

Regulatory Reform with Data and Technology

Stephen Goldsmith | September 9, 2014

The progressives and muckrakers undoubtedly had it right at the turn of the twentieth century: corrupt government and unregulated business foisted high costs and dangerous conditions on urban America. Forced by the muckrakers' exposés, government adopted rules and procedures that led to tougher enforcement.

But a century later, these well-intentioned regulatory reforms have morphed into rule-bound, job-killing, expensive, and cumbersome processes—or, even worse, systems captured by the few to erect barriers to entry for prospective competitors. Government conducts inspections, issues permits and licenses, and decides the requisite paperwork and private actions that must accompany each. Regulation is not inherently bad. Rules establish a clear set of standards for how business is to be conducted in the city. Rules ensure consistency, a minimum threshold of verified safety, and proper functionality. In cities of all sizes, regulation ensures that we can live in homes that are properly heated and wired, that our children are transported in school buses that are safe, that waste is properly handled, and that our drinking water is safe for consumption. We can dine in restaurants, purchase exotic foods, and socialize in public places without negative effects on our safety or health.

However, sometimes rules and the mechanisms to accomplish a goal become onerous and counterproductive. Each exposé on bad behavior by some business can produce a rash of new enforcement procedures against all, including those entities that operate with the highest standards. For every aspiring entrepreneur hoping to capture an opportunity in a regulated trade, the enforcement procedures can translate into another obstacle. As time goes on, new regulation often ceases to serve its original purpose, suffocating citizens and law-abiding businesses without producing the intended benefits. The regulation itself—the need to treat every applicant identically, no matter the complexity of his request or her qualifications, and the enforcement of incomprehensible rules—s tifies citizens' freedoms and small-business growth. All too often, regulatory processes elevate a narrow definition of professionalism over common sense. Obsolete processes, the products of a bureaucratic insensitivity to others' time, or the time value of money, unnecessarily increase the cost of government, as well as the costs that it imposes on others.

RULE AND LICENSING ORIGINATION

Regulatory torment reaches a peak at the local level, where federal and state rules cascade downhill for augmentation and enforcement. Bureaucrats in various agencies apply rules without much attention to their underlying purpose or regard for oversight by other agencies over the same business, or activity. With thousands of pages of regulation to process, monitor, and report on, public officials focus on administering the regulation instead of pursuing its objective.

Regulatory rationality—an approach that combines both the need to ensure safety and allow for economic expansion—would begin with elected officials developing a

set of principles that frame their approach and then utilizing a transparent process that involves feedback about how to accomplish the goal most efficiently.

Desired outcomes can be skewed by regulations interacting with one another. This intricate network of competing interests and rules in a complex economy can easily alter outcomes in unintended ways. Agencies with one mission may create unforeseeable consequences in another (e.g., regulations designed to encourage low-income homeownership create risks for financial regulators).

We need to find a better way to balance health and safety with job growth. Cities need small businesses to thrive and flourish. In America, 23 million small businesses account for more than half of all U.S. sales. According to the Small Business Administration Office of Advocacy, 99.7 percent of U.S. firms are small businesses (fewer than 500 employees). During a four-year period, high-patenting small-business firms produced 16 times more patents per employee than large-patenting firms. Yet only half these new establishments survive five years or longer. It continues to be difficult for small businesses to navigate red tape, regardless of their importance in our local economies. Today, data and technological breakthroughs allow city governments to streamline the regulatory process. Some solutions are inexpensive and culture-oriented, while others include total reform of processes and operations. Cities are addressing antiquated approval processes by developing targeted regulations that allow good actors to fast-track through licensing and permitting, as well as applying predictive approaches to target inspections. These efforts provide a pathway for small businesses to enter and grow in the local marketplace.

Regulatory review commissions, which look for more efficient procedures, should extend to the initial rationale for red tape. For instance, New Jersey governor Chris Christie created the State of New Jersey Red Tape Review Commission, which has helped lead changes that leverage digital government to produce more efficient processes. Assisted by New Jersey's Executive Order 2, which directs state agencies to leverage information systems and other technologies to increase efficiency, the commission reported in 2012 that six digital advances had been implemented: migrating occupational licensure online; an electronic system to accept reimbursement claim submissions; establishing an online process, from the initial application to tax-related reporting, for the Urban Enterprise Zone program; an electronic procurement and bidding system; an online system for posting required notices; and new technologies used by the Juvenile Justice and Motor Vehicle Commissions, such as a proposal to permit online road-test appointments and electronic submission of fingerprints.

