a number of weaknesses in the regulatory and supervisory framework (both in Ireland and internationally). The main supervisory issues were weak enforcement of the rules, and the enormous risks taken by heavy reliance on market funding and the scale of exposure to housing and other real estate lending. A major shift in the model of supervision is now underway, and the governance of the financial regulator is being enhanced. The OECD's Economic Survey recommends that additional resources should be allocated to banking supervision, the ability of the supervisor to monitor major institutions should be enhanced, and analysis of developments in the banking and financial markets should be improved.

Regulatory as well as policy failures were a fundamental factor underlying the current downturn. This implies that beyond the sector specific actions that are needed in complex sectors such as banking, the application of general regulatory policy principles such as *ex ante* impact analysis of regulations, public consultation and robust institutional frameworks need to be vigorously promoted. Effective *ex ante* impact assessment, for example helps to pinpoint the costs as well as the benefits of regulatory proposals, including the possibly unintended consequences of proposals.

Securing fiscal sustainability and reducing public expenditure

The OECD's Economic Survey notes that the structural shift in the budget deficit can be traced in major part to a strong and continuing rise in public spending. A Special Group on Public Service Numbers and Expenditure Programmes, was set up to identify the scope for spending cuts. Its July 2009 report identified a wide range of measures, both specific spending cuts and more general improvements in public sector processes and efficiency. The report places a strong emphasis on raising public service efficiency and improving expenditure management, in line with the recommendations of the 2008 OECD review *Towards an Integrated Public Service*. In response to that review, the government created a high level Task Force to prepare a comprehensive framework for renewal of the public service. The report of the Task Force and a government statement on "Transforming Public Services", published in November 2008, led to a number of processes and actions aimed at transforming of the public service.

Better Regulation is supportive of fiscal consolidation, as it can help to make the public sector and public services more efficient, including through the use of e-Government to reduce paperwork inside the administration, reviewing policy on enforcement including a risk-based approach, and reducing the number of agencies. Better Regulation also helps to strengthen the institutional fabric of the public service, for example, by identifying ways in which the framework within which government agencies operate can be improved.

Achieving long run sustainable growth, through competition and competitiveness

The OECD notes that policies are already favourable to competition in many respects, but market forces are weak in the network industries and parts of the service sector, which affects Irish competitiveness. In some sectors, such as the network industries, regulatory reform is an essential part of the reform process. A faster pace of reform in the most regulated economies implies that Ireland is now close to the OECD average, despite some

further liberalisation of Irish markets. It is relatively easy to establish a new business, administrative burdens are fairly light and it is easy for foreign firms to enter the Irish market. However, the burden of different licences and permits is relatively heavy, the government remains heavily involved with providing infrastructure, and barriers to entry in the network industries remain higher than the OECD norm. Competition in some other sectors, for example, professional services, is generally low, due to a number of restrictions to entry and price competition.

The Irish perspective on Better Regulation

A positive perspective of what Better Regulation can bring to the economy and society is already evident in Ireland. The Smart Economy Strategy (Building Ireland's Smart Economy – a Framework for Economic Recovery, published in December 2008) includes "Smart Regulation" among its five key action areas. The 2009 report of the National Competitiveness Council sets out the competitiveness challenges facing Ireland, which include ensuring that the regulatory environment is business friendly and that business costs do not increase (Box 1.1).

Box 1.1. The National Competitiveness Council and Ireland's competitiveness²

The National Competitiveness Council was established by Government in 1997, reporting to the *Taoiseach* on the competitiveness issues facing the Irish economy. It publishes an annual report in two parts: benchmarking Ireland's performance, and setting out the main challenges to Ireland's competitiveness.

The 2009 report notes that Ireland's competitiveness improved over the previous year. However improvements largely reflected the sharpness of the recession rather than competitive advantages arising from structural change.

Among the challenges highlighted were:

- The need to reduce the costs of doing business.
- Limited competition in locally traded sectors of the economy, which seriously affects the costs of doing business, and the consequent need to remove barriers to competition in these sectors.

