

Smart Regulation for Singapore

Interview with Chan Lai Fung

Singapore's Smart Regulation Committee (SRC) was formed in 2005 to improve the knowledge, awareness and practice of regulation across the public service. *Ethos* spoke to the chairman of the SRC, Chan Lai Fung, who explained the committee's aims, and outlined the regulatory landscape in Singapore. Edited excerpts of the interview follow.

Singapore has been called a “fine city”, known for its rules and regulations and strong enforcement capability. Now it wants to change the mindset of agencies: from that of a regulator and controller to that of a facilitator. How has Singapore's regulatory approach evolved over the years and why?

The change in regulatory approach that we see in Singapore is not that different from the experience of other regulatory regimes. In a way, regulators the world over have to respond to the same forces that demand changes to the way regulation is done.

The key forces at work are globalisation, technological advancements, and a more informed and educated citizenry.

Globalisation has brought about more intense competition, including competition for investments. Whether a regulatory regime is friendly to businesses and investments is a key competitive factor. This is especially so for Singapore. Without cheap land and other natural advantages, how efficient we are and how well our rules and regulations serve the interests of the businesses and the community are important considerations.

But what does it take to ensure that we have a first-rate regulatory regime? Most seem to agree that we need to get our agencies to change their

mindset from that of a regulator or controller to that of a facilitator. This means adopting less of a “regulator-centric” approach and shifting to one that is more “customer or citizen-centric”. If we take a regulator-centric approach, our tendency will be to draw up rules that are convenient to the regulator, with little regard for the regulatory costs and administrative burden to be borne by the regulated. But if we adopt a customer or citizen-centric perspective, we will be a lot more mindful of the implications for the recipients of our rules. The mindset will be one of trying to help and facilitate rather than acting in the regulator's own narrow interests.

Globalisation and technology have also resulted in regulators having to grapple with far more complexity than before. There are many more new products and services, new companies and industries, and new ways of doing business. The electronic medium has revolutionised how certain transactions are carried out. All these throw up new issues that regulators are struggling to keep up with. Regulators have little choice but to consult experts from the industry and the community.

In the past, there seemed to be a great suspicion of the private sector, a fear of having a fox in the hen-house. When agencies formulated their regulation, they did not want the regulated to know what they were doing because they thought the regulated would always be trying to outwit them and get around their rules and systems. In those simpler days, regulators thought they knew better and saw less need to consult.

We have now definitely moved to a more consultative mode. This is a transition that almost every government has gone through. There is a more informed and educated population; and the industries also demand to be consulted and

heard. A more consultative approach also reflects a greater sense of confidence on the part of the government. Regulators should have the confidence that their regulations will be effective even when the industry is consulted. In reality, regulations will be more effective if they have taken into account inputs from the stakeholders.

Can you define “smart regulation”? What exactly does it mean in the Singapore context and what is the role of the Smart Regulation Committee?

The Smart Regulation Committee (SRC) evolved from the Rules Review Committee. Both committees were formed to support the Cut Red Tape initiative. In coming up with a new name for the committee, we noted from the last rules review exercise that sometimes the problem was with under-regulation, and other times it was over-regulation. So we did not want a name that suggested that regulation should be reduced or increased. What we want is optimal regulation. The environment is always changing and regulations have to keep changing to keep pace. “Smart regulation” encompasses all these ideas.

What we would like to see is a change in the mindset of civil servants so that when they think about regulation, they first think in terms of the desired outcomes. Rather than just reviewing regulations in response to complaints, we would like them to ask, “What are we trying to achieve here?” We would like them to articulate both the outcomes they want and the risks that they are trying to manage. If they are clear about the outcomes and risks, it is likely that the options for improving current rules and regulations will also be clearer.

We would also like regulators to think beyond their own agencies: in whole-of-government terms. When an issue cuts across boundaries and cannot be resolved, ideally one of the ministries or agencies involved should step up to the plate to co-ordinate the issue, or at least to escalate it to a central body, like the Strategic Issues Group. This outlook is beginning to develop and I am hopeful.

