



GEORGE MORRIS CENTRE

Key Principles that Frame Agri-Food Regulatory Policy

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1. Introduction

Understanding regulatory policy is a significant issue for Canada's agriculture and food. The ultimate end-use for agri-food products is in our bodies, so a desire for public oversight of agriculture and food is natural to protect public health. In turn, agriculture is a natural resource-based industry which profoundly affects natural landscapes and various elements of the environment, in ways that individual farmers cannot necessarily anticipate. This includes water quality, wildlife habitat, air quality and greenhouse gases, drainage, and variety of other aspects.

Primary agriculture has historically consisted of many small businesses selling homogeneous products, some of which are highly perishable, to a relatively small number of large customers. Farmers also purchase supplies from a concentrated farm input segment. In this context, there has been a desire to maintain a basic commodity standard for products to enable the efficient functioning of markets, and to balance the terms of trade between farmers, their customers, and the suppliers of farm inputs.

At the same time, Canada's agriculture and food exists in a highly competitive environment. As such, it must keep pace with competitors' advances in technology. Moreover, it must innovate to anticipate future needs and opportunities. Thus, regulation in Canada must keep pace with competitors and spur (or at least not impede) innovation.

Canada is also in the process of negotiating trade agreements which necessarily involve discussions of regulatory differences between countries, and of competitiveness. Canada has a recently negotiated a framework agreement on regulatory cooperation with the US, and to take full advantage of this, awareness of the basic nature of regulation is required. The nature, extent, and administration of regulations, and the resulting regulatory cost burden are critical to profitability, innovation, and efficiency in Canada's agri-food system and to success in prospective and existing trade agreements. But this appears to be poorly understood.

Increased attention has recently been drawn to regulation and its economic effects, including its effects in agriculture and food. The federal government recently released a report from its *Red Tape Reduction Commission*¹, which focuses on decreasing regulatory compliance burden to individuals and firms, decreasing information requirements on individuals and firms, and on enhancing the use of electronic media. Agriculture and Agri-Food Canada (AAFC) has responded to the report, indicating that it would implement a recommendation that for every new regulation enacted, an existing regulation would be removed².

¹ <http://www.reducertape.gc.ca/heard-entendu/rr/trtb-eng.asp>

² http://www.agr.gc.ca/cb/index_e.php?s1=n&s2=2012&page=n120120a

The BC government recently celebrated “Red Tape Awareness Week” and noted a reduction in regulations from over 360,000 in 2001 to just 206,000 today³. Under its 2008 *Ontario Open For Business Strategy*⁴, the Ontario government has eliminated 80,000 regulations, of which 5,000 related to taxation have saved \$500 million per year according to the Ontario Ministry of Economic Development and Innovation⁵. The Canadian Federation of Independent Business rates provincial and federal government regulatory efficiency based on the number of regulations⁶. It awarded BC with top marks in its “Red Tape Report Card”, with Nova Scotia, Alberta, the Yukon, Manitoba, Prince Edward Island, and the Northwest Territories getting the lowest marks in reducing the number of regulations. At the same time, the US Presidential election campaign has seized on regulatory policy as an issue, and media reports have compared the number of regulations enacted by President Obama relative to his predecessors and the prospective cost, the premise being that more regulations create more cost which is bad for the economy⁷.

It would seem, then, that too many regulations are bad for the economy, and the fewer regulations, the better. However, this begs the question; if having many regulations is bad, then why did we enact so many? Are all regulations equally bad? Are half as many regulations twice as good? Are there inherently good regulations? Are there inherently bad regulations?

At the same time, there is an ongoing demand that governments intervene and impose regulations. A current example is Canadian banking regulation, which is touted as a critical factor in making Canadian banks more financially sound. Tighter regulation has been touted as key in the relative health of Canadian vs. US banks (for example, Anand 2009). Some view more extensive regulation of banks in Canada as a critical reason that the Great Recession was not nearly as severe in Canada as it was in the US.

The apparent demand for regulations also changes. Consider, for example, rules in Ontario banning pit-bull terriers. Regulations controlling pit-bulls were introduced in 2005 following a string of severe dog attacks⁸. But more recently, attention has been drawn to the appropriateness of breed-specific dog regulations as a means to control dog attacks, and a private members’ bill was recently passed in the Ontario legislature calling on the government to lift the pit-bull ban⁹.

