

Building Drivers and Engines for Reform: Integrating Business and Citizens in the Regulatory Quality Process¹

In Implementing Regulatory Reform: Building the Case Through Results

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TABLE OF CONTENTS

Introduction.....	3
A. The role of <i>Advocacy Bodies</i> in policy making.....	3
What is a Regulatory Reform Advocacy Body	4
The importance of Advocacy Bodies for promoting high quality regulations	7
Elements of the advocacy function	9
Key roles of Advocacy Bodies in promoting regulatory policies	9
B. Central components and features of <i>Advocacy Bodies</i>	11
Setting the advocacy mandate	12
Permanent vs. temporary and ad hoc mission	14
Mixing governmental or non-governmental experiences.....	15
Selecting the reform advocates.....	16
Freedom of operation and openness of Advocacy Bodies	17
C. Key elements contributing for the success of Advocacy Bodies	18
How to evaluate the performance of Advocacy Bodies	18
Balancing independence and accountability	19
Strengthening the credibility of the institution.....	21
Ensuring the potency of the “Voice”.....	21
• Gathering data.....	21
• Driving the message.....	22
Building a political constituency for reform	23
Resources and working methods.....	25
D. Main lessons.....	27

BIBLIOGRAPHY	31
ANNEX 1. REPORTS OF THE BRTF – BRC 1998 – 2006.....	32
ANNEX 2. UNITED STATES THINK TANKS ADVOCATING REGULATORY REFORM.....	34

Tables

Table 1. Selected Advocacy Bodies at a Glance	5
Table 2. Some Results from Advocacy Bodies	10

Boxes

Box 1. The Role of Think Tanks in Advocating Regulatory Reform.....	6
Box 2. Advising Vs Advocacy Reforms: the Case of Actal	8
Box 3. Mandates of Temporary Advocacy Bodies	12
Box 4. The Separation of Advice from the Consultation Process in the Netherlands	23

Introduction

1. Why are so many ‘good’ reforms, particularly those related to ‘better regulation’ initiatives, so hard to launch and sustain? Why do these innovative policies to improve the regulatory environment tend to encounter so many difficulties when the oversight body in charge of the initiatives tries to enforce them? Some blame faults in the design of the policy and its instruments as well as a lack in sufficient resources. Others stress inconsistent political support, the lack of clarity and explanation to share the goals of reforms with the public, and the ebbing of the champion’s resolve. No doubt, changing the conduct and culture of state regulators can tire the best of reformers, particularly when the reforms add little short term political capital to the supporting party of his government.

2. Many ‘causes’ stated above may be symptoms of a deeper phenomenon, which needs to be considered from a political economy perspective. Limits may exist to a strictly technocratic strategy for implementing regulatory reform with readymade recipes and solutions. It may not longer be the case that benevolent and well-informed reformers only need to identify ‘best’ policies together with the appropriate instruments, communicate them to policymakers, and then require for implementation, to achieve desired policy outcomes. Good arguments are not sufficient. That is, reforms, policies and tools are not exogenous to the political context in which they operate. They are created by specific political processes and sustained by formal and informal arrays of incentives.² As a result, a number of countries have set up specific institutions, as engines and drivers to support the reform process. These operate in the form of *Advocacy Bodies*.

3. This paper adopts a ‘political economy’ perspective and analyses the role of these Advocacy Bodies. It focuses on the actors, their incentives, which differentiates them in particular from other ‘advisory’ entities as well as the related political, cultural, and administrative context. This analysis goes beyond the ‘good’, the ‘common’ and the ‘best practices’ that are typically selected from the handbooks, to focus on political mechanisms, incentives and processes that influence stakeholders during the implementation of reforms. The techniques and institutional practices that have been successfully applied in a given country can provide ideas for reformers in other countries.

4. The first section will focus on understanding the function of *Advocacy Bodies* – which often play an influential political role. The second section will then explore some of the main characteristics of *Advocacy Bodies*. The third section will then discuss some key factors that have contributed to their success of this type of institution. The last section will then draw tentative conclusions and recommendations.

A. The role of *Advocacy Bodies* in policy making

5. To understand how a ‘political economy’ approach can effectively drive a regulatory reform agenda, requires to focus on why reforms work better in some countries than in others. A few years ago, a senior reform thinker reflected that probably the only way to expect deep-seated reforms was to suffer a large economic and social crisis that could wash away the opposition of special interest groups. However, few responsible policy makers would follow such a “suicidal policy”, in part because it would most probably make them lose the next election and probably compromise (or worsen) their political career. However he proposed an alternative approach:

“When fundamental reform is just not “on the cards” politically, there is always scope for useful preparatory action by governments: to move ahead in areas where the ground for reform has been best prepared; and to lay the groundwork for further reform by setting out to shape, or re-shape, popular understanding of the issues.”³

6. He stressed the possibility for government to set up advocacy “expert” commissions, as a sort of substitute or a “second government outside electoral validation” which could play a useful role, building constituencies and waiting for a more appropriate moment for launching the reform.

7. *Advocacy Bodies* have often been established as most governments grasp the urgency of reforms and are aware of the need for action. Businesses, international organisations or other interested parties make – sometimes very vocally - the political decision makers aware of the need for change. At the same time, undertaking reforms requires support and assistance from outside the government, given the resistance from interest groups or firms which benefit from the status quo.

8. This paper aims to understand why such bodies have been established and to draw some lessons on how they have been used in the policy process. It analyses how governments can benefit from setting up of such arms’ length bodies to advocate reform in the short-term as well as in the long-term. *Advocacy Bodies* are now added to a growing set of policies and initiatives for sustained regulatory governance of modern states.

What is a Regulatory Reform Advocacy Body

Advocacy Bodies are difficult to define. The nature of such institutions is a function of countries' local political, administrative and cultural traditions and this makes it hard to categorise and compare them across countries. Five main characteristics are considered as part of this study:

- The key mandate of an *Advocacy Body* is to conduct research and persuade the government, legislators and society in general, about the need for reforms. It works with and through the regulatory bureaucracy, consults stakeholders, engages in legal proceedings, as well as other means to fulfil its mandate.
- Non-governmental personalities participate on the executive board of the *Advocacy Body*. They serve as the voice of business as well as the citizens' perspective in challenging vested interests, overcoming resistance or even bureaucratic inertia to reform in the public sector.
- The *Advocacy Body* and its supporting secretariat are mostly financed from the State budget, though participation from non-governmental members – in particular through their time – might complement its resources.
- The *Advocacy Body* have the capacity for providing independent advice to the government, though framed under accountability rules.
- The *Advocacy Body* does not administer government programs or exercise executive power. Its main deliverables consist in producing the best possible advice for reforming regulations as well as in ensuring a policy environment that is conducive to reform.

9. Table 1 complemented by Annex 1 describes some of the most prominent *Advocacy Bodies* which have been set up by OECD countries in the recent past. The following analysis will be built on their experience.

Table 1. Selected Advocacy Bodies at a Glance

Name	Year Est.	Number of members	Existence	Secretariat	Accountability
EACSR (Canada)	2003	10 business	<i>Ad Hoc</i> (15 months)	6 professionals	One final report with 72 recommendations
ACTAL (Netherlands)	2000	3 business & civil society	Permanent	12 professionals	Annual and <i>Ad Hoc</i> reports
Better Regulation Commission (UK)	1997-2007	15 (2 government, 6 business, 7 civil society)	Semi-Permanent. Changed name in 2006.	N.A.	Annual and <i>Ad hoc</i> reports
Regulatory Commission (Korea)	1997	25 members (9 government, 18 civil society and business)	Permanent	50 professionals	Annual and <i>Ad hoc</i> reports
Productivity Commission (Australia)	1998	11 members	Permanent	200 professionals	Annual and <i>Ad hoc</i> reports
Task Force on Reducing Regulatory Burdens on Business (Australia)	2006	4 (1 government, 3 business)	<i>Ad hoc</i> (4 months)	14 professionals	Final report with 178 recommendations
Council for the Promotion of Regulatory Reform – CPRR (Japan)	1994	15 members (7 business and 8 civil society)	Renewed every 3 years – under different official names	30 professionals	Annual Report 3-year action plan

10. It is important to differentiate *Advocacy Bodies* from other type of ‘actors’ which also have a role to play in the political economy of reforms. An *Advocacy Body* is not:

- A firm lobbying set up to win a specific government contract, change a rule or obtain a particular protection;
- An employers' organisation or trade association representing the interests of an entire industry, for instance seeking favourable tax policy or regulation;
- An association group representing various demographic sectors of society, such as trade unions and consumer association, or single-issue policy issues (*e.g.*, SMEs promotions); or
- A think tank with a particular ideological perspective or economic theory guiding its analysis.

11. An *Advocacy Body* should complement rather than supplant other types of bodies. Actually, the context and traditions of a country determines the appropriate use of *Advocacy Bodies*. In the United

States, well-established think tanks, which are generally not government creations, have been able to push and drive reform independently and beyond the electoral calendar (see Box 1). In other countries, organised business associations have provided the necessary drive for advocating and sustaining reform. For example, the Swedish Board of Swedish Industry and Commerce for Better Regulation (NNR) has been a keen promoter of reforms and has published an evaluation of regulatory quality for four years.⁴

Box 1. The Role of Think Tanks in Advocating Regulatory Reform

A think tank is an organization, institute, corporation, or group that conducts research and engages in advocacy in areas such as social policy, political strategy, science or technology issues, industrial or business policies, or military advice. Unlike university-sponsored bodies, their primary role is not academic research but to advocate for specific policies and/or a series of reforms through targeted research.

In the US, think tanks are predominantly non-profit bodies supported by private financing from interest groups and/or businesses. Some think tanks may also derive income from consulting or research work related to their mandate. Some countries, including the US, give them a tax-exempt status while in other countries, the government provides direct support.

Modern think tanks supporting regulatory reform were set up in the US during the 1970s when much of the research being done by university institutes was deemed to be too pro-interventionist for academia. Since then, most of the research from think tanks has been developed in accordance with the interests of its financial supporters.

While many commentators have hailed think tanks as key policy actors in democratic societies, which can ensure a pluralistic, open and accountable process of policy analysis and evaluation, critics have called them public relations bodies which generate self-serving scholarship linked to powerful interest groups.

Today in the US, and increasingly in other countries such as Canada, regulatory reform advocacy has been taken over by a 'cottage industry' of think tanks. They do not only provide ideas and criticisms of current situation but also monitor the effectiveness of the national regulatory policies. Annex 3 lists some of the most influential ones. A close relationship between the official Oversight Body (*i.e.*, Office of Information on Regulatory Reform (OIRA) and the think tanks is perceived as natural, as is the case for most other public policy areas in the US.

12. *Advocacy Bodies* should not be confused with the increasing number of institutions set up by governments to improve consultation with stakeholders and which can be assimilated to traditional advisory bodies. An *Advocacy Body* has a clear mandate to independently look forward and campaign for reforms rather than to be consulted on existing problems and proposed initiatives. By contrast, purely '*advisory*' entities deal mainly with active consultation; their main function is to respond to government's proposals, to engage in a dialogue, or even to provide co-regulation efforts to improve the regulatory environment. (See also Box 4 in Section C). For instance, the setting up in the late 1990s of the *Osservatorio per la Semplificazione* and the recently established *Tavolo per la Semplificazione*, by the Italian government seeks to engage not only the business community but also other levels of governments into discussing regulatory improvement problems and solutions. While these advisory organisations are necessary for consultation, data gathering and feedback, they do not have a specific mandate to independently drive their policy agenda and be pro-active in their research and recommendations.