The work of the SRC is to educate the civil service about regulation and what it means, and to raise the level of awareness of and discourse about regulation. To bring about all these changes in mindset, there can be a more systematic way of

exposing our civil servants to regulatory principles and tools like risk management. The SRC and other agencies involved in regulation need to bring together all the lessons, extract the principles, identify what is transferable and then disseminate these ideas throughout the civil service.

Hopefully, with time and appropriate training, civil servants should acquire the tools and vocabulary to think about how regulation ought to be done. They should be able to look across the civil service at different agencies facing similar issues, see what options are being explored, and what they can learn and apply in their own area. If the SRC can bring this about, we would have made a small step towards improving mindsets. Ultimately we hope this will result in smarter, better regulations at the lowest possible cost to everyone involved.

Can you say something about a risk management approach in regulation?

The use of a risk management approach is not entirely new. Trade-offs in policy-making have all along required an assessment of risks. In fact some of the academic literature argues that government is the ultimate risk manager. There is a lot of truth in this. In setting any standards and specifications, you are taking some risks. Take building regulation—nothing is completely earthquake-proof or 100% fail-safe. There are always some risks involved. The government as a whole regularly takes decisions about acceptable levels of risk. It is just that we do not consciously think about and articulate the decision-making process in those terms.

The tendency of any regulator is to minimise risks for itself. This means having very tight rules leaving as few loopholes as possible. But it also means having little regard for the costs to be borne by the regulated. Risks are managed in a way that is stacked in favour of the regulator, with the industry bearing most of the regulatory burden.

Now, we are urging regulators to look beyond their own perspective. If we look at regulation from a national viewpoint rather than the regulator’s own interest and do the cost-benefit analysis from that perspective, we may say that certain regulations do not make sense. This broader perspective makes us more likely to weigh the risks and options differently.

The Smart Regulation Committee would like to see a change in the mindset of civil servants so that when they think about regulation, they think first in terms of the desired outcomes.

How should flexibility and discretion figure in regulation?

Whether you need to accommodate, be flexible, or show discretion, depends largely on how blunt the regulations are to begin with. If the regulation is very general and applies to everyone, it is more likely that there will be exceptional circumstances and a need to show discretion. The more customised and fine-tuned the policies are, the less need there is to make exceptions.

If, despite the regulation being so finely segmented, there is still an exceptional circumstance, you need to judge whether it is a one-off occurrence, something unique, or whether it reflects a particular cluster of issues that so far regulation has not been able to accommodate and capture. It is not about showing favouritism or accommodating a particular company but assessing that this is a legitimate issue for which we will now devise a sub-category of rule to deal with it.

Of course, there will still be marginal cases which will require regulators to decide whether to show flexibility and discretion. Exercising this type of judgement is not an easy thing to do. In the civil service there is a general reluctance to deal with exceptions. The main reason is the reluctance to have to defend and justify these cases. This is especially difficult for lower level staff, even if their gut feeling is that they ought to. To be able to speak about the circumstances and to isolate the distinguishing factors is a fairly high order skill requirement. And it takes quite a bit of effort to think about why a case merits special consideration. So the reflex is to say: No.

When it comes to discretion and flexibility, the difficulty is in deciding what level of staff ought to make these kinds of decisions. The CEO cannot attend to every exceptional case. The other issue is how to set up a feedback loop from the

customer service counter so that these exceptions receive due attention. Very few exceptional cases ever reach the ears of senior management. I was therefore very pleased to hear that one CEO sits down regularly with her counter staff to find out what complaints and exceptions arise regularly. We need such mechanisms to surface these cases to senior management who should then take a decision about whether a regulation needs to be changed. We need to work harder on having processes and mechanism for issues like this to percolate upwards so that regulation can be improved.

This interview was conducted by Patricia Lam, a senior research fellow at IPD. ■