The development and effects of regulation also relate to the evolution of the state, in what political scientist Huntington (1965) referred to as the process of “political development”

³ <http://www.cfib-fcei.ca/english/article/3655-bc-government-declares-red-tape-awareness-week.html>

⁴ http://www.ontariocanada.com/ontcan/1medt/en/ofb_modernGovernment_en.jsp

⁵ http://www.ontariocanada.com/ontcan/1medt/en/news_2012_01_17_en.jsp

⁶ <http://www.cfib-fcei.ca/cfib-documents/DIN0803.pdf>

⁷ For example <http://www.bloomberg.com/news/2011-10-25/obama-wrote-5-fewer-rules-than-bush-while-costing-business.html>

⁸ <http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/dola-pubsfty/dola-pubsfty.asp>

⁹ <http://www.cbc.ca/news/canada/toronto/story/2012/02/24/ontario-mpp-pitbull-ban-end.html>

and “political decay”. The idea behind “political development” is that organizations (including governments) evolve by constructing institutions, and the sets of rules enacted by them, that are robust to the changing needs of society. This develops collective organizations that are effective and credible. The notion of “political decay” is that governments and organizations can become unable (or unwilling) to effectively deal with new demands placed upon them from economic growth and new socially mobile groups. Among the important factors that underpin these societal changes are new technologies, changes in consumer preferences, and changes in prices and market access. These confront existing regulations, which can be structured with sufficient flexibility or generality to accommodate changes, be changed directly to accommodate the new situation, or left intact to protect the *status quo*. Thus, regulation contributes to the deepening of institutions that control public behavior (political development), or acts to weaken public institutions by frustrating members of the public (political decay).

Regulatory solutions are also offered as a ready alternative to markets and their coordinating functions. Economics offers insights regarding the conditions in which markets fail to efficiently allocate. However, prior to endorsing regulation in lieu of markets, it is important that the workings of regulatory policy be well understood. Without a complete background on the nature and nuances of regulatory policy, regulation could appear to be a better alternative to markets than is genuinely the case.

The issue of regulatory burden is thus not a simple one. Prudent regulations can be an asset, but excessively bureaucratic, obsolete or perverse ones a liability. The actual red tape burden relates to the number, quality, and implementation of regulations. But little context exists for these ideas, leading to simplistic statements and analyses. The very idea of “quality” regulations would seem at variance with recent rhetoric. And while markets are sometimes seen as failing to solve public policy problems, there is less awareness of how regulations might also “fail”, potentially biasing solutions in favour of regulation.

1.1 Purpose and Objectives

The purpose of this paper is to present fundamental principles that apply in proposing, developing, analyzing and assessing effectiveness/efficiency in regulation, and to illustrate their application in Canadian agriculture and food.

1.2 Organization of the Paper

Section 2 below presents five key elements of regulation. Section 3 interprets these in the context of agriculture and food. Section 4 concludes the paper.

2. Key Concepts in Understanding Regulation

A coherent logical framework within which to understand regulation does not readily present itself. Economics provides the “market failure” paradigm to help understand allocation problems that government regulation can resolve in lieu of markets and the price system. But less guidance exists in principles of regulation unto itself. Thus, it is difficult to easily rank regulation or regulatory reform effort as successful or less successful, and unambiguous assessment of regulations is similarly difficult to arrive at.

To help advance this gap, this section proposes six principles that relate to the development and assessment of regulatory policy. These six arise from the current dialogue on regulatory burden, and the application of basic economic concepts to the *operation* of regulation- both from the perspective of regulators and regulated entities. Together, they present the beginnings of a framework that could be used by industry and government for improved regulatory policy.

