

Productivity Commission Survey: Regulator chief executives' perceptions of regulatory regimes

March 2014

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1.1 Methodology

On 15 November 2013, the Commission emailed chief executives of government regulators who had been identified as being within the scope of its inquiry into regulatory institutions and practices.¹

The 33 agencies were:

Name of organisation		
Broadcasting Standards Authority	Gas Industry Company Ltd ²	New Zealand Fire Service
Civil Aviation Authority	Health and Disability Commissioner	New Zealand Historic Places Trust
Commerce Commission	Land Information New Zealand	New Zealand Lotteries Commission
Commission for Financial Literacy and Retirement Income	Maritime New Zealand	New Zealand Qualifications Authority
Department of Conservation	Ministry for Primary Industries	New Zealand Transport Agency
Department of Internal Affairs	Ministry of Business, Innovation and Employment	New Zealand Walking Access Commission
Drug Free Sport New Zealand	Ministry of Culture and Heritage	Office of Film and Literature Classification
Electricity Authority	Ministry of Education	Privacy Commissioner
Energy Efficiency and Conservation Authority	Ministry of Health	Reserve Bank of New Zealand
Environmental Protection Authority	Ministry of Transport	Statistics New Zealand
Financial Markets Authority	New Zealand Customs Service	Takeovers Panel.

The text of the email was as follows.

As you may be aware, the Productivity Commission's newest inquiry is about better understanding what good regulatory design and practice looks like in the New Zealand context.

As part of this inquiry, the Commission is conducting a short (3-5 minute) survey of leaders of central government regulatory agencies. The objective of the survey is to obtain a snapshot of New Zealand's regulatory system based on the views of those entrusted with leading its implementation – namely the Chief Executives of New Zealand's public service departments and crown entities with regulatory functions.

The survey is completely anonymous and has been designed to make it impossible for the Commission to attribute survey responses to individual Chief Executives. The aim of the survey is simply to gather an impression of the system as a whole, rather than the operations of your agency or any specific organisation.

¹ The method for selecting agencies as being within scope is described in Chapter 1 of the Commission's draft report into regulatory institutions and practices.

² The Gas Industry Co is a non-government company recognised as a co-regulator under the Gas Act 1992.

For the survey to be of most value it is important that you personally complete it. We estimate this will take between 3-5 minutes. You can commence the survey by clicking here.

I would appreciate it if you could complete the survey by 22 November 2013. The aggregate survey results will be made available on the Commission's website as a part of the Inquiry's Data Compendium.

I hope you will assist the Commission by completing this brief survey and I thank you in advance for your cooperation.

The link directed recipients to the SurveyMonkey website which hosted the questions.

A further email was sent on 22 November 2013. It read as follows.

Thank you to the many chief executives who have taken the time to undertake this short survey on your impressions of our regulatory environment. More than two-thirds of you have already completed it. This is a good response which will help inform our thinking and the production of our draft report.

For those of you who haven't yet completed the survey, we would still love to hear from you. It takes less than five minutes, and is completely anonymous. You can do so by clicking here.

23 chief executives responded to the survey. The Commission does not know which 23 of the 33 agencies responded.

The final response was received on 22 November 2013. The link remained open until 7 March 2014 but no further responses were received.

1.2 Results

Q1 : On average, what proportion of your senior leadership team's time do you estimate is taken up by your regulatory functions?

Response	Response Count	Percentage
0-20%	7	30.4%
21-40%	5	21.7%
41-60%	2	8.7%
61-80%	2	8.7%
81-100%	7	30.4%
Don't know	0	0%

Q2 : What aspects of regulation do you personally spend the most time on? For example, dealing with stakeholders, budget processes, capability building, etc.

Freeform answers from respondents (unedited):

- Stakeholders, capability building, programme and project sponsorship for regulatory reform
- Regulatory service design and delivery - both current delivery of regulatory functions and transformational change for future service delivery
- reading to keep abreast of changes / context stakeholder engagement governance of internal processes and capability
- dealing with stakeholders
- Customer service levels and feedback. Regulatory reform and design
- Stakeholders Accountability Documents Projects beyond core regulatory function Oversight

