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The Red Tape Challenge—from Meat Axe to Scalpels

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If there is one thing different nations, and within them different sides of politics, can agree on, it is that there is “too much red tape”. This proliferating body of red tape is seen as adding costs, discouraging innovation, limiting productivity improvements and distorting the functioning of competitive markets. As a result, governments continually introduce red tape reduction measures and assess their impact via international and domestic reviews. Yet, despite these initiatives, there is no hard evidence that the burden of red tape is abating. On the contrary, in country after country, businesses perceive the red tape problem to be getting worse.

Why reducing red tape is such an intractable problem, and what might be done to tackle it more effectively, is the subject of this paper. It argues that a major barrier to dealing with red tape is the unwillingness or inability of governments and academics to define the different manifestations of red tape with sufficient precision to allow for accurate measurement of its negative impacts. If a concept can't be clearly defined, and its prevalence and impact can't be measured even with reasonable accuracy, no wonder there is a disconnect between the stated aims and the perceived results of government reform initiatives.

Despite the attention to red tape in government programs, OECD reviews and the popular press, there is little academic literature on the subject. Most academic research deals with red tape within firms or departments rather than in the broader economy as a result of government regulation. The field of study is also relatively small – fewer than four scholarly articles published in most years in major public and administration journals.² The classic general overview, Herbert Kaufman's “*Red Tape, Its Origins, Uses and Abuses*” was published in 1977.³ He argues that red tape is the inevitable by-product of a system of government that strives to

¹ The author acknowledges the assistance of Kathan Sethi.

² Barry Bozeman and Mary K Feeney (2011), *Rules and Red Tape: A Prism for Public Administration Theory and Research*, M.E. Sharpe, 14.

³ Herbert Kaufman (1977), *Red Tape – Its Origins, Uses and Abuses*, The Brookings Institution.

promote and regulate a diversity of interests.⁴ Kaufman proposed the idea of a scalpel rather than a meat axe to deal with the worst effects of red tape.⁵ However, he is silent on the nature and type of ‘scalpels’ that may be needed, a subject this paper explores in more depth in three sections:

1. Red tape is an intractable problem despite a range of government initiatives to reduce it.
2. Poor definition and measurement inhibit the effectiveness of red tape reduction programs.
3. Increased clarity in definition combined with more targeted approaches, focussing on the different negative effects of red tape, offer the potential to deal with the worst productivity and innovation-destroying effects of red tape.

Each is discussed in turn.

The concern of this paper is not so much with red tape per se, but rather with its negative effects and how to deal with them. These negative effects can include higher costs than necessary both for the regulator and the regulated as well as disincentives for innovation due to unwarranted reductions in competition, unnecessary delays and inconsistent regulatory rulings. Understanding and dealing with each of these different types of negative effects requires different processes and skills. For example, the review of unwarranted restrictions on competition carried out in Australia between 1995 and 2005 focussed entirely on the anti-competitive effects of regulation. This type of competition analysis required a different skill set and approach than might be used to streamline an administrative process. The focussed competition impact approach was extremely successful, reviewing approximately 1,800 regulations and driving a 2.5% to 5% improvement in GDP.⁶ Hence the argument for focussed approaches – scalpels rather than meat axes.

⁴ Herbert Kaufman (1977), *Red Tape – Its Origins, Uses and Abuses*, The Brookings Institution, 29-30.

⁵ Herbert Kaufman (1977), *Red Tape – Its Origins, Uses and Abuses*, The Brookings Institution, 98.

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An Intractable Problem

There is no shortage of red tape reduction programs launched by governments. Some are stimulated by a genuine concern regarding the negative impact that regulation has on citizens and businesses. Another important motivation is to avoid red tape becoming a rallying call for businesses to criticise governments, citing vivid though often immaterial examples of duplication and delays as proof of government and civil service incompetence.

While there is no shortage of red tape reduction programs, results are uniformly disappointing, both in terms of stated achievements and business perceptions.

GOVERNMENT INITIATIVES

Governments have implemented a number of economy-wide initiatives over the years in an effort to reduce some of the negative effects of red tape. These initiatives target both the flow of new regulation and the stock of existing regulation.⁷

Targeting flows

The most common practice in OECD jurisdictions for understanding and managing the effects of new regulation is *ex-ante* Impact Analysis (IA). The IA process aims to promote transparency and evidence-based decision making by requiring governments to consider the alternatives to, as well as the likely costs and benefits of, proposed regulations.⁸ In the United Kingdom for instance, the IA process requires governments to consider the impact that regulation has on competition, innovation, business incentives, social inequality, human rights, workplace safety, crime, pollution and the environment.⁹ Similarly, in the Netherland, the IA process requires governments to estimate the costs and benefits that

⁷ For a more detailed overview and comparison of regulatory processes and reform initiatives in Australia, Canada, the European Union, the Netherlands, the United Kingdom, and the United States see: Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, Appendix K.

⁸ OECD (2011), *Sustainability in Impact Assessments: A Review of Impact Assessment Systems in selected OECD countries and the European Commission*, OECD Publishing, 6.

⁹ Department for Business Innovation and Skills (2013), *Better Regulation Framework Manual: Practical Guidance for UK Government Officials*, HM Government, 66-67.

regulations are expected to create for citizens, businesses, the environment and the Government.¹⁰

Targeting stocks

Governments have employed a range of initiatives in an effort to manage the negative effects of existing regulations. Some of the main initiatives have been summarised below.

Initiative	Explanation and Examples	Typical Focus
Red tape reduction targets	<p>The reduction of red tape on an economy-wide scale by a quantitative cost reduction target. These targets typically focus on administrative burdens to businesses using standard cost methodologies.¹¹ They are often supplemented by an economy-wide baseline measurement of administrative burdens.¹²</p> <p>The Netherlands pioneered this approach and set an initial 25% reduction target to be achieved between 2003 and 2007.¹³ This was followed by a further 25% reduction target to be achieved by 2011.¹⁴ Numerous other nations have since adopted similar targets.¹⁵</p>	Administrative burdens to businesses.
Stock-flow linkage rules	<p>Requires the introduction of new regulation to be offset by the removal of existing regulation.</p> <p>In 2011, the UK implemented a compulsory One-In, One-Out policy under which the costs imposed by a new regulation had to be offset by the removal of existing regulations of at least equivalent value.¹⁶ This was upgraded to a One-In, Two-Out policy in 2013.¹⁷</p>	Administrative burdens to businesses.

¹⁰ OECD (2011), *Sustainability in Impact Assessments: A Review of Impact Assessment Systems in selected OECD countries and the European Commission*, OECD Publishing, 16.

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¹² See for instance the United Kingdom, which undertook a baseline measurement of administrative burdens in 2005: OECD (2010), *Better Regulation in Europe: United Kingdom*, OECD Publishing, 112; Department for Business, Innovation & Skills, *Simplification Plans 2005-2010*, HM Government, 15.

¹³ OECD (2010), *Better Regulation in Europe: Netherlands*, OECD Publishing, 36.

¹⁴ OECD (2010), *Better Regulation in Europe: Netherlands*, OECD Publishing, 41.