13. The advocacy role should also not be confused with the advisory tasks delegated to many independent bodies mandated to ensure the quality of the legality principles, such as the French *Conseil d'État* or the Czech Government Legislative Council. In the latter's case, the tasks of the legislative council include considering the conformity of legislative drafts (material intents of laws, draft bills and draft regulations of the Government) with central legal principles and obligations such as:

- The constitutional order and other statutes of the Czech Republic's law,
- The international treaties binding on the Czech Republic,

- The laws of the European Communities and the European Union,
- The quality of content (*i.e.*, clearly structured, comprehensibly and unambiguously formulated, and they are consistent with other binding rules of the legislative process).⁵

14. Last, *Advocacy Bodies* are different from their close ‘relatives’ - the committees and other groups set up by parliament and congress to support reform efforts. These specific committees or groups are set up largely as an effort to build political support for a major policy change. As they have their roots in the legislative branch, such bodies have a high profile status and are generally well funded. Generally, they also tend to provide ample opportunities for the public to participate through hearings. However, these committees can also have disadvantages. They have to respect formal proceedings and membership is fixed – following for instance a proportional distribution of members among the government and opposition parties. This can make them complex and difficult to manage. Their political nature also tends to make them politically risk adverse to necessary but controversial proposals. Moreover, their recommendations may be driven largely by political considerations and often include very balanced views to build delicate consensus, avoiding confrontations with powerful interest groups

The importance of Advocacy Bodies for promoting high quality regulations

15. To gain a better understanding of *Advocacy Bodies* and their role in a modern regulatory governance setting, it is important to examine the different mechanisms and functions that governments have used to launch and maintain regulatory policies in the past decades. In 2002, OECD presented the main roles of regulatory policy oversight bodies into four pillars:⁶

1. Manage the administrative procedures and assess performance (for instance to ensure the deadlines and the compliance with different formal requirements to be followed during a review or a rule making administrative procedure).
2. Provide advice and support to regulators (*i.e.*, public authorities mandated with the power to regulate or prepare regulations) through training programs, publication of guidance, conference, help desks etc.
3. Challenge and enforce the regulatory quality standards through the review and the preparation of independent opinions on the quality of regulatory impact assessment or Standard Cost Model measurements, and
4. Advocate further reforms under its legal capacity and thus engage in a pro-active and deliberate effort to improve the regulatory framework.

16. Traditionally, governments have explicitly endowed oversight bodies in charge of the regulatory quality control policy with some advocacy functions. For instance, the Mexican *Cofemer* has a mandate not only to run the machinery of the regulatory policy of the federal administration, and in some instances supporting those of subnational levels, but it also must “review the national regulatory framework, diagnose its application and elaborate for the Head of the Federal Executive Branch proposals for legal and administrative measures and programs to improve the regulation of specific activities or economic sectors”.⁷ Similarly, the Korean RRC has also housed the different functions and has been responsible for challenging ministries’ RIAs and advocating reforms looking for synergies and economies of scale.

17. Other official oversight bodies have recently expanded their mandate to undertake an advocacy role. For instance, the Office of Information on Regulatory Reform (OIRA) in the US's Office of Management and Budget has recently developed what it has called the "prompt letters" whose purpose is to suggest that a particular issue be given agency priority. Rather than being sent in response to the agency's

submission of a draft rule for OIRA review, a "prompt letter" is sent on OMB's initiative and contains a suggestion for how the agency could improve its regulations."⁸

18. However, the advocacy role of some of the oldest oversight bodies has been rather modest in practice. Some reasons for the fact that advocacy was relatively limited may include the usual limitations of resources and time, in addition to the ever-expanding flow of new regulations to review and challenge. A further impediment to the advocacy function is that it is difficult for civil servants in one area of public administration to call for reforms in other policy areas, as it may be resented and have long lasting consequences in terms of career. Moreover, and perhaps less explicitly, a thorough independent advocacy may be hindered by day-to-day commitment with challenging RIAs or assisting ministries to better comply with the regulatory policy. For stakeholders, the required closeness with the centre of government may also erode the credibility of advice. In a sense, some governments have felt that there was a possible conflict of interests between advocating reform and implementing them, that is being 'judge and jury'.

19. As a result, some governments have dissociated the advocacy role from the other three functions, and have created an additional, purpose-made, arms' length institution to handle the complex role of advocacy. This arm's length situation has brought the additional benefits of reducing the political costs of advocacy of reforms (*i.e.*, losing elections) and letting the 'in house' machinery concentrate on enforcing the policy.

20. A clear example of this separation between the *Advocacy Body* and the Oversight Office can be seen in UK where the government created two institutions: one to police the regulatory instruments and processes, and the other to provide independent advice and advocacy. Although the Better Regulation Executive (and its predecessors) is in charge of the day-to-day machinery needed to enforce the regulatory policy, and the Better Regulation Commission (and the previous Better Regulation Task Force) is in charge of advocacy, they share administrative resources as the BRC secretariat is hosted by the BRE.

21. In Australia, the separation is less complete but worth noting. The Productivity Commission which serves as an all-purpose independent *Advocacy Body* for micro-economic efficiency, actually houses the federal Oversight Body - the OBPR (*Office of Best Practice Regulation*) – whose role is to “examine Regulation Impact Statements and advise whether they meet the Government’s requirements, and provide an adequate level of analysis, including cost-benefit and risk analysis of appropriate quality”. In Canada the separation has been organised by dividing the functions between the permanent oversight body, *i.e.*, the Treasury Board, and an independent temporary advocacy entity, *i.e.*, the EACSR.

22. Despite this official separation, it is sometimes hard to differentiate between the roles of consultation, challenging the quality of draft measures and advocating new reforms. Often the 'non-advocacy' functions are intertwined into the rulemaking process and consultation mechanisms. For instance in Italy, the government has tried to encourage the recently created *Tavolo permanente per la semplificazione* to discuss new proposal beneficial for the business sector as well as for the regions and propose reforms. *ACTAL* in the Netherlands also operates under similar parameters (See Box 2)

Box 2. Advising Vs Advocacy Reforms: the Case of Actal

Some oversight bodies, such as Netherlands's Actal, clearly separate their opinions (and other challenging activities) from their activities advocating reforms. When acting in it advisory role, Actal gives its verdicts on proposed or *new* laws and regulations. All proposals must be submitted to Actal for review if they have an impact on the administrative burden on businesses and/or citizens. Actal requires ministries to quantify the administrative burden in new legislation and report on alternative policies that may result in a reduced burden on businesses and citizens. For almost all policy areas, ministries have standard assessment tools at their disposal to quantify the administrative burden in legislation. Actal checks the calculations and considerations. It may

propose improvements and even call for the withdrawal of proposed laws and regulations. The advice memoranda of Actal are always short and to the point. However, Actal's advice is not binding. Moreover, if ministries decide to adopt the informal advice that Actal gives during the development process of legislation, Actal has often refrained from publishing its formal advice.

When acting in its advocacy role, Actal has explicit power to promote reforms. It can advocate on issues within *existing* laws and regulations. It does this in two ways: indirectly and directly. Indirectly, Actal evaluates the ministerial action programmes on administrative burden reduction that ministers are obligated to present annually to Parliament. In its advice, Actal highlights areas of concern and proposes improvements, focusing on the government policy as a whole as well as on the activities carried out by the individual ministries. Directly, Actal carries out its own research on the administrative burdens in existing laws and regulations to help the government identify new opportunities for reducing administrative burdens.

This second type of advice can be attributed to Actal's explicit advocacy powers. On its own initiative, Actal has supported the Dutch government in several initiatives to reduce the overall administrative burden on businesses and citizens. For instance since 2000, Actal has helped to identify alternative ways of enforcing laws and regulations, to encourage the continuing development and application of assessment tools, to carry out activities related to e-government/ICT, to create a cross-ministry approach to the problem of administrative burdens, to promote the issue of the immediate compensation of new administrative burdens and to monitor the implementation of European legislation.

Actal has also been advocating for administrative burden reductions at the international level. Partly through Actal's activities in preparation of the Dutch EU Presidency (second half of 2004), the topic of reducing the administrative burden on businesses has now been placed firmly on the agenda of the European Institutions.

Elements of the advocacy function

23. Whether inside or outside the government, permanent or temporary (see next Section), governments have different reasons to delegate advocacy functions to a mandated institution. They include:

- Pushing for early breakthroughs in difficult topics or a changing policy context,
- Focusing on incomplete knowledge and data;
- Engaging thorny topics embedded in political constraints and pressures from interest groups.
- Dealing with complex inter-relationships between different issues;
- Building a novel view of complex policy issue, potential to facilitate greater public involvement. (Reforms have become more complex as they involve mixing social and environmental issues, where the governments need to balance efficiency with a society that is increasingly risk adverse.);
- Achieving a good blend of private and public advice and experience;
- Letting the private sector's voice be heard and propose solutions;
- Building a constituency for reform through working together; and
- Assisting the government avoiding surprises.

Key roles of Advocacy Bodies in promoting regulatory policies

24. In some countries, the *Advocacy Bodies* have become central and influential operators in the institutional framework for better regulation. Their value has been acknowledged and supported. Perhaps a clear performance indicator is the fact that they have continued to be politically supported by successive

government and Prime Ministers. Some of these institutions have even, seen their mandate expanded by the government several times like Actal or the OPBR.

25. Actually, the impact of their regulatory reform advice may have been quite significant due to the ‘multiplication effect’ of some of the reforms which *Advocacy Bodies* have advocated. Indeed, some recommendations have had a broader effect to change systemically the political perspective because of their feedback effects, for instance in areas such as decentralization, enforcement/compliance and higher quality rulemaking.

Table 2. Some Results from Advocacy Bodies

Name (country)	Advocacy Activities	References
ACTAL (Netherlands)	<p>Key outcomes have consisted in raising awareness among the public administration as well as across society of the need for a cultural change in the regulatory policies and instruments.</p> <p>Since September 2000, Actal has handled 1 060 proposed laws and regulations and produced 230 advice memoranda.</p> <p>Important reports have dealt with;</p> <p>Alternative ways of enforcing laws and regulations,</p> <p>Expanding the review mandate from administrative burdens to regulatory quality</p> <p>Carrying out activities related to e-government/ICT</p>	<p>www.actal.nl/</p>
Better Regulation Commission (UK)	<p>43 reports between 1998 and 2006</p>	<p>See Annex 1 and www.brc.gov.uk/</p>
Regulatory Reform Committee (RRC) Korea		
Productivity Commission (Australia)	<ol style="list-style-type: none"> 1. public inquiries and research studies requested by the Australian Government 2. performance monitoring & benchmarking, and other services to government bodies 3. regulation review 4. competitive neutrality complaints advice 5. supporting research & annual reporting on productivity performance, industry assistance and regulation. <p>The outputs have been delivered through: 94 Inquiry reports, 51 Research reports, 25 Commission research reports , 41 Staff Research Paper, 21 Staff working paper, and 35 Office of Regulatory Review</p>	<p>www.pc.gov.au/projects</p>
External Advisory Committee on Smart Regulation - EACSR (Canada)	<p>The final report’s 74 recommendations identified key areas in health and sustainability; innovation and economic growth; and business regulation where the Canadian government needed to redesign its regulatory approach to create and maintain a Canadian advantage. The recommendations offered guidance on effective regulatory frameworks that would deliver social, environmental and</p>	<p>www.smartregulation.gc.ca</p>

	<p>economic benefits.</p> <p>A direct outcome has consisted in the total redesign activity of the Canadian environmental impact system after a thorough research of many millions dollars.</p>	
The Task Force on Reducing Regulatory Burdens on Business (Banks Task Force) (Australia)	<p>Proposed significant reforms to the processes and institutions responsible for regulation, including an overhaul of the Oversight Body.</p> <p>It also identified a forward reform agenda comprising some 100 specific reforms to existing regulation and proposed that about another 50 areas of regulation be investigated in greater depth.</p>	www.regulationtaskforce.gov.au/
Council for the Promotion of Regulatory Reform - CPRR (Japan)	<p>Since 1994, over 7, 00 specific measures have been studied and reported. The first subcommittee achieved a liberalization of electricity by introducing Power Producer and Supplier (PPS). The second subcommittee contributed simplifying the context of regulations as well as proper adjustments of domestic regulations to international standards. Third body (i.e. Council) gave open access to services in the public sector. Private Finance Initiative (PFI) was one of the tools introduced at that time. The fourth body paved the way to introduce Regulatory Impact Analysis (RIA). They have also contributed to ingrain access to information of public facilities/services, liberalization of stock exchange fee, promoting and expanding 'Special Zones for Structural Reform', etc.</p>	http://www.cao.go.jp/en/reform/reform.html
Committee of Inquiry into a National Competition Policy for Australia (Hilmer Report)	<p>The committee was instrumental in advocating a larger role for a robust competition policy in government economic interventions in order to increase the economic productivity in the country.</p> <p>The report fostered a new culture moving the interests of producers (i.e., held by the business community and workers) towards an approach centred on consumers.</p> <p>The Hilmer Report recommended additional policy elements including:</p> <ul style="list-style-type: none"> • the structural reform of public monopolies; • the application of competitive neutrality principles to public sector businesses; • processes for reviewing anti-competitive legislation; • the establishment of State-based prices oversight regimes to apply to public sector monopolies; and • guaranteed third party access to essential infrastructure facilities. 	http://www.ncc.gov.au/publication.asp?publicationID=219&activityID=39

B. Central components and features of *Advocacy Bodies*

26. As noted, the diversity, distinct setting and working methods of *Advocacy Bodies* make them hard to compare. However when a government decides to set up this sort of institution, a few key characteristics and basic components are worth considering.

