

- The department or agency must indicate the method of the planned consultation process. (This is linked to 4.1 above.)
- Each proposed regulation must be given an identification number which will be used throughout the regulation-making process (that is for the estimated costs of federal regulations to be tabled with the *Estimates*, as proposed below, and when the draft regulation and RIAS are “pre-published” in the *Canada Gazette*, Part I).

C. COUNTING THE COSTS OF NEW REGULATIONS

1. Inefficiency of the Present System

8. Despite the RIAS requirement, the federal cabinet has no estimates of the annual or cumulative costs that regulatory programs impose on the Canadian economy. While a regulatory budget may be the ideal approach,¹ it is possible to make some strides with a far less ambitious approach to counting the costs of each new regulatory initiative, and by keeping track of these costs over time, so the Cabinet can get some idea of the burden of regulation.²

9. In terms of system design for the purposes of achieving allocative efficiency and political accountability, the present regulation-making process has a number of fundamental flaws. First, it is not subject to any form of independent “oversight” regime. Second, the Special Committee of Council, which enacts hundreds of new regulations annually, and its public servant advisors have almost none of the necessary information with which to allocate the scarce resources of society being devoted to new regulations or existing ones.³ Third, there is no central coordination or control of the federal government’s agenda with respect to new regulations. Each department or agency determines its own priorities. As noted above, the annual *Federal Regulatory Plan* is not a plan at all. Moreover, even as an “early warning system” for new regulations, the annual *Plan* is quite imperfect, and not just because of unforeseen events or emergencies. Fourth, the current process is inefficient in the sense that more scarce resources (primarily in terms of private sector compliance costs) are devoted to achieving Canada’s regulatory objectives than need to be. The same level of benefits—albeit not currently measured—could be achieved with fewer resources.

10. The present decision-making process results in inefficiency for several reasons. First, decision makers are not forced to choose among competing regulatory programs within the context of a limited budget, as they must do with respect to the traditional expenditure budget. Each department or agency regulates narrowly, incrementally and in most cases without reference to the interventions,

¹ See the excellent discussion in John F. Morrall III, *Controlling Regulatory Costs: The Use of Regulatory Budgeting*, Regulatory Management and Reform Series, Public Management Occasional Papers, No. 2. (OECD, 1992)

² If the annual costs of government regulation in Canada are one-tenth the level in the U.S., then these costs amount to about \$50 billion per year. See submission to the Sub-committee by Thomas D. Hopkins, September 15, 1992, *Minutes of Proceedings and Evidence*, Issue No. 15.

³ Litan and Nordhaus point out that “From an economic viewpoint, federal regulations are akin to federal expenditure programs. Both require that resources be devoted to objectives the nation collectively deems to be important. The only difference is that, in the case of federal expenditures, the resources are first collected through taxation and then spent directly by the government. In the case of regulation, the government orders individuals or firms in the private sector to make such expenditures—a kind of balanced-budget expenditure program. From this economic perspective, the need for a centralized process for coordinating regulation to parallel that of expenditures becomes readily apparent. . . . require a systematic and continuous examination of the competing national goals sought through regulation.” See Robert E. Litan and William D. Nordhaus, *Reforming Federal Regulation* (New Haven: Yale University Press, 1983), p. 4.