



# Bringing regulation into the boardroom

A global survey of the regulatory function in the communications sector

ADVISORY

AUDIT ■ TAX ■ ADVISORY

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# Foreword

With an increasing focus on regulation, companies must be able to both shape and respond to the regulatory agenda in traditional and, increasingly, emerging markets. KPMG member firms' work with many businesses around the world has shown that this is not easy to put into practice, particularly in the communications sector.



**Sean Collins** –  
Global Chair  
Communications  
and Media, and UK  
firm partner

With this in mind, I am delighted to present the findings of this global survey, which looks at how communications companies can maintain an appropriate level of attention on regulatory issues in the boardroom. Our firms' professionals have spoken to some of the leading thinkers in this area across the globe – from both senior management and the regulatory function — and I believe that there is much to learn from following their example.

The regulatory function has traditionally been seen by many as a home for very bright but insular, 'ivory tower specialists'. However, in recent years some successful companies have benefited hugely from embracing the intelligence and insight that such specialists can bring to issues beyond their (often narrow) regulatory brief. These very same specialists must learn to communicate with the rest of the organisation in its own language and act as a bridge between complex economic and regulatory theory and the everyday commercial concerns and pragmatism of the business.

A few themes stand out from our research and interviews:

- I am concerned that the regulatory function is largely seen as a 'graveyard posting,' with little or no encouragement of bright potential future business leaders.
- There appears to be considerable work to be done to improve the way in which regulatory issues are communicated to the board and the rest of the organisation. Indeed, in many cases it is unclear whether a regulatory strategy even exists.
- The need for a strong, integrated regulatory function has been accelerated by convergence in the sector. Many operators are only starting to grapple with regulatory issues outside of their natural comfort zones — something that raises both regulatory and commercial risks.

I trust that our survey provides a few thought-provoking insights that lead to some useful self-analysis.



## Executive summary

In a world where regulation is increasingly coming to dominate the board agendas of fixed, mobile and convergent communications companies, it's more important than ever to align regulatory and corporate strategy. Our global survey of fixed line and mobile operators reveals that not everyone is managing to achieve such harmony. Although the responses throw up some distinct differences of opinion between management and those working in regulation, the majority do agree that only by working towards a closer relationship can they hope to successfully counter the tough regulatory challenges ahead.

### **Balancing short and long term regulatory demands**

Those senior managers that took part in the survey are keen to see the regulatory function make a bigger contribution to more immediate commercial challenges. In contrast, the responses from the regulatory professionals argue that the longer-term nature of regulation — and its impact on many parts of the business — means that they should be more involved in setting corporate strategy.

Such differences are a concern and, if left unresolved, could lead to the regulatory teams carrying out projects that are not part of the board's strategy, thus wasting valuable time and money. And if the two groups are not fully in tune, the sector could also see confusing messages being sent to the regulators.

### **The regulatory function tends to be viewed as a specialist resource**

It seems as though those working in the regulatory function have yet to shake off their 'specialist' tag and branch out into wider roles. Our responses suggest that this is not just a result of the views of management; regulatory professionals themselves see relatively few opportunities to broaden their horizons. This perceived lack of career options also makes it hard to attract talent from outside the function and serves to maintain its homogenous make up.

“

Regulation should be part of every day operations, and ideally there should be no regulatory function. Regulation should be part of the DNA of the business.”

*Regulatory director*

### **The regulatory function is not yet seen as a true partner to the board**

There appears to be a big difference in how the board and the regulatory team view their relationship. Those in the regulatory function see themselves as very much business partners, whilst senior managers tend to regard them more as specialists to be called upon when needed, and not an integral part of the business. Given the profound and growing impact of regulation on the communications sector, there is a real danger that this disconnect could lead to inadequate regulatory policy.

### **The regulatory strategy is not communicated effectively**

Worryingly, the survey shows that the regulatory strategy is not well understood by the business — which is totally at odds with the views of the regulatory team, who are under the impression that they have communicated this effectively. This begs the question of whether such a strategy exists in the first place, since strategy comes from the board. To counter this perception gap, corporate regulatory professionals must seek to improve their ability to transmit what can be complex regulatory messages to their colleagues, many of whom do not have the same combination of strong legal, economic and financial backgrounds.

### **Regulatory professionals possess most of the skills for the job**

There is general agreement amongst the respondents on what it takes to be an effective regulatory function, and a high degree of confidence in the individuals working in this part of the business. The function is however lacking effective ways to measure its performance, which can limit its ability to demonstrate its true worth.

