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A school for ease of doing business: Fostering a business-friendly economy

Regulators, through regulations, address market failures, prevent abuse of freedom, and protect the rights of market participants

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Business is the engine of wealth creation and economic growth. The state has consistently strived to create an environment conducive to business. Since businesses thrive in an environment of freedom, reforms over the years have aimed at removing the shackles on freedom. Early initiatives reshaped the legislative framework to provide businesses with greater freedom to enter markets, compete, grow, and exit, facilitating a transition to a market economy. However, a market economy presents its own challenges. To address them, the governance edifice has undergone two major transformations. First, there has been a substantial increase in the role of regulations as the primary tool for market governance. Second, regulators have emerged as key institutions, tasked with overseeing market operations through regulations. Regulators, through regulations, address market failures, prevent abuse of freedom, and protect the rights of market participants. They also provide a structured path for business transactions such as capital raising, mergers and acquisitions, and resolution of financial distress.

Rise of regulators : Since the transition to a market economy, regulators have proliferated across various domains. They operate primarily in four key areas: Professions (advocates, accountants, doctors), markets (securities, insurance, competition), utilities (electricity, telecom, petroleum), and standards (health, safety, environment). Some sectors have regulators at both the Central and state levels. Self-regulatory organisations and front-line regulators further enrich the regulatory landscape. As more sectors open to private participation, the number of regulators continues to grow, with new ones being proposed to address emerging challenges and seize new opportunities. Like the government, regulators serve the public interest, with responsibilities that include consumer protection, development, and regulation. They exercise quasi-legislative, executive, and quasi-judicial powers, mirroring the functions of the government. In essence, they operate as "governments within a government," overseeing governance on behalf of the state within a defined framework, yet with a distinct approach. Globally, the landscape of economic governance has evolved, with regulators increasingly taking a central role, often surpassing traditional government structures in influence and scope.

Growth of regulations: Some regulators have developed a reactionary tendency to introduce new regulations whenever a market failure occurs — or even when the failure stems from the shortcomings of the state or existing regulations — without discerning whether it resulted from a firm's misdemeanour or inadequate supervision. This reflexive approach has led to an accumulation of unnecessary regulations, and at times, poorly designed regulations These, in turn, have created avenues for circumvention, necessitating even more regulations.

Over time, the regulatory landscape has grown increasingly complex. Secondary legislation, including rules and regulations issued by the executive, and tertiary legislation, such as circulars and notifications issued by the bureaucracy, have proliferated. The sheer volume of such subordinate legislation has outpaced primary legislation, with tertiary legislation often eclipsing both combined. Unfortunately, many of these regulations and circulars impose restrictions or prohibitions, eroding the freedoms granted by primary laws. Consequently, compliance departments in many firms now rival, if not exceed, operations departments in size. To counteract this, reforms now aim at easing these burdens. Evidence of such reforms is the market regulator's press release dated December

18, 2024, where the term "ease of doing business" appears 20 times, reflecting both the volume of restrictions imposed over time and the herculean efforts required to undo them.

Capacity constraints: Regulations often involve navigating "polycentric" issues in business, where multiple stakeholders interact in fluid situations. A minor change in one variable can trigger widespread ripple effects, creating a complex and unpredictable web of interdependent changes. With the increasing sophistication and globalisation of markets, regulations have become more complex and nuanced. Regulators are expected to proactively design and modify regulations in response to market dynamics, without unduly restricting business freedom, while also monitoring and enforcing these regulations.

Despite decades of regulatory experience, a significant gap persists in the availability of human resources equipped to ensure the efficient functioning of a market economy. While academic institutions have tailored traditional courses in law, economics, accounting, and management to address the demands of a market economy, a dedicated, comprehensive, and structured programme aimed at building regulatory capacity remains elusive. Consequently, regulators and businesses rely on professionals trained in conventional disciplines, often requiring extensive adaptation. This not only hampers efficiency, but also limits the potential gains from reforms.

Building capacity: Regulators need experts capable of balancing freedom with oversight, while businesses require professionals who can harness this freedom to drive growth while adhering to regulations. With the right talent in place, regulators, businesses, and professional firms could better appreciate each other's perspectives, fostering collaboration and significantly improving the overall ease of doing business. This calls for an institutional arrangement that cultivates a cadre of professionals adept in regulatory design and implementation to improve the ease of doing business.

India could lead an initiative to establish an International Institute of Regulatory Studies, positioning regulations as a multidisciplinary field that integrates law, economics, management, accountancy, and behavioural sciences. Initially, it could offer short-term appreciation and certification programmes while developing faculty and content for comprehensive courses. As the initiative gains momentum, it could introduce a one-year executive programme aimed at mid-career professionals, followed by a two-year postgraduate programme for fresh graduates aspiring to regulatory careers. Eventually, it could launch a PhD programme in regulatory studies.

Establishing the institute: The institute could be established as a public-private partnership. India, with its robust governance framework, could serve as the ideal location for the institute, providing a strategic and supportive environment. A rotating chairpersonship, beginning with India's Prime Minister/ finance minister, would reinforce global representation and inclusivity. Business leaders contributing to the institute's capital or corpus could hold board positions on a rotating basis, fostering engagement and shared ownership among stakeholders. Initial contributions would support the institute through its establishment phase, enabling a transition to self-sustainability over time.

By addressing the critical gap in regulatory capacity, the institute would play a transformative role in shaping a more efficient, collaborative, and business-friendly global market economy. This would be another "Make in India" initiative, fostering world-class regulatory professionals equipped to excel in and serve global markets.

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