The Regulatory Study Commission, an Indianapolis effort in the 1990s, started by challenging the very purpose of each rule, then asked whether it accomplished the purpose effectively, or at all. That effort was based on fairly simple principles:

- Regulations should be used only as a tool to achieve a policy objective as a last resort; the use of regulations indicates the failure of other means to achieve the objective.
- The cost of regulation should be no greater than the benefit that it creates for the community.

- Regulations must be simple, fair, and enforceable.
- Regulations must be written to ensure imposition of the minimum constraints necessary to accomplish the public purposes of safety and accurate information, and to facilitate market transactions.
- Regulations can exceed existing federal or state standards only when there is a compelling and uniquely local reason to do so.
- The regulation should clearly benefit the consumer or the public.
- The regulation should complement other laws and rules.

These principles should be considered during creation because once legislation is fully implemented, special interests, bureaucracy, and legislative procedures make changes much harder to execute, even if the change itself is not particularly controversial. At the local and state levels, streamlining business regulation can produce results; indeed, the regulatory review process in Indianapolis during the 1990s eliminated 40 percent of regulations and an equal portion of fees. (Approximately 426 businesses were thus relieved, in some way, of licensing, which resulted in the city losing about \$85,000 in licensing fees. Yet because, in some cases, the cost to manage and process the permit or license was more than the actual cost of the permit, the impact of streamlined operations was an immediate, fiscally positive step forward.)

A threshold question for regulation should be whether a permit or license is necessary at all, or whether stronger enforcement of existing rules would suffice. For example, many cities require dog licenses to prove that dogs have received rabies shots. Why not just require the shots and have dogs wear vet-issued, evidence tags instead?

During his final term, Mayor Michael Bloomberg reformed the complex regulatory climate for New York residents and businesses. A review panel identified a first set of specific permits so onerous that they needed immediate attention. These included permits for place of assembly, certificate of occupancy, sidewalk cafés, street-tree work, range hoods, grease interceptors, food-service establishments, and gas authorization. Some of these permits required complicated annual applications consuming great time and expense.

Perhaps even more important, the public now has a dynamic, one-stop platform called NYC Rules, where residents can participate in the rule-making process. New Yorkers who visit NYC Rules can learn how rules are adopted, view a list of proposed rules, and submit text comments or upload documents, such as charts or spreadsheets. Website visitors can sign up to receive a weekly e-newsletter to stay current on rule-making activity and recently proposed, and adopted, rules. Effective review processes cannot be controlled exclusively by the agency doing the promulgating, as an agency will always be more likely to rationalize its needs over those of the public or an official, such as the mayor, who has offsetting responsibilities (such as also promoting economic development).

Reducing a risk to zero, of course, is never difficult: just eliminate the function. If developers, say, do not construct buildings, no worker or passerby will ever be injured. If a restaurant does not open, it will produce zero danger to a future consumer. The

New York City Council recognized the need to look more broadly at trade-offs of proposed rules when it adopted NY Local Law 46 of 2010, which required the Mayor's Office of Operations to review agency rules prior to their publication. The law required the Mayor's Office of Operations to analyze whether the rule is understandable, in plain language, and whether it minimizes compliance costs. When I was deputy mayor in New York, the operations group reported to me. They could, it turned out, accomplish their goals better by allowing the "crowd" of stakeholders to collaboratively address a problem nominated by the agency, offering alternative solutions to improve the final rule. A process that requires clarity of purpose, transparency, and broad input by stakeholders—as a rule is being originated—will more likely result in the right regulatory balance. As of March 2012, the Office of Operations had reviewed and certified more than 100 proposed rules before they became laws.

PROCESSING

The decision to license, permit, register, or regulate is only the threshold. Once government decides to act, it should license in the most efficient manner. More than 40 percent of the 7,000 small businesses surveyed in the 2013 United States Small Business Friendliness Survey, conducted by Thumbtack.com, are subject to licensing regulations by multiple jurisdictions, or levels of government. In cities today, documents are still bound in red tape and shuffled from office to office, increasing the administration and compliance costs of regulation.