### **What can be done to improve regulatory performance?**

The research shows that the regulatory function has some way to go before it can claim a permanent place at the boardroom table. To achieve this, it should seek to improve the communications and relationship with its board and the rest of the organisation, and manage and develop its talent more effectively to create attractive career options. The good news is that both senior management and those in the regulatory function are receptive to change and open to the idea of learning regulatory lessons and preferred practice from other sectors.



# How does regulation affect your business?

Senior managers are concerned about the effect of regulation on the business model and profitability

The perceived impact of regulation on a business will influence both its regulatory strategy and the way in which regulatory professionals themselves are viewed by the rest of the organisation.

## What areas of the business does regulation impact upon most?

Top five areas impacted by regulation

Issues by importance	Regulatory Function	Senior Management
1	Strategy	Business model
2	Business model	Profits
3	Market position	Strategy
4	Profits	Market position
5	Cost structures	Cost structures

Our survey results reveal that senior management and the regulatory function, whilst not poles apart, may have different priorities. The regulatory team is primarily preoccupied with the longer-term impact of regulation on corporate strategy. This is understandable given that changes such as new price controls are often signalled several years ahead of their actual implementation.

Senior management, on the other hand, is far more concerned about how regulation affects the business today — and the profits they make. They believe that their regulatory people should be focused on the here and now, making sure that the business model stands up to regulatory changes and helping the company meet its financial targets. Although they do acknowledge the need to plan ahead for regulatory changes, they don't see the regulatory function as an integral part of corporate strategy, regarding it more as an important specialist in-house adviser, tasked with keeping the business off the regulatory rocks.



Several of the board members believe the role (of the regulatory function) is to make problems go away.”

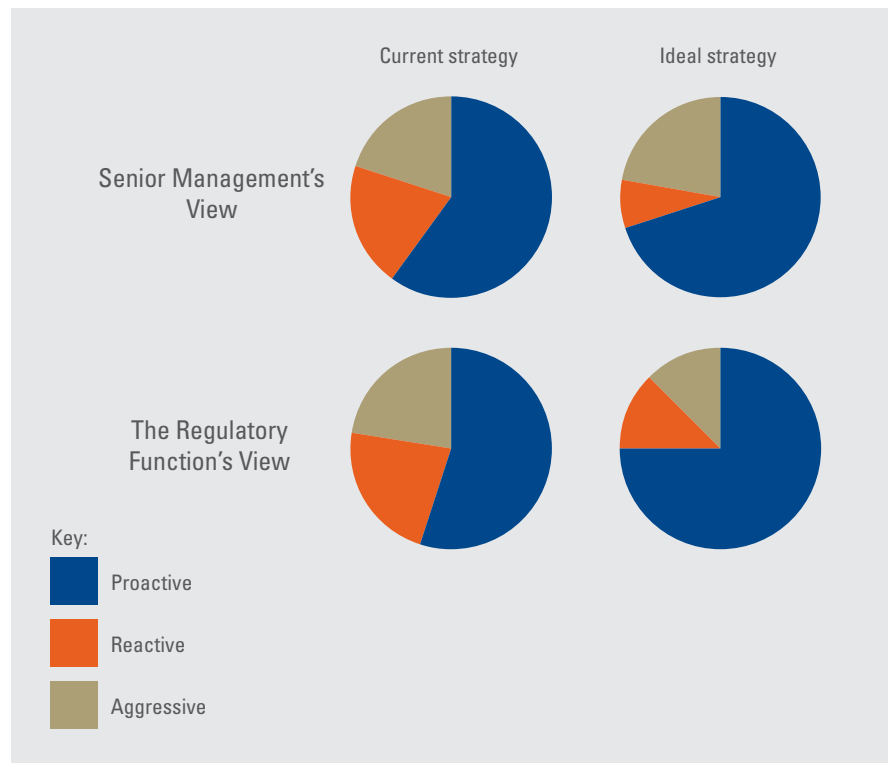
*Regulatory director*

Where does regulation sit in the organisation? It's a very good question — it doesn't appear on the organisation chart, which gives you a good sense of its profile.”

*Regulatory director*

Despite these differences, both the regulatory function and senior management are agreed on the need to be proactive, anticipating regulatory changes and working to influence the authorities to create the most favourable environment for the business. However, over half of these senior managers admit that they have yet to develop a regulatory strategy, giving the regulatory professionals little or no foundation on which they can act proactively, as shown below.

