# Need to build regulatory capacity

**With the right human resources, both regulators and firms would appreciate each other's perspective better**

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**A FIRM NEEDS** freedom to start a business, to grow the business, and to discontinue the business. Reforms in the 1990s ushered in liberalisation, privatisation and globalisation, dismantling the license-permit-quota raj. Reforms in the 2000s provided freedom at the marketplace, promoting free and fair competition among firms. Reforms in the 2010s made available freedom to exit for firms. Undoubtedly, business has benefited significantly from the complete suite of freedom. Reforms also entailed a regulatory framework to safeguard freedom, prevent abuse and protect interests of consumers, so that the markets operate in an efficient and fair manner, with minimum risks. For example, regulations specify the manner of availing freedom in various business activities such as raising resources from market, acquisitions, resolution of stress of a firm, and so on. The reforms also created statutory regulators to make regulations to address market failure. The regulations, at a minimum, add to costs on availing freedom, which business may not mind if it is less than benefits.

Some useful insights have been gained from experience. Some regulators have come to believe that new regulations are required every time market fails or the even State (extant regulations) fails, regardless of whether it resulted from misdemeanour of a firm, or there was inadequate supervision. The typical regulatory response is addition of a set of new regulations. Such regulations may not have been necessary in the first place. Further, if the new regulations are not designed properly, firms may find ways to side-step this, leading to more regulations. This has led business to believe that regulations have become excessive and, by imposing undue restrictions, are undoing the reforms. At the same time, several areas remain unregulated or under-regulated due, inter alia, to inadequate regulatory capacity.

Further, regulations try to address 'polycentric' issues. Such issues involve many interested parties interacting with one another in a fluid situation. A small trigger in one creates tensions all around, with an incalculable series of interdependent changes, making regulating difficult. With increasing sophistication and globalisation of markets, regulations have become more complex and nuanced. A regulator is expected to design and modify such regulations proactively, or at least swiftly, in response to market dynamics without unduly restricting freedom of firms. The entire chain of regulation, from making regulations, manner of monitoring and enforcement, to review, puts increasing pressure on the regulatory apparatus, way beyond the existing capacity. Regulations are designed and executed by human beings, although technology, in some limited cases, can reduce the burden. These human beings must be trained professionals. While some increase in the regulatory staff is called for, more important is to improve the quality of the staff available.

Regulators need human resources of right quantity and quality who can calibrate freedom, through regulations, on an ongoing basis. Similarly, firms need human resources who can translate freedom in accordance with regulations, without instigating further regulations. With the right human resources, both regulators and firms would appreciate each other's perspective better, minimising cost of regulations. My experience of working with various regulatory capacities in India in the last several years tells me that a void has emerged in terms of the human resources needed to make the market paradigm work.

For appreciation of the kind of human resources required, let me take an example of unfair price which a dominant firm may use to restrict freedom of another. What is unfair for one may not be so for another. A price otherwise unfair is not so if it is adopted to meet competition. Thus, one struggles to determine whether a particular price is unfair in a context. He also struggles to figure out the relevant market first and then whether the firm is dominant in that market. Given the difficulties in such determination, one may end up with either a false negative or false positive, which can be extremely damaging. It is, therefore, necessary for the ecosystem to have human resources which can make such determination with accuracy.

Academia does not yet have a course that helps to build comprehensively regulatory capacity in the ecosystem. Some initiatives (like SEBI's National Institute of Securities Markets and IBBI's Graduate Insolvency Programme) have come up to fill the void, but these are too inadequate for the market needs. Consequently, the ecosystem hires graduates of law, economics, accountancy, and management, and attempts to mould them to serve a regulated market economy.

Academia, particularly business schools, should, therefore, consider offering regulations, which intertwines the disciplines of law, economics, management, accountancy, and behavioural sciences. Else, regulators together may consider floating an Institute for Regulatory Studies. Post-graduates in regulations could be readily employed by firms as well as regulators. How exactly it happens is for each institution to work out, but the enormity of its need cannot be over-emphasised.