¹⁵ Red tape reduction targets have been set in: Austria, Belgium, Czech Republic, Denmark, France, Germany, Italy, Latvia, Netherlands, Norway, Poland, Slovenia, Spain, Sweden, UK, Romania, Ireland, Portugal, Cyprus, Greece, Lithuania, Finland, Malta, Luxemburg and Kazakhstan; SCM Network, *Involved Countries*, accessed on 30/09/2013 <<http://www.administrative-burdens.com>>.

¹⁶ Department for Business Innovation and Skills (2013), *The Sixth Statement of New Regulation*, HM Government, 7.

¹⁷ Department for Business Innovation and Skills (2013), *The Sixth Statement of New Regulation*, HM Government, 7.

Initiative (cont.)	Explanation and Examples	Typical Focus
Sunset provisions	<p>The automatic lapsing of regulations after a pre-determined period of time. Further action or an exemption is required to keep regulations in operation beyond this time.</p> <p>In Australia, all regulations sunset after approximately 10 years unless they are exempted or further action is taken to continue their operation.¹⁸ The UK has also implemented mandatory sunset for new regulations that impose a net cost on organisations.¹⁹</p>	No focus on particular negative effects.
Ex post review requirements	<p>The mandatory review of regulation after its enactment.</p> <p>In the UK, Post Implementation Reviews (PIRs) are required for regulations that have major impacts.²⁰ In Australia, PIRs are only required for regulations that circumvented the Regulatory Impact Statement process.²¹ The UK and Australia also require planning for <i>ex post</i> review to take place during the IA process.²² Ex post review requirements have also been implemented in Canada and the US.²³</p>	<p>PIRs have a similar scope and breadth of analysis as the IA process.</p> <p>Other ex post reviews tend to have a less defined focus.</p>
Consultation and communication mechanisms	<p>Mechanisms that allow businesses to provide feedback and recommendations about regulations. Such initiatives are typically used as an information gathering process for further reform.</p> <p>The UK's 2011-2013 Red Tape Challenge provided an online complaints portal through which businesses could provide feedback concerning which regulations should be removed or improved.²⁴</p>	Typically focus on the negative impacts of regulation as perceived by businesses.

¹⁸ Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, Appendix K, 62.

¹⁹ Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, Appendix K, 43.

²⁰ Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, Appendix K, 74.

²¹ Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, 37-38.

²² Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, Appendix K, 73.

²³ Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, Appendix K, 70.

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These are “meat axe” approaches in that they typically cover the broad effects of all regulations as opposed to a particular type of organisation or industry regulation or impact.

IMPACT

There is no solid evidence that these types of government initiatives have had any significant impact on red tape. On the contrary, business perceptions suggest that the burden of red tape has continued to increase.

Questionable achievements

Stated achievements regarding the success of red tape reform point to the success of reduction targets, improvements in competition indexes and complimentary domestic and international reports. However, none of these claimed successes pass rigorous scrutiny.

Red tape reduction targets boast some of the most significant achievements of all red tape reform initiatives. Targets, such as those set by the Netherlands²⁵ in 2003 and the UK in 2006,²⁶ claim to have successfully reduced the regulatory administrative burden on businesses by approximately 25%. However, these claims may be overstated for three reasons. First, many of these targets do not consider the effect of non-compliance. As such, realised reductions will be overstated where governments have simply removed regulations that are obsolete or not complied with in practice.²⁷ Second, these targets typically measure only the reduction in existing regulation without considering the burden imposed by new regulation.²⁸ Third, the stated achievements are based on expected future reductions in administrative costs, as opposed to actual realised reductions.²⁹

²⁵ OECD (2010), *Better Regulation in Europe: Netherlands*, OECD Publishing, 22

²⁶ Department for Business, Innovation & Skills, *Simplification Plans 2005-2010*, HM Government, 15

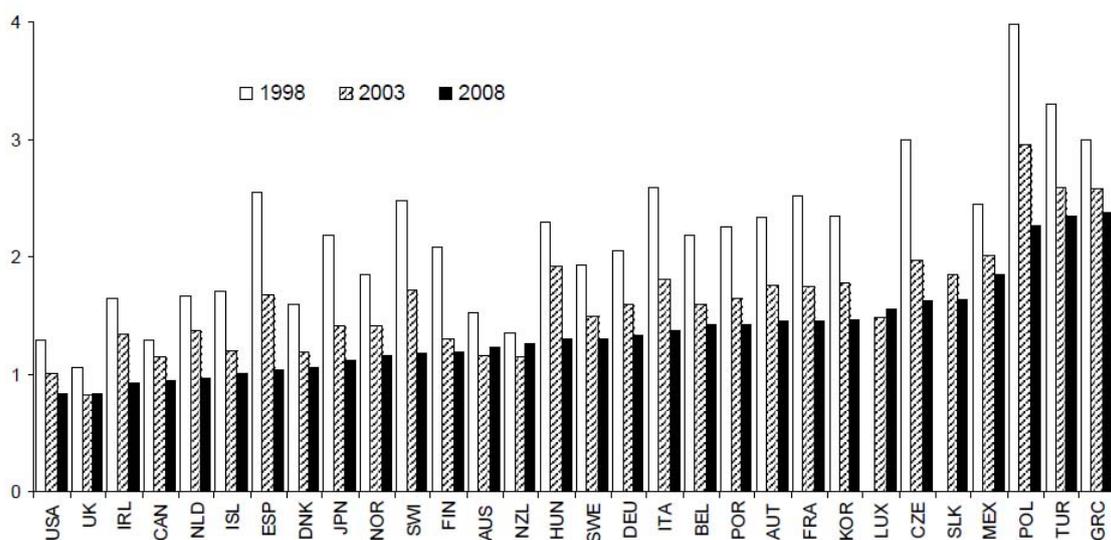
²⁷ OECD (2010), *Cutting Red Tape: Why is Administrative Simplification So Complicated? Looking Beyond 2010*, OECD Publishing, 35.

²⁸ Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, XVII

²⁹ Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, XVII

A second indicator cited in support of red tape reduction is the OECD's Product Market Regulation (PMR) score. This index measures the degree to which policies promote or inhibit competition in areas of the product market where competition is viable. A higher score for PMR indicates a higher regulatory burden. As illustrated by the graph below, PMR had decreased significantly across OECD countries, with the average PMR dropping by 36% between 1998 and 2008.³⁰

Figure 1: Economy-wide product market regulation.³¹



However, PMR is not a reliable indicator of the progress of most red tape reform initiatives. PMR primarily focuses on the degree of state control as well as barriers to trade, investment and entrepreneurship.³² In contrast, many red tape reduction initiatives are concerned solely with administrative burdens, which account for only 11% of PMR.³³

Domestic and international reports, such as those published by the OECD, are also cited as evidence of red tape reductions. However, these reports tend to be quite uncritical. For instance, the OECD stated in 2010 that

³⁰ OECD (2009), *Ten Years of Product Market Reform in OECD Countries – Insights from a Revised PMR Indicator*, OECD Publishing, 6

³¹ OECD (2010), Wolf (2009) → Productivity Commission (2011), *Identifying and Evaluating Regulation*, Australian Government, Appendix F, 6.