**Regulatory strategy approach**



# Technical specialists or strategic partners?



On the whole, people join the regulatory function from a range of places, but see their career path as 'economists,' with the route out being as an economist somewhere else, rather than progressing within the company."

*Regulatory director*

Staff are specialist lawyers and economists. They tend to stay in their box, particularly the senior staff. Although some junior staff have made the leap out to commercial."

*Regulatory director*

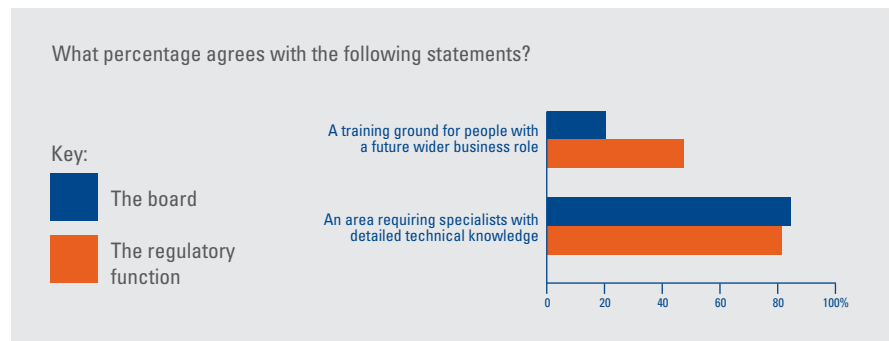
The regulatory function should be a training ground of two years or so and ideally would 'sheep dip' fifty people a year. You can always buy in the technical knowledge."

*Regulatory director*

The regulatory function appears to have less influence on the Board — and consequently on corporate strategy — than it imagines.

Perception is reality, and the way the regulatory function is viewed will affect not just its sphere of influence but also the career prospects of those working there in. As one would expect, the survey confirms how important it is for regulatory professionals to have specialised technical knowledge. However, as in many other professions, specialism can also be limiting, as individuals get all too easily pigeon-holed; only one in five board members felt that working in the regulatory function was a stepping stone to a wider business role.

## What is the regulatory function?



Regulatory professionals are also concerned about the lack of opportunities outside their speciality, with less than half (45 percent) believing that their current position would lead to a job in another part of the organisation. It's also rare for non-regulatory people to move into the department, as they see it as a haven for specialists.

The regulatory function is not alone in facing such a dilemma: those in Finance, IT, HR, Legal and R&D have long struggled to shake off the 'specialist' tag. The inevitable consequence is that most regulatory specialists either move upwards within the department or out to a similar job in another organisation. It is certainly rare for a Regulatory Director to reach the dizzy heights of Chief Executive Officer. Interestingly, Finance is one area that has to some extent broken out of such shackles, with the position of Finance Director now widely regarded as a natural launching pad for loftier titles. The regulatory function would do well to follow such an example.

““

The management team comes from a non-regulated world. They are used to an ultra-competitive market; for example supermarkets — where you can change the price of a product in one store very quickly.”

*Regulatory director*

A key measure of the regulatory relationships strength is how much time we have in the CEO's diary.”

*Regulatory director*

We need people in this function who can communicate clearly and concisely.”

*Board member*

### Breaking out of the box

The survey responses build a picture of a regulatory function consisting of a limited number of highly specialised experts, focusing mostly on purely regulatory issues and not venturing outside their own area of proficiency.

Although this does lead to a high concentration of knowledge within the team, it can also tend to produce an insular outlook, with regulatory staff often criticised for failing to appreciate broader business issues.

And it's not just the regulatory professionals that suffer. The company as a whole can be worse off for not utilising the potential of what are highly intelligent, highly qualified individuals with much to offer the business. In an industry like communications, where regulation affects virtually every aspect of the business, it's vital for senior management to gain a good grounding in the subject.

One way to achieve this is for managers from around the organisation to spend time working in the regulatory function as part of their career development.

### The relationship between management and the regulatory function

The board does not share the regulatory team's view that the two are business partners.

It's in the relationship between the two groups that the survey uncovers the biggest differences of opinion. Whilst the majority (56 percent) of those in the regulatory function saw themselves as business partners to the board, just one in seven of senior managers shared this view, preferring to see the function as essentially a voice to the board, albeit an important one.

Only by closing this gap in perception can the regulatory function hope to exert greater influence over corporate strategy. Corporate regulatory professionals should realise that they have to work harder to transform their image and secure more time in front of senior management. Only then can they start to play an integral part in the strategic decision-making process.