Setting the advocacy mandate

27. *Advocacy Bodies* must have a clear, strong and public mandate not only because they are public undertakings financed by State’s resources, but mostly because they need to provide pointed advice from an independent perspective. Generally, a government will endow an *Advocacy Body* with a mandate which provides the guiding principles for its actions, the time frame for reporting, the organizational framework, and internal governance. Frequently the government will also underline the working methods and of course, the transparency and accountability rules which they will need to abide.

28. To ensure the legality of such undertakings and to provide the necessary powers, governments have to establish the mandate in accordance with an appropriate **legal framework**. Depending on the administrative culture, some governments will institute the *Advocacy Body* by law, thereby engaging the Legislative branch in its establishment. A statutory standing will also provide the institution with extra stature and liberty to manoeuvre vis-à-vis ministries and public authorities. It will also clearly set some distance in terms of political endorsement of its future recommendations. As the Chairman of the Australian Productivity Commission indicated about his own organization, such a legal foundation offers the institution more latitude to assess and require information from other public bodies while still giving it the freedom to offer its advice based on the best available justification.⁹ A mandate in a law will also increase the prestige of the institution and help to draw more prestigious commissioners and members of the executive board, as the Korean Regulatory Reform Council or the Japanese Committee for the Promotion of Regulatory Reform have experienced.

29. Some governments, however, have preferred setting the *Advisory Body* mandate in a subordinated regulation, a bylaw or even a government decision — often because it is easier and faster. Other reasons for such an approach are that governments, particularly new ones, want to receive advice independently from the Legislative Branch. For instance, Actal’s mandate was established in a bylaw a few months after a new government enter into office.¹⁰ This is a similar situation to that of the EACSR when the Prime Minister established the terms of reference of the exercise including the budget in one brief decision.

30. In developing the mandate, government must also consider the appropriate **scope of activities**, that is, defining the problems, topics, issues and other challenges on which the *Advocacy Bodies* will need to focus. In some cases, *Advocacy Bodies* have been set up with clear and limited objectives usually for a define period of time. The EACSR, the Banks Task Force or the Mandelkern Group had a precise objective and a short period of time to prepare a report and offer recommendations (see Box 3).

Box 3. Mandates of Temporary Advisory Bodies

External Advisory Committee on Smart Regulation (EACSR) Canada

- Develop a regulatory strategy for the 21st century;
- Identify sectors and areas requiring regulatory reform in order to give Canada a strategic advantage; and
- Review and provide an external

The Task Force on Reducing Regulatory Burdens on Business (Banks Task Force)

- Identify specific areas of Commonwealth Government regulation which are unnecessarily burdensome, complex, redundant or duplicate regulations in other jurisdictions;
- indicate those areas in which

Group on Better Regulation (Mandelkern Group) – European Union

- To explore
- the systematic use of impact studies
 - transparency in the consultation process
 - simplification of adopted texts

perspective on specific issues identified by departments and stakeholders.	regulation should be removed or significantly reduced as a matter of priority;	and wide use of codification.
	<ul style="list-style-type: none"> ▪ examine non-regulatory options (including business self-regulation) for achieving desired outcomes and how best to reduce duplication and increase harmonization within existing regulatory frameworks; and ▪ provide practical options for alleviating the Commonwealth's 'red tape' burden on business, including family-run and other small businesses. 	

31. A limited mandate does not necessarily mean less power for advocacy. On the contrary, success breeds success. Often temporary *Advocacy Bodies* have seen their mandate renewed and expanded as they deliver results. For instance, Actal was set up in 2000 to run a seven year program to support the Dutch government's objective to bring about a 25% net reduction in the overall administrative burden on businesses and citizens. In the case of Japan the first and second advocacy group were subcommittees of the administrative reform committee which covered not only regulatory reform issues. In the case of the 3rd, 4th and current 5th CPRR the government decided to set up a fully focused institution working on regulatory reform. Since then, the mandate has been expanded first to 2009 and then to 2011 – a prolongation of the remit actually related to the extension to new tasks involving in particular more advocacy work.¹¹ In 2007, the government required Actal to include all compliance costs in addition to administrative burdens. Similarly, the UK government converted the BRC in 2006 from a temporary body into a permanent one expanding in the new mandates its powers to include:

- Challenging departments and regulators to ensure that regulation, and its enforcement accord with the five Principles of Good Regulation - proportionality, accountability, consistency, transparency and targeting;
- Vetting plans from departments and regulators to reduce administrative burdens;
- Scrutinizing progress by departments and regulators to reduce wider regulatory burdens, including use of alternatives and deregulation;
- Investigating specific regulatory and policy issues and making recommendations to Government through published independent reports for Government to respond to within 60 days;
- Working with business and other external stakeholders in EU Member States, and the EU institutions, to promote better regulation in Europe.

32. In another example, the Office of Best Practice Regulation (OBPR), which is the special unit of the Australian Productivity Commission managing regulatory policies had its remit extended. Although its advocacy role is still mixed with its other functions such as managing compliance and the regulatory processes, its mandate has recently been expanded to include clear advocacy responsibilities based on the recommendation of the Banks Task Force. The OBPR has been asked to:

- “advise Government, departments and agencies on appropriate quality control mechanisms for the development of regulatory proposals and for the review of existing regulations, and
- lodge submissions and publish reports on regulatory issues having significant implications”

33. In addition to defining the scope of an *Advocacy Body's* activities, governments must also consider how much *discretionary power* to grant to the body and whether the body should have the legal capacity to advocate reform without explicit request from or consent by the government. This tricky dimension certainly tests the degree of independence given to this type of bodies. Often the decision will require balancing the need for credibility based on independent advocacy and expertise against the fact that the government and its administration may be faced with unpredictable and sometimes unwelcome recommendations.

34. The key issue here is whether the *Advocacy Body* should have the discretion to initiate an inquiry autonomously or only when responding to an explicit solicitation of advice by the government. Some *Advocacy Bodies* currently have the power to launch an inquiry or research autonomously. For instance, Actal can advise, on its own initiative, a minister (but not the Parliament) about reforms to be implemented under its regulatory powers.¹² The discretion to advocate for reforms may be either limited by the terms of reference and mandate as well as by the resources allocated to the institutions. Of course an unfettered power to do autonomous research and advocacy increases the independence, power and credibility of the institution.

35. For instance, the Productivity Commission enjoys three types of advocacy power: (i) an official inquiry to Treasury Department that can require a detailed and formal consultation of many months, (ii) special advocacy research which is targeted and uses informal consultation methods, including the website for calling comments, and (iii) the commenting on the annual report (which the Productivity Commission has had total discretion to investigate for only the last two).

36. In the case of UK's BRC, the government must first ask for an official report. For instance in the fall 2007, Prime Minister asked the institution to carry out further work on how policy-making can benefit from a fuller and more rounded consideration of public risk. It also asked the BRC to build on their report "Risk, Responsibility and Regulation", to devise a structure and approach that ensures that this ambition is embedded in real policy action, even when facing pressures to react to events and to report back by the end of July 2007.

37. Mandates aside, the real influence of *Advocacy Bodies* often goes beyond the formal powers described in their mandate. Authority and persuasion will mostly be based on the trust and credibility of the institutions' leader and its cultivated reputation. The importance of high quality leadership can be seen in the case of the first chair of the BRTF – the predecessor institution of the BRC - who was a close advisor to the PM and thus had ‘weight’ behind the proposals championed by the BRTF. The importance of a high quality reputation can be seen in the case of the Productivity Commission whose work and achievement have even been hailed by opposition parties — ensuring its permanence in case of a change of government.

Permanent vs. temporary and ad hoc mission

38. Another critical aspect of *Advocacy Bodies* is their life-span. When governments require advocacy advice at a precise moment and for a clear set of questions, they will establish an Advocacy Body for a fixed duration only. This would be the case for instance when they need to answer to strong demands by businesses or to prepare an agenda after winning an election. The shortness of the mandate will bring focus and intensity to the effort. Importantly, a fixed life-span will permit using ‘outsiders’ on

the executive board (*i.e.*, commissioners) who would be reluctant to take a long-lasting commitment. This attracts staffers and other young 'high-fliers' who would be interested to participate in a focused effort but would be less tempted by a government career. Moreover a temporary body will reduce criticisms about creating new bureaucracy, duplicating the efforts of existing oversight bodies or opening the way for 'agenda creep' problems that occur when an institution grows beyond its original purpose.

39. An *ad hoc* or temporary entity is similar to a parliamentary commission or congressional enquiry task force in its operation. Mandates will request the entity to produce a final report with its recommendations within a strict deadline. The period can be from few months – for instance 4 months, in the case of the Banks Task Force to 15 months for the EACSR or to several years as was the case for Actal's (which had in its original mandate 5 years to report back on progress in achieving the 25 percent reduction in administrative costs).

40. On the other hand, several important advantages can drive a government to decide establishing an *Advocacy body* on a more permanent basis under the assumption of course that most executive bodies can be replaced or terminated, depending on the legal instrument that was used to set them up. A permanent entity can build a credible and independent structure beyond the political agenda of the day. In particular it can establish a political constituency for reform beyond the political/electoral cycle, and, for instance ensuring that the recommendations are followed. Time can also bring the possibility to grow and political constituency for reform. It can also develop capacities and institutional memory for advocating reform that reduces the cost of the advocacy function and improves its quality.

41. An interesting compromise between permanent and *ad hoc* is the Council for the Promotion of Regulatory Reform (CPRR) of Japan which has been operating since 1994 but whose members are selected for 3 years only with a proportion of reappointment. In January 2007, the government appointed the 5th Commission. Canada too may also offer an interesting approach when two successive Advocacy Bodies complement and deepen the policy development. In spring 2005, the government launched the Paperwork Burden Reduction Initiative building on the recommendations of the EACSR to further work on issues relating to compliance and enforcement, including harnessing the potential of e-government as a vehicle for single-window access to government regulatory programs.¹³

Mixing governmental or non-governmental experiences

42. A key driver behind governments creating an *Advocacy Body* is that the new institution should complement rather than supplant its normal Oversight Body by providing independent and thus political credible advice. The idea is that establishing an 'arms' length' body will allow a decoupling of the political costs of advocating reform, and thus risk losing elections, from the machinery and enforcement of regulatory policies. Furthermore, governments have tended to create these "external" bodies to obtain fresh ideas and support from non-governmental structures. This motive is perhaps even more valid for a country which lacks think tanks to encourage new thinking and debate for novel approaches.

43. Thus, a central feature of these institutions is the participation on the executive boards of eminent 'non governmental' individuals who are free from the influence of governments and ministries and if possible other interest groups. A central and early challenge for the government will be first to decide if governmental officials will participate on the board and second to get the right mix between governmental and non-governmental directors. Such participation will affect credibility and influence of the *Advocacy Body's* recommendations.

44. Having government officials on the board risks diluting the perception of the body's independence. An *Advocacy Body* dominated by governmental officials (past or present) may not be able to differentiate itself from the regular public machinery. On the other hand, an exclusive or too large

representation of ‘non-governmental’ members may skew the advice towards impractical reforms - sometimes even radical ones. Moreover having members with an ample public sector experience in the executive board can bring a seasoned perspective on the intricacies of policy making.

45. The second difficulty in getting the mix right will consist in finding the appropriate diversity among the non-governmental board members. Typically, the government will select the *Advocacy Bodies*’ members from the business community representing the private sector. The danger is that the institution may appear to be favouring influential economic sectors by taking more of a pro-business instead of a pro-market perspective. An *Advocacy Body* strong on business practices may also focus on irritants to business rather than to address deep rooted economic causes.