³² OECD (2008), *Schemata for the “Integrated PMR Indicator” 2008*, OECD Publishing, 1.

³³ OECD (2008), *Schemata for the “Integrated PMR Indicator” 2008*, OECD Publishing, 1.

Australia's approach to regulation reform made it a "front-running"³⁴ country and a "role model"³⁵ for other nations. The OECD also reported that the reformed IA process in Australia "protect[s] business from new, unnecessary regulation, making it among the most rigorous and comprehensive in the OECD".³⁶ In relation to the United Kingdom, the OECD stated in 2010 that the vigour, breadth and ambition of regulatory reform was "impressive", that progress in *ex ante* impact assessment had been "significant and ground breaking" and that an "effective balance" had been achieved between policies that address the stock and flow of regulation.³⁷ While the OECD provides recommendations for improving regulatory processes in these countries, for the most part their reports are complimentary.

This praise may be influenced by the way in which organisations such as the OECD collect information. The Australian Institute of Company Directors (AICD) noted that the OECD, in its 2010 report on Australia, "appeared to rely exclusively on the Commonwealth Government for information on Australia's regulatory position and the Government's reform efforts and progress".³⁸ The AICD also stated that there had been "no evidence that the OECD carried out its own independent investigations to verify the information provided to it".³⁹ Given that theoretical regulatory processes do not necessarily translate into reality, an over-reliance on government information can cast doubt on the reliability of such reports. For instance, in the year following the OECD's report on Australia, the Productivity Commission praised the regulatory processes that had been designed by the Australian Government, but lamented numerous lapses in implementation.⁴⁰

Business perceptions

Business perception surveys suggest that government efforts to reduce the negative effects of red tape are not merely questionable, but that they may be failing altogether. Among those OECD nations for which there are red tape perception surveys, there is a strong and consistent message that the burden of regulation is continuing to increase.

³⁴ OECD (2010), *Reviews of Regulatory Reform: Australia – Towards a Seamless Economy*, OECD Publishing, 15.

³⁵ OECD (2010), *Reviews of Regulatory Reform: Australia – Towards a Seamless Economy*, OECD Publishing, 19.

³⁶ OECD (2010), *Reviews of Regulatory Reform: Australia – Towards a Seamless Economy*, OECD Publishing, 15.

³⁷ OECD (2010), *Better Regulation in Europe: United Kingdom*, OECD Publishing, 15.

³⁸ Australian Institute of Company Directors (2012), *Business Deregulation: A Call to Action*, 30.

³⁹ Australian Institute of Company Directors (2012), *Business Deregulation: A Call to Action*, 30.

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In Australia, over 73% of businesses surveyed in 2012 reported an increase in the cost of complying with government regulations, while only 0.4% reported a decrease. In the UK, which has taken one of the most aggressive and multifaceted approaches to tackling red tape, 33% of businesses surveyed in 2012 reported that there had been an increase in the time required to comply with regulation, compared to only 4% who reported a decrease. While the same numbers are not available for the Netherlands, it was noted by the OECD in 2010 that, despite the Dutch Government having achieved an earlier 25% red tape reduction target, businesses were still frustrated at what was perceived to be slow progress and a failure to tackle the issues that matter most.⁴¹

Jurisdiction	Percentage of businesses that reported an increase in compliance time/costs	Percentage of businesses that reported a reduction in compliance time/costs
United Kingdom ⁴²	33.0%	4.0%
United States ⁴³	54.0%	4.0%
Canada ⁴⁴	56.0%	6.0%
Australia ⁴⁵	73.1%	0.4%

Businesses appear to have also become disillusioned in the ability of governments to manage red tape. In Australia for instance, one survey indicated that 75% of businesses expected compliance costs to continue to increase in the future.⁴⁶

⁴¹ OECD (2010), *Cutting Red Tape: Why is Administrative Simplification So Complicated? Looking Beyond 2010*, OECD Publishing, 34

⁴² Change in time spent complying with regulation over the last 12 months: IFF Research (2012), *Business Perceptions Survey 2012*, IFF Research Ltd, 35

⁴³ Change in overall regulatory burden: Laura Jones, Nina Gormanns and Queenie Wong (2013), *Canada's Red Tape Report - With U.S. Comparisons*, Canadian Federation of Independent Business, 7

⁴⁴ Change in overall regulatory burden: Laura Jones, Nina Gormanns and Queenie Wong (2013), *Canada's Red Tape Report - With U.S. Comparisons*, Canadian Federation of Independent Business, 7

⁴⁵ Overall cost of complying with government regulatory requirements in the past two years: Australian Chamber of Commerce and Industry (2012), *National Red Tape Survey*, ACCI, 8

⁴⁶ Australian Industry Group (2011), *National CEO Survey: Business Regulation*, Australian Industry Group, 11

Poor Definition and Measurement

There are three main problems with the way in which red tape is currently defined. First, there are many different and imprecise definitions of red tape. Second, definitions are not linked to the specific negative effects of red tape. Third, definitions of red tape are difficult, if not impossible, to apply with precision and objectivity even after considerable study and expense. As a result, setting red tape reduction targets and monitoring outcomes becomes futile.

MULTIPLE IMPRECISE DEFINITIONS

Despite the growing attention to red tape, there is no uniform and precise definition of “red tape”. A widely used academic definition defines red tape as “rules, regulations and procedures that require compliance but do not meet the organisation's functional objective for the rule”.⁴⁷ Other definitions typically define red tape by reference to a list of ambiguous and subjective words and phrases, such as “pointless”, “excessive”, “unnecessary”, “redundant”, “overly rigid”, “unwarranted”, “ineffective”, “irrelevant”, “poorly designed”, “contradictory”, “overly costly”, “bureaucratic”, “cumbersome”, “unfair” and “inefficient”.⁴⁸

It can also be difficult to locate explicit definitions of “red tape”. There are several reports,⁴⁹ surveys⁵⁰ and reform initiatives⁵¹ which, while referring to “red tape” on numerous occasions, never actually define the term. Instead, red tape is often used interchangeably with a range of other terms, such as “administrative costs”, “administrative burdens” or “regulatory burdens”. For instance, the focus of many of the OECD’s papers on red tape, including its series titled “Cutting Red Tape”, is solely on administrative burdens. The OECD defines these burdens as “regulatory

⁴⁷ Barry Bozeman (2000) *Bureaucracy and Red Tape*, Prentice Hall; cited in Barry Bozeman and Mary K Feeney (2011), *Rules and Red Tape: A Prism for Public Administration Theory and Research*, M.E. Sharpe, 5.

⁴⁸ See for instance: Herbert Kaufman (1977), *Red Tape – Its Origins, Uses and Abuses*, The Brookings Institution, 5; OECD (2003), *From Red Tape to Smart Tape: Administrative Simplification in OECD Countries*, OECD Publishing, 14; Australian Institute of Company Directors (2012), *Business Deregulation: A Call to Action*, AICD, 12; Australian Public Service Commission (2007), *Reducing red tape in the APS*, Australian Government; Laura Jones, Nina Gormanns and Queenie Wong (2013), *Canada’s Red Tape Report - With U.S. Comparisons*, Canadian Federation of Independent Business, 1-2.

