

## ***Motivating Public Sector Workers: Using regulatory impact assessment as a consultation and communication tool***

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### **Context**

I am representing TUAC – the Trade Union Advisory Committee to the OECD. TUAC's members are the national trade union federations in the OECD member states. TUAC also works closely with what are called global unions: in my case, for example, I come from Public Services International (PSI), the global union federation for public sector workers. PSI often represents TUAC's interests on regulatory reform work. We have over 600 trade unions in 146 countries. These unions organise some 20 million public sector workers.

Whilst all of TUAC's national affiliates are potentially involved in discussions about regulatory reform, including RIA, the bulk of the work done in this area affects or is done by public sector workers. I would like to say that all such workers in OECD and APEC members are part of PSI. That is not the case, however, because some of the countries concerned deny their public servants the right to join trade unions and/or deny unions which do exist the right to join PSI. But, where we represent these workers, it is our view that motivating these workers to support and promote regulatory reform and regulatory quality is an important element in the success or failure of such programmes. Very often that is going to mean mechanisms to involve their unions in the process.

I want to make it clear, however, that TUAC and PSI do not see workers and their unions having some privileged access to this process; simply, we believe that a full range of stakeholders need to be involved in regulatory management and RIA but that three elements of that are

- How one involves workers who will be instrumental in drafting, evaluating and ensuring compliance with regulations;
- How one involves unions, which are going to have to convince their members that a regulation or some other standard or measure aimed at quality services or achievement of some other outcome is not a threat to their job but a means of improving the quality of life for all;
- Many of these processes impinge on the nature and role of the state. Therefore, trade unions, amongst others, believe that they must be consulted, especially on more fundamental reforms.

### **People in the forests**

I want to start with a story from the New Zealand reforms of 15 years ago. As well as substantial economic reforms, there was also large-scale restructuring of the public services. Whilst some of this produced some very sensible new structures to fulfil the functions of the state more effectively, it was also used to cut budgets very severely. In the Department of Conservation (DOC), this resulted in cuts to the wages bill. The DOC management proposed to deal with this by prohibiting all overtime and weekend work. Weekend work was more expensive because it attracted a penalty premium.

The DOC workers who worked in the national parks and forests were upset by the proposals but not for the obvious reasons. In fact they accepted that the pay constraint was a real time-limited problem and were prepared to live with it. Their concern was that the weekend was when people went to the forests for recreation – walking, tramping, picnicking and nature observation. The DOC staff felt that it was during weekends that they had the most interaction with people, educating them about nature conservation, answering questions about plant and animal/bird life and so on. They felt that this was the time when the core job of making conservation real for people was done. They proposed that weekend work be allowed, at ordinary rates of pay, and they would take weekdays off instead. Result: the wage targets could be met but the basic aims of the DOC could be satisfied.

Lesson number one: the workers and their union had a better understanding of the full cost and benefit assessment of the proposed new rules than did management. Lesson number two: this could only happen in a country which had a tradition of freedom of association and collective bargaining, because the workers actually felt that they owned the outcome and so were committed to a good outcome.

In other words, RIA should open the process up to the possibility of competing or alternative ideas. RIA is not just a technocratic exercise but an intensely political one – in the best sense of the word.

### **Consultation**

RIA presents a good opportunity to engage in sound consultative behaviour. We believe that this process presents so many chances to produce good outcomes for all stakeholders that it makes little sense to do it badly. Obviously, we believe that all relevant stakeholders should be involved as far as is possible. I will concentrate here on consulting with the workforce, which must implement whatever measures result from the process.

RIA first of all invites all staff who are involved in the operation concerned to examine their current work practices. Few workers actually enjoy work, which is pure red tape. People would much rather feel that their work has contributed to making the world a better place. A good RIA process should therefore encourage staff to look at the way the current rules constrain or support their work and their ability to meet better the needs of their users. Do the current rules force them to spend time on rigid compliance, without reference to the desired outcome? How many times have we all heard an official say to us: *Sorry. I know this is a stupid form and you have already given us this information but I am required to get you to fill this in before I can submit your application?* Workers very often know where the waste in an organisation is and are more than ready to identify how to get rid of it, even if their motivation is that it might free up resources for better wages. Good RIA should optimise this knowledge.

Will the proposed changes allow work to be done differently? I know that where I work, the state has, until recently, required a number of pay and working time records to be kept in hand-written form, even although technology exists which speeds this work up and allows for fewer errors. Workers can often identify such areas where work methods or current regulations are less than efficient. Old rules which used to require that clients/users were not allowed to sit on the same side of official counters as the staff during ‘front-desk’ interviews meant that computer-based transactions and interviews all had to be read out to the client; simply relaxing that rule has meant that a client can sit with the worker and see the screen at the same time, reducing both errors and time and often making for a less confrontational approach, as well.