There is the: ‘If you can’t explain it to me in twenty minutes, don’t bother’ attitude. You can’t explain a price control in twenty minutes and the only way to bridge this gap is to have a board level champion of regulation, with a regulatory background and a regulatory mindset.”

*Regulatory director*

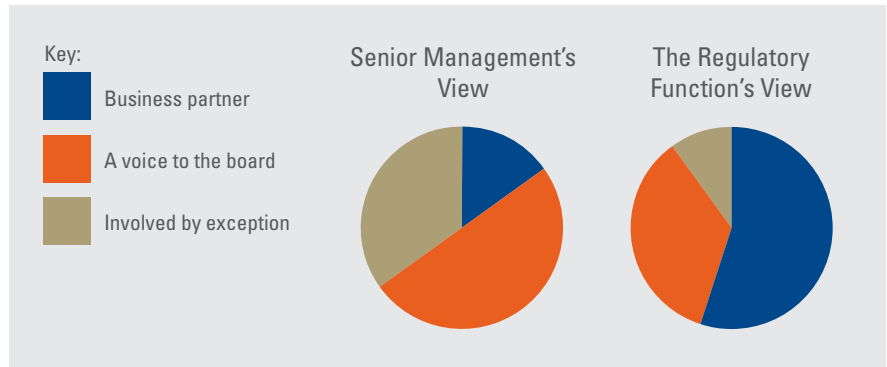
We need to ‘up the value’ of the regulatory function in the eyes of the board.”

*Regulatory director*

They’ve been working on this project for months now and I still haven’t been given a clear picture as to what our strategy is.”

*Board member*

**What is the relationship between the board and the regulatory function?**

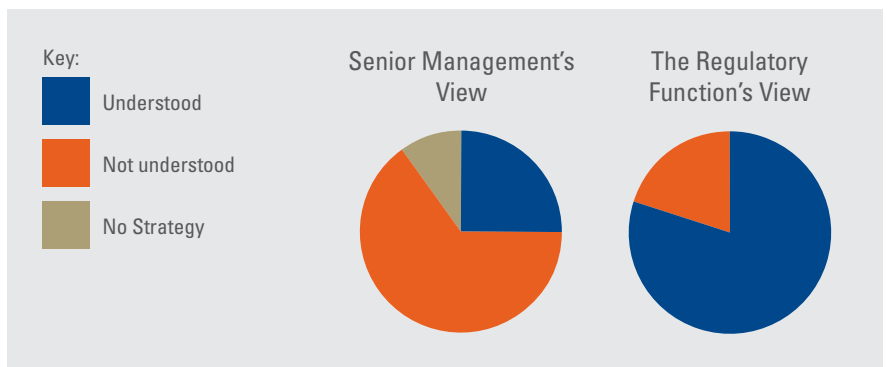


Of equal concern is the apparent lack of understanding of the regulatory strategy. Two thirds of those senior managers responding felt that the strategy was not understood outside of the department itself — an alarming statistic. This is in stark contrast to the regulatory professionals themselves, the majority of whom (80 percent) are under the impression that the rest of the business is fully aware of their plans.

This begs the question as to whether these companies actually have a defined regulatory strategy. Strategy is by definition developed from the top, with regulatory and other issues fed in by the specialists. As such a regulatory strategy cannot exist independently of wider corporate strategy. Indeed, a small proportion of senior management surveyed confesses that there is no strategy whatsoever, which clearly has implications for the way that those in regulation communicate with the rest of the organisation.

Such a deviation in perception is concerning and is further evidence that regulatory professionals need to be more involved in the business — and more aware of the big issues. The homogeneity of the regulatory function helps contribute to this view, which in turn helps to strengthen the argument for bringing a greater mix of backgrounds into the department.

**How well understood is the regulatory strategy outside of the regulatory function?**





To the board, the regulatory function remains something of a mystery: a sometimes aloof collection of economists and lawyers pursuing its own path, not always in touch with the organisation's commercial goals. Those companies that find a way to bridge this gap can reap the benefits of an integrated function that makes a more significant contribution to the success of the business.

One way of bringing the two together is to form a closer structural relationship. Only a third (34 percent) of our respondents claimed that their regulatory function currently reported directly to the board, with almost two-thirds (62 percent) reporting through a larger functional grouping. The remainder outsourced this task to external advisors.