⁴⁹ See for instance the OECD series on Cutting Red Tape.

⁵⁰ See for instance: Australian Chamber of Commerce and Industry (2012), *National Red Tape Survey*, ACCI.

⁵¹ See for instance the reform initiatives in the Netherlands and the United Kingdom: OECD (2007), *Cutting Red Tape – Administrative Simplification in the Netherlands*, OECD Publishing, 31; OECD (2010), *Better Regulation in Europe: United Kingdom*, OECD publishing, 114.

costs in the form of asking for permits, filling out forms, and reporting and notification requirements for the government”.⁵²

INDISCRIMINATE DEFINITIONS

Current definitions are not linked to the specific negative effects of red tape. As touched on earlier, red tape can impose different types of costs on society. It can impose administration costs on governments, compliance costs or fees on businesses and individuals, and inhibit productivity and economic growth via disincentives and anticompetitive effects. Existing definitions do not recognise these different effects. Instead, they agglomerate all the costs imposed by regulations into indiscriminate definitions.

Indiscriminate definitions of red tape result in indiscriminate initiatives to reduce it. If governments do not define and categorise red tape according to its specific negative impacts, it follows that they will not be able to engineer tailored approaches for measuring, prioritising and attacking the different negative effects of red tape. For instance, regulations that are anti-competitive require a completely different approach to measurement and reform than regulations that impose excessive paperwork burdens on businesses. Closer examination may also reveal that certain categories of red tape should be prioritised because they have a more significant impact on issues such as productivity. However, in the absence of specificity in definition, this level of analysis is not possible.

CHALLENGES WITH APPLICATION

Definitions of red tape face four significant challenges when applied in practice; subjectivity, estimation error, scope and cost.

Judgement with respect to the benefit of regulation and the necessary costs of achieving it are inherently subjective. Take for instance child care centres. It is understandable that governments would want to promote the safety of children by regulating child care centres. However, the challenge is determining how safe is safe enough. Should regulations extend to appropriate climate control? The use of chemicals, pesticides and herbicides? The elimination of pollen and nut allergens? Criminal

⁵² OECD (2006), *Cutting Red Tape – National Strategies for Administrative Simplification*, OECD Publishing, 9.

screening and mandatory training requirements for employees? Maximum employee-to-child ratios? Mandatory inspections and certifications to ensure that the centre is free from hazards and negligence? Should there be licensing requirements? Should inspections, audits and reviews occur annually? Monthly? Weekly?

A risk averse parent would argue that most of these precautions are completely necessary, whereas the operator of a child care centre may argue that they are entirely excessive. This subjectivity can make it impossible to conclusively determine whether a regulatory requirement is or is not red tape. “What some will surrender willingly others will defend to the death”.⁵³

A second challenge is that the identification and measurement of costs and benefits are plagued to varying degrees by estimation error. While some costs, such as the paperwork costs imposed on businesses, are readily measurable, other costs, such as economic distortions, can be extremely difficult to estimate with precision even after considerable study. The benefits of regulations are even more difficult, if not impossible, to quantify. This is because many regulations strive to promote benefits, such as enhanced safety or environmental protection, for which there is no directly observable or readily quantifiable monetary value. Benefits may also relate to the prevention of adverse Black Swan events, such as major terrorist attacks or nuclear meltdowns. The lack of data on such events, as well as the high degree of uncertainty about the potential damage they may cause, can make it extremely difficult to quantify the benefits of regulation with precision.⁵⁴

The pervasiveness of estimation error is demonstrated in the US Office of Management and Budget’s (OMB) Report to Congress on the Benefits and Costs of Federal Regulations.⁵⁵ The OMB estimated that the total annual cost of regulations reviewed between 2002 and 2012 was between \$57 billion and \$84 billion.⁵⁶ The total annual benefits for the same regulations

⁵³ Herbert Kaufman (1977), *Red Tape – Its Origins, Uses and Abuses*, The Brookings Institution, 61.

⁵⁴ Cary Coglianese (2012), *Measuring Regulatory Performance – Evaluating the Impact of Regulation and Regulatory Policy*, OECD Publishing, 30.

⁵⁵ Office of Management and Budget (2013), *Report to Congress on the Benefits and Costs of Federal Regulations*, United States Federal Government.

⁵⁶ Office of Management and Budget (2013), *Report to Congress on the Benefits and Costs of Federal Regulations*, United States Federal Government, 2.

were estimated to be in the even broader range of US\$193 billion to US\$800 billion.⁵⁷

The third challenge in applying definitions of red tape relates to defining the scope of reform. There are two dimensions to scope. The first relates to the breadth of reform. Initiatives can have a very narrow focus, for instance by concentrating on a particular government agency or regulation, or can have a very broad focus by attempting to reform all regulations in operation. The second dimension of scope relates to the depth of reform. Within each regulation, initiatives can focus on a particular aspect of costs or benefits, such as the paperwork cost to business, or they can attempt to capture a more comprehensive spectrum of the costs and benefits to businesses, governments, the economy and society in general.

The final challenge relates to the cost of reform. Attempts to increase the scope of reform, reduce estimation error or import more rigorous objective standards will invariably increase the cost of the initiative. The costs of these red tape reduction efforts can be significant. For instance, the red tape measurement exercise conducted in the UK, which focussed solely on the administrative burden of *regulation* (as opposed to the administrative burden of *red tape*), involved over 8,500 interviews, 200 expert panels and cost over £10 million.⁵⁸ Consequently, when broad initiatives are undertaken, rigour and focus are inevitably compromised, or costs must be increased beyond what is politically acceptable.

UNRELIABLE MEASUREMENTS

The broad range of imprecise and indiscriminate definitions of red tape, coupled with practical difficulties in application, has resulted in measurements of red tape that are scarce, imprecise, wide-ranging and indiscriminate. Such measurements provide a weak foundation for reform and as they make it difficult to understand and track the true extent of the red tape problem.

⁵⁷ Office of Management and Budget (2013), *Report to Congress on the Benefits and Costs of Federal Regulations*, United States Federal Government, 2.

⁵⁸ OECD (2010), *Better Regulation in Europe – United Kingdom*, OECD Publishing, 114.

The table below summarises some of these recent measurement attempts.

Publisher	Definition and Methodology	Estimated Burden
Netherlands (2004)	Measured administrative burdens using the Standard Cost Model (SCM)	3.6% of GDP ⁵⁹
Denmark (2006)	Measured administrative burdens using the SCM	2.2% of GDP ⁶⁰
Czech Republic (2006)	Measured administrative burdens using the SCM	3.0% of GDP ⁶¹
United Kingdom (2007)	Measured administrative burdens (excluding business as usual costs) using the SCM	1.6% of GDP ⁶²
Australia	Productivity Commissioner (2006): Measured internal and external compliance costs using survey data	1.6% of GDP ⁶³
Canada (2013)	Measured administrative burdens using survey data	1.7% of GDP ⁶⁴
United States (2010)	Estimated the cost of economic, environmental, tax compliance, OH&S and homeland security regulation using statistical regressions	11.7% of GDP ⁶⁵

Several observations become apparent from these results. First, there have been relatively few attempts to measure red tape comprehensively in the selected countries. This means that the amount of red tape, and hence the progress of red tape reform initiatives, is seldom tracked over time.⁶⁶

⁵⁹ OECD (2007) *Cutting Red Tape – Administrative Simplification in the Netherlands*, OECD Publishing, 33

⁶⁰ Department of Treasury and Finance (2007), *Estimate of Victoria's Administrative Burden*, Victorian Government, 7.