2.1 Regulations Inherently Create Benefits as Well as Costs

Regulations create costs on regulated entities. These costs can be fragmented into essentially three categories. First, there are direct costs associated with compliance. For example, a new regulation might require a roof to be erected over a loading dock; if no roof existed previously then there is a cost to building the roof. Secondly, there may be a cost in terms of technical efficiency. Building on the example, as a consequence of having the roof over the loading dock, the operations of a plant could be affected such that it takes more effort (and cost) to produce a given product, X. Third, there may be a cost in terms of allocative efficiency; as a consequence of the roof covering the loading dock, a plant may find it advantageous to produce more of product Y vs. product X where this otherwise would not have been the case. Finally, there may be unanticipated costs associated with the initial cost of compliance- for example, it might later become evident that secondary drainage is required to catch the runoff from the roof over the loading dock, resulting in additional cost.

The above is very tangible, especially to those who are subject to the regulation. However, the regulation should also produce benefits. The prospective benefits are widely ranging, including improvements in food safety, mitigation of environmental damage, increased of export market access, etc. These benefits will typically be less tangible to the individual firm than the costs, more dispersed in nature, and may not be easily measurable. And some regulations require a response from firms in order for the benefits to be realized. For example, a new regulation might allow for a new label claim, but if a regulated firm doesn’t undertake the effort to develop and test products that draw upon the claim, the benefit is negligible. However, regulation should create benefits. Thus, the real question regarding regulatory burden should speak to both benefits and costs, even if the former is not easily measured.

2.2 Governments Face Regulatory Opportunity Costs

Regulations also impose internal costs on the operation of government. These relate to the costs of developing and implementing regulations, and monitoring their effectiveness and relevance. Developing new regulations requires public consultation, a survey of measures in other jurisdictions, an understanding of the science, data collection (including an understanding of the limits of available information), estimates of cost to regulated entities, tractable means of monitoring and enforcement, and other background work. Mechanisms to resolve disputes and provide appeals are required which consume time and effort. Existing regulations require a commitment of resources to respond to technical questions and generally provide service to the public. Some new regulations require additional staff resources for development and delivery, while others draw largely upon existing staff resources. Either way, there are limited resources within government to develop and implement new regulations.

Consider, for example, the effect of a budget tightening initiative that results in uniform cuts to government staff positions, including those positions at a ministry of agriculture. Positions are eliminated, leaving a smaller staff tasked with managing the same set of regulations- responding to questions, managing enforcement effort, monitoring effectiveness, conducting appeal processes, etc. The result is a reduction in capacity for the basic delivery of regulatory policy. So while the language of regulations has not changed, the resources available and therefore the manner in which the regulations can be implemented effectively has.

A tangible example of this was observed by the author on a visit to the US to discuss environmental regulations for the permitting of livestock facilities. The US has a federal environmental standard for Concentrated Animal Feeding Operations (CAFO's). The CAFO rules are administered by state governments, and individual states can have standards that exceed the CAFO rules. In one state visited, state officials commented that they lacked the human resources to carry out the post approval inspections of approved building projects authorized under CAFO and state rules. It was stated that this had not affected project approvals, because the culture in the state was supportive of livestock development. However, it is clear that in another region that was more wary of livestock development, the loss of funding for inspection personnel would surely limit project approvals.

The above implies a form of triage in how regulation works within government. There must be priorities within existing regulation and across prospective areas of regulation, as, within a given public budget, increasing emphasis in one area necessarily decreases emphasis in another. The logical extension of this is that we cannot have the highest level of regulatory oversight in *all* current and prospective areas of regulation. Rather, the choice is to focus regulatory resources on a critical subset, maintain others at an ancillary level, transfer others to third-party oversight, and decommission others if they are no longer effective or relevant.

2.3 Clarity of Purpose, Transparency Matters

Any coherent strategic plan has an objective, and some milestones or tangible measures of outcome that inform the objective. This is also true of regulation. The motivation for regulation is a perceived problem that public policy is intended to solve. These include cases where markets and the price system fail to coordinate individual behaviour, correction of failure in past regulation, promotion of social equity, and the control of excessive risk taking. It is important that the motivation for regulation is very clear and well articulated, so that it can be known when it is successful. This should be oriented in the broader context that frames the issue, as the nature of the problem to be solved can change based on external effects.