However, Better Regulation can do more and go deeper in support of economic and societal goals than is currently evident from the government's strategic policy documents. Some OECD economies are enhancing efforts at Better Regulation based on an understanding of its importance not only for business competitiveness, but also for effective structural reforms, a more efficient government, and happier citizens. The Better Regulation Unit is part of the Public Modernisation Division in the Department of the *Taoiseach*, a location which partly reflects the difficulty of persuading other parts of the government of the broader importance of Better Regulation and hence a certain reluctance to play an active role alongside the Department of the *Taoiseach* as champions of this policy. Beyond an inner-circle, interviews suggested that there is some scepticism among senior civil servants and politicians over the link not only between Better Regulation, competitiveness and a stronger SME sector, as well as broader reforms. Several officials highlighted the vulnerability of the policy, suggesting that "the real issues lie elsewhere". There is an institutional and policy need to "join up" specific regulatory reforms with the horizontal regulatory work of the Department of the *Taoiseach*.

Better Regulation can also help to support buy-in and implementation of reform. Effective approaches to public consultation and communication is a key part of the Better

Regulation toolkit. The horizontal work on these issues spearheaded by the Department of the *Taoiseach* needs to be more adapted for those sectors that particularly require robust regulatory frameworks. This is not just a question of how individual laws and regulations are processed, but of the overall coherence of the regulatory framework in systemically important but potentially vulnerable sectors, and its support for the underlying policy objectives for these sectors.

Ireland pays considerable attention to international benchmarking in order to move forward, as evidenced by its participation in the EU 15 project of the recent international comparative review of economic regulators, and its willingness to be reviewed by the OECD on its public service to see how this compared with practice elsewhere.³ The EU agenda for Better Regulation has played a role in the establishment of a programme for the reduction of administrative burdens. The EU, however is not the only benchmark for a country that sends over half its exports to non-EU countries.

Developments in Ireland's Better Regulation agenda

The Better Regulation agenda initially emerged in close association with reforms of the public service. With the launch of the Strategic Management Initiative (SMI) and the publication of the government policy document Delivering Better Government (DBG), regulatory quality became an explicit policy objective of the Irish government in the mid-1990s. The 1994 SMI drew from the 1965 Devlin Report and the 1985 White Paper, which had previously attempted to reform the public service and introduce new public management concepts and policy tools.⁴ The SMI emphasised the delivery of a quality service to the public. A cornerstone of the reform, as further specified in the DBG issued in 1996, was the principle of a simplified and fair regulatory environment. This led to an action programme Reducing Red Tape in 1999, which outlined three key actions: simplification of administrative procedures; consultation with stakeholders; and coherence and accessibility of legislation.

The next major milestone was the publication of the White Paper Regulating Better in 2004 following a broad consultation process, which was promulgated directly by the *Taoiseach* (as have other Better Regulation reports) and outlined a comprehensive action plan for Better Regulation in Ireland. The White Paper followed the 2001 OECD report, which acknowledged that considerable progress had already been made in the regulatory field, but highlighted that a wide range of regulatory reforms were still required if the country was to overcome current and emerging economic and competitiveness challenges. The report called for stronger disciplines on regulatory quality in departments and offices, and in particular recommended the development and implementation of regulatory impact analysis in the Irish law making process. The White Paper set out key principles for Better Regulation and outlined an action plan of 50 key actions under five main headings (Boxes 1.2 and 1.3). This remains the blueprint of the government agenda for Better Regulation.

Box 1.2. The 2004 Action Programme for Better Regulation

The 2004 White Paper *Regulating Better* defines key principles for Better Regulation and spells out a programme consisting of 50 actions. For each action, the programme specifies the principle it is referring to, the office or department in charge of the action and a deadline.

The White Paper in its introduction is clear about the need for Better Regulation: "We need a White Paper on Regulation, mainly because of the impact which regulation has on national competitiveness. We also need it because regulation affects the quality of everyday life. This includes the quality of our

food and water, the safety of our workplaces, as well as the range of products and services available to us and the price we pay for them. The White Paper explains that the principles will improve competitiveness. Competitiveness is a relative concept and Ireland must constantly seek to improve its position *vis-à-vis* other economies. Inappropriate regulation can adversely affect the competitiveness of the economy. For example, public services must not become snarled up in red tape. Businesses must not be made to carry the dead weight of unnecessary or unduly restrictive regulation. We must not stifle competition or innovation through regulation that promotes or protects inefficiencies in the economy.