A number of responses highlighted the lack of communication between the regulatory function and the board:

- Forty-two percent of the regulatory function felt that the board was 'fully informed and aware' about regulatory matters, compared to just 23 percent of board respondents.
- Thirty-two percent of the regulatory function felt that the board was 'fully informed and aware' of the future direction of regulation and the main influences on the regulator; however, not one of the board members polled shared this view.
- And 28 percent of the regulatory function felt that the board was 'fully informed and aware' of what they as individuals should be saying in the market on regulatory matters; this confidence was shared by only seven percent of the board members.

# What skills should the regulatory function possess?

On the whole, those working in the regulatory function have the right mix of skills to meet their challenges

A number of important technical and interpersonal skills are required to build an effective regulatory strategy and influence the regulators. The survey sought to uncover which skills were considered to be most important and understand the tools necessary to help the regulatory professionals meet these challenges.

Both senior management and regulatory professionals were in full agreement on the most important skills: the ability to negotiate effectively with regulators, and an understanding of the impact of regulations. Proactivity and communication were also ranked highly.

## Skills

In order of importance, the regulatory function and the board rated the skills as set out in the table to the left.

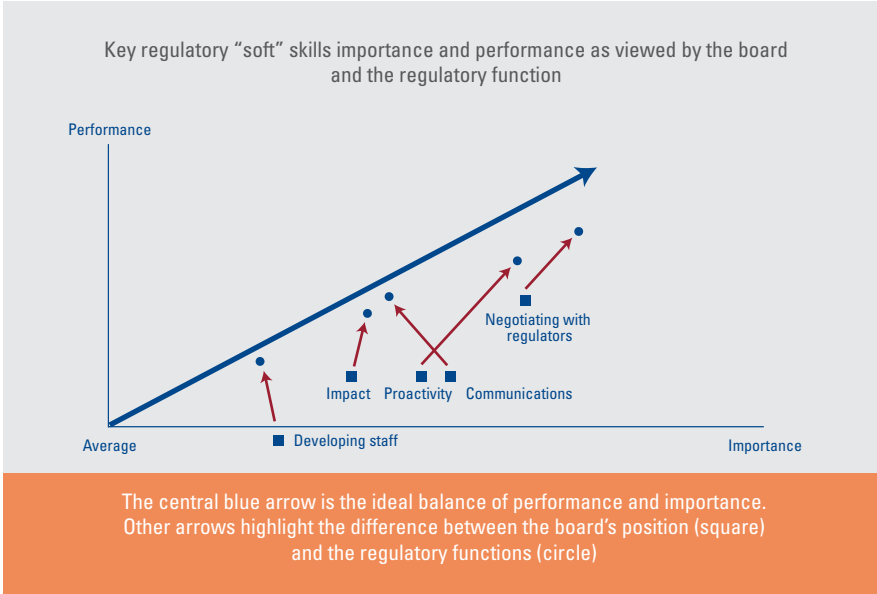
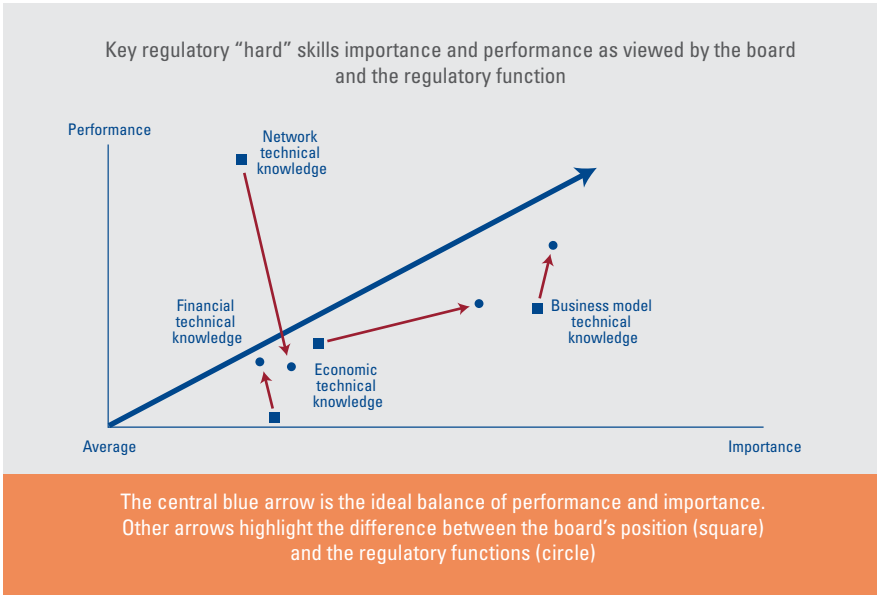
There is a general level of consensus over the relative importance of many of the skills described in our survey. Senior management rated proactivity, responsiveness, commercial knowledge, development of people and developing partnerships as more important to the function's success. These are all 'soft' skill areas — with the exception of commercial knowledge, which along with financial know how is not traditionally associated with the regulatory function, which is typically staffed by lawyers, economists, policy and network specialists.