- policy framework and exercise of discretion as CE
- Stakeholder management, issues of legal risk to the organisation, issues or risk to organisational credibility, and dealing with requests of regulated parties for the rules to apply differently to them
- Dealing with stakeholders
- Dealing with stakeholders
- 1. Driving the consistent adoption and implementation of regulatory strategy across the organisation.
2. Making decisions in individual cases on revocation of licenses/certificates (Statute prohibits delegation of this power).
- Dealing with govt Governance dealing with other stakeholders Dispute resolution Communications setting strategy
- Management and leadership of the organisation, strategy and direction setting, capability building to ensure agency effectiveness and stakeholder relationship management.
- Dealing with stakeholders
- Stakeholder management, policy and law reform consultation and negotiation, resolving litigation and making prosecution decisions, escalated licensing and monitoring decisions, thought leadership presentations and publications.
- Leading SLT (and staff generally), informing various media and participating in media interviews, advising the Board, meeting CEOs of industry stakeholders, meeting other related agencies, providing 'no surprises' advisories (phone calls, presentations, briefing papers) to the Minister
- Difficult stakeholders, small number of big issues and communicating with frontline staff
- All aspects
- Dealing with Stakeholders Oversight of regulatory policy to reduce political risk
- Dealing with Stakeholder
- Accountability and reporting Public sector systems and processes
- Standards and labelling of appliances
- Oversight of policy development and decision making, dealing with stakeholders, public/media representation, oversight of implementation and monitoring.

Q3: Which three organisations/stakeholders play the greatest role in holding your agency's regulatory functions to account?

Respondents were forced to select three answers from the following list. List order was presented in a random order each time.

Organisation	Response Count	Percentage
Courts/tribunals	9	39.1%
General public	1	4.3%
Māori organisations	1	4.3%
Media	6	26.1%
Minister	9	39.1%

Office of the Auditor General	7	30.4%
Other government departments	4	17.4%
Regulated firms/parties	14	60.9%
Select Committee	2	8.7%
State Services Commission	0	0%
Treasury	2	8.7%
Your own board	10	43.5%
Other	4	17.4%

Notes:

1. Only 19 of the 33 (58%) regulators who received the survey had boards in place. 23 responses were received. Responses were confidential, so the Commission cannot identify what proportion of respondents had boards. As a result, the results in the table above may underplay the significance of boards as sources of accountability.

'Other' responses to this question were:

- Regulations Review Committee
- Consumers
- Consumers
- Core external stakeholder organisation.

Q4: Thinking generically about *agencies like yours* with regulatory functions, to what extent do you agree with the following statements?

Respondents were presented with a series of statements and asked the degree to which they agreed with each statement. Statements were presented in a randomised order to each respondent.

Statement	Strongly agree (4)	Agree (3)	Neither agree not disagree (2)	Disagree (1)	Strongly disagree (0)	Don't know	Average rating
Agencies are biased towards the use of regulatory tools that can be cost-recovered	0 0%	4 17.4%	6 26.1%	8 34.8%	4 17.4%	1 4.3%	1.45
Agencies are often too risk averse when enforcing regulations	1 4.3%	10 43.5%	4 17.4%	5 21.7%	1 4.3%	2 8.7%	2.24
Agencies are under increasing pressure to recover more of the cost of regulation from regulated parties	1 4.3%	9 39.1%	9 39.1%	2 8.7%	1 4.3%	1 4.3%	2.32

Agencies often have to work with legislation that is outdated or not fit-for-purpose	4 17.4%	11 47.8%	6 26.1%	1 4.3%	0 0%	1 4.3%	2.82
Agencies usually manage competing regulatory objectives effectively	1 4.3%	12 52.2%	7 30.4%	2 8.7%	0 0%	1 4.3%	2.55
Corporate culture and values influence how frontline regulatory staff operate	11 47.8%	10 43.5%	0 0%	1 4.3%	0 0%	1 4.3%	3.41
Corporate culture is driven by senior leadership teams	11 47.8%	10 43.5%	0 0%	1 4.3%	0 0%	1 4.3%	3.41
Formal monitoring of regulatory functions by other agencies improves the quality of regulation	0 0%	8 34.8%	6 26.1%	5 21.7%	2 8.7%	2 8.7%	1.95
Ministers understand their role in the regulatory system	1 4.3%	11 47.8%	7 30.4%	3 13.0%	0 0%	1 4.3%	2.45
Regulators have access to an adequate range of enforcement tools	0 0%	9 39.1%	8 34.8%	2 8.7%	3 13.0%	1 4.3%	2.05
Regulatory regimes often have competing or unclear objectives	0 0%	9 39.1%	5 21.7%	7 30.4%	1 4.3%	1 4.3%	2.00
The cost of proceedings significantly deters prosecutions	1 4.3%	7 30.4%	7 30.4%	5 21.7%	2 8.7%	1 4.3%	2.00
The objectives of regulation are clearly articulated by parliament and government	2 8.7%	11 47.8%	5 21.7%	5 21.7%	0 0%	0 0%	2.43
There are adequate systems to allow the early identification of potential regulatory failures	1 4.3%	8 34.8%	3 13.0%	10 43.5%	0 0%	1 4.3%	2.00
There are effective feedback loops between frontline regulatory staff and policy functions	1 4.3%	5 21.7%	8 34.8%	6 26.1%	1 4.3%	2 8.7%	1.95
There are significant capability of skill gaps among regulatory staff	0 0%	5 21.7%	7 30.4%	10 43.5%	0 0%	1 4.3%	1.77