46. In general most governments will try to get a proper mix balancing the board with representatives from society. As Table 1 indicates the mix of board members has varied from the Korean Council (RCC) where the majority of its members are coming from the business, but 1/3 comes from government, to the Council for the Japanese Promotion of Regulatory Reform (CPRR) where none of its council members come from governmental sector. In the case of the *Tavola per la semplificazione*, an entire sub-committee will come from Italian regions and subnational parties.

47. An interesting solution used by the RCC has consisted in setting up this *Advocacy Bodies* with 25 members chaired by the Prime Minister but 18 of its members are from the private and social sector, and 7 from various departments. A similar situation occurs in the UK where the BRC has 6 out of 15 members coming from the business world.

48. Moreover, it is not unusual for governments to try and find member with both business and government experience. For example, the chair of Canada’s EACSR, brings a broad experience from the public and private sectors.¹⁴

49. Getting the mix right will invariably be related to the total number of members on the executive board. The larger the number of members, the more representative the institution and its advice will be. A larger board also would allow for a better combination of business, NGOs and public officials. However, too large a membership may make the *Advisory Body* more difficult to manage and steer towards consensus. In such cases the role of the chair will be crucial. The head of the EACSR for instance ‘enforced’ the sought after consensus by setting up a clear framework of the regulatory principles from which to derive the recommendations at the very start of the inquiry.

Selecting the reform advocates

50. The decision about getting the right mix will be intrinsically related to the selection and appointment of the *Advocacy Body* executive board. As in the case of sectoral regulators, the significance of the recommendations and degree of independence and discretion bestowed to the institution will be proportionate to the care taken when appointing the membership.

51. Because the Advocacy Body will be given such political charged tasks and responsibilities, the selection of board members is crucial to the success of the entity.

52. Administratively, the selection and appointment will often be made by the head of government or by the minister in charge of regulatory reform. In the case of Korea the RCC’s members are nominated by the President as for the Productivity Commission by the Governor-General (effectively Australia’s head of state). Alternatively Actal has advertised vacancies in the official gazette and newspapers and the Ministry of Finance decides on members after conducting interviews.

53. Certainly the choice of the members will in large part predetermine its success. In general, governments will select the members according to their personal capacities, although in some cases, such as RCC in Korea, they may be named according to their institutional membership, for instance representing the Chamber of Commerce.

54. High profile chairs and members will bring authority, visibility and influence. For instance Chris Haskins, the first chair (1997 – 2002) of the Better Regulation Task Force (BRTC), was chosen directly by the Prime Minister in part because of his experience as chairman of the business sectors, but also because of his good relationships with the then Prime Minister. The choice of a straightforward person on the other hand will perhaps accelerate the debate and more likely to bring new ideas and challenge anti-reform opposition. Such an outcome would occur when nominating an outspoken person, even from an opposition party. This situation was encountered, in many ways, when setting up the recently created Commission for the Liberation of Growth, (CLCF) in France, which was headed by an important figure of the opposition.

55. Other membership considerations deal with temporary vs. fixed terms, the renewal of the mandate and removal mechanisms. The terms of appointment are 2 years for Korea's RCC, and 3 (renewable) years for the UK's BRC. Reappointment has also been important to keep the institutional memory of the organization: five out of the fifteen members of the current CPRR were reappointed. In Australia, the Governor-General appoints between 4 and 11 other Commissioners for periods of up to five years. Associate Commissioners can be appointed by the Treasurer on a full or part-time basis. When establishing rules about removing members, they should be difficult enough to guarantee independence from the political and governmental sphere. In the case of Japan, the Prime Minister appoints all the members of CPRR for 3-year-term but an appointee can be dismissed anytime if the Prime Minister decides to do so.

56. To avoid abuses and fence off criticism, some countries regulate the appointment process by precise and neutral rules. For instance in the UK, nominations for the post are sought from a wide range of sources including business representative bodies, trade federations, the trade unions, public sector organizations and women's and ethnic minority business groups. The appointment of BRC members is then organised in accordance with the Commissioner for Public Appointments' Code of Practice and is subject to independent scrutiny.

57. Last, governments must decide whether or not to compensate the members of the *Advocacy Bodies* executive board for their efforts. Compensation is a practical issue that influences the selection and acceptance processes. In most cases, the government will provide some financial contributions to the member but avoid transforming the relationship into a contractual one which could be interpreted as a breach of independence. BRC members are unpaid voluntary members drawn from senior levels of the private, public and voluntary sectors who are expected to give 2 days per month to Commission business (though most give a lot more). A similar situation was set up for the EACSR whose 10 members only worked part time and voluntarily.

Freedom of operation and openness of Advocacy Bodies

58. Open reporting is essential in order to ensure credibility. Without the possibility to consult independently and 'speak out' about their ideas, *Advocacy Bodies* would be just another advisory entity easily replaced by a professional consultancy firm bound by privileged confidential relationships.

59. Thus to ensure independent and external advice, governments have allowed *Advocacy Bodies* a wider margin to consult and explore new venues with a variety of stakeholders. Canadian EACSR' mandate illustrates this relative freedom. When reviewing Canada's regulatory system, the EACSR was expected to gather the views from citizens and non-governmental organizations, business associations and

researchers as well as from officials from federal, provincial and territorial governments. The external committee had all the latitude it required to undertake the work it deemed necessary and to determine the nature and scope of its recommendations to government. To do so, the Committee used a variety of consultative instruments and approaches to encourage individuals and organizations to participate in their deliberations. During the whole exercise, the Chair and members canvassed the views of a number of federal department and agencies, business organizations, consumer and environmental groups. Individuals and organizations had opportunities to share their views with the Committee at any time in writing or via the Committee's interactive website. The Committee also participated in an ongoing dialogue with provincial and territorial governments. Existing and commissioned research was used to help ensure that its recommendations were relevant and helpful to all Canadians.

60. To publicize their findings, most *Advocacy Bodies* have developed purpose-made internet websites where their reports are published and where the public can send comments. This reporting, however, may be bounded by certain rules and procedures. For instance, Actal may not disclose its advice as long as the reviewed laws and regulations remain unpublished. As soon as the laws and regulations are made public, Actal can post its advice memoranda on its website. Before publication of the measure, it must make its advice available to the minister or parliamentarian responsible for the proposed legislation within four weeks after it has received a request for advice or has initiated its own review. If the complexity of the proposed law or regulation requires more time for consideration, this period may be extended another four weeks.

61. A similar requirement exists for the Productivity Commission. Final inquiry reports from the commission must be tabled in Parliament within 25 sitting days after the Department of the Treasurer had received the report. At this point the report becomes public. The Commission sends copies of the report to inquiry participants and places it on its website for public access.

62. Ensuring openness and autonomy of operation does not mean that *Advocacy Bodies* (financed by tax payers' money) have no obligations. In addition to *ex post* monitoring by audit offices, some have been reviewed by external evaluators. For instance, a renowned external consultancy audited and evaluated Actal performance, on behalf of the Ministry of Finance and Ministry of the Interior and Kingdom Relations. The research concluded the statements that Actal was an efficient and effective organisation that should not be disbanded before 2009. The auditors even recommended that Actal should increase its tasks in the years to come.¹⁵ In 2006 both the World Bank and the OECD also assessed and commended the Dutch method of reducing administrative burdens.¹⁶

C. Key elements contributing for the success of Advocacy Bodies

How to evaluate the performance of Advocacy Bodies

63. Success of an *Advocacy Bodies* in pushing the regulatory reform agenda depends on many different factors. Certainly, political will and support – as for any other endeavour – is of greatest importance.¹⁷ Others are harder to disentangle. First, some can be totally or mostly 'external' to the design and operation of the institution. For instance, the timing of the institution's formation may be part of a political window of opportunity – opening up perhaps due to an economic shock or a post-crisis context. Luck and unpredictable events will also influence the performance of any initiative, policy or institution. As the Chair of the Australian Task Force put it "even the best reports can get overtaken by events".¹⁸ A more foreseeable approach occurs when an *Advocacy Body* is established at the beginning of term of office of a new government in countries with "strong" governments, (*i.e.*, presidential systems and unified governments with a large majority of the party in office); such an entity will enjoy a more favourable environment for having its reform case accepted.

64. Second and as previously indicated, it is quite difficult to draw general lessons from institutional comparative analysis. The essential elements of *Advocacy Bodies* are tricky to appraise because the personal charisma and qualities of the chair and board membership are such overriding factors. A successful institution can be transformed and perform very differently as its membership and staffing change over time. Furthermore, it is quite difficult to compare the performance between permanent and temporary institutions.

65. A third difficulty arises when studying a single actor – such as an *Advocacy Body* –operating in a systemic institutional universe. The impacts of the advice or proposals and thus of the policy advocated will depend on the actions and reactions of different agents, who take into account their expectation about the future of the policies in question before deciding to support and accept the advice. In other word, the performance of the *Advocacy Bodies* will be linked to how other actors and institutions such as the oversight body or the government and parliament work and interact.¹⁹

66. More problematic, from a political economy approach, is the idea of looking for an ‘ingredient based’ approach that would tend to favour a ‘one-size-fits-all approach’. This is partly the reason why many technocratic adaptations of best practices toolkits were unsuccessful. Managing and adapting to diversity is in great part an essential factor for the success of an inventive institution, which in many ways is required ‘to think outside the box’.

67. However, the experience gathered in the past decade on *Advocacy Bodies* can offer interesting lessons concerning the constraints they face and the incentives to which they are exposed. This can help to understand how these institutions can best fulfil their missions in the context of their institutional design and with the remit received from governments. This section will thus try to analyse and decompose the factors that have been crucial in some interesting experiences.

Balancing independence and accountability

68. First, the most important reason for establishing an *Advocacy Body* outside the ministerial structure is the need for credibility in advocacy. This is intricately linked to the independence of its undertaking and analysis. Therefore a central element in the design of an *Advocacy Body* will be to ensure that its judgements, advice and recommendations are unconstrained by the political and electoral cycles in which the government and its ministers are immersed. From government's perspective, it will need to give to the *Advocacy Body* strong transparency mechanisms to ensure independence from the public administration, politicians and other interest groups. From the *Advocacy Body's* perspective, it will need to work to protect – sometimes progressively, other times more aggressively – its own independence. One way to ensure concrete autonomy has been the use of extensive consultation. For instance, the Banks Task Force in Australia used some innovative ways, in part due to time pressures, to gather data and opinions. Broadly, the main elements of its consultation strategy were:

- immediate contact with heads of the largest business associations, to encourage their support and active participation;
- immediate advertising of the review and call for submissions in the national press, plus some media interviews to raise the review's profile;
- release of an Issues Paper and meetings with key individual stakeholders, to obtain views and solicit (substantive) submissions;

- a series of roundtables and forums to enable better interaction with some stakeholder groups (e.g., small business, aged care industry) and more focused discussion in key areas (e.g., social/environmental regulation and economic/financial regulation); and
- follow-up interaction on an *ad hoc* basis in response to particular submissions.²⁰

69. In its own efforts ensure credibility and avoid political capture, the CPRR not only holds hearing sessions with ministries and interest groups and/or intellectuals but also organises open sessions open to the press in order to advocate a reform's necessity to the public. Through these sessions – which are rather infrequent to keep their impact preserved - once an issue is settled with due date, the CPRR writes its outcome to the specific measures section in the report.²¹

70. Second, successful *Advocacy Bodies* have reinforced their autonomy by ensuring the professionalism and efficiency of their operations. They have linked their undertaking to a consistent respect for core market principles – beyond pro-business stance. This linkage has permitted them to convince society about their open and broad reform agenda beyond a given campaign slogan or special interests. Nevertheless, building such a reputation requires time which is often beyond the time-span of *ad hoc Advocacy Bodies* which have relied mostly on consultation and openness in their debate to ensure their independence.

71. Yet independence is not the final panacea. A close understanding of political forces and the use of accountability mechanisms have also helped increase the impacts of *Advocacy Bodies*. To monitor political pressures, frequent contacts with the administration and open access to its information are necessary. For instance, the BRC, although independent, has its secretariat hosted in the BRE. The success of the Banks Task Force has also been attributed to the long and deep understanding of the policymaking machinery and its processes and procedures by the chair and staff.