Regulatory objectives can legitimately identify a desired state that is well off into the future, so it is important that data be collected to inform progress on the objective. These should be shared publicly so that a general understanding exists of the extent to which regulation is proving efficacious in solving the problem. Measures should indicate progress on the objective, the extent to which compliance is occurring, and indicate any unanticipated effects that suggest changes in approach are required. By making these public, regulators demonstrate commitment to the objective, but also a willingness to learn and make mid-course corrections in exercising regulatory authority; it also makes clear to the public that their help is being enlisted by complying with the rules.

2.4 Regulations Ride a Razor's Edge

In developing and implementing regulations, regulators ride a precarious continuum with the public. Regulations must be *credible*. This means that regulators have the resources in place to properly implement, and have a willingness to pursue regulatory authority to its full extent. There must also exist a public view that the objective of regulation is important, and that the regulations themselves are fair and will work to solve the identified problem.

Regulation of an activity is not credible when there are insufficient resources to implement (regulated parties don't know what to do, etc.), regulators are unwilling to use authority (regulated parties perceive that they won't be charged, even for flagrant violations), the issue is not viewed as important (regulated parties don't dedicate effort to compliance), or the approach embodied in regulation is not viewed as fair or efficacious (regulated parties don't believe the regulations will work, and/or are geared to benefit others at their expense). Credible regulations indicate public commitment to solve collective problems and strengthen the institution of government; regulations lacking in credibility weaken it.

In turn, regulations must not be dictatorial, onerous, or overreaching. Heavy handed regulations can extend authority beyond what is necessary to meet regulatory objectives, make regulations complex and prescriptive, prevent discretion from being exercised in implementation, and/or impose burdensome costs on regulated parties. Williams and Adams (2012) found that large and complex regulatory codes actually reduced

compliance, as individuals forgot certain rules and were distracted from the most important rules. It also increases the rate of moral hazard- individuals misrepresenting themselves to avoid regulation, or regulated parties shifting their activities so they are no longer subject to regulation. Formerly unregulated activities simply go “underground” in the face of draconian regulation. These effects work at odds with the intent of regulation.

Over the past decades, public concerns have increased regarding the adverse health effects of smoking. Canada has developed an array of regulations on cigarettes as part of a public health agenda to decrease smoking and to protect Canadians from the effects of second-hand smoke. One of the financial regulatory instruments employed is taxes that increase the price cigarettes and serve as a disincentive to consumption, consistent with other anti-smoking measures. A tax in and of itself has the effect of decreasing consumption; however, at some point increasing cigarette taxation invites smuggling and the development of an underground market in lower priced cigarettes, which in turn undermines the effectiveness of other anti-smoking initiatives.

In a recent study, Gabler and Katz (2010) noted that the federal government significantly reduced tobacco taxes in the mid-1990’s, as a response to increases in violent crime associated with tobacco smuggling and illegal cigarette production. Following the decrease in taxes, illicit trade in cigarettes (measured as contraband seizures) decreased markedly. Subsequently, as part of a new anti-smoking policy initiative reflecting an increased public aversion to smoking in the early 2000’s, cigarette taxes were increased; this contributed to a resurgence in the underground tobacco economy. Gabler and Katz present evidence of a sharp increase in contraband cigarette seizures since 2002, and estimate that black market cigarettes were about 27% of the Canadian market in 2010. They concluded that the actual impact of cigarette taxes on cigarette consumption is ambiguous, because, while taxation decreases lawful cigarette purchases, high levels of taxation have the effect of increasing cigarette smuggling and the illegal production and sale of contraband cigarettes. The willingness of some to avoid high levels of taxation undermines the effectiveness of the remaining regulatory measures and in turn the overall policy initiative designed to decrease smoking and adverse health effects.

The effectiveness of regulatory measures is dependent upon public willingness to comply with regulations the government is willing to enforce, and the willingness on behalf of the public to have regulation enforced in a particular way. Regulatory policy must embody the resources and commitment of government and public support to be credible, but they must not extend so far as to cause disengagement from rules or create perverse incentives for the citizenry. This is the razor’s edge regulation must ride.

2.5 Discretion is Inherent in Regulatory Implementation

Regulations interpret and make tangible the intent expressed in legislation, and are implemented by regulators. The regulations themselves are commonly precise and can be prescriptive. However, it would be wrong to suppose that regulators do not exercise discretion in how regulation is implemented, and in how they do their jobs. Discretion is an essential element in regulatory policy.

