

2022 CONFERENCE

REGULATORY REFORM

supporting business
investment and growth



INSTITUTE OF
PUBLIC ADMINISTRATION
AUSTRALIA

IPAA
ACT

16-17 FEBRUARY 2022

HYATT HOTEL, CANBERRA AND ONLINE

TRANSCRIPT OF EVENT

2022 CONFERENCE | REGULATORY REFORM: SUPPORTING
BUSINESS INVESTMENT AND GROWTH

DAY 1 – 16 FEBRUARY:

HIGHLIGHTS, PANEL DISCUSSIONS

Enquiries should be directed to Caroline Walsh on 0413 139 427 or at Caroline.walsh@act.ipaa.org.au

John Kehoe:

How would you describe the relationship between regulators and business? And do you think sometimes there's an inherent scepticism of business by regulators?

Jane Halton:

That we reality is some of our regulators are very sophisticated and have a very sophisticated understanding of the business that they're regulating. They speak the same language. But very often what I see is people who actually don't speak the same language. They don't viscerally understand the business and they don't understand the pressures. And I think that's where you end up with a real problem. Who would've thought that some of the regulation that was at pinch point in the supply chain went to trucks and what hours they could be on the roads. Now as a regulator, if I put all of you in a room and gave you a whiteboard and said, "Tell me why there's no toilet paper?" I bet you wouldn't have come up with that as the first, second, or third answer. Listen to business.

John Kehoe:

What do you think overall we've learnt about our regulatory system from the pandemic?

Anna Bligh:

I think you know John, APRA - they're very careful in their approach. It can take two and a half years to revise a standard, but when it was absolutely necessary, it all hands to the pump. And to their credit, they moved with great speed. As in fact did in all the regulators.

Bruce Billson:

For a lot of small business respondents, they feel a different kind of crisis every day. And that is they're drowning under regulatory position and burden. There's the tsunami effect of a crisis, but a slow flood coming up for a small business feeling they're spending a disproportionate amount of their time on compliance or impositions others are insisting upon them. They're kind of thinking they've got a different kind of crisis. And if there's that kind of agility and responsiveness, maybe we'd like a bit more of that as a BAU. Not always, not exactly the same.

Anna Bligh:

Governments didn't call a Royal Commission into banking because they had nothing else to do. They did it because they had electors coming into their electorate offices, talking to them about poor conduct and harm that was being done. That's the other side of regulation. Governments often get pushed to it because industries don't or won't or can't get alignment collectively to either stop wrongdoing or to regulate themselves when needed. So I think in the context of this discussion, I think that's a point. It's not all about government.

Bruce Billson:

If I could be a little bit more controversial, I also was a founding director of Judo Bank, trying to set up a financial institution to take on Anna's members. I felt many times those regulations were there designed not to protect the customer or the community, they were designed to stop competitors. It was so darn hard to climb over.

Anna Bligh:

I think one of the attitudes we need in our regulators is when there is something that is demonstrably more effective than the old way of doing things, but doesn't necessarily fit with the way it's described in 10 year old guidance. How can we bring that to the regulator's attention and get them to sort of say, yeah, that makes sense. Without necessarily having to open up the whole guidance and have an 18 month consultation on redrafting the standard.

Jane Halton:

There is no doubt in my mind, we can leverage technology to get rid of huge barriers, but we have to have the will to do it. And I think for a regulator's perspective, if you start this with a, what could I do here? What's possible? Rather than, oh, I can't do that. For those who I worked with, you've heard me say this before. You've heard me say this. People used to walk into my office and say, "Oh, we can't do that." Do you know what can't stands for? Certainly are not trying.

Megan Motto:

What is your perspective on the good, bad and ugly of regulation? And if it's not inherently good or bad, what are the edges where we get it wrong?

Dr. Subho Banerjee:

At the broadest policy level, what is it that we're trying to do? What is the problem we're trying to solve? How are we trying to go about it?

Michael Brennan:

We talk a lot more these days about better regulation as distinct from just less regulation. And we have all witnessed over the years, various kind of crude attempts at cutting regulation that may have missed some of that nuance. We talk a lot more about regulator performance, regulator capability, regulatory culture, and particularly post the work of Nick Greiner and Su McCluskey and others in New South Wales, we talk more about regulatory stewardship as a concept.

Dr. Subho Banerjee:

Many things in our life are broadly better because they've been regulated for a long time. Now, that's often actually an argument for saying that's worked really well. And so I think it's quite rational for the populace at large to say, gee, that's quite a good thing. And it's not surprising then that there is probably an interest in thinking about regulatory solutions in other domains as well. So I think there's a bit of thinking about cost and benefits, carefully convincing yourself about the materiality, and thinking about it in the whole is a really important conversation.

Anne Harris:

To be able to deliver multicenter trials across many different states requires a level of regulation that goes from a national level, national health and medicine, medical research counts, CGA, departments of health, [inaudible 00:05:45] and territory governments. At every level, there is some different perspectives, different regulations. It makes it extremely difficult to promote Australia as a destination for clinical trials. And when you're competing against, quite frankly, neighbouring nations which have a single regulatory approach and approval process.

Sandra Parker:

What does stewardship actually mean and what does successful stewardship look like?

Simon Atkinson:

For me, stewardship is actually about good systems leadership and understanding all of the context that a market operates in and all of the levers that impact that. And ensuring that as a steward, you have leadership responsibility and accountability for ensuring that system operates well.

Arie Freiberg:

Now I'm going to ask an existential question of people here. What the hell are we doing here? Why are you here? Why are you existing? 40 years. 40 years we've been at this. Regulatory reform has been going for 40 years. Why haven't we got it right? There was so much discussion about co-design. Co-design between what? Government and business? Government to those organisations. Where is the voice of the consumer here? Where is the voice of the citizen? Where is the notion of public value being created by what we are doing? I have to say the debate, the discussion we're having is valuable, but it is not the full discussion that ought to be had in this forum or any forum. If you're going to talk about co-design, talk about the people it affects. Talk about the people who are the victims of market fraud, market failure. Falling and burning buildings in the age care system, in the financial system.

Simon Atkinson:

I do think any blanket approach to deregulation won't be successful in improving regulation across the board. What it does do though, is it creates a system pressure on everyone involved to have a look. To have a look at whether or not your regulation and your policies are still fit for purpose in your market today, and the thing that was introduced 30 years ago for a really good reason is still fit for purpose. And it's that questioning conventional wisdom piece that we need to start getting into.

Bryan Chapple:

One thing like regulatory stewardship won't survive forever because you look at things in a particular way. And so every so often you do need to look at things in a different way. I think regulatory stewardships a very broad concept, so it can cover a multitude of sins. And it may well serve, but with different points of emphasis for a while, but at some point it will be useful to look at things from another way, because that will force us to ask different questions. And we need to keep doing that.

Arie Freiberg:

That inherent tension between regulation and deregulation is a false dichotomy. The attacks on regulation. We need to remember that what is red tape or regulation to one, is protection, assurance, rights, fairness, and probity to another. And that's the voice that is missing. So stewardship, good. If we keep thinking of it, not as deregulation, but that cliché, better regulation.

Simon Atkinson:

Thank you all for everything that you do because I value the contribution of everyone in this room because you're really, really important parts of the system. And the fact that you are here talking about it means that you care about it and are focused on doing it well. So thank you.