72. As for ensuring accountability, successful *Advocacy Bodies* have selected their reform proposals to that which is political feasible. This necessary balancing act should, however, avoid falling into self-imposed censure. Inevitably, as the Chair of Productivity Commission indicated, advice will not always be accepted or will require time to be appreciated. Such was the case with the Commission's proposals to reform and increase competition in the shipping industry and to reduce some regulatory barriers among sub-national governments. The EACSR's recommendations have also been implemented only gradually — through successive Prime Ministers and a change of party at the head of the government.

73. *Advocacy Bodies* have also strengthened their *de jure* independence by framing their undertakings with precision. The Treasury in Australia can trigger advocacy by determining the policy questions on which the Productivity Commission provides advice and can prepare the terms of reference for its inquiries. "Thus, the Government can ensure that the Commission's formal advice does not stray into certain aspects of a policy issue that it believes should not be addressed."²² Yet the Commission can still use more informal means through its research and autonomous inquiries for issues less charged with politics.

74. But the magic mixture of independence/accountability will produce results only if it is respected from both sides. So, the government may need to reinforce the work and credibility of an *Advocacy Body* by disciplining ministries to respond to institution's requests. For instance, the UK Prime Minister has required its department to respond publicly to BRC's recommendations within a given time frame. Such type of direction and guidance exists in other successful institutions in Australia and Canada.

75. Responding to the *Advocacy Bodies'* advice will require tact and patience for governments to avoid the risk of undermining the institution's autonomy. In Australia, the government will usually refrain from commenting publicly on the Productivity Commission's findings at the draft report stage. This delay

also gives the government an opportunity to gauge the reactions of the community to different policy approaches. It also reinforces the benefit of the Commission's advice, taking account of public comments on its preliminary thinking before finalizing its recommendations to the government.

Strengthening the credibility of the institution

76. Except for a cynical scenario — of establishing an *Advocacy Bodies* just to 'dump the problem into a committee' in order to procrastinate until the next election — governments will generally take care to bring proper expertise onto the executive board of the institution. The usefulness of the advice and its influence in the policy debate is clearly linked to the intellectual reputation of driving force at the helm. That was the case with the nomination of Professor Hilmer to lead the very influential National Competition Policy Review Committee in the early 1990s which was instrumental to embedding competition policy principles at the heart of Australia's economic policies. The longstanding reputation and the gravitas brought by Mr Mandelkern, a high-ranking official from the constitutionally independent French Conseil d'Etat, endowed its undertaking and final report with unprecedented support for a major shift in the policy and regulatory-making of European institutions.²³

77. The building of credible and influential reform proposals is also linked to the consistency and stability of its intellectual stance. A distorted, but stable, set of proposals can be less damaging than uncertain and unstable set of advice which ends up feeding contradictory policies and eroding the overall coherence of reforms over the long term.²⁴ The consistency of pro-competition advice since the Hilmer Report, as well as the many good reports produced by the Productivity Commission have contributed to the high international respect for Australia's achievement in terms of micro-economic performance and consolidation of market conditions.

78. But coherence and persistence should not be confused with obduracy. *Advocacy Bodies* have boosted credibility and competency by adapting their policy advice to changing circumstances. Based on its intensive experience measuring administrative burdens, Actal has refocused its mandate to include non-administrative costs produced by regulation. Another striking feedback effect arose during the revamping and strengthening of the advocacy powers of the Productivity Commission advocated by the Banks Task Force. In 2006, its recommendations translated into adding advocacy powers to the regulatory oversight body – Office of Best Practice Regulation (OBPR) -, in addition to the existing functions of policing the regulatory instruments (*i.e.*, RIA, consultation, etc.).

Ensuring the potency of the "Voice"

79. A key performance indicator for an *Advocacy Body* is the influence its ideas have on the current and/or future government reform policies as well as on the society as a whole. Successful organisations have approached this challenge first by gathering the best possible data and second by presenting their cases effectively.

- *Gathering data*

80. An authoritative report needs to be based on superior qualitative facts, reasons and arguments. *Advocacy Bodies* rely on the experience and knowledge of its commissioners and staff to gather and filter information; that is, removing the trivial and superficial from the root causes or isolating the facts from the opinions as well as controlling the explicit and implicit biases. Hence, *Advocacy Bodies* have been at the forefront in the use of data gathering methods, regulatory research and consultation techniques.

81. The pursuit of relevant information requires an innovative approach that begins with stakeholders. *Advocacy Bodies* have made a particular effort to opening the consultation efforts to

opposing views. How to consult with those stakeholders who oppose reform, and in particular with those who are likely to lose from the reform, presents a challenge. A yet another problem arises when trying to reach out to groups and society segments that tend to have a small voice in the policy debate. For instance, the EACSR had to choose and develop new venues for engaging Provinces and local governments so as to reach out to and involve them successfully in particular on enforcement and compliance issues.

82. *Advocacy Bodies* have also made use of their extended research powers, digging and mining on the extensive regulatory information already public and accessible in hundreds of websites and reports even when those sources are scattered and disorganised. For instance Actal has continued to perfect and develop sophisticated software which helps the measurements of administrative burdens across the government machinery and stakeholders in the undertaking of the massive Standard Cost Model project. The Productivity Commission has also developed sophisticated econometric models to estimate micro-economic impacts.

- *Driving the message*

83. At the end of the day, the *Advocacy Body's* advice becomes part of a report to the government, which in some cases will be made public at the same moment or a few weeks later. At this stage, having a right communications strategy is key for success. The reports vary in substance and detail. Some countries have systematised their approach. For instance, the CPRR annual report consists of two sections: the first section describes the regulatory reform agenda to be tackled, and the second section focuses on specific measures. In the first section, CPRR lists the policy areas where problems and challenges have been detected together with proposed regulatory reforms proposals. In essence this section has a medium-term time line. The second section monitors the concrete reform measures agreed with relevant ministries to be implemented in the short term.

84. To highlight their message, some *Advocacy Bodies* have focused on the medium in which the message is delivered – actively seeking the media limelight. News reporters like openness and so will tend to support reforms if the organisation is seen as open to different views. In order to support a sound communication strategy, most institutions have designated staff to work with the media, who focus in preparing short press releases as a complement to the hefty reports. As discussed below, working with the media can be seen as a basic strategy to nurture a political constituency for the proposals, the reforms and the institution importance.

85. However, there is a thin line that *Advocacy Bodies* need to avoid crossing in their dealing with the media. They do not want to create any perception that their advice consisted of pre-digested bits of news coming through press releases from ministries and authorities. Overly partisan advice may be seen as a government propaganda effort, thereby reducing the credibility of the institution and compromising its permanence over the electoral cycle of the advice.

86. Moreover uncontrolled media exposure may be counterproductive. Some institutions have thus developed tactical approaches to reach out to journalists. For instance, EACSR avoided talking to the media before it had a clear idea of the issues and positions of key stakeholders. The danger to avoid was opening the gate too soon to anti-reform vested interests which might hinder the data gathering and involve the institution in unnecessary controversies.

87. *Advocacy Bodies* have also invested in the quality format of their messages — working on the readability and user-friendliness of their reports – but at the same time setting safeguards against an erosion of content and avoiding cosmetic announcements. The Productivity Commission and other institutions have made efforts to engage the reader including through the choice of stimulating titles, such as “Rethinking Regulation” or “Time For Business”.

88. *Advocacy Bodies'* efforts can also be affected by an excess of voices reducing the strength and impact of their advice. The constant danger is the multiplication of committees and task forces working on similar subjects. The Netherlands suffered from such a problem in the early 1990s. This led to a drastic reduction of advisory bodies related to the differentiation between the roles of consultation and the one of advocating (see Box 4).

Box 4. The Separation of Advice from the Consultation Process in the Netherlands

Openness and transparency are important elements of the Dutch governance model. Transparency and outreach to society efforts are extensive, multi-faceted and strongly institutionalized. However, in recent years and in response to dissatisfaction with its inefficiencies, the government has embarked into reforms to improve safeguards against excessive influence by interest groups and to reflect broader trends toward a more pluralistic society the relationships between ministries and stakeholders have undergone rapid change.

A central principle in Dutch consultation is that of "separation of advice and consultation". This principle reflects two underlying objectives: the search for expert advice to advocate regulatory quality and second, the search for consensus as a political outcome. Its adoption has resulted in the existence of two formal and distinct consultation structures.

The first of these, which corresponds to the "advocacy" function, has traditionally been carried out by a wide range of formal advisory bodies, created in an *ad hoc* fashion by individual legislation to work closely with ministries on policy issues of strategic importance. Membership is notionally based solely on expertise, although in practice direct interests are also represented (for example, the consumer credit advisory body includes consumer and banking associations). The most important advisory body is the Council of State which until recently was required to be consulted on all draft legislation, Orders in Council, and international agreements requiring parliamentary approval.

The second structure, which corresponds more clearly to the "consultation" function is composed of a network of advisory bodies created under the Industrial Organisation Act of 1950. Here, the *tripartite principle* is the underlying factor determining representation. The chief consultative body under the Act is the Social and Economic Council (SER). These bodies had historically been used within the corporatist system to introduce checks and balances into decision-making, to increase the legitimacy of legislation, to identify "acceptable" policies, and to improve the level of "voluntary" compliance, including a smooth and rapid implementation of new legislation, once agreed. Such consultation also ensures that affected parties are well-informed of new regulation in advance and are able to minimize adjustment costs through forward planning.

In recent years, however, both structures have been criticized as unsuited to contemporary economic, social, and administrative realities. The Dutch Government has responded with significant reforms. The number of advisory boards was drastically reduced, from 491 in 1976 to 161 in 1991 and to 108 in 1993. A yet more radical reform in 1997 abolished all 108 remaining bodies and replaced them with a single advisory body for each Ministry. Another fundamental change, in 1997, was the removal of the legal requirement for the government to consult advisory bodies. The government has also created a number of high-level institutions in charge of key multidisciplinary policy areas and strong monitoring power. Actual forms part of this network and has gained credibility and power in terms of advising and advocating microeconomic and regulatory reforms.

Source: OECD (1999), Government Capacities to Ensure High Quality Regulation in the Netherlands. OECD, Paris.

Building a political constituency for reform

89. To create the necessary political support for an *Advocacy Body*, the government should prioritize and sequence its reform efforts thereby reducing the opposition from the 'losing' parts of society. It should not only invite non-governmental members to be part of the *Advocacy Bodies'* executive boards, but also set up some important institutional measures. Specifically, successful institutions have ensured that the different views are heard and their position well represented. It was for just such purpose that the head of the EACSR ensured that bilateral meetings were complemented by an open solicitation of comments. He also took time to present and explain the reasons behind its recommendations to stakeholders after the submission of the report to the government.

90. Political support has also been achieved when *Advocacy Bodies* have been able to devise ways for prioritising and sequencing the reforms to reduce opposition, build coherence with other interventions, and drive reform through and beyond the political cycle. For instance, the Australian Hilmer report turned out to be a ‘road map’ for a stronger competition-based approach to regulation. It not only established the theoretical basis for the rejuvenation of the Productivity Commission but also served as a platform to begin a discussion with the federal states about the need to take a new approach to reform. The EACSR also sequenced its 72 recommendation into three implementation phases starting immediately and moving towards 5 years from the present.

91. *Advocacy Bodies* can help governments not only with long-term goals but also with short-term targets, road maps and how to sequence reform efforts. In 2002, the OECD highlighted how the UK’s Better Regulation Task Force (BRTF) – the predecessor of the BRC - had played a ‘large role’ in the promotion of long-term regulatory policy considerations, including identifying priorities and proposing policy changes, development of new and improved tools and institutional change.’’²⁵ More recently the BRC has been influential in promoting a ‘risk-based’ approach to regulatory interventions, which has been accepted by the government and has the potential to redefine the role of the State by acknowledging that all risks cannot be reduced to zero through government regulations or intervention. Both flagship reports have been accompanied by successive reports dealing with specific elements of the ‘broad picture’.

92. *Advocacy Bodies* have been highly effective in promoting the coherence of the reforms across the government and departments. Through its advocacy and monitoring functions, the OBPR predecessor in the Productivity Commission steered regulators to comply properly with national regulatory quality standards. Its yearly benchmarking of the efforts of different ministries in terms of the quality of its RIA statements provide valuable information to the government as well as to the society and the media concerning the adequacy of the efforts and resources engaged across the ministries and agencies. One of the achievements of the EACSR was the forcing of the ‘stove pipe’ mentality from many ministries when dealing with health and safety risks.