This is true in three respects. First, both legislation and regulation are formulated envisioning a particular ideal type of situation that regulation applies to. However, out in the field as regulation is applied, a range of situations and circumstances are encountered. Regulatory implementation adapts itself to the actual experiences of regulators, given the role, training, experience, and incentives of regulatory staff, the culture of the regulatory agency, and the goals of the legislation. Under this mix of influences, regulatory staff must use discretion to allow them to do their jobs.

This is described extensively by Wilson (1989). The use of discretion by police is among the best examples. While the rules enforced by police are usually quite clear (speeding, assault, murder, etc.), in practice the situations involving the rules can be complex (for example, the victim of assault demanding an arrest is the one who picked the fight with the alleged “assailant”) and more generally, a large part of the police job is to “restore order”. There is no manual for restoring order in every situation, and officers must use their own style and discretion in handling such situations.

To a lesser degree, similar situations confront individuals involved in regulating animal welfare. Outside of the most egregious cases of animal cruelty and neglect which may be clear, agency staff and veterinarians are called upon to make judgments regarding the cause and whether negligence occurred in cases of animals in poor condition. This can relate to a wide range of factors including extreme weather conditions, unique disease situations, economic conditions of the farm, and the emotional/mental state of the farmer and the farm family. In other cases, authorities are contacted based on complaints by a neighbour, who may be acting based on alternative motives. In such cases, resolving the situation (or at least making it no worse) is likely to involve extensive judgment and discretion of agency staff.

Secondly, discretion in implementation represents the fine adjustment in policy. Conditions can change quickly, and the most immediate response is to modify the level discretion employed in implementing and enforcing regulation. Police may be inclined to issue warnings to speeders when they don’t have an extensive record of violations and when speeding infractions are relatively minor as a means of building goodwill. However, when a string of serious car accidents occurs along a particular stretch of road, speeding enforcement is commonly stepped up, and police are much less inclined to give speeders warnings, even for small infractions. Formal policy and regulation regarding speeding may not have changed at all, but along that stretch of road, for now it has, simply due to differences in the use of discretion by police officers attempting to protect public safety.

Another example is imported food inspection. Food inspection at the border is random and “risk-based”. What this means is that random inspections of product at the border are the norm; however, when a violation is observed, discretion is used by inspectors that deviates from the business as usual of random testing. After observing a violation, the shipper of record, and/or the country of product origin will become the focus of enhanced inspection, at least for a period of time. Inquiries are initiated with the shipper/exporting

nation to determine the cause of the violation, and what measures have been taken to correct it. This necessarily takes resources away from random inspection of imported food, but it is discretion exercised consistent with a goal of protecting food safety.

Third, discretion is a critical element of rapport between regulators and regulated entities. Regulators who are overbearing and dictatorial in their implementation and enforcement of rules have more difficulty gaining the respect and cooperation of those they are charged with regulating. The use of discretion by regulators helps in building relationships with regulated entities. This can be particularly important, given that those who are regulated generally have better awareness of their situation, and much more control over it, than the regulators do. Thus, the use of discretion by regulators in relationship building can help blunt the regulatory razor's edge described above. More generally, the rapport between regulators and regulated entities can be improved if regulators can exercise the discretion to engage regulated entities more as clients, and less as latent suspects.

2.6 Regulations Are Not Proportionate in Effect

The effect of regulation in generating costs and benefits is typically not proportional to the number of regulations. Regulatory burden is a function of both the total number of regulations and the regulations which are the most limiting. Consistent with this, a regulatory rationalization initiative by government may remove a large number of regulations, but if it does not remove the truly encumbering subset of regulations, little may be accomplished in terms of reducing the true regulatory burden. Moreover, some regulations are superfluous and have virtually no effect, so removing them generates little in the way of benefit. This in itself may be difficult to monitor, as different elements of regulation may be encumbering at different points in time or under different market conditions. But it is naïve to suppose that by reducing the number of regulations, the regulatory burden is reduced by some proportional amount. For example, there are federal regulations dating from 1985 defining potatoes as an agricultural commodity, enabling government to make payments under the Agricultural Stabilization Act (1958). These could simply be struck from the books, with no discernible effect.