⁶¹ Department of Treasury and Finance (2007), *Estimate of Victoria's Administrative Burden*, Victorian Government, 7.

⁶² OECD (2010), *Better Regulation in Europe – United Kingdom*, OECD Publishing, 43; Department for Business Enterprise and Regulatory Reform (2008), *Measuring administrative burdens, UK outcomes and next steps*, HM Government, 8, 10.

⁶³ Productivity Commission (2006), *Potential Benefits of the National Reform Agenda*, Commonwealth Government, 148.

⁶⁴ Laura Jones, Nina Gormanns and Queenie Wong (2013), *Canada's Red Tape Report - With U.S. Comparisons*, Canadian Federation of Independent Business, 8, 35.

⁶⁵ Overall cost of regulation sourced from: Nicole V Crain and W Mark Crain (2010), *The Impact of Regulatory Costs on Small Firms*, Small Business Administration's Office of Advocacy, 48. GDP data sourced from: US Department of Commerce (2013) *Current-dollar and "real" GDP* (excel), United States Federal Government.

⁶⁶ Exceptions apply. For instance, the Canadian Federation of Independent Business conducted red tape surveys and measurements in 2005, 2008 and 2012; Laura Jones, Nina Gormanns and Queenie Wong (2013), *Canada's Red Tape Report - With U.S. Comparisons*, Canadian Federation of Independent Business, 8, 35.

Second, the measurements vary in how they define red tape as well as the nature and rigour of their methodology. Even for those jurisdictions that used the Standard Cost Model, the definition of “administrative burden” varied considerably depending on whether items such as Business-As-Usual costs⁶⁷ and third party compliance costs⁶⁸ were included or excluded.

Third, the amount of red tape as a percentage of GDP varies considerably depending on what is included in the measurement. Those countries that measure only administrative burdens tend to estimate a burden in the range of 1.0% to 3.6% of GDP. Broader measurements, such as the study conducted in the US, can be as high as 11.70% of GDP.

Finally, even those initiatives that focus solely on administrative burdens are not truly discriminate as they measure the burden of regulation as opposed to the burden of red tape. As such, in cases such as the United Kingdom, where the administrative burden of regulation was measured at 1.6% of GDP, all we know is that administrative red tape could be anywhere between 0% and 1.6% of GDP.

⁶⁷ Business-As-Usual (BAU) costs are the costs of the activities which businesses would continue to carry out even if regulatory requirements were removed: Department of Treasury and Finance (2007), *Estimate of Victoria’s Administrative Burden*, Victorian Government, 4-6.

⁶⁸ Third-party information obligation costs arise from regulation requiring business to provide information to third parties, such as employees or consumers. The Netherlands and Denmark included third-party information obligation costs in their SCM baseline measurement, however the United Kingdom did not; Department of Treasury and Finance (2007), *Estimate of Victoria’s Administrative Burden*, Victorian Government, 4-6

From Meat Axe to Scalpels

Most red tape reduction programs fall into the meat axe category. They define a broad target to which they apply far-reaching, unprioritised processes which do little that can be verified. Even if they were to be guided by a more clear and comprehensive definition of red tape, such initiatives would continue to struggle with difficulties in application.

An alternative, put forward here, is to use not one, but a set of definitions that are tied to the different drivers and manifestations of red tape. When combined with a framework that categorises and prioritises the different negative effects of red tape, the result is a more clinical approach that is specifically engineered to mitigate the most economically destructive aspects of red tape. In other words, what is proposed is the purposeful wielding of scalpels rather than the furious flailing of a meat axe.⁶⁹

DRIVERS AND MANIFESTATIONS OF RED TAPE

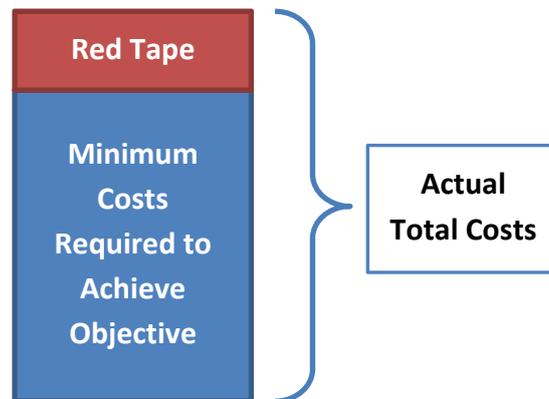
The different drivers and manifestations of red tape can be captured by two broad definitions. The first definition is concerned with whether the costs that regulations impose on society have been minimised. The second definition focuses on whether regulations create a net public benefit.

Minimum Cost Definition

Red tape can arise where the actual cost of complying with a regulation is greater than the minimum cost required to achieve the policy objectives of that regulation. This may occur due to inefficiencies, for example where businesses are required to fill out the same form twice or provide information irrelevant to the decision being made. It may also occur where regulations are overly stringent, for instance by requiring annual motor vehicles inspections when an inspection every five years would be sufficient to assure vehicle safety.

⁶⁹ Herbert Kaufman (1977), *Red Tape – Its Origins, Uses and Abuses*, The Brookings Institution, 98.

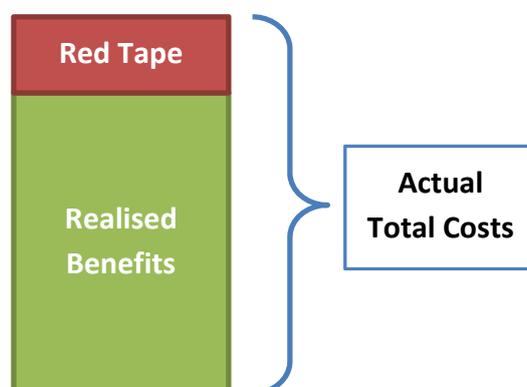
Figure 3: Diagrammatic representation of the Minimum Cost Definition.



Cost-Benefit Definition

Red tape can also arise when the actual costs imposed by a regulation exceed the actual benefits realised from that regulation. This can occur where a policy objective serves no significant productive purpose. It may also occur where regulation has been poorly formulated, either because it does not adequately capture the benefits proposed in its policy objective or because it pursues the policy objective in an inefficient manner. Issues with policy and regulatory drafting can arise both at the time of the regulation's inception or over time as circumstances change.

Figure 4: Diagrammatic representation of the Cost Benefit Definition.



In practice both definitions need to be considered when classifying regulation as red tape. In most cases there will be a cost factor, due to inefficient or unnecessary steps in regulation, and a benefit factor, depending on whether or how the legislation will provide intended benefits.

NEGATIVE EFFECTS OF RED TAPE

While the different drivers and manifestations of red tape have been discussed, consideration also needs to be given to the different types of negative effects that can flow from red tape. These negative effects fall into two main categories – cost effects and disincentive effects.