The 50 actions are structured under five main headings:

- **Actions relating to legislative process and statute law revision** (pre-1922 legislation, statutory instruments, process of legislative drafting, information on new legislation, amendment of existing legislation, improved access to legislation, use of statute law revision tools, scrutiny of EU legislation, interaction with customers).
- Actions on RIA and evidence-based policy-making.
- **Actions on institutional change and review** (e.g. regulatory review of sectors of the economy, building on existing capacity, establishment of a Better Regulation group).
- **Actions on sectoral regulators/sectoral issues** (including accountability, strengthening structures, improving approach to appeals of decisions by sectoral regulators).
- **Actions on regulatory procedures and processes** (consultation, alternatives to regulation, administrative procedures, penalties, public service obligations, case management).

Source: Department of *Taoiseach* (2004), White Paper Regulating Better.

The Department of the *Taoiseach* published a progress report in 2007 (Box 1.3), which shows a breadth and persistence of effort across a number of fronts, relative to the more restricted developments in some other EU countries over this period.

Box 1.3. Progress report on the 2004 Action Plan

The report considers progress under five headings:

- **Legislative process and statute law revision.** The Better Regulation Group steered a programme to revise and modernise the Irish Statute book. The work is ongoing.
- **RIA and evidence based policy making.** A pilot RIA was introduced, which has now been developed into a fully fledged process, including guidelines and training.
- **Institutional change and review.** Consumer interests have been promoted. There has been substantial interaction with EU level Better Regulation processes, and with the OECD for peer review and benchmarking Ireland's performance. Sectoral reviews have consolidated and modernised financial services legislation. A "regulatory mapping" exercise was done (list of all public and private sector bodies that have a regulatory function underpinned by statute).
- **Sectoral regulators and issues.** Contacts between sectoral regulators have been strengthened. A public consultation was launched on regulatory appeals and penalties.
- **Regulatory procedures and processes.** Consultation guidelines have been established and e-consultation promoted.

The first substantive efforts towards Better Regulation (going beyond the red tape initiatives of the 1990s) started a decade ago, with a systematic building up of processes to

give effect to the principles set out in the 2004 White Paper. An important line of recent action has concerned the operation of economic regulatory agencies.

Table 1.1. Milestones in the development of Better Regulation policies in Ireland

2001	<ul style="list-style-type: none"> • OECD review of regulatory reform in Ireland is published. • Public consultation document <i>Towards Better Regulation</i>.
2004	<ul style="list-style-type: none"> • Government White Paper, <i>Regulating Better</i>, sets six principles for Better Regulation and how to take these forward. • Pilot of Regulatory Impact Analysis (RIA) commenced.
2005	<ul style="list-style-type: none"> • Government Decision to implement RIA across all Government Departments. • Launch of Guidelines on RIA produced by the Department of the <i>Taoiseach</i> Better Regulation Unit. • Launch of Guidelines on public consultation produced by the Department of the <i>Taoiseach</i> Better Regulation Unit.
2006	<ul style="list-style-type: none"> • The Department of the <i>Taoiseach</i> commissions the Economic and Social Research Institute (ESRI) to conduct a comprehensive study of business attitudes to, and experience of, regulation (published in 2007). • Consultation paper on regulatory appeals.
2007	<ul style="list-style-type: none"> • Report of the Business Regulation Forum which recommends setting a 25% reduction target in administrative costs and identifies key areas of regulation for administrative burden reduction. • Commencement of the Review of the Operation of RIA.
2008	<ul style="list-style-type: none"> • High-level Group on Business Regulation publishes its first report. • OECD review of Irish public service is published. • Government commits to reduce administrative burdens on business by 25% by 2012.
2009	<ul style="list-style-type: none"> • Government Statement on Economic Regulation sets principles and practical arrangements to strengthen economic regulators, potentially applicable to all regulators (government agencies). • Revised RIA Guidelines published.
2010	<ul style="list-style-type: none"> • Online tool went live for “Introduction to RIA”. • <i>Taoiseach</i> chairs the first Annual Regulatory Forum.