3. Implications for Regulation in Agriculture and Food

This discussion offers some important insights regarding the nature and extent of regulation in agriculture and food. First, it suggests that the internal economics and constraints within the regulatory system influence the scale of regulation. For example, a common complaint is that farm and food products imported into Canada receive less rigorous inspection than domestic product. Some go further- why not inspect all imported product?

The principles above suggest that, if Canada is going to have more rigorous inspections of imported food at the border, we should be prepared to identify and enunciate what we are going to regulate less rigorously, or stop doing. So, if we wish to deploy our inspection resources on inspection of 100% of (say) fresh produce imports, then perhaps we will reduce inspections on packaged foods, fish, or other food products. Alternatively, we should be prepared to increase our resource deployment in food inspection, and indicate the source of its funding- other activities discontinued, or from new taxes.

There are apparent inconsistencies and imbalances in regulation that can be understood using the above concepts. For example, there are regulations governing on-road vehicles that are very different from off-road vehicles, such as farm machinery. There are regulated standards for components and manufacturing that apply to both automotive and farm equipment, but the nature and extent of these vary. On-road vehicles travel at high rates of speed and are used to carry passengers as well as freight; farm equipment operates at lower speeds, in different conditions, and is not intended to transport passengers as a primary use. Provincial transportation ministries conduct periodic on-road vehicle safety checks along highways, with fines and repair orders issued for violations. No comparable inspection occurs for farm machinery. In effect, the threat to public safety is higher and the cost of enforcement much lower to deploy regulatory resources in the inspection of on-road vehicles than it would be for inspectors to enter farmsteads and inspect farm equipment. Moreover, the farm community would likely view entry and inspection of farm equipment as regulatory overreach, and be unreceptive. Thus, the safety of farm machinery in the owner's care is a private matter left to the owner; including at the transfer of ownership. With on-road vehicles, safety standards apply and vehicle owners are subject to prosecution for lack of compliance; safety standards are checked and updated on a mandatory basis upon resale and licensing.

The internal economics and organization of regulation also imply differences in the scope of regulation across different aspects of the agri-food system. To a certain degree, we can only effectively regulate aspects for which there is good science and known efficacy of regulatory measures, a reasonable information set on the population and elements to be regulated, and a population subject to regulation that is willing to cooperate. This is true regardless of the merit or clarity with which regulatory objectives are stated.

For example, it is generally agreed that people should wash their hands after using the washroom; public health authorities have identified this as important in controlling the

spread of disease. However, washing one's hands has not been the subject of regulation. Even in public venues, the use of washrooms is conducted largely in private, so observation of whether hand washing actually occurs and identifying violators is difficult. Conceivably, monitors could be installed in public washrooms, but this could be viewed as a violation of privacy by some. Alternatively, staff could be hired to monitor public washrooms, but this would be expensive and might meet the same privacy objection. Thus, any enforcement of a hand washing regulation would need to be complaint-based (from other public washroom patrons), with little means of verification. As such, any such regulation would lack credibility, and would be unlikely to cause anyone to wash their hands that wouldn't have otherwise. Moreover, the above alternatives have little application to private homes, where hand washing presumably has a similar importance as in public spaces. Consequently, even if hand washing is an important public health strategy, regulations are unlikely to be forthcoming.

Discretion is an important element of regulation, and the variety of conditions encountered by regulators and the need to engage regulated entities explain why discretion is important. The idea that regulators use discretion in implementing rules may seem disturbing to some, as it allows for an overzealous regulator to exceed what is intended. While this surely occurs from time to time, on balance preventing the use of discretion is likely to produce much worse results. Discretion provides the flexibility to match the essential intent of rules with the on-the-ground complexities and requires prudent judgment. It also underscores the need for appeal mechanisms where judgment and discretion of regulators is perceived as having erred.

It is the cases in which little discretion is apparently applied by regulators that give pause. Using discretion in implementing regulations entails risk on behalf of the regulator; however, failing to exercise discretion in working with regulated entities risks losing their engagement in the process, compromising the overall goals of regulation. A regulatory culture that allows for discretion and learning in implementation, with tolerance for regulators to effectively build relationships with regulated entities in a client relationship is supportive of regulatory objectives. It is also necessary for regulatory staff to operate effectively.

