

Smart Regulation not so smart

On March 24, 2005, Treasury Board President Reg Alcock launched the federal government's "Smart Regulation" agenda at a breakfast meeting at the National Press Gallery. He made an amusing speech featuring the differences in regulations between Canadian cheese doodles and American cheese doodles to illustrate the need for a "smart" approach to regulatory integration between Canada and the United States. Clearly, the message was that regulations are a bit of a bore, and mostly irrelevant, so let's just get on with business and get rid of all the dumb regulations.

However, when you think of it, regulations are the nuts and bolts of independent self-government. Governments regulate to create the limits on, conditions for, and framework of behaviour of citizens and businesses operating in their jurisdictions. Historically, regulations have been put in place to protect health and safety, making it illegal to sell untested food, make misleading claims about product promotion, construct buildings that fall down, etc.

Regulations have also been used to create fairness, such as a level playing field for businesses. Everyone must meet the same minimum standards.

"Smart Regulation" is a buzzword for the government's overall regulatory program and agenda. It has also been used by big business to mean "competitiveness" and "efficiency."

Former Prime Minister Jean Chrétien got the Smart Regulation process underway by setting up the External Advisory Committee on Smart Regulation (EASCR). The committee's members include a who's who of corporate directors from the petroleum, biotech, pharmaceutical, hydro, coal, agri-business, mining, security-intelligence and financial sectors, as well as one of the architects of the Organization for Economic Development and Cooperation's regulatory reform bureau.

The EASCR reported in September 2004 and, in his speech from the throne, Paul Martin committed to implementing its recommendations. You can see the EASCR report on line at <http://www.pco-bcp.gc.ca/smartreg-regint/>



The Task Force on the Future of North America – led by former Deputy Prime Minister John Manley – echoed the Prime Minister's calls for harmonization, saying the regulatory differences between Canada, Mexico and the United States are "the tyranny of small differences." The group recommended a North American approach to regulation. They propose a "tested once" policy for biotechnology and pharmaceuticals, meaning that if a permit, patent or licence has been given to a product in its country of origin (which would be the United States in most cases), it must be accepted in the other countries.

Following Alcock's Smart Regulation announcement in March 2005, working groups were quickly set up to make this new regulatory harmonization a reality.

What "Smart Regulation" is not:

- It is not a specific piece of legislation.
- It is not a set of regulations.
- It is not something that has been debated in Parliament.
- It is not something that has been an election issue.

The "Smart Regulation" agenda's key differences from existing regulatory policy include:

- An explicit commitment to limit Canadian regulations and to harmonize with the U.S. regulatory system in order to integrate markets.
- Further entrenchment of trade and commerce promotion as the primary consideration in regulation (and NOT health and safety protection).

- A commitment to “seamless” harmonization of provincial and territorial regulations with federal regulations – with the likely outcome being regulations that are based on the lowest common denominator.
- Protection for the regulator from liability for bad decisions.
- Faster approvals as a new consideration and priority.
- Increasing the onus on the regulator to prove the need for regulation to the industry, other departments and cabinet.
- Adoption of an even greater reliance on mechanisms such as voluntary measures and performance targets instead of enforceable standards.

But many small businesses and farmers do have an issue with too much red tape and paper work. It is costly, time consuming and sometimes absurd. Under the existing federal regulatory policy, the

government is already supposed to take the cost to small businesses into account when designing regulations. “Smart Regulation” does not deal with the government’s failure to put this aspect of their current policy into practice.

2007 has been set as the date to have a “regulatory cooperation framework” in place between Canada, the United States and Mexico. In Canada, “Smart Regulation” is clearly a priority for multinational corporations seeking to streamline operations in North America. But whose interests does “Smart Regulation” serve? What will be gained by it? And what will be lost?

The Privy Council Office is planning a consultation in the fall of 2005 to obtain public input on changes to the federal regulatory policy. The EASCR’s proposal for a new regulatory policy can be found at Appendix III of their report.

Take Action!

Contact Treasury Board President Vic Toews today and voice your opposition to the Smart Regulation agenda.

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For more information about Smart Regulation, visit the Beyond Factory Farming Coalition website at www.beyondfactoryfarming.org or call toll free 1-877-955-6454