Those working in the function rated knowledge of the technical aspects of the law, economics and networks as considerably more important (which was in contrast to the views of senior management). Managing external advisors and indeed managing the cost of the function itself — was a relatively low priority for both parties.

These findings reinforce the external perception that members of the regulatory function should be developing their 'softer' skills whilst also down playing the technical nature of their role.

Regulatory function	Ranking of importance skills	Senior Management
1	Negotiation with regulators	1
2	Understanding the impact of regulation on business models	2
3	Legal related technical knowledge	7
4	Communication	4
5	Economic related technical knowledge	11
6	Proactivity (with ideas etc)	3
7	Impact	8
8	Responsiveness to consultations	5
9	Commercial related technical knowledge	8
10	Network related technical knowledge	13
11	Financial related technical knowledge	10
12	Developing staff	9
13	Managing external advisors	14
14	Managing the cost of the regulatory function	17
15	Developing partnerships	12
16	Project management	15
17	Organisation/administrative management	16

The survey took a more detailed look at how well the regulatory function matched up to these prioritised skills:





The regulatory function doesn't get credit for what it achieves, and this is reflected when job cuts are required. As regulation isn't a revenue generator, it's difficult to provide key performance indicators that can be used to measure our efforts when compared to sales staff."

*Regulatory manager*

"There is a clear need to professionalise the regulatory function"

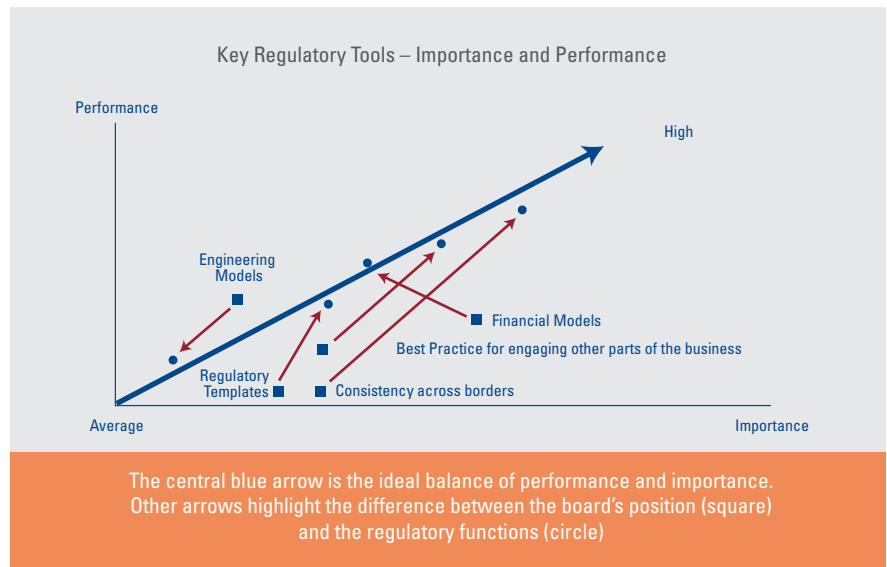
*Board member*

On the positive side, both sets of respondents rated the performance across most of these skills as above average, demonstrating a good level of confidence in the regulatory function, with one exception: only one in seven senior managers believed that the regulatory professionals' understanding of the impact of regulation on business models was 'very good'. This can be attributed at least in part to the lack of involvement of these individuals in strategic matters, giving them little chance to learn about the business.

Perhaps not surprisingly, the regulatory professionals had a relatively higher opinion of their ability across all the skill categories.

Interestingly, the regulatory professionals responding regarded 'developing staff' as relatively unimportant, this may indicate that they do not see career development as particularly important. Indeed, lack of management and 'people' skills is a criticism often levelled at specialists.

The survey also ranked the various tools available to help regulatory professionals:



These particular survey responses are more difficult to interpret, possibly due to the differing opinions over what constitutes a 'regulatory tool'. From our face-to-face interviews it was evident that many of the respondents understood the concepts of engineering and financial models. The same could not be said for regulatory templates and 'best practice for engaging with other parts of the business.' 'Consistency across borders' was only seen as relevant for companies that were part of larger international groups.