Guiding principles for the current Better Regulation agenda

The 2004 White Paper, *Regulating Better*, sets out six principles of Better Regulation. These principles are: necessity, transparency, consistency, accountability, effectiveness, and proportionality (Box 1.4). They serve as a basis for the programme of actions for Better Regulation outlined in the White Paper, as each of the actions is linked to one or several of

these principles. This is a clear statement compared with many other EU countries, which do not yet have a set of principles to guide their Better Regulation work.

Box 1.4. Irish principles of Better Regulation

- **Necessity.** Is the regulation necessary? Can we reduce red tape in this area? Are the rules and structures that govern this area still valid?
- **Transparency.** How have we consulted with stakeholders prior to regulating? Is the regulation in this area clear and accessible to all? Is there good back-up explanatory material?
- **Consistency.** Will the regulation give rise to anomalies and inconsistencies given the other regulations that are already in place in this area? Are we applying best practice developed in one area when regulating other areas?
- **Accountability.** Is it clear under the regulation precisely who is responsible to whom and for what? Is there an effective appeals process?
- **Effectiveness.** Is the regulation properly targeted? Is it going to be properly complied with and enforced?
- **Proportionality.** Are we satisfied that the advantages outweigh the disadvantages of the regulation? Is there a smarter weight of achieving the same goal?

Main Better Regulation policies

Key initiatives have included:

- **Promotion of Regulatory Impact Analysis (RIA).** Introduction of RIA was one of the key commitments taken by the government in the 2004 White Paper *Regulating Better*. This was done across all government departments and bodies in 2005, following a pilot phase. The Department of the *Taoiseach* issued guidelines in 2005 and developed further efforts to provide practical assistance and to increase awareness and understanding of RIA across departments. In 2008, it commissioned a review of the operation of RIA and consequently revised the guidelines to tackle the implementation issues identified in the review. The RIA policy has thus moved from focusing on introducing the system across departments (and providing support in this process) to ensuring effective implementation (for more see Chapter 4).
- **Law simplification and accessibility.** This encompasses Statute Law Revision, Restatement and Consolidation. Making legislation more coherent and more easily accessible has been a key dimension of Better Regulation. While the challenge of dealing with a complex stock of legislation is not unique to Ireland, historical and governance specificities in Ireland have made it particularly acute. In 2004, the Irish government committed to implementing a programme of Statute Law Revision to repeal obsolete regulations pre-dating independence (1922). Three general laws have been enacted since then, the latest in 2009, which have made major strides in repealing pre-independence legislation. In addition, other acts, dealing with specific areas, have repealed some of the remainder. The restatement programme is another initiative to simplify legislation by incorporating all amendments made to selected acts into a single text. Major projects have been undertaken to consolidate legislation in key areas (for more see Chapter 5). Action on law accessibility has focused on improving the online Irish Statute Book (the

central registry for primary and secondary regulations) to make legislation more quickly and accurately available. In 2007, the electronic Statutory Instrument System was introduced to allow for more efficient updating of the Irish Statute Book.

- **Reduction of administrative burdens.** Initiatives in this area are relatively recent compared to other EU countries. This reflects the consideration that administrative burdens are not a major issue for Ireland (for example, drawing on the good ranking of Ireland in international benchmarking of competitiveness). Some actions have been taken however, partly in the framework of the European Commission's initiative, and partly as a response to a growing perception that reduction of administrative burdens could support the competitiveness of Irish SMEs. In 2008, the Irish government committed to reduce administrative burdens by 25% by 2012. In addition the High-level Group on Business Regulation (which includes representatives from departments, trade unions and business representatives) has been mandated to examine opportunities for administrative burden reduction in the areas of taxation, environmental law, health and safety, statistics and company and employment law.
- **Sectoral regulators.** As part of its programme for government published in June 2007, the Irish government committed to reviewing the economic regulatory environment and subsequently commissioned an independent review. This led to the publication of a government statement in October 2009, in the wake of the economic crisis, setting out a range of actions designed to improve the economic regulatory environment, and the efficiency and effectiveness of Irish economic regulators. Specific issues included: accountability of regulators; structures and mandates of regulators; cost; and engagement with stakeholders.