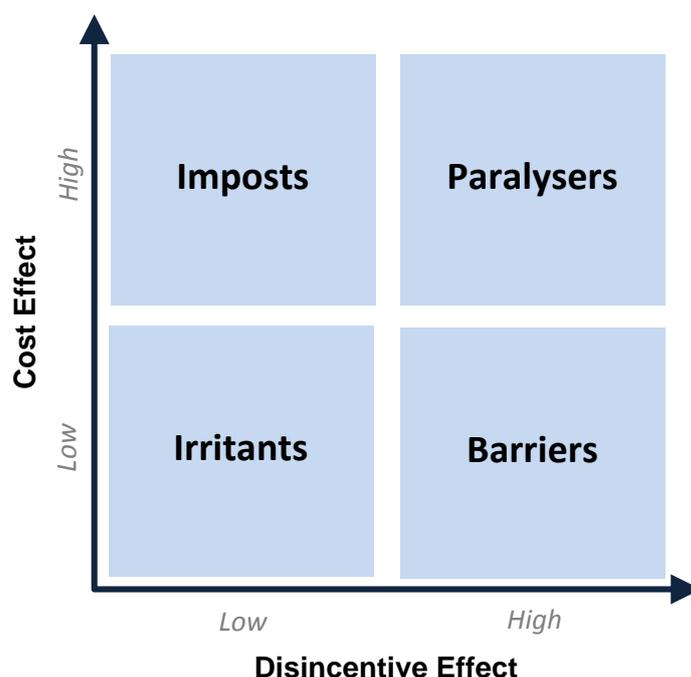
Cost effects include those aspects of red tape that directly impose unwarranted operating or capital costs on regulators, regulated organisations or individuals.

Disincentive effects include those aspects of red tape that reduce innovation and enterprise in the market. This primarily applies to red tape that reduces competition by making it more difficult than necessary for new business to enter the market or for existing businesses to compete within the market. However, it can also apply to red tape that creates unjustified delays, provides inconsistent guidance and rulings, or causes other market distortions, such as substitution effects.

CATEGORISING RED TAPE

Classifying regulation according to the extent of its cost effect and disincentive effect results in four different categories of red tape.

Figure 9: Matrix of different categories of red tape.



Irritants cause only a small increase in compliance costs and disincentives. However, they can be a major source of irritation and annoyance for businesses. For instance, where a business is required to fill out the same form twice or when short delays in approvals add unnecessary costs or uncertainty to projects.

Imposts impose significant costs on businesses while having only a small negative impact on incentives. This could include the cost of delays and paperwork associated with reporting and obtaining approvals. These costs do not create a large disincentive effect because they are largely variable in nature – increasing with the size of a project or the scale of a business' operations. In contrast, compliance costs that are largely fixed are more likely to create disincentives because they impose a proportionately greater burden on smaller businesses, thereby eroding competition. In

practice, red tape will rarely impose a purely variable cost. For example, tax returns impose administrative costs which increase with the scale and complexity of a business' operations. At the same time, however, this cost usually decreases on a per-employee basis or as a percentage of revenue as firms grow larger.⁷⁰ It is ultimately an exercise of judgement as to whether this inequality creates a significant disincentive effect.

Barriers impose little or no direct costs on existing businesses but can, due to monopoly rents, impose a high cost on the economy. Barriers also have a significant adverse effect on incentives. This occurs, for instance, where there is an unwarranted legislative barrier to entry in a particular market or where licencing conditions make it harder than necessary for new businesses to enter a market. It also includes red tape that creates protracted delays, denying innovative firms the opportunity to take new ideas to market.

Paralysers have both a significant cost effect and disincentive effect. Examples could include overzealous financial system regulation, environmental laws and approval processes, zoning regulations, building regulations or licences that demand a large and fixed amount of capital investment or paperwork.

LIKELY PRIORITIES

While there is strong evidence that disincentives can have a significant adverse effect on productivity and economic growth, evidence regarding the negative impact of compliance costs is less convincing.

Academic and empirical studies have demonstrated that economic incentives, such as competition, are a key driver of productivity and economic growth.⁷¹ Consequently, ensuring that regulation does not inhibit competition unless there is a clear public benefit is likely to remain

⁷⁰ Link to surveys

⁷¹ Anita Wölfl, Isabelle Wanner, Tomasz Kozluk and Giuseppe Nicoletti (2008), *Ten Years of Product Market Reform In OECD Countries – Insights From a Revised PMR Indicator*, OECD Publishing, 7; OECD (2010) *OECD Reviews of Regulatory Reform – Australia – Toward a Seamless Economy*, OECD Publishing, 53; M Baily and H Gersbach (1995) *Efficiency in Manufacturing and the Need for Global Competition*, Brookings Papers on Economic Activity: Microeconomics, 307; WW Lewis (2004) *The Power of Productivity*, The McKinsey Quarterly 2004 No. 2; Sanghoon Ahn (2002) *Competition, Innovation and Productivity Growth: A Review of Theory and Evidence*, OECD Economics Department Working Papers No 317; Y Okada (2005) *Competition and Productivity in Japanese Manufacturing Industries*, NBER Working Paper Series, WP 11540, National Bureau of Economic Research, Cambridge, MA; ME Porter and M Sakakibara (2004) *Competition in Japan*, *Journal of Economic Perspectives*, Vol 18, No 1.

a top priority for regulation review. A prime example was the product market liberalisation achieved under the National Competition Policy (NCP) framework in Australia during the 1990s. These reforms significantly enhanced Australia's multifactor productivity and ultimately increased GDP by between 2.5% and 5%.⁷²

Evidence concerning the economic significance of cost effects is not as strong. While business perceptions suggest that the cost effect of red tape is a major problem, such perceptions can be unreliable for three reasons.⁷³ First, business perceptions tend to overstate the compliance costs associated with regulations that are highly irritating.⁷⁴ Second, when businesses do not understand the purpose or objectives of regulations, they will invariably and incorrectly classify the associated compliance costs as red tape. Given that about half the respondents in some surveys found the purpose of regulation to be generally unclear, it follows that there is considerable scope for overstating the red tape problem.⁷⁵ Third, perceptions of red tape are subjective and can be distorted by the individual circumstances and beliefs of different businesses.

Measurements of the cost effect of regulation do not suggest a problem of particularly great economic significance. This can be demonstrated by the administrative burden measurement exercises conducted in the United Kingdom, the Netherlands, Denmark and the Czech Republic. The table below presents the results of these measurement exercises. Total administrative costs have been adjusted to isolate the marginal burden imposed by government regulations.⁷⁶ Regulatory red tape has also been estimated using a survey approximation that the burden of regulation can be reduced by 29% without sacrificing the public interest.⁷⁷

⁷² OECD (2010), *Reviews of Regulatory Reform: Australia – Towards a Seamless Economy*, OECD Publishing, 14, 52.

⁷³ Business perception surveys are the most commonly used tool for collecting information on compliance costs: OECD (2009) *Indicators of Regulatory Management Systems*, OECD Publishing, 81.