Overall, the two groups of participants had significantly different views on both the importance of these tools, and how effectively they were being used, with both sides agreeing that overall performance was lower than it should be.



# Building bridges

The survey shows that the regulatory function has some way to go before it can achieve its aim of becoming a true partner in the business. It needs to address not only how it performs but also how it is perceived to perform, with three notable gaps to be bridged.

## **Strengthening the relationship with the board**

The survey reveals some significant differences in how the two parties perceive both the role of the regulatory function and the impact of regulation on the business. The onus is on regulatory professionals to demonstrate their awareness of commercial issues, and show that they can help the company cope with the more immediate effects of regulation on sales, profits and the business model. Equally, the Board must learn to take a longer-term view of regulation and build this into its strategic planning. Such an alignment would help to strengthen the role of the function and give it a bigger say in driving the direction of the business.

## **Improving the management of talent and performance in the regulatory function**

Regulatory professionals are highly valued and sought after but, like any corporate specialists, should seek to break out of their comfort zone and gain wider skills and experience. Encouraging them to seek opportunities outside of the function can lead to a better appreciation of the needs of the business and provide a broader range of career opportunities.

Conversely management from across the organisation could also benefit from spells in regulatory, helping them better understand the dynamics of regulation. Such collaboration would improve the image of the regulatory function and help it gain greater acceptance. In addition, managers outside of the function would no longer view a spell in regulatory as a career-limiting move. Those working in regulatory also need to improve their managerial and interpersonal skills to help produce more rounded individuals.

## **Improving communication with the rest of the business**

Arguably the biggest challenges facing regulatory professionals are firstly to ensure that the board has a clear regulatory strategy and secondly to communicate this clearly across the organisation. As shown earlier, two thirds of senior managers in our survey believe that the regulatory strategy is currently not understood by the business. Those in the regulatory function must openly acknowledge this gap in perception and appreciate that it restricts their ability to influence senior management.

By going out into the organisation — including secondments into other functions — regulatory people can start to build a more outward-facing image and be seen as broad-minded specialists that really understand the commercial challenges. They need to think carefully about the style and frequency of their communications, avoiding lengthy reports full of technical language.

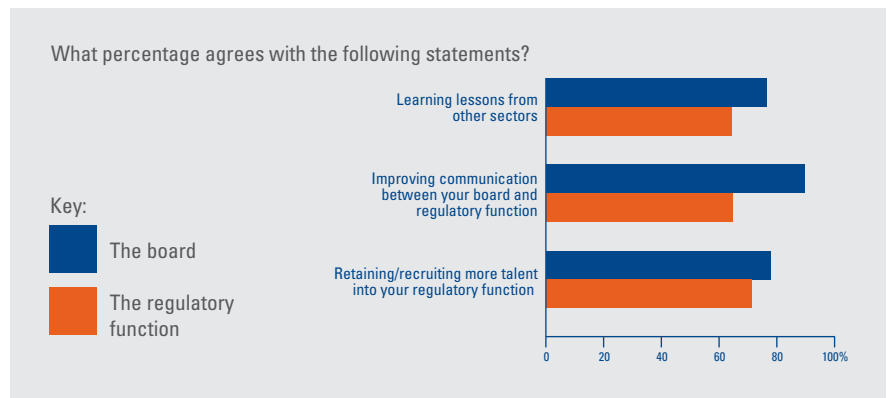


The regulatory function is not good at openly telling the board what's been done. To get around this we now have a standing board paper; it's up to them to read it but at least it's there."

*Regulatory director*

Encouragingly, both the board and those in the regulatory function are in agreement about how to raise the profile and effectiveness of the function.

### Top three preferred solutions from our survey



These responses show an awareness of the gaps identified in the survey and are a clear signal that both parties appreciate the need for improvement.

The desire to learn from other industries is another positive message and is particularly relevant as businesses begin to converge and regulatory issues start to cut across sectors.

There is also general agreement on the need to strengthen the talent pool in what is regarded as a critical part of the organisation. Broadening the career opportunities for regulators would help attract and retain good people and make the function an attractive proposition for non-specialists.

The vast majority (86 percent) of board members are in favour of greater communication with the regulatory function. Our findings show that senior management believes in the value of its regulatory team and is committed to getting the most out of this valuable resource, including raising its profile and importance.