93. Successful institutions have also focused on broadening the understanding of regulatory regimes beyond the review and reform of individual regulatory ‘trees’ such as acts, laws and bylaws. Indeed regulatory reform needs to encompass approaches that go beyond the use of tests, RIAs and the Standard Cost Model. RIAs and administrative burdens measurements are necessary but not sufficient. An effective regulatory reform needs to tackle the cumulative regulatory effects on society and the economy, as well as the intrinsic effect that regulatory approaches and other policy instruments such as taxes or subsidies have on each other. *Advocacy Bodies* have played such a role. They have promoted policy instruments as alternatives to regulations (e.g., BRC, OPBR) they also advocate solutions to break the ‘stove pipe’ inertia and ‘inward looking’ approaches existing across ministries working on their exclusive policy areas without consideration of a more coherence approach to the state’ intervention such as EACSR. In effect, *Advocacy Bodies* have complemented the ‘challenge’ function and ‘check and balance’ powers of oversight bodies which enforce RIAs and other tests, calculations and tools with a strategic view involving judgements and principles.²⁶ This is indeed, part of the rational when setting up organisations such as the BRC, the EACSR and Banks task force that can complement the efforts of policing entities such as the BRE, the Canadian Treasury Board or the OBPR respectively.

94. Effective independence can also be promoted through constant efforts and initiatives by the *Advocacy Body* building a **stable constituency** for its work. Most of the institutions strive to anchor their undertakings and reporting in strict political neutrality. For instance, the hard-fought, impartial reporting by the Productivity Commission has brought support and encouragement from many sectors of society including from the opposition party. This support bodes well for its continuation in the case of a change of government. The work of the BRC and Actal is also well respected by the public and the political class of their respective countries and they rise above any ideological divide.

95. However, the need to balance the external demands from a reform constituency and at the same time influence the day-to-day thinking and working of an administration is a tricky challenge. EACSR achieved keeping a distance from regulators and fostering a change of perspective through the building of a partnership relationship with senior officials in each ministry. EACSR made efforts not only to gather information but to draw ideas and proposals drawn from the concrete experience of policy makers.

96. To build their own constituency, some institutions have also nurtured their relationships with the media and society. For instance, whenever CPRR holds a council, the agenda of the meeting is announced to the press beforehand and a media session is held after the council session. In addition, minutes of the council and the media session are posted on CPRR's website in a timely manner. On the other hand, a too-open mandate or an exuberant and unfocused programme can impede the building a broad base constituency for the *Advocacy Body*. An *Advocacy Bodies* needs to find the proper balance between the advice and political context to permit a proper response from society and (future) government, including the time to respond.

Resources and working methods

97. As with all institutions, the performance of *Advocacy Bodies* will be linked to their resources. Independently-minded, smart and capable people are necessary to steer and manage the institutions, but board members' efforts will not be enough to bring a forceful case to the government and public opinion — particularly when complex issues are involved. *Advocacy Bodies* need to count on an efficient and motivated secretariat.

98. High profile individuals despite their knowledge and experience need 'working hands' to prepare and undertake complex work involving research, data gathering, consultation and report drafting. Consequently all *Advocacy Bodies* have been supported by a government-funded structure where staff assists the political appointees who sit on the board. In some cases the secretariat will be backed by a permanent structure. For instance a special unit inside the Better Regulation Executive is assigned to assist the BRC.

99. A close relationship between the chair and its secretariat has proven vital for institutions such as EACSR to work and complete an ambitious mandate. For instance the chair of the Canadian external committee met several times a week with the head of the secretariat to check progress and monitor the work plan.

100. Consequently, the selection, appointment or hiring of the members or the secretariat will play a major role in the performance of the *Advocacy Body*. Very often staff of the Secretariat will have civil servant status. This staffing is often a necessity for temporary bodies due the difficulties for hiring in a short period of time and under the strict personal rules, staff from the private sector. However, an institution like the Japanese CPRR deliberately hires staffers from the business community too: half of the 30 professionals working at the CPRR come from private sector. They are appointed under the two-year-term contract, and are selected based on the recommendation from private companies and/or economic organisations.

101. Hiring civil servant may necessitate creating special incentives to motivate the best people to work long hours and under pressure. Some institutions have thus developed reward schemes. As well, the ability to attract the right mix of skill will be linked to the institution's freedom to fix remunerations or provide a career perspective which will permit them to compete in the demands by other public or private entities and ensure that the staff members stay. For instance staffs of the Korean CRR have the possibility for a faster promotion track than other officials working in line ministries.

102. To build and maintain a well performing secretariat, *Advocacy Bodies* have needed, often struggling, to obtain appropriate resources. First, they need enough resources to hire staff and/or procure the services of consultancies for define tasks. For instance, the government granted the EACSR 3 million Canadian dollars. At the other extreme, the Productivity Commission has an annual budget of 35 million Australian dollars, although its writ includes work besides advocating regulatory advice. In the case of *ad hoc Advocacy Bodies*, a larger budget may compensate for a shorter deadline.

103. The downside of state funding is that it can reduce the credibility of independence. So, some governments have tried to increase the representation and independence of the *Advocacy Bodies* with a direct appeal for private sector support for the secretariat as seen with the Japanese CPRR. Business support reflects the society's ownership of the reform efforts as well as strengthening the specific constituency building efforts needed for major reforms.

104. A second important consideration relates to the proper selection of the staff working in the *Advocacy Body's* secretariat. An effective institution of this type will require the right mix of skills. For instance, the Productivity Commission, whose primary function is to analyze issues from an economic perspective, needs a large number of university-trained economists. Other staff members include 'generalists' who have the ability to apply economic concepts to a wide range of policy issues. Moreover, the Productivity Commission has a number of staff with specialist expertise in particular areas, such as economic modelling and qualification on other disciplines, such as law or science.

105. In parallel with talented personnel, a successful *Advocacy Body* will secure adequate working methods for its board and secretariat. On this topic the extensive knowledge from the head of the Banks Task Force are extremely relevant and already offer a well devised set of practical recommendations.²⁷ In particular he noted 8 strategies that turned conductive for a successful inquire:

- Making the task manageable
- Forging a cohesive project team
- Devising an effective work plan
- Optimizing community participation and consultation
- Testing ideas without a (public) draft report
- Producing an accessible document
- Attention to implementation priorities
- 'Selling' the report.

D. Main lessons

106. In the past few years, *Advocacy Bodies* have emerged as a new type of actor to support regulatory policy. They join the increasingly sophisticated institutional set up of a modern regulatory state and work in parallel with oversight bodies, legal conformity controllers, advisory and consultation groups and sectoral regulators. *Advocacy Bodies* have a specific function. They are part of a governance toolkit, and represent government's response for pressure to reform when blockages exist, and when new ideas are needed to steel political will for reform. Equally they also provide voice and support for regulatory reform as well as a forum for dialogue, cooperation and co-optation. These bodies also serve as useful vehicles to facilitate political deliberations, informing and preparing stakeholders and citizens, and facilitating the implementation of reforms.

107. This paper takes a first step towards understanding the political economy of the reform process, drawing on the experience of a selected set of *Advocacy Bodies* across OECD countries. Advocacy bodies vary in political weight, mandate, timing, and working methods. Permanent and temporary bodies differ and the level of resources is also very uneven.

108. Some common trends nevertheless tend to emerge. A first condition for success seems to be *de facto* and *de jure* independence from the government in their undertakings. A second is the existence of a formal and clear mandate to advice further reforms. Without these, the credibility of their advice and thus their justification may be compromised. Further analysis needs to confront a diffuse reality, with complex processes as well as a domestic interplay which is country specific. While the authorities studied have been reasonably successful in a small sample, examples of unsuccessful bodies might also need to be analysed.

109. Besides these two common trends, four main lessons can be drawn. A first lesson is that the institutions studied have not only delivered high quality advice for further reforms but have also been instrumental for governments to implement their recommendations and so achieve reforms.

110. Second, the most important difference among the *Advocacy Bodies* included in this study may be their permanent or temporary status. Governments have tended to use ad hoc *Advocacy Bodies* mostly to address immediate political pressures and concerns. On the other hand, they have established permanent institutions when they have been convinced of the need to build a 'macro' challenge function as part of a good regulatory governance approach. Interestingly, countries have moved to either extend the life of temporary institutions or to periodically launch ad hoc *Advocacy Bodies*. Overall, their increasing use denotes confidence in the approach.

111. Third, the working of *Advocacy Bodies* seems to be a matter of balance. Maintaining equilibrium between independence from the public administration and at the same time being close to the government culture and practice is always complex. Equally finding the good balance between private members and civil servants in the *Advocacy Body's* board or secretariat requires political deftness and luck. As well, focusing their advocacy on barriers and quick successes that can build a constituency for reform may forgo the need for a long-term vision of major changes to undertake.

112. A fourth lesson is that despite the political nature of these institutions, a series of practices – often managerial – will make an *Advocacy Body* successful or not. This involves a range of useful tools and techniques, strategies and approaches that can make these bodies more effective. Among them, perhaps a clever communication and outreach to the government and society stands out.

113. However, a number of issues remain unresolved. Four of them stand out, even if such issues need to be clarified for efficient policy making.

- How do *Advocacy Bodies* complement or supplement the work of independent private think tanks? Is there a possibility for government to support the latter instead of creating new institutions?
- What are the costs and benefits of separating the advocacy function from the Oversight Body and giving it to a dedicated organization at arm's length from government? Would firewalls inside the Oversight Body between the two functions ensure a credible advice and technical opinion?
- To which extent can governments tolerate discretion in the research and inquiry on the part of an *Advocacy Body*? To which extent is the independent advice credible and how should it be balanced with accountability and trust building?
- When does a body dedicated to consultation (*i.e.*, advisory body) become an *Advocacy Body* and vice versa, and how can both functions be complementary?

114. These are questions for future and more in-depth research and also to be addressed as part of policy discussions at the OECD. However, and as expressed by some experts and officials, there will probably never exist a general recipe for overcoming resistance to reform, drive change and still win the elections in the next turn. New and stronger opposition may appear as governments deal with difficult second-generation reforms that change the way a State regulates and how the public administration think and use regulatory instruments. Steering a clear policy direction, overcoming powerful opposition to reforms will need more than just another clever institution. Still, investing on well-designed *Advocacy Bodies* might represent a worthy investment, which will assist regulatory reform efforts, and provide a powerful catalyst for the moment when reforms are due. This will also facilitate implementation, compliance, and will in the long run decrease transaction costs.

Notes

1. Cesar Cordova, director Jacobs and Associates with the assistance of Diana Rowen project manager, Jacobs and Associates.
2. IADB (2005) *The Politics of Policy*. Inter American Development Bank Washington DC P. 11
3. Koromzay, Val, “Some Reflections on the Political Economy of Reform”. Comments presented to the international conference on Economic Reforms for Europe: Growth Opportunities in an Enlarged European Union. Bratislava, Slovakia, 18 March 2004, www.oecd.org/dataoecd/41/59/31506532.pdf
4. www.nnr.se/inenglish.html
5. <http://vlada.cz/en/rvk/lrv/default.html>
6. OECD (2002), *Regulatory Policies in OECD Countries. From Interventionism to Regulatory Governance*, Paris, pp.81-91
7. Mexico. Federal Administrative Procedure Law, Article 69 –E. (30 May 2000 Amendment)
8. www.reginfo.gov/public/jsp/EO/promptLetters.jsp
9. Banks, 2007b, Productivity Commission Act 1998.
10. Decree establishing the Advisory Board on Administrative Burden, Bulletin of Acts and Decrees 2000, No. 162. Decree renewing the Advisory Board on Administrative Burden, Bulletin of Acts and Decrees 2004, no. 66. Decree Extending the Tasks of Actal to the Administrative Burden on Citizens, Bulletin of Acts and Decrees 2005, no. 113. – Decree establishing the Advisory Board on Administrative Burden 2006, Bulletin of Acts and Decrees 2006, No. 138.
11. Actal’s remit has expanded organically covering progressively new areas such as: the review framework on the consequences of implementation of legislation on the administrative burden; the consequences of administrative burdens for citizens, companies and institutions (on request of the Ministry of Education, Culture and Science); and the supervisory rules of the Central bank (DNB) and the Netherlands Authority for Financial Markets (AFM) and advises the Minister of Finance.
12. The Dutch Advisory Board Act [Kaderwet adviescolleges] stipulates that an advisory board is authorised to access all relevant information from government agencies. Additionally, the Dutch General Act on Administrative Law [Algemene wet bestuursrecht] stipulates that government agencies are obligated to pass on all information that advisory boards require for the proper fulfilment of their tasks. Based on these provisions, Actal can apply for any draft laws and regulations to be sent to it for review.
13. http://www.reducingpaperburden.gc.ca/epic/site/pbri-iafp.nsf/en/h_sx00001e.html
14. Mr Lussier had been involved in the development of public policy and a longstanding interest in regulatory matters. He is a highly respected former senior executive with leading food processing companies and a former senior executive with both the Government of Canada and the Government of Quebec. He was also at the time of his appointment a member of a number of corporate and not-for-profit boards
15. ACTAL 2006 Annual Report
www.actal.nl/default24f9.pdf?CMS_TCP=tcpAsset&id=D99B3550DE6A40C0BCFB88086BB20BCF