⁷⁴ OECD (2012), *Measuring Regulatory Performance: A Practitioner's Guide to Perception Surveys*, OECD Publishing, 46; OECD (2010), *Cutting Red Tape: Why is Administrative Simplification So Complicated? Looking Beyond 2010*, OECD Publishing 35.

⁷⁵ IFF Research (2012), *Business Perceptions Survey 2012*, IFF Research Ltd, 21.

⁷⁶ The adjustment involves removing Business As Usual costs and third party compliance costs. Estimates provided by PricewaterhouseCoopers Australia; Department of Treasury and Finance (2007), *Estimate of Victoria's Administrative Burden*, Victorian Government, 4-6.

⁷⁷ Laura Jones, Nina Gormanns and Queenie Wong (2013), *Canada's Red Tape Report - With U.S. Comparisons*, Canadian Federation of Independent Business, 10.

	Total Administrative Costs ⁷⁸	Administrative Costs Attributable to Government Regulation ⁷⁹	Estimated Government Red Tape
United Kingdom	2.5%	1.0%	0.29%
The Netherlands	3.6%	1.4%	0.41%
Denmark	2.2%	0.9%	0.26%
Czech Republic	3.0%	1.1%	0.32%

Note: All figures given as a percentage of GDP. Percentages would be higher if expressed as a function of business revenue.⁸⁰

The data suggests that, even if administrative red tape were to be eliminated altogether, the impact on GDP would be less than half a per cent for each of the listed countries.

Capital costs imposed on businesses, such as the cost of buying equipment or software, also do not appear to be economically significant. While there are relatively few studies which measure capital costs,[1] those studies that do exist suggest that the burden of these costs may be even smaller than administrative costs. For instance, a 2007 study in Sweden measured the total cost that government regulations imposed on a sample of six companies. Median capital costs were less than half median administrative costs in the sample. Similarly, a 2013 study estimated that the total administrative and capital costs imposed on US businesses was only 1.22% of GDP. If it is again assumed that 29% of these costs are red tape, the total figure is even less substantial.

Nor does the cost to governments of administering private sector regulation appear to be of great significant. Total expenses for all private sector regulators in the US was US\$59.2 billion in 2012, or 0.36% of GDP.[2] In Australia, total expenses for the 35 major private sector regulators was A\$9.78 billion, or 0.67% of GDP.[3] Assuming again that 29% of these costs are red tape, the ultimate estimate of red tape is only 0.10% and 0.19% of US and Australian GDP.

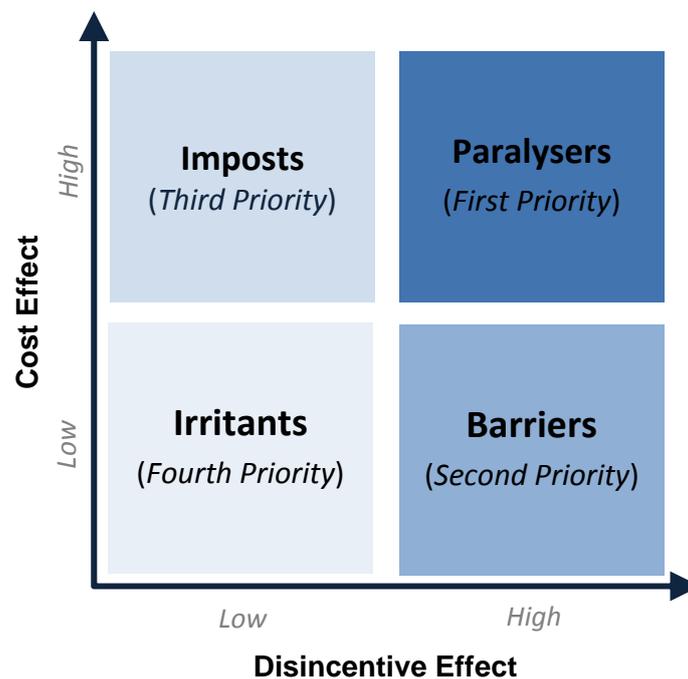
⁷⁸ Department of Treasury and Finance (2007), *Estimate of Victoria's Administrative Burden*, Victorian Government, 6.

⁷⁹ Department of Treasury and Finance (2007), *Estimate of Victoria's Administrative Burden*, Victorian Government, 6.

⁸⁰ See for instance: OECD (2001), *Businesses' Views on Red Tape: Administrative and Regulatory Burdens on Small and Medium-sized enterprises*, OECD Publishing, 60.

It follows that, in the absence of more tangible evidence demonstrating the economic significance of cost effects, governments should instead prioritise the reform of red tape that has a large disincentive effect. This is not to say that governments should ignore imposts and irritants, but rather that they should not be the main focus of red tape reduction programs.

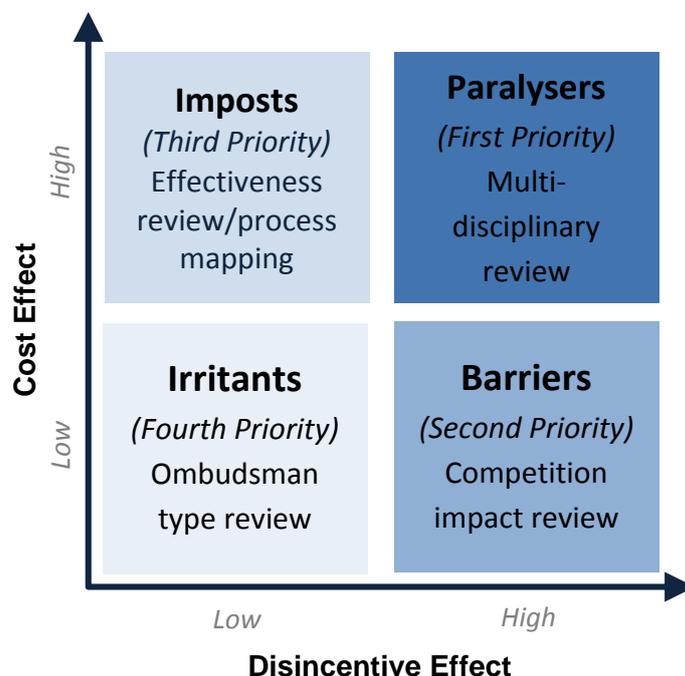
Figure 10: Matrix of the different categories of red tape with priorities assigned.



TAILORED PROCESSES

Effective reform requires a range of scalpels that are tailored and proportional to the nature and size of different red tape problems. Each scalpel will require different resources, processes and skill sets.

Figure 11: Matrix of the different categories of red tape with priorities and tailored review processes assigned.



Irritants call for a resource conservative process driven by complaints from businesses, industry organisations and consumers. This could be achieved through an ombudsman-style body that has been equipped to receive and process complaints and feedback. The most prevalent and pervasive of these complaints, combined with suggestions for reform, could then be conveyed to the relevant government body for consideration and implementation. The ombudsman should have the power to review any subsequent actions taken by the relevant government body in order to ensure accountability and effective implementation.

Imposts require a process that focuses on cost effects. A system of process mapping and activity analysis is best suited to identifying how the regulatory process can be streamlined or eliminated. The team or person undertaking the reform should have, or should seek counsel from those that do have a working knowledge of, and practical experience with, the regulatory process in question.