Many respondents acknowledge that the regulatory function has not found adequate ways to measure its performance effectively and clearly, which may have contributed to a lack of respect and appreciation from other parts of the business. Given that one of its central objectives is to create a favourable regulatory environment, those within must seek ways to publicise any successes to clearly demonstrate how it is adding value.

This is a common problem facing many specialist functions that are not generating direct revenue. It's vital for regulatory professionals to quantify their achievements — perhaps taking a leaf out of the tax department's book — showing how they helped the company avoid fines, or preserve prices, thus putting a monetary value on their efforts. By focusing on what would have happened had they not intervened, others can get a better understanding of their efforts.

# Conclusion

In a rapidly converging world, communications companies should seek to become truly integrated to manage the demands of multiple regulations.

From a regulatory point of view, our research highlights some key issues facing many organisations. Convergence of telecommunications and media, along with deregulation, is blurring traditional regulatory boundaries and putting increasing pressure to improve communications, learn from other industries and build a strong regulatory team.

The situation is even more complex and pressing for those companies operating in multiple regulatory environments. They must manage regulatory issues consistently across their operations — or risk suffering when their actions in one country do not balance their needs in another.

The survey shows that many communications companies now lack the regulatory capability to cope with a truly converged world. It's true that the regulators themselves have yet to work out how to operate seamlessly, but a major player can have no excuse for not having a fully integrated organisation. This could provide a foundation for a truly proactive approach to regulation and help ensure that there is a true regulatory strategy agreed at board level.

Subsequently companies will increasingly need to develop proactive regulatory functions that recognise commercial issues and can communicate with the board. Now that it covers the whole world, regulation should come out of the corporate shadows.

# Appendices



# Appendix 1: Emerging Markets

A number of the respondents involved in the research were keen to understand more about the issues facing operators in emerging markets. The main difference between the emerging and developed markets is the relative maturity of the regulatory framework. In general, regulators in emerging markets are:

- Less well-established than their developed market counterparts
- More open to political influence
- Smaller, with less experienced staff
- Experiencing high churn rates of staff to operators
- Facing far more rapid developments in the market
- Generally trying to play 'catch-up'

Under these circumstances, professional staff in regulation in emerging markets has a very challenging task and are often forced to make difficult choices on where to deploy their limited resources. Many of their decisions may be taken on appeal to higher national or federal legal authorities, therefore the quality of their economic and legal arguments must be equal to those of their developed market peers, and supported by robust analysis and data. Should their defences not be up to scratch, they face successful legal challenges from operators that cannot afford to lose and will spend hefty sums on hiring external advisors.

Regulation in developing markets are generally less independent than their developed market peers, and achieving their aims may require resorting to specific legal measures that are not based on economic arguments.

This also makes life very complicated for companies in these markets. They can produce very well argued cases for particular points of view, only to have them ignored. This could be due to misunderstanding as a result of poor knowledge of regulatory principles. Alternatively the regulator could be acting out of political motivations.

The regulatory function in emerging markets therefore needs to be even closer to the heartbeat of the company than in developed markets, particularly as there is often a fine line between regulatory and public policy. The lessons from our survey would therefore appear to be extremely relevant to companies in emerging markets.

The survey responses from companies in emerging markets were very similar to those from more developed economies. Indeed, our one-to-one interviews confirmed that the challenges facing the regulatory function are similar the world over, and simply become more acute under tougher regulatory environments. Ultimately the rules for success apply to all communications companies regardless of whether they're operating in a mature or a less developed market. Our research shows that companies that consider themselves successful in this area are ones that build bridges by integrating their regulatory function into the rest of the business, and effectively communicating not just what they are doing, but how their efforts can bring real value to organisation as a whole.

## Appendix 2: How the survey was conducted

The research was carried out in two phases: quantitative and qualitative.

The quantitative phase was performed by GfK NOP, a specialist market research company. GfK carried out telephone interviews with representatives of senior management (often at board level) and the regulatory function (typically the head of the function) in telecommunications operators across the globe.

The operators included fixed and mobile operators and covered a range of sizes of regulatory function. Almost one-third (31 percent) of the respondents had between one and five full-time equivalent employees in the regulatory function, and over a fifth (22 percent) had over 100 full time employees. The qualitative phase involved in-depth two-hour face to face interviews by KPMG firms professionals using the quantitative results as a starting point, allowing us to challenge and debate the most pressing issues. Some of these interviews were with individuals that had not previously participated in the study.

The survey was global in scope, including the Americas, Europe, the Middle East and Asia-Pacific and included over 60 interviews.



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