4. Conclusion

The Canadian agriculture and food sector is one which is buffeted by change, in a variety of respects. The demographics of the sector have evolved with fewer and larger commercial primary producers along with concentration in the customers for farm products and farm input suppliers. There is an increase in the demand for quality (safety, consistency, specific product attributes) in foods, farm products, and farm inputs. The expectations of the sector to deliver quality and convenience, at an acceptable environmental footprint have risen. Compared with history, there is relatively more collaboration among market segments in value chains, but it is not uniform, nor predominant.

Given this context, there will be continued demand for regulation in the future. This can be anticipated around food safety/quality, product claims, animal welfare, and environmental impact. Future changes in technology, consumer preferences, and regulatory developments in competing countries will also drive the demand for future regulatory change in Canada. At the same time, there will be demands to reduce regulations which are viewed as overtly costly, and/or are a throwback to a past with many small farms, and relatively smaller processors and input suppliers interacting in a regional or community environment. Managing these transitions in regulatory policy will require a coherent sense of the operation of regulation.

The above suggests that the effect of regulation is not just of regulatory cost burden. Regulation creates costs and benefits. The benefits accrue from solving the target problem; the costs result from direct compliance costs and associated inefficiencies. It is not unreasonable to allow for the possibility that regulation can create a net benefit. At a minimum, regulation should not be viewed solely in a single dimension, ranging from low cost to higher cost.

The expectations placed upon regulatory policy need to be realistic. Governments are faced by constraints on capacity in regulation. There are up-front costs associated with formulating new regulations, and obligations to provide ongoing service for existing regulations. The results must then be tracked and publicly disclosed to reveal what is and isn't working. What this means is that we must pick and choose priorities within the regulatory system. The greater the extent this can be done explicitly through disclosure rather than implicitly within government, the better. Acknowledging the capacity constraints and the true complexity of the notion of regulatory burden, simplistic analyses of regulation, such as equating the number of regulations with compliance cost, should be avoided.

Government faces important constraints in how regulatory policy is done. Government must demonstrate the balance that makes regulation credible, but not be overbearing to such an extent that it alienates regulated parties. In this regard, regulatory discussions require balance, and must avoid the dogma of "good" vs. "bad". It also means that, from a given starting point, regulation can only proceed so far so fast, as regulated entities that feel overwhelmed by the rate of increase in regulation will disengage from it.

Thus, a strategic approach should be taken to regulation. There are many demands for regulation, but only limited capacity to regulate. Unequivocal statements implying that Canadian agri-food has the best regulatory system in the world, for all things, all the time should bear this in mind. Regulation also requires public approval, at least implicitly, or those who are regulated will disengage from it. Regulators must apply their own discretion to the myriad of situations they face in order to manage this. At the same time, regulation must target issues that are seen as important and pursued with sufficient commitment to be seen as credible, or risk the public losing confidence in government willingness to act.

In its dialogue with government, industry can employ a richer, more strategic approach toward regulation. Where it is clear that a regulatory approach will be employed in place of market instruments, industry should draw from some of the principles identified here in its interactions with government. Similarly, governments can draw from these principles in understanding the limits of scale and scope in regulation. Doing so should lead to a less simplistic dialogue on regulation, better quality regulations, and overall reduced regulatory burden.

Finally, while this paper has focused on the internal economics and organization of regulatory policy, a better understanding of regulation would inform the discussion of market vs. regulatory approaches in policy. In some segments of agri-food, there seems to be a demonstrated preference for regulatory approaches over market-based approaches, notably in the segments which are already heavily regulated. The fact is that markets can/do work within regulated environments, and regulated approaches always come at a cost and entail a range of constraints, as described here.

This acknowledgement should lead to a more balanced dialogue between market and regulatory solutions to public policy issues. Ignoring the principles of regulatory policy discussed here gives a simplistic view of regulation, which can lead to a bias in favour of regulation over markets, with its accompanying costs and inefficiencies. If there is scope for markets to fail, there is also a broad scope for regulations to fail.

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