Communication on the Better Regulation agenda

Publication of reports and accompanying press coverage has been a major channel for communicating on the Better Regulation agenda. The 2004 White Paper Regulating Better, signed at the highest level of government by the *Taoiseach*, was followed by a number of other reports, including on RIA and economic regulation. Communication is also taken forward through the various groups and units set up to take the Better Regulation agenda forward, some of which include external stakeholders, for example the High-level Group on Business Regulation. The website of the Better Regulation Unit in the Department of the *Taoiseach* has been set up as a channel for information and visibility on the Better Regulation agenda. departments are also expected to set out their work on Better Regulation projects in their Statements of Strategy and Annual Reports.

Ex post evaluation of Better Regulation strategy and policies

Evaluation as processes unfold is understood to be an important part of building up capacities for Better Regulation. For example, the RIA policy was subject to a review, done by an external provider, which led to a revision of the RIA guidelines.

E-Government in support of Better Regulation

General context

As in most other countries, e-Government is increasingly used to improve and streamline the interaction of business and citizens with the public service (online information, transactions etc). The Department of Finance has overall responsibility for developing and co-ordinating the implementation of e-Government policy in Ireland.

E-Government was not an area which the OECD peer review team could address in any depth. However, the formal link between e-Government and Better Regulation, which is a significant driver for Better Regulation initiatives in many EU states, is not apparent in Ireland. There is no very clear liaison in this regard between the CMOD within the Department of Finance, the BRU and the DETI. The utilisation of e-Government varies significantly between departments. As noted by the 2008 OECD public management review, in a constrained fiscal environment, e-Government should be treated as an opportunity to raise efficiency and to improve public services, not a threat. Several reports (such as the TPS report) identify the potential of e-Government to achieve cost savings and public service improvement. Various interviewees underlined the high importance of ICT to facilitate data sharing among Departments as well as a more risk-based approach from regulators.

A new e-Government Strategy for 2010 has been approved by the Cabinet Committee on Transforming Public Services. This Strategy highlights new approaches to overcome some of the difficulties with putting certain services on line and should thereby help to achieve an improvement in the use of electronic means for delivering public services. The Department of Finance is engaging bilaterally with organisations to help them with their analysis and development work. The government notes that according to the latest EU Commission e-Government Benchmarks, Ireland's ranking for online sophistication has now improved from 17th position in 2007 to joint 7th position.

Institutionally, the government has also taken action. It has made a commitment in the renewed Programme for Government to appoint a Chief Information Officer (CIO). This CIO will provide leadership for the development of information and communications technology and other relevant technologies within and outside Government. The CIO will report directly to the *Taoiseach* and will lead a streamlined Government structure for delivering the ICT function both within the Government and in the community. The CIO will advise the Government on how to take a proactive, leading role in championing ICT innovation and development externally and will assist Public Service Modernisation by driving changes to government business processes and implementing improvements in how Government communicates with its citizens through ICT. The CIO will take a cross-departmental and agency leadership role in driving the e-Government programme.

Notwithstanding the renewed impetus to e-Government strategy and institutional arrangements generally, there is no clear strategic or institutional link to the Better Regulation agenda.

Box 1.5. 2008 Public Management Review OECD report: e-Government

While Ireland has had many successes in developing internal e-Government systems, co-operation across different public service bodies is not widespread. **Fragmentation of responsibility for different elements of e-Government has meant that the full potential of ICT is not being realised by public sector organisations for citizens.** The integration of functions regarding the technical and financial framework will assist in progressing e-Government, especially given the accelerating pace of broadband penetration.

The initial focus of putting services on line has moved on to improving business processes and back office systems. Some large complex ICT projects have failed in the past, but there are many examples from organisations such as the Irish Revenue Commissioners, the Department of Agriculture, Fisheries and Food, the Department of the Environment, Heritage and Local Government, which have met success.

Part of the challenge has been the strong fiscal environment that has lessened pressure to use e-Government as a means to improve service efficiency through business process re-engineering. **A tightening fiscal environment should be seen as an opportunity to create pressure for renewed innovation.** There should be improved integration with the modernisation and change programme, for example, to make online services more user-friendly. Ireland has started to fall behind in international benchmarks such as for the 20 online services monitored by the European Commission. Large bodies have been observed to advance quicker than smaller bodies. Fragmentation due to agencification, as well as lack of shared ICT service agencies, except in the local government sector.