Although fast-tracking is not as common at the municipal level, other governmental bodies fast-track good actors. For example, the Federal Transportation Security Administration's TSA Pre program allows select frequent fliers to receive expedited screening benefits during domestic travel. Here the burden on government is reduced, and the time and cost burden on the consumer is also reduced. In this example, both parties benefit, without a major impact or risk to overall airport health and safety. City governments that are building specialized regulations following this model have the opportunity to create benefits for many groups, while avoiding a high-risk negative result. By relying on a data-driven, transparent model, public officials will be able to reduce favoritism and ensure equitable treatment.

Other approaches that increase efficiencies have been worked into existing city portals. For example, the NYC Development Hub, linked to the NYC Business Express portal, was launched in 2011. This online plan-review center accelerates the approval process for construction projects in the city. In its first year, the city approved more than 300 new building and major projects, estimated to generate more than \$1 billion in economic activity. This approval process was three times faster than the previous paper-plan approval process. Cities should not be overwhelmed when thinking about reforms related to permitting and licensing. Looking at a private-sector example, little steps make a large difference when aggregated. In 2012, Starbucks cut ten seconds from every transaction by card or cell phone. At the individual level, this does not seem substantial; but over the year, it added up and reduced the time in line by 900,000 hours, making digital approaches and technology more consumer- and employee-

focused. Cities can look to these examples for the kind of quick reforms that make a large difference in service quality for the customer and increase efficiency.

DIGITAL PROCESSES OF IDENTIFYING ENFORCEMENT

A slightly more advanced opportunity for cities to integrate data and technology into the regulatory process can be seen in the use of advanced digital processing for enforcement and compliance. This approach requires reliable data and thrives where municipal governments collect data through social media and civic engagement applications—places such as Boston, New York, and Philadelphia. In addition, cities that share data horizontally across departments, through centralized databases, further reduce bottlenecks in the system, while increasing transparency and the ability to collaborate with others.

Cities should be using available data to the greatest extent—even if those data are housed in different departments. Integrated data analysis can be used for predictive policy implementation, but can also be used in support of inspection and monitoring reforms. As noted in Chapter 1, after illegal apartment conversions and undocumented renovations caused a series of firefighter deaths in New York, the Bloomberg administration began using preexisting data in a predictive manner to proactively address potential fire concerns. Using data collected on buildings with serious past fires, the city deduced that four indicators—unpaid property tax, foreclosed property, building age (specifically, before 1938), and socioeconomic status of the neighborhood—provided enough information to target inspection services. This successful approach, by targeting limited inspection services to areas and buildings where the four indicators are present, resulted in over a fivefold increase in the remediation of risky conditions.

Digitized information allows collaborative agency efforts and can be used to target compliance. In New York, the Business Integrity Commission (BIC) scanned nearly 500,000 pieces of paper and aligned 27 inconsistent databases with more than 5,000 fields to establish a centralized system providing data to its 81-person staff. Consolidating more than 20 years of data supported a systematic way to regulate more than 2,000 businesses, by providing quality service to good actors and a strategic plan to catch bad ones. Partnering with the Mayor's Office of Analytics and the Department of Health and Environmental Protection, the data were used to conduct a hot-spot analysis that cross-referenced industry data on grease production, with restaurant-permit data and sewer-backup data. As a result, the BIC achieved an increase in identification of violations by 30 percent, while reducing manpower dedicated to grease enforcement by 60 percent.

In addition to integrating data, cities have an opportunity to use technology for proactive monitoring and compliance. In Baltimore, the Bureau of Environmental Health was awarded an innovation fund loan to shift its more than 11,500 annual inspections of food facilities, day-care facilities, schools, and the like to a portable tablet platform to allow for inspections to be recorded in the field. Using a flexible regulation model, much like that of Starbucks, the city anticipates that this program will pay for itself through reduced overhead while reducing wait times and improving customer service. Applying a model

like this allows inspectors to share information with city agencies in real time. At the same time, inspections are tracked by time and location across the city, which allows for accountability, transparency, and informed resource allocation and management.

Today, as digital systems replace traditional paper-based processes, cities have the ability to understand, say, how long it takes for an inspector to complete one inspection; where, on a map, code violations are more likely to occur; and how to allocate resources to ensure the greatest impact. Incorporating these digital approaches throughout the regulatory process—including the origination and review of regulations, licensing and permitting, and compliance and monitoring—has shown higher-quality results, with far lower transaction costs and fewer job-killing delays.

This story was originally posted on [Data-Smart City Solutions](#)

<http://www.govtech.com/data/Regulatory-Reform-with-Data-and-Technology.html>