16. World Bank Group Review of the Dutch Administrative Burden Reduction Program, November 2006 and OECD Review of administrative simplification in the Netherlands, November 2006.
17. Though, it is also known that ‘political will’ is not an endogenous variable’; an appealing project can create political support.
18. Banks 2007a.
19. IADB (2005).
20. Banks (2007).
21. In 2005, the CPRR had 8 out of 207 sessions open to the public and in 2006 3 out of 176. So far three sessions have been open in 2007.
22. Banks 2007b.
23. Professor Hilmer was the Chief Executive Officer of John Fairfax Holdings Limited from 1998 - 2005. Dean and Director of the Australian Graduate School of Management (AGSM) at the University of New South Wales. He was a member of the Commonwealth Higher Education Council and Chairman of the Business Council of Australia's Employee Relations Study Group. Mr Dieudonne Mandelkern is a former member of the French Conseil d'Etat (Council of the State). He finished his career as President of one of the six “sections” this body comprises. From December 2000 to October 2001, he was the President of the “High Consultative Group for Improved Regulation”, made up of representatives of the member states of the EU.
24. IADB (2005), p. 17.
25. OECD (1999) Government Capacities to Ensure High Quality Regulation in the United Kingdom. OECD, Paris.
26. In that sense they would promote an approach towards ‘smart regulation’ and not ‘better regulation’. Baldwin (2005) noted that “officials who are charged to carry out RIAs would find it very difficult to calculate the costs and benefits of a simultaneously acting combination of very different regulatory strategies and institutions.”
27. Banks 2007.

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- OECD (2006), *Review of administrative simplification in the Netherlands*, November, Paris
- World Bank (2006), Review of the Dutch Administrative Burden Reduction Programme, November, Washington, D. C.

ANNEX 1. REPORTS OF THE BRTF – BRC 1998 – 2006

1. Early Education and Day Care (01/07/1998)
2. Access to Government Funding for the Voluntary Sector (01/07/1998)
3. Licensing Legislation (01/07/1998)
4. Packaging Waste (01/06/1998)
5. Long-term care (01/05/1998)
6. Consumer Affairs (01/05/1998)
7. Self-Regulation Interim Report (01/10/1999)
8. Regulation and Small Firms: a progress report (01/07/1999)
9. Fit Person Criteria: a review of the criteria used to judge people's suitability for certain occupations (01/05/1999)
10. Anti-discrimination Legislation (01/05/1999)
11. Enforcement (01/04/1999)
12. Regulating Cyberspace – Better Regulation for e-commerce (01/12/2000)
13. Environmental Regulations and Farmers (01/11/2000)
14. Protecting Vulnerable People (01/09/2000)
15. Alternatives to State Regulation (01/07/2000)
16. Tackling the Impact of Increasing Regulation – a case study of Hotels and Restaurants (01/06/2000)
17. Helping Small Firms Cope with Regulations – Exemptions and Other Approaches (01/04/2000)
18. Red Tape Affecting Head Teachers (01/04/2000)
19. Payroll Review (01/03/2000)
20. Revised Principles of Good Regulation (01/10/2000)
21. Housing Benefit: a case study of lone parents (01/09/2001)

22. Local Shops (01/07/2001)
23. Economic Regulators (01/07/2001)
24. Higher Education (01/07/2002)
25. The Local Delivery of Central Policy (01/07/2002)
26. Employment Regulation: Striking a Balance (01/05/2002)
27. Independent Regulators (01/10/2003)
28. Imaginative Thinking for Better Regulation (01/09/2003)
29. Environmental Regulation: Getting the Message Across (01/07/2003)
30. Government: Supporter and Customer? (01/05/2003)
31. Champions of Better Regulation: Annual Report 2001/2002 (01/02/2003)
32. Scientific Research: Innovation with Controls (01/01/2003)
33. Make It Simple Make It Better – Simplifying EU law (22/12/2004)
34. Review of the departmental reporting (01/11/2004)
35. Avoiding regulatory creep (21/10/2004)
36. Better Regulation – from Design to Delivery (07/12/2005)
37. Routes to Better Regulation – a guide to alternatives to classic regulation (05/12/2005)
38. Better Regulation for Civil Society (27/10/2005)
39. Get Connected – Effective Engagement in the EU (26/09/2005)
40. Less is More. Reducing Burdens, Improving Outcomes (17/03/2005)
41. Implementation of the Licensing Act 2003 (10/04/2006)
42. Principles of Good Regulation (01/04/2006)
43. Risk, Responsibility, Regulation: Whose risk is it anyway? (18/10/2006)

ANNEX 2. UNITED STATES THINK TANKS ADVOCATING REGULATORY REFORM

AEI-Brookings Joint Center for Regulatory Studies

In response to growing concerns about understanding the impact of regulation on consumers, business, and government, the American Enterprise Institute and the Brookings Institution established the AEI-Brookings Joint Center for Regulatory Studies in 1998. The primary purpose of the Joint Center is to hold lawmakers and regulators accountable for their decisions by providing thoughtful, objective analyses of existing regulatory programs and new regulatory proposals. (www.aei.brookings.org)

Cato Institute (Regulatory Studies)

The Cato Institute is a libertarian-oriented public policy foundation. Its regulatory studies program sets forth a market-oriented vision of "regulatory rollback" that relies on the incentive forces of private property rights to create competitive markets and to provide consumer information and protection. (www.cato.org/research/reglt-st.html)

The Center for Regulatory Effectiveness

The Center for Regulatory Effectiveness's aim is to provide Congress with independent analyses of agency regulations. CRE has grown into a nationally recognized clearinghouse for methods to improve the federal regulatory process. It has two primary goals: 1) to ensure that the public has access to data and information used to develop federal regulations, and 2) to ensure that information which federal agencies disseminate to the public is of the highest quality. (www.thecre.com/)

Center for the Study of American Business (Washington University)

Also known as the Weidenbaum Center, this center serves as a bridge between policymakers and scholars by supporting scholarly research, public affairs programs, and other activities at the intersection of government and business. (<http://csab.wustl.edu/>)

Competitive Enterprise Institute

The Competitive Enterprise Institute is dedicated to demonstrating that free market processes and other private initiatives are superior to government intervention in advancing the interests of both producers and consumers. It serves as both a think tank—creating intellectual ammunition to support free markets—and an advocacy organization—putting that ammunition to use in persuasive ways. CEI has long been active in the areas of antitrust and government regulation. (www.cei.org)

Heritage Foundation (Regulation Section)

The Heritage Foundation is a research and educational institute - a think tank - whose mission is to formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, and a strong national defense. One area of research is regulation. (www.heritage.org/research/regulation/)

Mercatus Center - RegRadar.org (George Mason University)

The Regulatory Studies Program of the Mercatus Center at George Mason University works within the university setting to improve the state of knowledge and debate about regulations and their impact on society through peer reviewed research, ultimately improving how government works in the regulatory arena. (www.mercatus.org)

ANNEXE 3. DRAFT OECD Report on Advocacy Groups, Short description (6 November 2007)

Country/ Name	Mandate	Key roles	Date of Creation/Dat e of dismissal	Number of Members	Resources	Working methods	Main Outputs/Outcomes and Notes
Canada EACSR External Advisory Committee on Smart Regulation	<p>Committee appointed by Prime Minister. Specifically, the Committee's was asked to:</p> <p>Develop a regulatory strategy for the 21st century;</p> <p>Identify sectors and areas requiring regulatory reform in order to give Canada a strategic advantage; and</p> <p>Review and provide an external perspective on specific issues identified by departments and stakeholders.</p>	<p>EACSR advised government on improving the regulatory process with the aim of ensuring that regulations achieve social, environmental and economic objectives.</p>	<p>May 2003 - Sept 2004</p> <p>EACSR was given a 12-15 month mandate. It was disbanded after reporting its recommendations</p>	<p>The Committee had 6 professionals most seconded by ministries.</p>	<p>The government spent CAN \$3 million over two years.</p> <p>This includes staff salaries, member honoraria, travel and operating costs.</p>	<p>Bilateral meetings with stakeholders and authorities, including sub-national governments.</p>	<p>Final Report issued Sept 2004</p> <p>Gov't broadly accepted recommendations and it appointed a group in the Privy Council Office to pursue path laid out by the EACSR.</p> <p>Additionally, the federal government's Policy Research Initiative was charged with considering ways and means to implement the recommendations.</p> <p>Played a key role in the US/Canada regulatory cooperation discussions</p>
Netherlands ACTAL Dutch Advisory Board on Administrativ	<p>ACTAL 's mandate is to bring about a cultural shift among legislators and policy advisors through:</p> <p>formal advice (on proposed and existing</p>	<p>ACTAL has three roles:</p> <p>ex ante review the administrative and regulatory burdens of new regulations</p>	<p>Established from 2000 to 2009 prolonged until 2011.</p>	<p>Originally 3 board members who are private citizens chosen for their proven</p>	<p>€1.5 million per year (of which about 10 -15 % dedicated to research advocacy)</p>	<p>The Board Members meet formally one day every week to discuss</p>	<p>Annual Report published each year.</p> <p>Results:</p> <p>25% net reduction within reach</p> <p>Structural ex ante evaluation of</p>

Country/ Name	Mandate	Key roles	Date of Creation/Date of dismissal	Number of Members	Resources	Working methods	Main Outputs/Outcomes and Notes
e Burden	legislation) insight into the consequences of laws and regulations in terms of administrative burdens. backing the govt's objective of cutting back the administrative burden(AB) by 25%	ex post review the impact measurements performed by ministries advocate better regulation		knowledge in the field of administrative burdens. Appointed by Minister of Finance after the position advertised in the media. Members work part time	The board is supported by a secretariat of 12 civil servants with backgrounds in government and the private sector the Secretariat	ongoing activities All proposals MUST be submitted to ACTAL for review if they have an impact on the administrati ve burden on businesses and/or citizens. Ministries must also quantify the administrati ve burden in new legislation and report on alternative policies.	effects of regulation AB more restrained Cultural shift on it's way Lessons learned: Infrastructure necessary SCM pivotal in reducing AB Commitment on political level indispensable A quantitative target increases sense of urgency AB come from different sources and is only one effect arising from regulation
United	The BRC is the independent champion of	Produce reports on different regulatory	BRC began as the advisory	15 members who are expert	Annual Budget: To	To be	In addition to producing an annual report, the commission studies

Country/ Name	Mandate	Key roles	Date of Creation/Dat e of dismissal	Number of Members	Resources	Working methods	Main Outputs/Outcomes and Notes
Kingdom Better Regulation Commission	<p>better regulation in the Uk. It is a non-departmental public body of the government, but under the oversight of the Dept for Business, Enterprise and Regulatory Reform.</p> <p>“To advise the Government on action to reduce unnecessary regulatory and administrative burdens and ensure that regulation and its enforcement are proportionate, accountable, consistent, transparent and targeted”.</p>	issues	<p>"Better Regulation Task Force" in 1997. The task force was replaced by a permanent body, the Better Regulation Commission, in January 2006.</p> <p>In 2007 BRC it was merged into the Productivity Commission. [To be confirmed]</p>	<p>in a particular regulatory field.</p> <p>Appointments are made by the Minister in charge of regulatory reform. There appointment is limited to xxx years.</p> <p>Members are unpaid</p>	<p>be completed</p> <p>A team of full-time officials based in the Cabinet Office supports the Commission .</p>	completed	<p>specific issues:</p> <p>EU regulatory agencies and their influence on the regulatory landscape</p> <p>Action Programme for Reducing Administrative Burdens in the EU.</p> <p>Review of the regulatory aspects of the Stern (climate change) report.</p> <p>Risk, Responsibility & Regulation.</p> <p>Better Regulation for Civil Society</p>