Government bodies that lag in the implementation of e-Government should be pushed to develop in a number of ways: clearer objectives and related measurable targets, accountability for delivery; more guidance and technical tools; sharing of good practices; and nomination of centres of excellence.

Leadership, co-ordinated vision and shared funding and accountability will be required. There is a need to improve co-operation between public service bodies. **The centre needs to provide unified e-Government leadership** including the setting of “whole-of-government” objectives. The public service should prioritise the development of the standards and architectures that underpin integrated and shared services.

E-Government and Better Regulation

E-Government supports the Better Regulation agenda in several ways, including:

- **Administrative simplification.** The High-level Group progress report to the government in July 2008 details a number of ICT based simplification projects, including the online application system for the Redundancy Payments Scheme and the development of an online Tax Clearance Certificate system. Some of the other examples of e-Government use cited below are part of the drive to reduce administrative burdens.
- **Web based statute book.** The electronic Irish Statute Book (eISB) on the web includes the full-text of *Acts of the Oireachtas* (1922-present), Statutory Instruments (1922-present) and the Legislation Directory (Chronological Index to the Statutes) for the period 1922-present in a searchable format. The site does not require users to register and is free of charge, and is available at www.irishstatutebook.ie.
- **Revenue Online Service.** According to the Revenue Commissioners, the Revenue Online Service (ROS) is widely regarded as one of the best tax online filing and payment systems in the world. Subject to the availability of budgetary resources, Revenue will continue to invest further in the use of ICT to deliver more electronic service options. In recent years, Revenue has also used ICT to focus increasingly on those who pose the greatest compliance risk. Revenue’s Risk Evaluation, Analysis and Profiling System (REAP), a computer-based, rules-driven risk

scoring system, is central to this approach to dealing with risk. REAP is the principal tool for audit case selection, identifying high-risk sectors or segments in the taxpayer base, and identifying likely instances of undeclared income, gains and other taxable transactions.

- **Communications regulation.** The Commission for Communications Regulation, *ComReg*, has a number of websites and services to facilitate business and citizens. These include: *www.licensing.ComReg.ie* – online application and renewal of licences website; *www.ComReg.ie*, – provides the user with detailed information on developments within the sector, relevant publications and details on consultations; *www.askComReg.ie*, – consumer focused website which provides users with up to date information about the telecoms and postal industries; *www.callcosts.ie* – *Callcosts.ie* is designed to provide users with a method of comparing tariffs for: Mobile and fixed line phones and broadband; *www.comstat.ie* – portal for presentation of statistical data and analytical research on the electronic communications market and to facilitate personalised downloads of statistics; *www.testandtrial.ie* – portal for promoting the advantages for testing and trialling schemes.
- **E-planning.** Planning authorities have been active using their websites to provide a range of information to the public (in most authorities it is now possible to view details of current applications over the Internet, and applications may be submitted at any hour of the day or night). A Task Force on e-planning reported in 2008, and an e-planning implementation group has been set up. Priorities include the removal of any barriers in planning regulations to the receipt of electronic planning applications; the preparation of technical standards; and further development of the electronic referrals pilot project.
- **Public consultation.** Use of the Internet and online mechanisms for public consultation on new policies and regulations is increasingly deployed (see Chapter 3), opening issues up to a wide audience. Tools include web based consultation documents, issue based website forums and web based surveys.

Notes

1. OECD Economic Survey 2009; OECD Going for Growth 2009.
2. Competitiveness is defined as the ability of firms to compete in markets. National competitiveness refers to the ability of enterprises to compete in international markets.
3. Ireland – Towards an Integrated Public Service, OECD 2008. Economist Intelligence Report for the Irish Government, “Review of the Economic Regulatory Environment”, March 2009.
4. The *Report of the Public Services Organisation Review Group 1966-69*, commonly referred to as the *Devlin Report*, prompted the first attempt to reform the public administration. The report presented a series of recommendations to permit the administration to meet the needs of a changing economy and society. It concentrated on key functional elements the most important of which was the separation of policy

making from implementation and service delivery functions. The 1985 White Paper *Serving the Country Better* was another attempt to develop a more customer-responsive public service. Most of the Devlin Report and the 1985 White Paper, while broadly welcomed, was largely unimplemented.