Barriers call for a process that is tailored to deal with disincentive effects. This is best achieved through a competition impact review that focuses on the impact that regulation has on markets, barriers to entry, pricing and other incentives. The team or person conducting the review should have a sound understanding of how businesses operate and compete, micro-economic literacy and familiarity with relevant legal principles.

Paralysers require consideration of both disincentive effects and cost effects. It therefore requires a multi-disciplinary review, combining both the competition impact review used for Barriers with the regulatory streamlining processes used for Hidden Taxes.

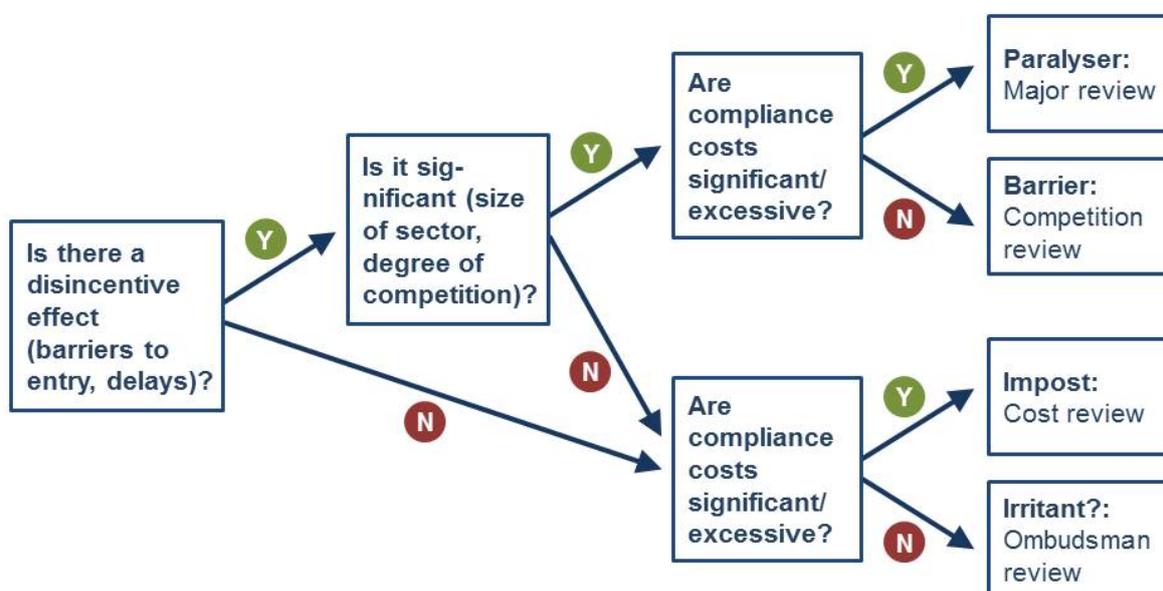
A TRIAGE PROCESS

As discussed earlier, most red tape programs do not discriminate between different types of negative effects. One way to overcome this would be via a triage process that focuses on the cost effect and disincentive effect of regulations. The triage would provide an initial filter that identifies what type of approach, if any, is needed, what priority the review should be given and what organisation would be best equipped to conduct and implement the review.

The Triage Framework

The idea behind the triage framework is that the need for a review, and the type of review, should be determined by a prima facie case that one of the four types of red tape is inherent in the proposed regulation. Figure 12 sets out the logic of such a framework.

Figure 12: A possible triage process for examining a piece of legislation.



The first question posed is whether there is a disincentive effect. This would be indicated by the presence of barriers to entry of new competitors, barriers to innovation for existing competitors and a non-competitive industry structure in the regulated area.

Starting with this question is consistent with the finding, discussed earlier, that the most significant negative red tape effects are caused by restrictions on competition.

Having established that there are disincentive effects, the next question is whether these are significant. Factors such as the relative size and growth of the regulated area, and the degree of effective competition are key indicators of significance.

The third step in the process is to ask whether there are significant and excessive compliance costs for the regulator and the regulated entities or persons. Deciding what is significant requires judgement, but an analysis of a small set of regulated entities would suggest whether the regulatory cost is a noticeable percentage of profits or costs. Growth of compliance costs great than inflation is another indicator of significance. The judgement that costs are excessive would be guided by whether they impose duplicated obligations and processes, or whether they seem to provide little benefit.

The answers to each of these three questions can be yes or no, and the four combinations of yes' and no's lead to the prima facie finding of one of the four types of negative effects (or not where all answers are 'no', and there is no irritant effect). In applying this framework, note no mention is made of benefits. It is possible in each case that benefits more than justify the regulation. However, benefits are far more difficult to estimate, even after considerable study, as the US review mentioned earlier indicated⁸¹. Hence the question of benefits is, in this framework, left to the full review of the type indicated by the answer to the three questions. The full review would more extensively examine disincentives and cost effects of the regulation, and whether these are justified by benefits.

The Triage body

The triaging function should be carried out by an appropriate government body – such as the Office of Best Practice Regulation in Australia, the Better Regulation Executive in the United Kingdom or the Dutch Advisory Board on Regulatory Burden in the Netherlands. The triage body would be tasked with applying the triage framework in order to conduct a brief assessment of the likely cost effect and disincentive effect of proposed and existing regulation. Where appropriate, the triage body should seek information from and be a reference point for issues raised from businesses and the community.

Based on the likely magnitude of any cost effects and/or disincentive effects, the triage body should categorise any red tape and assign a priority to its review. It should then refer the regulation to an appropriate organisation with suitable skills and processes to conduct a more detailed review.

The triage process thus creates an initial filter which dispenses with the need for precise and costly measurement, particularly in relation to benefits. Moreover, by limiting the breadth of reform to only those regulations which pass through this initial filter, and by prioritising and referring reviews to organisations that are best equipped to handle them, the triage process enhances the allocative efficiency of reform resources.

⁸¹ Office of Management and Budget (2013), *Report to Congress on the Benefits and Costs of Federal Regulations*, United States Federal Government, 2.

Conclusion

Red tape has proven to be an intractable problem for which there is no perfect solution. Kaufman's words in 1977 thus appear to still hold true today, namely that red tape has "taken its place with death and taxes as an inevitability of life".⁸² As discussed by Kaufman, and developed further in this paper, the solution to red tape does not rest in a broad-sweeping panacea, but rather in a more clinical approach that targets the worst of red tape's negative effects. This paper has provided a potential framework for such an approach. By implementing a triage process guided by clear, workable definitions that are tied to the different prioritised negative effects of red tape, reform changes from being a single stage meat axe to a multi-stage array of purpose built scalpels. This paper is not intended to be an all-encompassing rule book for red tape reform, but rather proposes a more efficient and effective methodology for conceptualising and addressing the issue of red tape. While this methodology may not provide governments with the same grand political claims preached by previous reform initiatives, it is much more likely to generate and maximise net public benefits.

⁸² Herbert Kaufman (1977), *Red Tape – Its Origins, Uses and Abuses*, The Brookings Institution, 97.