Can current or proposed rules undermine or improve relations with users? Many people now complain that rules which force people into computer-based processes may appear to have reduced costs but often at the expense of turning users into ciphers and atomising workers from one another and their users. Do managers always understand the social interactions, which are cemented by current procedures? Do some physical site visits for inspections allow for other informal information exchange, which assists both parties? Can staff estimate whether there is a potential to replicate or improve that with changed rules?

Apart from the content of the consultation, the process is also important. Is the RIA structured to give the impression that speed rather than a quality outcome is the desired goal? Is it possible to allow time for some dummy trials before proceeding any further with a proposal? Is this a good idea, which will work wonders in the head office but cause chaos in a small field office? Is the capacity and political autonomy of sub-national levels of government being taken into account in the process?

Consultation fatigue needs to be watched. If too many changes are coming down the track such that people are trying to do their current job but are being asked to consider and respond to a plethora of changes month after month, people will eventually begin to resist change. This is not to suggest that consultation should be less but that it needs to be thought through. If the proposed changes will impact on collective contracts/agreements, a union may need time for democratic discussion before being able to agree to the proposal. This goes beyond unions, of course – many community groups and NGOs complain of consultation fatigue. It is somewhat similar to the rule, which has been set by many central statistics offices – that people should not be subject to too many official questionnaires on an uncontrolled basis.

Many of these are simple things but they are often the time wasters, which annoy users. Some of them are major issues, which call for care in designing RIA processes for all stakeholders.

However, it should also be remembered that consultation is only that. It is not a commitment by the authorities to take on board everything, which has been discussed. It is extremely important for a government to be quite clear about the expectations before it starts consulting with stakeholders. If the government has some issues, which are not negotiable, these should be identified from the outset. That does not remove the right of stakeholders to contest the proposals (including, in the case of unions representing their members, the right to take appropriate action) but at least they know whether they want to spend their time on it.

It is also legitimate for a government to insist that, if it consults with a body whose recommendations it accepts, there should be some understanding that that body will advocate the agreed position to its own members/constituency. Of course, that only goes for agreed positions.

## **Communication**

A good RIA should generate useful data about potential costs and benefits. Can this be used in negotiations with a union to identify areas where both management and the union can capture the benefits of a new regulation to the advantage of both the service users and the workers?

Even if no change occurs, an RIA may simply have the effect of identifying to workers the costs of processes they currently use – costs for them and for users - and alerting management to other changes which can be made to save costs.

Good RIA will often clarify the objectives of the current or proposed legislation/regulation – objectives which, have not been specified before. In itself, that may suggest new means of evaluating the work being done or of gathering data on the impact of any change. Workers will often say that: *Oh. You can always tell when clients are getting upset out there because we often get an increase in X* – some indicator which management had not been aware of but which could be monitored. ‘X’ might include higher rates of harassment of staff, more incorrectly filled-out forms, an increase in claims for entitlements which people usually ignore, an increase in requests for meetings/interviews with more senior staff.

The experience in many countries is that better communication between ordinary staff and senior policy makers itself becomes the trigger for flattening the management structure or turning supervisors or middle-level managers into professional support staff who can respond to the needs of front-line staff as they organise their own work but need expert advice on tricky problems. This is especially the case when 'end-of-pipe' rules get replaced with process and outcome standards which require that front-line staff be empowered to use their discretion in achieving the desired outcomes.

In itself, this last phenomenon could be a problem for unions. In the past, the result would often have been that middle-level management either gets fired or alienated – both of which become union-management conflicts. But our experience in PSI is that, when unions have been asked to contribute to a complete change in work methods and work structures, this can have very positive outcomes. In Sweden, we have two union-owned companies, Komanco and Arbetslust, which sell their services to public (and some private) employers as change agents in taking the entire workforce through these kinds of changes in a union friendly way. The deal is that, if the employer does not get an agreed level of savings in a specified period, they get their money back. In both cases, the companies work on the basis that communication processes have to be opened completely and management structures flattened. Arbetslust is owned by a union of middle managers so it can be seen that there is a clear perception of win-win solutions here since no union is going to own a company which makes its own members unemployed!

## **Conclusion**

Very briefly, an RIA process which maximises its consultation and communication elements can be a powerful way of motivating public sector workers, with the support of their trade unions, to welcome and promote a constant search for better quality regulations and the quality outcomes they seek to achieve.