

Reducing cost of doing business

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The Government of India has been on a mission mode to improve the ease of doing business (EoDB). Not surprisingly, India's rank improved by 79 positions from 142nd in 2014 to 63rd in 2019, as per the last World Bank annual ratings. At the sub-national level, there is intense competition among states, and within a state, among districts to improve EoDB in their respective domains. EoDB has improved for sure, if not uniformly across India.

Business growth, however, does not seem commensurate because the cost of doing business (CoDB) has not reduced as much. EoDB gets enhanced if the law entitles an entity to get approval, resources, and whatever else is required to start a business, carry it on and discontinue it. For example, the law entitles a firm to registration if it meets the prescribed eligibility norms. It, however, adds to CoDB if an entity meeting the norms fails to get registration or gets it after a considerable time. Thus, EoDB and CoDB may pull businesses in opposite directions.

The absence of quality institutions increases CoDB. Take the example of the rule of law, a key market economy institution. If a firm manipulates the stock market and thereby secures capital at a lower cost, an honest firm may not survive the competition. Investors may desert the stock market altogether if a few dishonest firms manipulate the market and get away. The rule of law reduces market manipulation, ensures a level playing field, and strengthens the stock market while encouraging honest business.

A stock market that witnesses 100 episodes of manipulation a year is more costly to business than one which witnesses 10 episodes. A banking system that loses 20% of its assets to frauds and NPA a year is more costly to a business than one that loses 2% of its assets. A market that encounters 100 incidents of abuse of dominance a year is more expensive to a business than one with 10 incidents. An economy where 50% of contracts are enforced is more costly to businesses than one where 90% are enforced. A system where firms encounter 100 frivolous court cases a year is more costly for a business than one where firms encounter 10 cases. The high-quality rule of law improves these parameters and thereby reduces CoDB.

Money has a time value. Having one rupee tomorrow is less valuable than having it today. Let us say the value of one rupee after 'n' years is 50 paise today. Most market transactions/disputes/appeals/approvals have money as underlying. Money flows if the transaction is completed, the dispute is resolved, the appeal is disposed of, or approval is granted. If it is delayed for 'n' years for any institutional deficiency, 50% of the money is lost. This loss can be avoided if the state agency, firm, and everyone having a role in a transaction/dispute/appeal/approval discharges responsibility within timelines and are liable if they fail to do so. Money is harvested early if the law provides for deemed approvals of transactions and registrations where the authority fails to decide before the expiry of the timeline, and such authority is liable for the consequences of such deemed approval. These improve the rule of law index, reduce CoDB, and make many more businesses viable.

Several state agencies are responsible for the governance of markets. Many of them are independent, by design or practice. They need independence in the interest of their efficiency and effectiveness. One rarely asks for accountability. Some even consider accountability as an encroachment on independence. However, the government is accountable to the electorate for the performance of every state agency and is called upon to carry out rescue operations when any state agency fails. An objective, formal, and periodic performance evaluation of every state agency having an interface with the market minimises wrong and delayed decisions, improves their performance, and reduces CoDB.

Regulators are key institutions of the market economy. Every regulation has a cost. Compliance is the largest department of most businesses today. The regulator should carry out a regulatory impact assessment before making any regulations to minimise costs to the business. It should make regulations only when benefits exceed costs and regulatory choice is the most efficient and effective.

A market economy works best when every state agency discharges the roles assigned to it and does not usurp the roles assigned to another agency. Tribunals should not attempt to examine vires of statute and regulations, which is an exclusive domain of the high courts. This adds to CoDB regarding legal uncertainty, foregone transactions, and avoidable litigation. This reduces the time available for the tribunal concerned; therefore, the role assigned to it suffers, which further adds to CoDB.

Given the time value of money, business laws often prescribe timelines for completing various tasks. Courts have ruled those timelines to be mandatory. However, the timelines for tasks undertaken by judicial agencies are considered a directory. These agencies dealing with markets should understand and care about the time value of money.

Law typically penalises a person who prevents a public servant from discharging his duty. If a state agency fails to deliver its services in time, it should be construed as an obstruction to business and be penalised accordingly.

The budget provides a unique opportunity for the government to present its strategy and priorities to achieve its objectives. A key priority could be building institutional capacity in the country to improve EoDB further and reduce CoDB. It may begin with time-bound services by all state agencies, external assessment of their performance, and regulatory impact assessment, proactively removing obstructions on business and unleashing animal spirits fully.

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