Country/ Name	Mandate	Key roles	Date of Creation/Dat e of dismissal	Number of Members	Resources	Working methods	Main Outputs/Outcomes and Notes
Korea Regulatory Reform Committee (RRC)	The "Basic Act on Administrative Regulations" created the Regulatory Reform Commission.	<p>The Regulatory Reform Commission oversees the regulatory reform process and the introduction of Regulatory Impact Analysis,</p> <p>RRC is responsible for:</p> <ul style="list-style-type: none"> establishing basic policy guidelines and ensuring quality control (RIA) reviewing of new and existing regulations registering and publishing regulations. Monitoring ministerial regulatory improvement plans. 	Established by law in 1997	<p>18 civilian members from business, academia, law firms, and NGOs.</p> <p>6 cabinet ministers ministries.</p> <p>Civilian members are appointed by the President for two-year term.</p>	<p>Annual Budget: To be completed</p> <p>The committee has a secretariat of about 50 staff which is headed by the Deputy Minister in the Prime Minister's Office of Policy Coordination.</p>	Whole committee meets once a month; subcommittees twice a month.	<p>With the help of strong political leadership, the RRC efforts resulted in reducing the number of regulations in half and revising 1,242 regulations in 1998 and 1999.</p> <p>Currently, the RRC reviews about 1,000 regulations per year.</p> <p>More recently, the RRC has established RIA as a tool to control regulatory quality improved regulatory transparency and accountability by removing administrative discretion.</p> <p>enhanced public consultations.</p>
Japan Council for the Promotion of Regulatory Reform	The role of CPRR is to investigate and deliberate reform agenda from economic and social structural reforms point of view, and to submit reports to the Prime	CPRR is one of the key councils of PMO. In January 2007 the government set up the 5 th Council to advise the Prime Minister on regulatory reform	<p>Since 1994 and renewed every 3 years.</p> <p>The last commission established by the cabinet</p>	15 Council members; seven of which coming from business and eight from educational	In 2007, the CPRR has a budget of 38 million yens (around \$350,00 USD)	CPRR has seventeen task forces in place, each of which covers a	<p>The first Council was formed in 1994. Since then, over 7,000 specific measurements have been enclosed in the reports.</p> <p>For instance, open access to operation of public facilities/services, introduction of</p>

Country/ Name	Mandate	Key roles	Date of Creation/Date of dismissal	Number of Members	Resources	Working methods	Main Outputs/Outcomes and Notes
(CPRR)	<p>Minister in order to comply with the request from the Prime Minister</p> <p>The CPRR was established by a cabinet order on January 26, 2007, in accordance with the provision of the Article 37 (2) of the Act on Establishment of Cabinet Office.</p>	<p>issues. Previous Councils were set up in 1994, 1998, 2001, and 2004.</p> <p>In 2007 the CPRR took over the functions of Market Access Ombudsman Council.</p> <p>The new Council works in a close cooperation with the Headquarters for the Promotion of Regulatory Reform which is headed by the Prime Minister and made up of the full Cabinet.</p>	<p>order in January 2007. Its term will be expired in March 2009</p>	<p>institutions</p> <p>The members are appointed by the Prime minister</p>	<p>CPRR is supported by a secretariat which is consisted of about 30 civil servants, half of which from government sector and the rest from private sector.</p>	<p>specific area. In principal, each task force has two secretariats at least, and a chief secretariat in the task force team is a one from private sector who does not have a conflict of interest in the respective area where the task force covers. Thus, a working unit is set on task force basis, not by topic or by specialization basis.</p>	<p>Regulatory Impact Analysis, and liberalization of stock exchange fee.</p>

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EU Mandelkern Group on Better Regulation	EU Ministers for Public Administration approved the Strasbourg Resolution in 2000 that established a high-level advisory group consisting of regulatory experts from member states and charged them with preparing a strategy to improve the quality of regulation within the EU. Specifically, the group was asked to explore: the systematic use of impact studies transparency in the consultation process simplification of adopted texts and wide use of codification.	The Mendelkern Group examined ways in which policy making and regulation drafting could be improved in the Institutions of the EU.	From December 2000 – November 2001	16 members headed by Mr. D. Mandelkern (one from each of 15 member countries + one from the Commission)	Annual Budget: To be completed The group was supported by the Commission's Secretariat-General who also participated as observers.	Periodic meetings of senior officials, experts from European State members.	The group produced a report known as the Mandelkern Report . The conclusions were that to achieve Better Regulation, there is a need for high level and cross-government political support, the allocation of appropriate resources and an explicit Better Regulation policy. That policy should use tools such as: impact assessment, simplification, consolidation and consultation, it should promote a change in culture in the formulation of policy and the drafting of regulations. The report was met with universal acclaim and was adopted by the institutions of the EU.
Australia Productivity Commission	Advises the Government and promotes public understanding on matters relating to industry, industry development and productivity. The PC is the Australian Government's principal	The Australian Treasurer is responsible for directing the PC to provide advice to the Government, either by undertaking a public inquiry (with formal powers to	The PC was established legally in 1998, as an amalgamation of the Industry Commission (established in 1990) the	The Commission consists of a Chairman plus between 4 and 11 Commissioners.	The PC's funding for 2007-08 is A\$35.0 m. The Commission is funded through the Australian	Usually, 2-3 Commissioners are appointed by the Chairman to oversee each Government	Inquiries conducted by the Commission can cover any sector of the economy; focus on a particular industry or cut across industry boundaries; or involve wider social or environmental issues. Output may vary from year to

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	<p>review and advisory body on microeconomic policy and regulation.</p>	<p>gather evidence and consult widely) or by conducting a study (generally with more limited scope).</p> <p>In addition to its research function, the Commission:</p> <p>monitors trends in regulation and acts as a regulatory gate-keeper, through the Office of Best Practice Regulation (an operating unit of the PC).</p> <p>Investigates complaints about the application of competitive neutrality to Australian Government businesses, through the Competitive Neutrality Complaints Office.</p> <p>Provides secretariat services for the Steering Committee of the Review of Government Service Provision.</p>	<p>Economic Planning Advisory Commission (established in 1983) and the Bureau for Industrial Economics (established in 1977).</p>	<p>The Chairman and Commissioners are appointed by the Governor-General (Australia's head of state) for renewable terms of up to five years and are remunerated in accordance with determinations by Australia's Remuneration Tribunal (an independent statutory body).</p>	<p>Government Budget.</p> <p>The PC has approximately 200 staff (average staffing of 193 FTE during 2005-06).</p>	<p>- commissioned project (inquiries and studies).</p> <p>The Commission will usually call for public submissions, followed by targeted or public consultations. Where time permits, the Commission will issue a draft report prior to finalizing its findings. Inquiry reports must be made public, while study reports may be (and usually are) made public at the discretion of the</p>	<p>year, however the Commission is resourced to undertake between 6-8 Government commissioned pieces of work over a 12-month period. In addition, the Commission would publish 10-20 other pieces of research (including self-initiated, secretariat and annual reports).</p> <p>As part of the PC's commissioned work programme, the Government has asked the PC to undertake an ongoing 5-year programme of reviews of regulatory burdens. The Commission has been asked to identify regulation that is unnecessarily burdensome, complex or redundant, or duplicates regulations in other jurisdictions, and to develop a short list of priority areas with options to alleviate regulatory burdens. The Commission will examine all sectors of the economy over the 5 year cycle. The Government will draw on the Commission's reviews to develop an Annual Red Tape Reduction Agenda.</p> <p>The PC also has been tasked with benchmarking regulatory burdens imposed by different Australian Government and state Government jurisdictions in specific regulatory areas. The Commission will examine several areas of regulation (including</p>

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Australia Committee of Inquiry into a National Competition Policy for Australia (Hilmer Inquiry)	<p>In October 1992, the Prime Minister established an independent inquiry into competition policy in Australia.</p> <p>Specifically, the inquiry was asked to cover:</p> <p>the best means of providing consistent, nationally applicable competition rules to all businesses.</p> <p>transitional mechanisms to bring all businesses within scope of those rules.</p> <p>Recommend legal changes.</p>	<p>In 1992, all Australian Governments (at the federal and state/territory level) agreed to initiate a national approach to competition policy reform.</p>	<p>October 1992 - August 1993</p>	<p>The inquiry committee was chaired by Prof Fred Hilmer and two other members.</p>	<p>The inquiry was assisted by a Secretariat of 8 staff, provided by the Australian Government.</p>	<p>The inquiry received 138 written submissions from government s, industry, unions, and consumer groups.</p>	<p>The Hilmer Committee's report was delivered to the Heads of Government in August 1993; it advocated six policy proposals.</p> <p>In April 1995, the Council of Australian Governments agreed to the National Competition Policy (NCP) package of measures to implement the Hilmer proposals — leading to The Competition Policy Reform Act 1995. At its meeting in February 2006, COAG reaffirmed its commitment to the principles of the NCP framework.</p> <p>The National Competition Council was established in November 1995 to monitor and report on progress by Commonwealth and State Governments in implementing the NCP agenda.</p>
Australia The Task Force on Reducing Regulatory Burdens on Business (Banks Task Force)	<p>In October 2005, the Prime Minister and Treasurer announced the establishment of the taskforce. The Taskforce was asked to identify practical options for alleviating the compliance burden on business from Australian</p>	<p>The Taskforce, guided by the views of stakeholders representing industry, small business, consumers and Australian Government, made 178 recommendations to reduce red tape</p>	<p>October 2005 – January 2006</p> <p>The taskforce provided its report to the Australian Government in January</p>	<p>The taskforce was chaired by Chairman of the Productivity Commission, Mr Gary Banks with 3 other private sector</p>	<p>The Taskforce was supported by a secretariat of 14 staff provided by the Australian Government</p>	<p>The taskforce received over 150 written submissions from the public. The taskforce also held a</p>	<p>The report identified more than 100 specific reforms to existing regulation and proposed that another 50 areas of regulation be investigated in greater depth. It also considered how the processes and institutions responsible for regulation could be improved to avoid the same problems simply re-emerging.</p>

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	Government regulation. In particular, the taskforce was to examine and report on areas where regulatory reform can provide significant immediate gains to business.	across a wide range of policy areas, and to improve regulation-making and review processes.	2006.	members	.	number of roundtable and bilateral discussions with key private and public sector stakeholders .	The Australian Government announced an interim response to the taskforce's report in April 2006 and a final response in August 2006. The Government agreed in full or in part to 159 of the recommendations, including significant enhancements to its regulation-making and review framework.

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Italy Tavolo permanente per la semplificazio ne (Permanent Table for simplification)	<p>The Permanent Table for Simplification has been set by an agreement between State and Regions and by a Prime Minister Decree.</p> <p>It represents a multi-level coordination and advisory Board for the process of legislative and administrative simplification.</p>	<p>The Table, in its plenary section, involves all stakeholders and central and local governments at the highest level.</p> <p>The Table is organized in two sections. The first involves stakeholders representing industry, small business, and consumers.</p> <p>This section guarantees an ongoing consultation and a political and social dialogue on regulatory reforms.</p> <p>The second section involves Regions and Municipalities and has the task to advise, coordinate and foster the simplification process and better regulation.</p>	March 2007	<p>The Table is chaired by the Prime Minister or by the Minister for the Regional Affairs.</p> <p>Members are:</p> <ul style="list-style-type: none"> - stakeholders - representative s of consumer associations - departments of the Presidency of the Council of Ministers (e.g. Reforms and innovation in P.A., Regional Affairs), - Ministry of Economy, Internal Affairs and Economic development - Members of 	Support provided by the Simplificati on Unit	<p>Consultation and planning on simplification through regular meetings. Creation of 6 thematic working groups</p>	<p>Consultation on the planning and implementation of the Action Plan on simplification and better regulation.</p> <p>Consultation on harmonization of law-drafting, administrative burden measurement and reduction.</p> <p>Consultation for the package “one shop stop for business start up”.</p>

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				the Conference of the Presidents of Regions, Local autonomies and municipalities			